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## **SUBCHAPTER 15. PROCEDURES FOR DECISION MAKING - NJPDES PERMIT PROCESSING REQUIREMENTS**

### **7:14A-15.1 PURPOSE AND SCOPE**

This subchapter sets forth the procedural stages that the Department shall follow when processing an individual NJPDES permit and, as applicable, a general NJPDES permit. These procedural stages include conducting a permit preapplication conference when requested, receiving a permit application, performing an administrative and technical review of the application, preparing a draft permit, issuing a public notice, inviting public comment, holding a public hearing on a draft permit as applicable, issuing a final permit decision, responding to comments and establishing an administrative record for the permit action. The procedural stages of the NJPDES permit application and decision process are outlined in Appendix A of this subchapter as a guide for permit applicants.

### **7:14A-15.2 PROCEDURAL STAGES FOR INDIVIDUAL PERMIT PROCESSING (RESERVED)**

### **7:14A-15.3 PREAPPLICATION CONFERENCES, PERMIT CHECKLISTS AND TECHNICAL MANUALS**

- (a) The Department shall convene a preapplication conference within 30 days of receipt of a written request for such a conference submitted pursuant to (b) below. The purpose of the preapplication conference is to discuss general program requirements and their application to the proposed project or activity.
- (b) A prospective applicant seeking a preapplication conference shall submit to the address below a completed preapplication conference request form and a conceptual plan of the proposed project for which permit approval is sought. Preapplication conference request forms may be obtained from the Department by writing or calling:

New Jersey Department of Environmental Protection  
Office of Permit Coordination and Environmental Review  
PO Box 423  
401 East State Street  
Trenton, NJ 08625-0423  
(609) 292-3600

- (c) Upon receipt of a written request sent to the address listed in (b) above, the Department shall provide a prospective applicant with a permit application checklist to identify those items required to be submitted in order for a permit application to be declared administratively complete, including:
  - 1. The application form(s) required for an administratively complete

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application;

2. Any documents or other written submissions required to be filed with the application under this chapter; and
3. Any filing, notice, hearing or other requirement that is a precondition for review and processing of an application, including any required certification of compliance.

- (d) A prospective applicant may also obtain a technical manual prepared by the Department in accordance with N.J.S.A. 13:1D-111 for a specified class or category of permit by writing to:

Maps and Publications Sales Office  
Bureau of Revenue  
PO Box 417  
Trenton, NJ 08625-0417

- (e) The policies and interpretations contained in a technical manual in force on the date that an administratively complete application for a permit subject to that technical manual has been filed shall be binding on both the Department and the applicant, except as otherwise required under Federal or State law, or rule or regulation promulgated thereunder, or an order of the court. However, if an application is determined to be administratively incomplete, the date of filing shall be the date that the information required for an administratively complete application is filed with the Department. Any revision to a technical manual shall have no effect upon a permit application that was submitted to the Department prior to the date of the revision. Nothing in this subsection shall be construed to:

1. Exempt an applicant from complying with all Federal and State laws, or rules or regulations adopted thereunder, including compliance with the requirements of a permit issued by the Department; or
2. Compromise any enforcement action available to the Department pursuant to law.

**7:14A-15.4 PROCEDURES FOR DEPARTMENT REVIEW OF INDIVIDUAL NJPDES PERMIT APPLICATIONS**

- (a) The procedures for review of an application for an individual NJPDES permit application are as follows:
1. An applicant shall comply with the permit application requirements contained in N.J.A.C. 7:14A-4 and any specific permit application requirements for the particular type of discharge as outlined elsewhere in this chapter before the Department begins the processing of an individual permit application.

