

Let's protect our earth



**TREATMENT WORKS APPROVAL  
PROGRAM**

**FEE REPORT  
AND FEE SCHEDULE FOR  
FY2008**

**NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**COMMISSIONER LISA P. JACKSON**



## State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF WATER QUALITY  
PO Box 029  
Trenton, NJ 08625-0029  
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JON S. CORZINE  
*Governor*

LISA P. JACKSON  
*Commissioner*

Dear Interested Parties:

March 27, 2008

Attached is a copy of the Fiscal Year (FY) 2008 Fee Report and Fee Schedule for the Treatment Works Approval (TWA) permitting program. The TWA fee schedule was first promulgated in 1989. It was last revised in 2005. Given the State's current budget constraints, the TWA permitting program must be fully supported by the permit fees. To meet this need, the Department will make an upward adjustment in permit fees to meet the current cost of administering the TWA program, which is anticipated to be \$2,139,930 for FY2008. The FY2008 Fee Report and Fee Schedule has been prepared based upon provisions in the TWA Fee Regulations at N.J.A.C. 7:1C.

In accordance with the program rules, the Department is not required to hold a public hearing if the projected fee increase is less than or equal to 10 percent and need only public notice the revised "P" coefficient with a synopsis of the Fee Report and Fee Schedule for the TWA program.

The Department will make the FY2008 fee schedule effective on July 1, 2008. Public notice of these changes, including a synopsis of the Fee Report and Fee Schedule for the TWA program, will be published in May 2008 in the New Jersey Register and the DEP Bulletin. If you have any questions concerning this matter, please contact Mr. Gautam R. Patel, Chief, Bureau of Financing and Construction Permits at (609) 984-6840.

Sincerely,

A handwritten signature in black ink, appearing to read "Narinder K. Ahuja" with "for NKA" written at the end.

Narinder K. Ahuja, P.E., P.P., Director  
Division of Water Quality

## **TABLE OF CONTENTS**

Introduction	1
TWA Rate Proposal	1
Justification for Updated “P” Coefficient	3
Fee Schedule Impact and Statistics	4
TWA Program Summary	6

## **APPENDIX**

A – TWA Fee Regulations – N.J.A.C. 7:1C

## FY2008 ANNUAL FEE REPORT AND FEE SCHEDULE FOR THE TWA PROGRAM

### **INTRODUCTION**

The New Jersey Department of Environmental Protection (Department) is responsible for administering the Treatment Works Approval (TWA) program which establishes and implements minimum standards for the approval of the design, construction and operation of treatment works to ensure that wastes are properly collected, conveyed and treated before discharge to the waters of the State.

The TWA program rules are set forth at N.J.A.C. 7:14A-22 and 23. All persons who wish to construct a treatment works, unless specifically exempted in N.J.A.C. 7:14A-22.4, are required to obtain a TWA permit from the Department. A TWA is a permit, which authorizes the construction and/or operation of a wastewater treatment, storage and/or conveyance facility. These facilities include, but are not limited to, municipal or privately owned sewage treatment plants, sewer extensions, pumping stations, force mains, holding tanks and equalization tanks.

The TWA fee structure rules are set forth at N.J.A.C. 7:1C-1.5. Fees are assessed to cover the Department's costs to review, issue, and manage TWA permits. The purpose of this report is to provide a summary of the projected costs to administer the Treatment Works Approval (TWA) Program and the fee structure necessary to recover those costs pursuant to N.J.A.C. 7:1C-1.5. The estimated budget includes employee salaries, fringe benefits, indirect costs and operating costs associated with the TWA Program.

### **FY2008 TWA RATE PROPOSAL**

In accordance with N.J.A.C. 7:1C, all applicants for a Treatment Works Approval (TWA) shall pay one of the following fees based upon the appropriate category.

Category 1 (construction costs greater than \$1,000,000) fee = 4P (\$250,000) + 2P(\$750,000) + P (construction cost - \$1,000,000).

Category 2 (construction costs greater than \$250,000 but are less than or equal to \$1,000,000) fee = 4P (\$250,000) + 2P (construction cost - \$250,000).

Category 3 (construction costs less than or equal to \$250,000) fee = 4P (construction cost).

