

(d) All applications shall be signed by the applicant if an individual, or a duly authorized representative of the applicant if the applicant is an entity other than an individual. If the applicant is not an individual, a certified copy of the document authorizing the representative to sign for the applicant shall be attached to the application.

(e) The applicant shall complete the application forms and other required documents in accordance with N.J.A.C. 7:20A-2.4 or 2.5 as appropriate, and submit the completed application forms and other required documents to the appropriate county agricultural agent.

Amended by R.1989 d.36, effective January 17, 1989.

See: 20 N.J.R. 2663(a), 21 N.J.R. 176(a).

Repealed old (a) and inserted new.

Amended by R.1999 d.7, effective January 4, 1999.

See: 30 N.J.R. 3410(a), 31 N.J.R. 45(a).

Rewrote (b) and (c); and added (e).

7:20A-2.4 Application requirements and procedures for the renewal with no modification or the renewal with minor modification of an existing water usage certification; extension of certain existing certifications

(a) An application for renewal of an existing water usage certification shall be submitted to the appropriate county agricultural agent at least three months prior to the expiration date in accordance with the procedures set forth in N.J.A.C. 7:20A-2.3. Renewals with no or minor modifications, as identified in N.J.A.C. 7:20A-2.2(b), shall be processed in accordance with this section. Renewals with major modifications shall be processed in accordance with N.J.A.C. 7:20A-2.5.

(b) The applicant for renewal shall submit a completed application form including the following information:

1. The name, address, and telephone number of the certification holder, and the name, address, and telephone number of the owner or operator;

2. The total number of acres owned or operated for agricultural, aquacultural, or horticultural purposes, the number of acres actively being farmed, the U.S. Department of Agriculture soil mapping unit, the acreage planted in each crop, and the number of acres of each crop under irrigation;

3. A description of the location of each diversion source, and the name and pumping capacity for each diversion source, including, if the diversion source is a well, the State of New Jersey assigned well permit number;

4. A description of the irrigation or water use practices and irrigation equipment used;

5. A description of the method used to measure the amounts of water diverted from each diversion source; and

6. For the last month of operation prior to application, a copy of the daily and/or monthly hours of operation of each diversion source, and/or the quantity of water diverted monthly from each diversion source as taken from the log or other appropriate record, as required pursuant to N.J.A.C. 7:20A-2.6(a)4.

(c) The appropriate county agricultural agent shall notify the applicant if the application submitted under (b) above is incomplete, and shall request that the applicant submit any necessary information within 30 days of the date of the notification.

(d) On receipt of a complete application, the appropriate county agent shall calculate and recommend a water allocation adequate to meet the applicant's water usage requirements based upon the information submitted under (b) above and the agent's knowledge of agriculture, aquaculture, and horticulture.

(e) If the applicant requests renewal of the certification with no modification or renewal with minor modification, as identified at N.J.A.C. 7:20A-2.2(b), the appropriate county agricultural agent shall submit to the Department the application, the county agent's recommendation for an adequate water allocation calculated under (d) above, and recommended additional conditions, if any.

(f) The Department shall review the application, the county agent's recommended water allocation and conditions, and the applicant's historical water usage as reported in accordance with N.J.A.C. 7:20A-2.6(a)5 in consultation with the county agent, and shall determine if the allocation is reasonably required for future use.

(g) If the Department determines under (f) above that the allocation is reasonably required for the applicant's future use, the Chief of the Bureau of Water Allocation within the Department, or his or her designee, shall issue to the certification holder a letter of approval and a certification for a renewal term of five years, with the appropriate allocation and conditions as outlined at N.J.A.C. 7:20A-2.6(a).

(h) If the Department determines under (f) above that the allocation is not reasonably required for future use and the certification holder's allocation should be reduced on renewal, the Department shall:

1. Prepare a written analysis of the proposed reduction in allocation which shall be available for review on request;

2. Notify the applicant and the appropriate county agent of the proposed reduction in allocation, including the written analysis; and

3. Publish in a newspaper of general circulation in the area of the certification holder's diversion source a notice of the proposed reduction in allocation, providing an

opportunity for submission to the Department, within 30 days of publication of the notice, of written comments and/or requests for a public hearing on the proposed reduction.