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2. Within 30 days of receipt of an application, the Department shall send written notice to the applicant and, if other than the applicant, to the person(s) who prepared the application as to whether the application and supporting documentation constitutes an administratively complete application for the purpose of commencing a technical review of the application. The notice shall specify if the application lacks a submission identified in the permit application checklist obtained pursuant to N.J.A.C. 7:14A-15.3(c) or if any particular submission is incomplete.
3. Within 20 days after an application is determined to be administratively complete the Department shall send written notice to the applicant and, if other than the applicant, to the person(s) who prepared the application specifying the name of the individual(s) assigned to review the application.
4. If an application, including all necessary documentation, is determined to be administratively complete, the application shall be deemed complete for the purposes of commencing technical review thereof, and any applicable time period established for completing a review of the application and taking final action thereon shall, notwithstanding any other provisions of law to the contrary, commence on the 31st day following the date of filing of the administratively complete application.
5. If an application is determined to be not administratively complete and the Department fails to issue written notice to an applicant pursuant to (a)2 above, the application shall be deemed administratively complete for the purposes of commencing a technical review, and any applicable time period established to complete a review of the application and take final action shall, notwithstanding any other provisions of law to the contrary, commence on the 31st day following the date of filing of the administratively complete application.
6. Commencement of a technical review of the application shall not be delayed because of the failure of an applicant to file a submission not specifically identified on the checklist for that application that was in effect as of the date of the filing of the application.
7. If an application is deemed not administratively complete for the purposes of commencing a technical review, the Department shall provide the applicant with written notice of the information necessary to make the application complete. The Department shall specify in the notice of deficiency a date for submitting the necessary information. The applicant may request an extension for any such submittal.
8. If the application is deemed administratively complete for the purposes of commencing a technical review but is subsequently deemed technically incomplete, the Department shall provide the applicant with written notice

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of the information necessary to make the application technically complete. The Department shall specify in the notice of deficiency a date for submitting the necessary technical information. The applicant may request an extension for any such submittal.

9. The permit application will be inactivated and the applicant notified if the applicant fails or refuses to correct deficiencies to the satisfaction of the Department within the time frames established pursuant to (a)7 or 8 above.
  10. Within 30 days of a written request by an applicant, the Department shall notify an applicant of the status of the application and of any outstanding issues relating to review of the application.
  11. Nothing in this subsection shall be construed to:
    - i. Limit the authority of the Department to request at any time a submission that was not identified on the checklist for an application if the submission is required by State or Federal law, or rule or regulation promulgated in accordance therewith, except that such additional submission shall not affect any applicable time period established for the Department to review and take final action on a completed application;
    - ii. Diminish the responsibility of an applicant to comply with all applicable requirements of State or Federal law, or any rule or regulation promulgated in accordance therewith, or an order issued thereunder;
    - iii. Compromise or limit any enforcement action available to the Department pursuant to law; or
    - iv. Exempt an applicant from complying with all applicable provisions of Federal and State laws, or rules or regulations promulgated pursuant thereto.
- (b) A final permit decision shall not be issued until the permit is determined to be consistent with the applicable water quality management plan in accordance with N.J.A.C. 7:15. An applicant may submit the permit application and plan amendment application concurrently pending the Department's determination of consistency of the permit application with the water quality management plan in accordance with the following terms and conditions:
1. The applicant shall state in the NJPDES permit application that it is submitting concurrent permit and water quality management plan amendment applications and shall request administrative and technical application review of the permit application;

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2. The NJPDES permit application shall be deemed to be administratively incomplete in the absence of a determination of consistency with the applicable water quality management plan but the Department will continue to review the permit application for technical sufficiency;
  3. The applicant bears the risk of incurring any cost associated with preparing the NJPDES permit and water quality management plan amendment application submittals whether or not the Department subsequently determines that the permit application is consistent with the water quality management plan; and
  4. In accepting and reviewing the concurrently submitted NJPDES permit and water quality management plan amendment applications under this section, the Department does not implicitly or expressly commit itself to approving either or both applications.
- (c) Notice of NJPDES permit applications and/or draft permits shall be sent by the Department to the Regional Administrator in accordance with 40 C.F.R. 123 and the Memorandum of Agreement.

#### **7:14A-15.5 CONSOLIDATION OF PERMIT PROCESSING**

- (a) Whenever an applicant proposes or requests a permit or permit renewal for more than one type of discharge covered by this chapter, the applicant, to the extent practicable, shall submit applications for all required permits to discharge concurrently and, to the extent practicable, the Department shall consolidate the processing of the permit applications.
- (b) Whenever draft permits are concurrently prepared, the statements of basis (see N.J.A.C. 7:14A-15.7) or fact sheets (see N.J.A.C. 7:14A-15.8), administrative records (see N.J.A.C. 7:14A-15.9), public comment periods (see N.J.A.C. 7:14A-15.10), and any public hearings (see N.J.A.C. 7:14A-15.12) on those permits shall be consolidated. The final permits, to the extent practicable, shall be concurrently issued except where, in the judgment of the Department, joint processing will result in unreasonable delay in the issuance of one or more approval(s) for the discharge.
- (c) Whenever an existing facility or activity requires additional permits covered by this chapter, the Department shall, to the extent practicable, coordinate the expiration date(s) of the new permit(s) with the expiration date(s) of the existing permit(s) and make necessary adjustments of these dates so that all permits expire simultaneously. Subsequent renewal applications shall also be similarly consolidated.