The "P" coefficient in the above formula is currently equal to 0.0040. This coefficient is derived from the following formula.

$$P = EB / (T1 + 2 (T2) + 4 (T3) + 1,500,000 (N1) + 500,000 (N2))$$

Where:

EB = estimated budget for the TWA Program;

T1, T2, and T3 = the sum of the construction costs for all projects in categories 1, 2, and 3, respectively, from the prior fiscal year;

N1 and N2 = the total number of projects in category 1 and 2, respectively, from the prior fiscal year.

The values from FY07 were as follows:

T1 = \$156,320,360

T2 = \$39,038,396

T3 = \$37,383,697

N1 = 41

N2 = 81

EB for FY07 is based upon the budget staff allocation of the Bureaus of Financing and Construction Permits, Nonpoint Pollution Control and Permit Management devoted to the TWA Program. The current average salary cost for each position in the TWA program is \$70,695. The Department of Treasury has established the fringe benefit rate of 33.15 percent in its current OMB Circular Letter. The indirect rate of 20.29 percent of salary plus fringe has been established by the Department of Environmental Protection. The program costs including the appropriate fringe benefits, indirect and operating costs are as follows:

Financing & Construction Permits	\$ 989,730	(14.0 Work Years)
Permit Management	\$ 141,390	( 2.0 Work Years)
Nonpoint Pollution Control	\$ 106,042	( 1.5 Work Years)
Director/Asst. Dir. Office	\$ 35,348	( 0.5 Work Years)
	<u>\$1,272,510</u>	
	\$ 421,837	(fringe benefits, 0.3315)
	\$ 343,783	(indirect cost, 0.2029)
Operating Budget (8 %)	<u>\$ 101,800</u>	
	\$2,139,930	= EB for FY07

The operating budget includes printing/office supplies, vehicular, household/security/clothing, other materials and supplies, travel, telephone, postage, information processing (software/LAN maintenance), professional services, other services (Division of Law and Public Safety charges, Office of Administrative Law charges, and training), maintenance, equipment, rent, central motor pool, and information processing equipment.

Therefore, for FY07,

$$P = 2,139,930 / (156,320,360 + 2 (39,038,396) + 4 (37,383.697) + 1,500,000 (41) + 500,000 (81))$$

$$P = 0.0044$$

This calculated “P” factor would result in an approximate increase of 7.4% over the current fee structure.

### **JUSTIFICATION FOR UPDATED “P” COEFFICIENT**

Each year the “P” coefficient for the following fiscal year may be updated using the estimated budget for that year in conjunction with actual data concerning the categories and number of projects submitted in the previous fiscal year. The resulting “P” coefficient may then be used in the fee structure the following fiscal year to provide revenue equal to the costs to administer the program.

Currently the “P” coefficient is 0.0040, which has remained unchanged since July 1, 2005. To meet expected program costs at that time, the Department coordinated the increase in the “P” coefficient in conjunction with an anticipated increase in the TWA minimum fee. The TWA minimum fee was increased on January 3, 2006 as part of the amendments to the rules governing 90 Day Construction Permits, N.J.A.C. 7:1C-1.1 et seq. The increase in the “P” coefficient and subsequent increase in minimum fee were required at the time to adequately cover the staff resources necessary to process these permit actions.

The TWA Program revenue for FY07 has been less than program costs, due in part to increased operating costs, including routine salary cost of living increases during this period.

As previously stated, the new “P” factor of 0.0044 would result in an approximate increase of 7.4 percent over the current fee structure. Given the State’s current budget constraints, the adoption of the updated “P” coefficient of 0.0044 is necessary to meet the expected program costs for FY08.

At this time, the Department will not adjust the following fees listed in the rules governing 90 Day Construction Permits, N.J.A.C. 7:1C-1.1 et seq.

Minimum Fee - \$ 850

All General Industrial TWAs - \$850

All Modifications – Fee based upon construction cost, \$ 500 minimum fee

Time Extensions – \$ 200 per year

Please be aware that any future changes to the “P” coefficient will appear with a synopsis of the fee schedule report in the New Jersey Register, DEP Bulletin, and several newspapers with general circulation.

### UPDATED TWA FEE SCHEDULE IMPACTS AND STATISTICS

Category 1 projects account for 39 percent of the overall TWA revenue. The applicants in this category are almost exclusively municipalities and sewerage authorities. The project cost in this category exceeds \$ 1,000,000, which typically is limited to new sewage treatment plants and major plant expansions. The average fee for this category is estimated to increase \$948.47.