(i) If the Department does not receive any request for a hearing on the proposed reduction in allocation within the public comment period established under (h)3 above, the Chief of the Bureau of Water Allocation within the Department, or his or her designee, shall issue to the certification holder a letter of approval and a certification for a renewal term of five years, with the appropriate allocation and conditions as outlined at N.J.A.C. 7:20A-2.6(a), and shall include a summary of responses to all written comments timely received.

(j) If the Department does receive a request for a public hearing on the proposed reduction in allocation within the comment period established under (h)3 above, the Department shall hold a public hearing and subsequently issue to the certification holder a certification for a renewal term of five years in accordance with the following:

1. The Department shall schedule the public hearing within 30 days of the close of the comment period established under (h)3 above;

2. At least 15 days before the scheduled date of the public hearing, the Department shall notify the applicant, the appropriate county agricultural agent, and each person who submitted a request for a public hearing, and shall also publish a notice of the public hearing in a newspaper of general circulation in the area of the certification holder's diversion sources; and

3. Within 60 days after the public hearing, the Chief of the Bureau of Water Allocation within the Department, or his or her designee, shall issue to the certification holder a letter of approval and a certification for a renewal term of five years, with the appropriate allocation and conditions as outlined at N.J.A.C. 7:20A-2.6(a), and shall include a summary of responses to all comments received within the public comment period established under (h)3 above and at the public hearing.

(k) Any certification with an approved diversion amount of more than 15.5 million gallons per month, and with an expiration date in 2001 or 2002 is extended for a period of two years to 2003 or 2004, respectively.

Amended by R.1989 d.36, effective January 17, 1989.

See: 20 N.J.R. 2663(a), 21 N.J.R. 176(a).

Repealed old text and substituted new.

Recodified from N.J.A.C. 7:20A-2.5 and amended by R.1999 d.7, effective January 4, 1999.

See: 30 N.J.R. 3410(a), 31 N.J.R. 45(a).

Rewrote the section. Former N.J.A.C. 7:20A-2.4, Standards and procedures for approval of water usage certification, repealed.

7:20A-2.5 Application requirements and procedures for a new water usage certification, renewal of a certification with major modification, or major modification of a certification

(a) The applicant for a new water usage certification, renewal of a certification with major modification, or major modification of a certification shall submit a completed application form including the following information:

1. The name, address, and telephone number of the certification holder, and the name, address, and telephone number of the owner or operator;

2. The total number of acres owned or operated for agricultural, aquacultural, or horticultural purposes, the number of acres actively being farmed, the U.S. Department of Agriculture soil mapping unit, the acreage planted in each crop, and the number of acres of each crop that is under irrigation;

3. A description of the location of each diversion source, and the name and pumping capacity for each diversion source, including, if the diversion source is a well, the State of New Jersey assigned well permit number;

4. A description of the irrigation or water use practices and irrigation equipment used;

5. A description of the method used to measure the amounts of water diverted from each diversion source;

6. For a renewal with major modification and for major modification, a copy of the daily and/or the monthly hours of operation of each diversion source, and/or the quantity of water diverted monthly from each diversion source as taken from the log or other appropriate record, as required pursuant to N.J.A.C. 7:20A-2.6(a)4; and

7. Sufficient information to demonstrate that under standard operating conditions:

i. The diversion of the quantity of water requested shall not unduly interfere with other existing diversions;

ii. The diversion shall not exceed the natural replenishment or safe yield of a water resource or threaten to exhaust the water resource or to render it unfit for use;

iii. In the case of a groundwater diversion, the diversion shall not cause an increase in saline intrusion that renders the water resource unfit for use; shall not spread groundwater contamination; and shall not interfere with any groundwater remediation plan or activity; and

iv. The diversion shall not reduce the dry season flow or level of a river, stream, lake, or pond so as to adversely affect sanitary conditions downstream or otherwise unduly injure public or private interests, including the maintenance of fish life.