#### **7:14A-15.6 DRAFT PERMITS**

- (a) After review of a complete permit application, the Department shall take one of

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the following actions:

1. For a modification, revocation and reissuance, renewal or new permit, issue a draft permit which includes a fact sheet in accordance with N.J.A.C. 7:14A-15.8;
  2. For the suspension or revocation of an existing permit or the denial of an application for a new permit or permit renewal, issue a notice of intent to suspend, revoke or deny, as applicable, in accordance with N.J.A.C. 7:14A-15.7(a) setting forth the basis for the permit action; or
  3. For the denial of an application for a modification, revocation and reissuance, suspension, or revocation of a permit, send the applicant a response letter stating the reason(s) for the denial in accordance with N.J.A.C. 7:14A-16.3.
- (b) All draft permits and general permits, with the exception of draft permits issued pursuant to (a)2 above, shall include the following information:
1. Applicable conditions under N.J.A.C. 7:14A-6.3;
  2. Applicable compliance schedules under N.J.A.C. 7:14A-6.4;
  3. Applicable monitoring requirements under N.J.A.C. 7:14A-6.5;
  4. For UIC permits, permit conditions under N.J.A.C. 7:14A-8.10; and
  5. For NJPDES permits, effluent limitations, standards, prohibitions, standards for residual use or disposal, and conditions under N.J.A.C. 7:14A-11.2 and 11.3 and all applicable variances under N.J.A.C. 7:14A-11.7.
- (c) All draft permits prepared under this section shall be:
1. Accompanied by a statement of basis (see N.J.A.C. 7:14A-15.7) or fact sheet (see N.J.A.C. 7:14A-15.8);
  2. Based on the administrative record (see N.J.A.C. 7:14A-15.9); and
  3. Subject to public notice (see N.J.A.C. 7:14A-15.10) and made available for public comment (see N.J.A.C. 7:14A-15.11).
- (d) If there are no changes to the renewed permit, other than changes which would constitute minor changes under N.J.A.C. 7:14A-16.5, the existing permit and fact sheet may serve as the draft permit for the renewed permit.
- (e) After the close of the public comment period, the Department shall issue a final permit decision pursuant to N.J.A.C. 7:14A-15.15 including a response to

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comments document pursuant to N.J.A.C. 7:14A-15.16.

**7:14A-15.7 STATEMENT OF BASIS**

- (a) The Department shall prepare a statement of basis when:
  - 1. It suspends or revokes an existing permit pursuant to N.J.A.C. 7:14A-16.6;  
or
  - 2. It denies an application for a new permit or permit renewal.
- (b) The statement of basis shall briefly describe:
  - 1. The type of facility or activity which is the subject of the permit application;
  - 2. The type and quantity of wastes, fluids, or pollutants which are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged; and
  - 3. The reasons supporting the decision to suspend or revoke a permit, or to deny an application for a new permit or permit renewal.
- (c) The Department shall send the statement of basis to the applicant, to the persons identified in N.J.A.C. 7:14A-15.10(e)1ii through v and, upon request, to any other person.

**7:14A-15.8 FACT SHEET**

- (a) The Department shall prepare a fact sheet for every general permit, new permit, permit renewal, permit revocation and reissuance or major permit modification.
- (b) The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological, and policy considerations examined during preparation of the draft permit. The Department shall send this fact sheet to the applicant, to the persons identified in N.J.A.C. 7:14A-15.10(e)1ii through v, and upon written request, to any other person.
- (c) The fact sheet shall include, when applicable:
  - 1. A brief description of the type of facility or activity which is the subject of the draft permit;
  - 2. The type and quantity of wastes, fluids, or pollutants which are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged;
  - 3. A sketch or detailed description of the location of the discharge(s) or

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regulated activity described in the application or, for general permits, a map or description of the area;