Category 2 projects account for 23 percent of the overall TWA revenue. The project cost in this category is between \$ 250,000 and \$1,000,000. The applicants in this category include municipalities, sewerage authorities, developers, and industry. The types of projects common in this category are large collection systems to serve new residential and commercial developments and the rehabilitation of existing conveyance systems. The average fee for this category is estimated to increase \$164.33.

Category 3 projects account for the remaining 38 percent of the overall revenue. The project cost in this category is less than \$ 250,000. The applicants include all those mentioned in the above categories, small developers, and individual homeowners. The average fee for this category is estimated to increase \$117.05. However, at this time most small developers and individual homeowners would continue to pay the minimum fee which currently will remain unchanged at \$ 850.00, as stipulated by rule in N.J.A.C. 7:1C-1.5(a)5iv.

The following table details the projected impacts of this updated fee schedule as compared to FY2007:

**Proposed TWA Fees – “P” Coefficient Increase Statistics**

		P=0.0040	P=0.0044	
	FY2007 Estimated Project Cost	FY2007 Fee Amount Received	FY2008 Projected Fee Amount	Projected Increase by FY2008
	\$232,742,453	\$1,993,383	\$2,139,931	\$146,548
		Actual FY2007	Proposed FY2008	Increase by FY2008
All	Average	\$2,593.88	\$2,852.72	\$259.34
	Median	\$850.00	\$850.00	\$0.00

Categories	Maximum	\$85,599.60	\$93,159.56	\$7,559.96
Category 1	Average	\$19,484.71	\$20,433.18	\$948.47
	Median	\$12,626.17	\$12,888.79	\$262.62
	Maximum	\$85,599.60	\$93,159.56	\$7,559.96
Category 2	Average	\$5,643.31	\$5,807.64	\$164.33
	Median	\$5,540.00	\$5,694.00	\$154.00
	Maximum	\$10,295.58	\$10,925.14	\$629.56
Category 3	Average	\$1,170.51	\$1,287.56	\$117.05
	Median	\$850.00	\$850.00	\$0.00
	Maximum	\$3,982.53	\$4,380.78	\$398.25
	Number by Range			
	\$50,000 up	2	2	
	\$25k – 49,999	7	8	
	\$10k – 24,999	32	35	
	\$5k – 9,999	48	55	
	\$2500 – 4999	95	97	
	\$1000 – 2499	150	165	
	Below \$999	451	423	
	<b>Total</b>	<b>785</b>	<b>785</b>	

Currently 77% of the projects pay less than \$2500 for their TWA permit and 95% pay less than \$5000. Following implementation of the updated “P” coefficient, it is projected that 75% of the projects will pay less than \$2500 for their TWA permit and 94% will pay less than \$5000.

## **TWA PROGRAM SUMMARY**

The TWA program is subject to N.J.A.C. 7:1C-1.1 et seq., Rule and Regulations Governing 90-Day Construction Permits. An approval or denial must be issued within 90 working days of the submission of an administratively complete application. Although N.J.A.C. 7:1C only requires that the 90-day period start from the time of a complete application, the TWA program uses the submission date of the application, as the start of our review regardless of the quality of the submittal. All review time averages are based from the day the application is submitted to the Department. The average review time for all TWA applications during FY 2007 was 60 days. In many cases, the TWA permit is the last approval necessary prior to construction. Therefore, the Department has taken several initiatives to expedite the approval process.

The Department has established an expedited TWA program for all lateral connections and sewer extensions less than 400 feet in length. These applications are processed within 30 days of submission of a completed application. This program allows expedited permitting for projects of limited scope, which are more likely to be adversely impacted by permitting delays. In addition, those engineering firms that establish a record of administratively complete submissions are acknowledged by the Department and are allowed to request expedited applications for projects with an expanded eligible scope for sewer extensions up to 1000 feet the following year.

The program also includes a General Industrial TWA that is processed in a similar 30-day period. These applications include all industrial treatment facilities that are subject to Department approval.