(b) The applicant for a new water usage certification or for a major modification of a certification or a renewal with major modification of a certification shall submit the copy of the portion of the United States Geological Survey Quadrangle map or county road map provided to the applicant under N.J.A.C. 7:20A-2.3 with the locations of all the applicant's existing and/or proposed diversion sources identified.

(c) The appropriate county agricultural agent shall notify the applicant if the application submitted under (a) and (b) above is incomplete, and shall request that the applicant submit any necessary information within 30 days of the date of notification.

(d) On receipt of a complete application, the appropriate county agent shall calculate and recommend a water allocation adequate to meet the applicant's water usage requirements based upon the information submitted under (a) and (b) above and the agent's knowledge of agriculture, aquaculture, and horticulture.

(e) The county agent shall submit to the Department the application, the recommendation of an adequate water allocation calculated under (d) above, and recommended additional conditions, if any.

(f) The Department shall review the application and any other relevant information to determine if the requirements of (a)7 above are met. The Department shall, in consultation with the county agent, request any additional information necessary for this determination.

(g) On completion of its review under (f) above, the Department shall:

1. Notify the county agent and the applicant; and
2. Notify, in writing, the governing bodies of all municipalities and counties and water supply allocation permit holders and water usage certification holders within a one-mile radius of the proposed diversion.

(h) On receipt of notice under (g)1 above, the applicant, in consultation with the county agent, shall publish within 30 days a notice of application in a newspaper of general circulation in the area of the applicant's diversion source. The applicant shall pay the cost of publishing the notice. The notice shall:

1. Describe the diversion for which the application has been submitted, including the name and location of the diversion source, and the quantity and allocation of water to be diverted;
2. State that the application is available for review at the office of the county agricultural agent and at the Department; and
3. Provide an opportunity for submission to the Department, within 30 days after the date on which the

newspaper notice is published, of written comments and/or requests for a public hearing on the application.

(i) After the close of the comment period established under (h) above, the Department shall review any written comments received, and all other relevant data including the county agent's recommendation of water allocation.

(j) If the Department does not receive a request for a public hearing on an application within the public comment period established under (h) above, the application shall be processed as follows:

1. For each application, the Department, in conjunction with the appropriate county agricultural agent, shall prepare a written analysis supporting either approval or denial of the application and incorporating a summary of responses to all comments timely received;

2. If the written analysis under (j)1 above supports approval of an application, the applicant shall be notified and issued a certification as follows:

- i. For the approval of a new water usage certification, the appropriate county agricultural agent shall issue the certification with the appropriate allocation and conditions as outlined at N.J.A.C. 7:20A-2.6(a);

- ii. For the approval of an application for a major modification of a water usage certification or for renewal of a water usage certification with major modification, the Department shall issue the certification with the appropriate allocation and conditions as outlined at N.J.A.C. 7:20A-2.6(a); and

3. If the written analysis under (j)1 above supports denial of an application, the applicant shall be notified as follows:

- i. For the denial of a new water usage certification, the appropriate county agricultural agent shall issue a letter of denial, which shall state the reasons for denial; and

- ii. For the denial of a major modification of a water usage certification or renewal of a water usage certification with major modification, the Department shall issue a letter of denial, which shall state the reasons for denial.