4. A brief summary of the basis for the draft permit conditions, including references to applicable statutory or regulatory provisions and appropriate supporting references to the administrative record required by N.J.A.C. 7:14A-15.17;
5. A summary of the Department's determination whether to include any requested variances or alternatives to permit conditions;
6. The name and telephone number of a Department staff person to contact for additional information;
7. Any calculations or other necessary explanation, or a reference where calculations or explanations can be found, of the derivation of specific effluent limitations and conditions or standards for residual use or disposal, including a citation to the applicable effluent limitation guideline or performance standard or standard for residual use or disposal as required under N.J.A.C. 7:14A-13 or 20. The fact sheet shall also state the reasons why they are applicable or provide an explanation of how the alternate effluent limitations were developed. When the draft permit contains any of the following conditions, an explanation of the reasons why such conditions are applicable:
  - i. Limitations to control toxic pollutants under N.J.A.C. 7:14A-13;
  - ii. Limitations on internal wastestreams under N.J.A.C. 7:14A-13.16;
  - iii. Limitations on indicator pollutants under 40 CFR 125.3(g) or surrogate parameters under N.J.A.C. 7:14A-13.7 or 13.10; or
  - iv. Limitations set on a case-by-case basis under 40 CFR 125.3(c)(2) or (c)(3), or pursuant to N.J.A.C. 7:14A-20.5; and
8. For permits that include a notification plan under N.J.A.C. 7:14A-20.7(a)3, a brief description of the conditions of the permit that address approval of residual land application sites not identified at the time of permit issuance.

#### **7:14A-15.9 ADMINISTRATIVE RECORD FOR THE DRAFT PERMIT**

- (a) The provisions of a draft permit shall be based on the administrative record as defined in this section.
- (b) For preparing a draft permit under N.J.A.C. 7:14A-15.6, the administrative record shall consist of:



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1. The application, if required, and any supporting data furnished by the applicant;
  2. The draft permit;
  3. The statement of basis pursuant to N.J.A.C. 7:14A-15.7 or fact sheet pursuant to N.J.A.C. 7:14A-15.8;
  4. All documents cited in the statement of basis or fact sheet; and
  5. Other documents contained in the supporting file for the draft permit.
- (c) Any of the materials described at (b) above that are readily available in the offices of the Department or are published and generally available need not be physically included in the administrative record provided a specific reference to such materials is made in the fact sheet or statement of basis.

**7:14A-15.10 PUBLIC NOTICE OF PERMIT ACTIONS AND PUBLIC COMMENT PERIOD**

- (a) The Department, or the applicant upon authorization by the Department, shall publish public notice pursuant to (e) below for the following:
1. Issuance of a draft permit under N.J.A.C. 7:14A-15.6;
  2. Scheduling of a public hearing under N.J.A.C. 7:14A-15.12; and
  3. Reopening or extension of the public comment period under N.J.A.C. 7:14A-15.14, except that when the comment period is extended for 15 days or less, public notice of the extension shall be limited to an oral or written notice to the applicant and to those persons who commented on the draft permit.
- (b) The Department shall not publish a public notice seeking public comment for the following:
1. Denial of request for permit modification, revocation and reissuance, suspension, or revocation under N.J.A.C. 7:14A-16.3(c). Written notice of the denial shall be provided to the applicant and to the permittee;
  2. Issuance of a minor permit modification under N.J.A.C. 7:14A-16.5; or
  3. Activation of the terms and conditions of a suspended permit previously subject to public notice in accordance with this section.
- (c) The Department, or the applicant upon authorization by the Department, shall publish pursuant to (e) below public notice, as approved by the Department, according to the following schedule:

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1. For draft permits and reopening or extension of the public comment period under (a)1 and 3 above, at least 30 days prior to the end of the public comment period. When public notice is published in:
    - i. One or more newspapers and the DEP Bulletin, the comment period shall close no sooner than 30 days after the last newspaper publication; or
    - ii. Only the DEP Bulletin, the comment period shall close no sooner than 30 days after publication.
  
  2. For a public hearing under (a)2 above, 30 days prior to the public hearing.
- (d) The Department may describe more than one type of discharge or permit action in a public notice. Public notice of the public hearing and draft permit may be combined and published concurrently.
- (e) To publish public notice of the activities described in (a) above, the Department or the applicant authorized by the Department pursuant to (c) above shall:
1. Mail a copy of the approved public notice to the following persons:
    - i. The applicant (except for those general permits for which there is no applicant);
    - ii. Federal and State agencies that have issued or are required to issue a RCRA, UIC, Prevention of Significant Deterioration (or other permit under the Clean Air Act), NJPDES, Section 404 of the Federal Act, or residual management permit;
    - iii. Federal and State agencies that have jurisdiction over fish, shellfish, wildlife resources, coastal zone management plans, the State Advisory Council on Historic Preservation, State Historic Preservation Officers, and other appropriate government authorities, including any affected states;
    - iv. Any State agency responsible for areawide waste management or water quality plan development under Sections 208(b)(2), 208(b)(4), or 303(e) of the Federal Act and the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service;
    - v. Any State or local agency having authority under State law with respect to construction or operation of the facility;
    - vi. Any user identified in the permit application of a privately owned

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treatment works;

vii. The mayor and governing body of the municipality where the facility is located or proposed to be located and with a request that the mayor or governing body distribute copies of the public notice to other appropriate governmental units;

viii. Sewerage entity (or local agency for an SIU permit); and

ix. Persons on a mailing list that:

(1) Includes those who request to be on such mailing list; and

(2) Includes those persons affected by the permit action.