The TWA program has consistently taken a progressive approach over the years, developed comprehensive checklists, and streamlined its reviews to make it an efficient permitting process. Applicants have a clear understanding of what is required for approval and can expect processing of their applications in a reasonable and predictable time frame within the limits established by the Rules and Regulations Governing 90-Day Construction Permits, N.J.A.C.7:1.1 et seq.

**APPENDIX A**

**TWA FEE REGULATIONS**

**N.J.A.C. 7:1C**

7:1C-1.1 Purpose

This chapter implements P.L. 1975, Chapter 232 (N.J.S.A. 13:1D-29 et seq.), to secure timely decisions by the Department of Environmental Protection on construction permit applications as defined therein, to assure adequate public notice of procedures thereunder, and to continue effective administration of the substantive provisions of other laws.

7:1C-1.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise:

"Act" means N.J.S.A. 13:1D-29 et seq.

"Applicant" means any person requesting a construction permit who has submitted an application to the Department.

"Application form" means the permit application form required and provided by the appropriate agency.

"Appropriate agency" means:

1. (Reserved)
2. The Division of Water Quality, PO Box 029, Trenton, NJ 08625-0029 for:
  - i. A treatment works approval for the construction, change, improvement, alteration or extension of sanitary sewage collection and treatment systems issued pursuant to N.J.S.A. 58:10A-1 et seq. and N.J.A.C. 7:14A-22.

"Commissioner" means the Commissioner of the New Jersey Department of Environmental Protection.

"Construction cost" means the project cost, not including financing or insurance charges, of that portion of a project which is subject to review for a construction permit.

"Construction permit" means:

1-4. (Reserved)

5. A treatment works approval for the construction, change, improvement, alteration or extension of sanitary sewage collection and treatment systems issued pursuant to N.J.S.A. 58:10A-1 et seq. and N.J.A.C. 7:14A-22.

Note: "Construction permit" does not include any approval of or a permit for an electric generating facility or for a petroleum processing or storage facility, including a liquefied natural gas facility, with a storage capacity of over 50,000 barrels. "Department" means the New Jersey Department of Environmental Protection.

"DEP Bulletin" means the official publication of the Department of Environmental Protection required by N.J.S.A. 13:1D-34, listing the status of pending construction permit applications.

"Person" means corporations, companies, associations, societies, firms, partnerships, and joint stock companies, as well as individuals, owners or operators of a domestic or industrial treatment works, the State, and all political subdivisions of the State or any agencies or instrumentalities thereof.

"Structure" means any assembly of materials above or below the surface of land or water, including but not limited to buildings, fences, dams, pilings, breakwaters, fills, levees, bulkheads, dikes, jetties, embankments, causeways, culverts, pipes, pipelines, roads, railroads, bridges and the facilities of any utility or governmental agency. Trees or other vegetation shall not be considered to be structures.

"Treatment works approval" means an approval issued pursuant to N.J.S.A. 58:10A-6 or N.J.A.C. 7:14A-22.

7:1C-1.3 Pre-application procedure and requirements

(a) A pre-application review is an optional service especially recommended for major development. During this review the Department will discuss the apparent strengths and weaknesses of the proposed development, as well as the procedures and policies that would apply to the particular development. The conference is intended to provide guidance and does not constitute a commitment of approval or denial of a permit for the proposed development. However, if the appropriate agency determines that the proposed project is exempt

from the permit requirement, the agency shall issue a written statement of such finding which shall bind the agency. The written statement issued as a result of a pre-application review shall be based solely on the information submitted by the applicant pursuant to (a)1 below.

1. A request for a pre-application review shall be made in writing and shall include a conceptual proposal of the proposed development, including a written description of the site and the proposed development including the dimensions, number, and uses of proposed structures, as well as a tax lot and block designation of the site.

(b) Prior to submitting an application to the Department, the applicant shall, if required by the appropriate agency, notify the local agencies listed in (b)1 through 4 below of intent to file an application by mailing them the completed application form, and shall obtain an acknowledgement of receipt of notification by certified mail return receipt requested. The requirements of this subsection may be postponed or modified by the appropriate agency in cases of emergency as the public interest dictates.

1. Municipal clerk;

2. Municipal environmental commission, if any;

3. County environmental commission, if there is no municipal environmental commission; and

4. Municipal planning board.

(c) (Reserved)

(d) Applicants for a treatment works approval shall obtain the consent of the affected sewerage authority and/or municipality in accordance with the procedures at N.J.A.C. 7:14A-22.8.