(k) If the Department does receive a request for a public hearing on an application within the public comment period established under (h) above, the application shall be processed as follows:

1. The Department shall notify the applicant, the appropriate county agricultural agent, and the Department of Agriculture of the request and shall convene an informal advisory panel, consisting of a representative of the Bureau of Water Allocation, the designated representative of the Secretary of Agriculture, and a representative of the Dean of Cook College;

2. The advisory panel shall schedule an informal meeting among the applicant, the advisory panel, any person(s) who have requested a public hearing on the application, and the County Agricultural Development Board (if one has been established in the county where the diversion source is located) to discuss the application;

3. If the meeting results in an agreement regarding the application that obviates the need for a public hearing on the application, the advisory panel shall prepare a report outlining the agreement and, based upon the report, a certification shall be issued in accordance with (j)2 above;

4. If the meeting does not result in an agreement regarding the application, the Department shall schedule a public hearing on the application and designate a hearing officer. The Department shall notify the applicant, the advisory panel, all persons who submitted written comments during the comment period established under (h) above, and all other persons who participated in the informal meeting with the advisory panel and shall, in addition, publish notice of the public hearing on the application in a newspaper of general circulation in the area of the applicant's diversion source at least 30 days before the date of the scheduled public hearing. The notice shall contain a description of the application, the date, time and place of the public hearing, and a statement that written comments on the application may be submitted until 20 days after the scheduled public hearing date;

5. For each application the Department shall prepare a written analysis of its findings regarding the application and shall present the analysis at the public hearing on the application if one is held under (k)4 above. In addition, the Department shall, at least five days before the date of the public hearing, provide the analysis to any person who submits a written request for it;

6. The hearing officer shall prepare a hearing officer's report, based upon comments received;

7. The administrator of the Water Supply Element, as decision maker on the application, shall review the hearing officer's report, the application, the water allocation recommended by the appropriate county agent, the Department's written analysis of its findings, any written comments received, the transcripts from the public hearing, the Department's responses to the comments, and any other information relevant to the application, and shall approve or deny the application as follows:

i. If the application is denied, the applicant shall be so notified in a letter of denial, which shall state the reasons for denial. The letter of denial shall be issued in accordance with (j)3 above, and a copy of the letter of denial shall be sent to each person who submitted written comments or who attended the public hearing regarding the application;

ii. If the application is approved, the applicant shall be so notified in a letter of approval, which shall state the reasons for approval. The water usage certification, with the appropriate allocation and conditions as outlined at N.J.A.C. 7:20A-2.6(a), shall be issued in accordance with (j)2 above. A copy of the letter of approval, the hearing officer's report and the decision maker's statement shall be sent to each person who submitted written comments or who attended the public hearing regarding the application; and

8. The Department shall certify the costs of the public hearing on the application, including the costs for advertisement and of the stenographic record but excluding expenses for the Department's hearing officer, and shall bill such costs to the applicant. The Department or county agent, as applicable, shall not issue either a denial letter or an approval letter and water usage certification under (k)7 above unless the applicant pays the costs in full no later than 30 days after the date of the bill.

New Rule, R.1999 d.7, effective January 4, 1999.

See: 30 N.J.R. 3410(a), 31 N.J.R. 45(a).

Former N.J.A.C. 7:20A-2.5, Applications for renewal or modification of existing water usage certifications, recodified to N.J.A.C. 7:20A-2.4.

7:20A-2.6 Water usage certification conditions

(a) The appropriate county agricultural agent and the Department shall include as standard conditions in all water usage certifications the following conditions:

1. The term of the certification, which shall be five years;

2. A list of the approved diversion sources and the approved diversion rate for each;

3. The maximum allowable diversion for the certification, expressed in terms of a monthly and annual allocation;

4. That the certification holder shall maintain a log or other appropriate record in which the daily and/or monthly hours of operation of each diversion source and/or the quantity of water diverted monthly from each diversion source is recorded in ink;

5. That by February 28 of each year the certification holder shall submit to the appropriate county agricultural agent a report for the preceding calendar year of monthly water usage for each diversion source, as recorded in the log or other appropriate record required under (a)4 above, and the crop types planted and the acres of each crop type that were under irrigation;

6. That the certification holder may transfer the certification provided, in accordance with N.J.A.C. 7:20A-1.6, notification is made to the appropriate county agricultural agent and provided no changes or modifications are made in the specified conditions of the water usage certification;