7:1C-1.4

#### Application for construction permit

(a) To apply for a permit, the applicant shall prepare and submit a formal application to the appropriate agency.

1. The application shall consist of a complete application form, the fee required by N.J.A.C. 7:1C-1.5, and other materials of a format and content as specified by rules or checklist for individual permit programs.
2. Any inaccurate material which could affect the outcome of a permit decision or falsification of information submitted shall be cause for rejection of the application at any time during the review procedure, or voiding a permit approved before the misinformation was discovered.

7:1C-1.5 Fees

(a) Fees shall be charged for the review of any application for a construction permit in accordance with the following schedule:

1-4. (Reserved)

5. Treatment works approval fees shall be calculated as follows:

i. Applicants for a treatment works approval shall be categorized based on the construction costs of their projects as follows:

(1) Category 1 includes projects where the construction costs are greater than \$1,000,000;

(2) Category 2 includes projects where the construction costs are greater than \$250,000 but are less than or equal to \$1,000,000.

(3) Category 3 includes projects where the construction costs are less than or equal to \$250,000.

ii. Fees for treatment works approvals shall be based upon the coefficient "P" where:

(1)  $P = EB / (T1 + 2(T2) + 4(T3) + 1,500,000(N1) + 500,000 (N2))$ ;

(2) "EB" = the estimated budget for the Department's treatment works approval program for the forthcoming fiscal year;

(3) "T1" = the sum of the construction costs for all projects in Category 1 from the prior fiscal year;

(4) "T2" = the sum of the construction costs for all projects in Category 2 from the prior fiscal year;

(5) "T3" = the sum of the construction costs for all projects in Category 3 from the prior fiscal year;

(6) "N1" = the total number of projects in Category 1 from the prior fiscal year; and

(7) "N2" = the total number of projects in Category 2 from the prior fiscal year.

iii. All applicants for a treatment works approval shall pay one of the following fees based upon the category in which the project falls as determined by (a)5i above:

(1) Category 1 fee =  $4P(\$250,000) + 2P(\$750,000) + P(\text{construction cost of the applicant's project} - \$1,000,000)$ ;

(2) Category 2 fee =  $4P(\$250,000) + 2P(\text{construction cost of the applicant's project} - \$250,000)$ ; or

(3) Category 3 fee =  $4P(\text{construction cost of the applicant's project})$ .

iv. An applicant for a treatment works approval shall pay a minimum fee of \$850.00.

v. The Department shall prepare an annual fee schedule report which will include the following:

(1) The coefficient "P" of the fee formula derived from the equation in (a)5ii above;

(2) A detailed financial statement showing the estimated budget for the forthcoming fiscal year. The statement shall include a breakdown of the treatment works approval program by account title (for example, print and office supplies, vehicular, and maintenance of vehicles); and

(3) A detailed financial statement of the previous fiscal year's actual expenditures including a breakdown by account titles, total by category of permits reviewed, actual revenue and any credit/deficit to be carried forward to the next fiscal year.

vi. The Department shall hold a public hearing concerning the fees to be assessed for the forthcoming fiscal year only when projected fees exceed 10 percent increase as compared to the previous fiscal year's fees. The Department shall hold the hearing prior to the actual assessment of fees. The Department shall provide public notice of the hearing in the New Jersey Register, DEP Bulletin, and several newspapers with general circulation.

vii. In those years not requiring a public hearing, publication of the forthcoming fiscal year's coefficient "P" together with a synopsis of the annual fee schedule report shall appear in the New Jersey Register, DEP Bulletin and several newspapers with general circulation.

viii. The annual fee schedule report may be obtained, at any time after public notice is published in accordance with (a)5vi or vii above, by submitting a request and self addressed 10 inch by 13 inch (minimum size) envelope to:

New Jersey Department of Environmental Protection

Environmental Regulation

Division of Water Quality

Bureau of Financing and Construction Permits

Annual Report Request

PO Box 425, 3rd Floor

Trenton, New Jersey 08625-0029

(b) Extensions of time for issued treatment works approvals will be granted in accordance with N.J.A.C. 7:14A-22.12. The fee for a request for an extension of time is \$200.00.

(c) (Reserved)

(d) For the purposes of this section, a modification to an issued permit will be processed for modified projects which will not result in a significant change in the scale, use, or impact of the project as approved. The determination as to what constitutes a significant change is within the sole discretion of the Department and will be based on a review of the original application file and the new information submitted by the applicant. A change that will cause less environmental impact than the original project will not constitute a "significant change." Significant changes generally include, but are not limited to, increased clearing, grading, filling or impervious coverage, reduction in buffers, and a change in foot print location.

1. (Reserved)

2. The fee for a request to modify a treatment works approval shall be calculated based on the construction cost of the project change(s) in accordance with (a)5i through iii above. If the value of the fee so calculated is less than \$500.00, the applicant shall pay a treatment works approval modification minimum fee of \$500.00.

(e) The Department may also charge additional fees to engage such essential expertise as may be necessary for the processing and review of large scale and complex projects. The applicant will be consulted before imposition of such fees.

(f) Where a public hearing is conducted, the cost thereof, including but not limited to court reporter attendance fees, transcript costs, hearing officer fees and hearing room rental, shall be borne by the applicant unless otherwise determined by the Department for good cause shown.

(g) All fees shall be paid by check, made payable to the "Treasurer, State of New Jersey--Environmental Services Fund" and shall accompany the application.

(h) –(j) (Reserved)

(k) Any fee under this section that is subject to N.J.A.C. 7:1L shall be payable in installments in accordance with N.J.A.C. 7:1L.

7:1C-1.6

DEP Bulletin

(a) The Department shall publish in the "DEP Bulletin", a report of the receipt of each new application and each agency action on applications currently before it. An annual subscription for the DEP Bulletin will be distributed free of charge to each of the municipalities, each of the county planning boards, and each New Jersey public depository. All other interested persons shall pay an annual subscription fee of \$50.00 per subscription requested to cover printing and mailing costs. Publication in the "DEP Bulletin", constitutes constructive notice to all interested persons of Department actions on construction permits.

(b) The application status report shall include, but is not limited to:

1. The applicant's name;
2. The agency project number;
3. The nature of the project;
4. The date and description of significant agency action on the project.

7:1C-1.7                      Review of application

(a) Within a maximum of 20 working days following the date of receipt of the application, the appropriate agency shall:

1. Accept the application for filing, assign an agency project number, and proceed to review on the merits; or
2. Assign an agency project number, accept the application for filing, but request in writing that the applicant submit within a specific period of time, additional information to assist in its review. In such cases, the application will not be considered complete for final review or public hearing until all the additional information has been received and deemed acceptable for review; or
3. Return the application without filing, explaining why it is unacceptable for review, and return the filing fee upon notification that the applicant does not intend to reapply.
4. Following the assignment of the agency project number, the initial application status report will be published in the DEP Bulletin.
5. The Department shall consider written initial comments from public agencies and other interested persons, received at or within 15 days after the public hearing, if one is held, or during the public comment period. Additional comments received after this date will also be included in the application file and may be considered by the Department in the application review process if relevant to the application.

(b) Except as provided in N.J.A.C. 7:50-4.1, an application subject to these rules for development of any land within the Pinelands Area as defined in N.J.S.A. 13:18A-11 is not complete unless and until the applicant has in his or her possession a Certificate of Filing, a Certificate of Compliance or an Approval Resolution from

the Pinelands Commission for the proposed development of that land. Pursuant to N.J.S.A. 13:18A-10(c), no approval shall be granted for an application subject to these rules for any development in the Pinelands Area unless that development conforms to all applicable provisions of the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50).

(c) – (d) (Reserved)

(e) Applications for treatment works approvals shall be reviewed in accordance with the procedure set forth in the treatment works approval rules, N.J.A.C. 7:14A-22 and 23.

7:1C-1.8 Decision on permit application

(a) The Department shall approve, condition, or disapprove an application for a construction permit within 90 days following the date of receipt of an application that has been accepted for filing, except when additional information has been requested pursuant to N.J.A.C. 7:1C1.7(a)2. In the latter case, the Department shall make a decision on the permit application within 90 days following the date of receipt of the information requested. The date of receipt of the application or of the additional information requested is the date that an application or additional information is received by the appropriate agency.

(b) (Reserved)

(c) Where a project requires more than one type construction permit, an approval of one permit shall be conditioned on the applicant obtaining approval on the remaining necessary permits.

(d) If the Department fails to act within this time period the application shall be deemed to have been approved, to the extent that the application does not violate other statutes or regulations then in effect, and subject to any standard terms and conditions applicable to such permits. The Department shall promptly publish in the DEP Bulletin a notice that the application has been deemed approved.

(e) This time period may be extended for a one time only 30 day period by the mutual consent of the applicant and the appropriate agency, provided that the applicant or the appropriate agency, request from the

other such an extension prior to the expiration date for the approval, conditioning, or disapproval of such an application.

(f) The effect of disapproval is as follows:

1. A disapproval without prejudice is a disapproval of the application. However, a subsequent application by the same applicant for a revised project of the same or reduced scope on the same site may be submitted within one year of the date of disapproval without additional fees (limited to one resubmittal, without additional fee). The resubmitted application will be treated as a new application, although references may be made to the previously reviewed application.
2. A disapproval with prejudice is a disapproval of the application.

#### 7:1C-1.9 Appeals

(a) – (b) (Reserved)

(c) Any interested person who considers himself or herself aggrieved by the approval or denial of a treatment works approval for the construction, change, improvement, alteration or extension of sanitary sewage collection systems may, within 10 days of publication of notice of the decision in the DEP Bulletin, or within 10 days of publication of notice of the decision by the permittee pursuant to (d) below, whichever occurs first, request a hearing by addressing a written request for such hearing to the Office of Legal Affairs, ATTENTION: Adjudicatory Hearing Requests, Department of Environmental Protection, CN 402, Trenton, New Jersey 08625-0402.

1. The written notice of request for hearing on appeal shall include the appropriate agency project number and where the appeal is taken by someone other than the applicant, evidence that a copy of the written request for hearing an appeal has been mailed to the Applicant.
2. The person appealing the decision shall, within 14 days of the date on which the initial hearing request was postmarked, submit an additional statement describing, in detail, how that person is aggrieved by the decision, and which findings of fact and conclusions of law are being challenged.

(d) A permittee may, if it so desires, publish notice of the final decision in a newspaper of Statewide circulation and a newspaper of regional circulation which includes the municipality in which the project site is located, and by certified mail to any person who requested such notice. The Department shall maintain a list of such newspapers and a list of all persons who have requested notice of the decision.

(e) Pending the decision on appeal by the Commissioner and upon a typewritten request with stated reasons therefore, the Commissioner may stay the issuance of the permit, for good cause shown, upon such terms and conditions as are deemed proper. The request for stay of issuance of the permit shall be made within 21 days of the issuance of the decision of the Commissioner on the permit application.

(f) Where a request for a hearing on appeal has been granted, the request shall be referred to the Office of Administrative Law for the holding of a fact finding hearing pursuant to the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.), after which the decision on appeal shall be rendered by the Commissioner within the time frame specified in N.J.S.A. 52:14B-10.

(g) Nothing in this section shall be construed to provide a right to an adjudicatory hearing in contravention of N.J.S.A. 52:14B-3.1 through 3.3 (P.L. 1993, c.359).

7:1C-1.10                      Other State statutes, rules and regulations

The powers, duties and functions vested in the Department under the provisions of the act or these regulations shall not be construed to limit in any manner the powers, duties and function vested therein under any other provisions of law, except as specifically set forth in these regulations.

7:1C-1.11                      Severability

If any section, subsection, provision, clause or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Chapter shall not be affected thereby.

7:1C-1.12                      Related regulations

(a) This subchapter does not supersede or preempt specific rules and regulations establishing procedures for the individual construction permit programs administered by appropriate agencies within the Department, unless the context so requires or specific provisions so prescribe. In order to assist applicants in the use of this subchapter and the specific programmatic rules and regulations, this section sets forth the provisions in the programmatic rules which are in addition to or supersede this subchapter.

(b) (Reserved)

(c) The requirements of this subchapter concerning appeals from the Department's decisions on treatment works approvals for the construction, change, improvement, alteration or extension of sanitary sewage collection and treatment systems supersedes N.J.A.C. 7:14A.

7:1C-1.13 (Reserved)

7:1C-1.14 (Reserved)