2. For a facility classified as major, a general permit or a permit for land application of residuals which includes a notification plan pursuant to N.J.A.C. 7:14A-20.7(a)3, in addition to (e)1 above, publish the approved public notice in a daily or weekly newspaper within the area affected by the facility or activity; and

3. The Department shall publish notice of all permit modifications in the DEP Bulletin as follows:

i. For a major modification to permits classified as minor or significant minor, the public notice shall contain the information in (f) below;

ii. For a major modification to a permit classified as major, the notice shall consist of only the facility name and NJPDES permit number, the proposed modification(s), the name of the newspaper(s) where the public notice will appear and the name and telephone of the Department staff person assigned to the permit action; and

iii. For a minor modification to a permit for a facility classified as major, minor or significant minor, the notice shall consist of only the information required in (e)3ii above except for providing the name of the newspaper(s) where the public notice will appear.

(f) The approved public notice shall include the following information:

1. The name and address of the applicant or permittee and, if different, of the facility and/or activity regulated by the permit, except for those general permits for which there is no applicant;

2. A brief description of the business conducted at the facility or activity described in the permit, permit application, or draft permit;

3. A general description of the location of each existing or proposed

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discharge point, the name of the receiving water and, where applicable, a general description of the residual use and/or disposal practice(s) and the location of each treatment works treating domestic sewage, and residual use or disposal sites known at the time of permit application. For draft general permits, this requirement may be satisfied by a map or description of the permit area;

4. The name and address of the office within the Department to which a person can make a written request to view the administrative record and the times and place at which the record will be open for public inspection, and the name of the Department staff person who is processing the permit action to whom a person can make a written request for copies;
  5. A brief description of the comment procedures required by N.J.A.C. 7:14A-15.11 and 15.12 including:
    - i. The date, time and place of any scheduled public hearing;
    - ii. A statement of the procedures by which to request a hearing (unless a hearing has already been scheduled) and other procedures by which a person may participate in the final permit decision process; and
    - iii. The opening and closing date of the comment period, including a statement that comments shall be postmarked by the closing date; and
  6. Any additional information considered by the Department to be necessary or appropriate.
- (g) In addition to the information described at (f) above, the Department shall include the following information in the public notice for a public hearing scheduled pursuant to N.J.A.C. 7:14A-15.12:
1. The date of any previous public notice relating to the permit;
  2. The date, time and place of the public hearing; and
  3. A brief description of the nature and purpose of the public hearing, including the applicable rules and procedures.
- (h) In addition to the public notice described in (f) above, the Department shall mail to all persons identified in (e)1i through v above a copy of the fact sheet or statement of basis, and, upon written request, the permit application and the draft permit.

#### **7:14A-15.11 PUBLIC COMMENTS AND REQUESTS FOR PUBLIC HEARING**

- (a) During the public comment period established under N.J.A.C. 7:14A-15.10, any person may submit written comments on a draft permit based upon significant

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and relevant issues and data .

- (b) If a public hearing has not already been scheduled, a person may request a public hearing on a draft permit for which public notice has been published pursuant to N.J.A.C. 7:14A-15.10. A request for a public hearing shall be in writing and shall state the nature of the significant and relevant issues proposed to be raised in the hearing and why these issues cannot be adequately expressed other than at a public hearing.

#### **7:14A-15.12 PUBLIC HEARINGS**

- (a) The Department shall hold a public hearing if there is or may be a significant degree of public interest in favor of holding a public hearing. The Department may hold a public hearing if it determines that a hearing is likely to clarify one or more legal and/or factual issues on a draft permit and that oral testimony is essential to adequately express all issues and concerns.
- (b) Public hearings shall be conducted in a non-adversarial manner wherein a person shall be afforded an opportunity to submit oral or written statements and data concerning the draft permit.
- (c) The Department may set reasonable limits upon the time allowed for oral comments at the public hearing and may also require the submission of written statements.
- (d) The Department shall extend the public comment period established pursuant to N.J.A.C. 7:14A-15.10 to the close of any public hearing held pursuant to this section. The Department may also extend the comment period beyond the public hearing by so stating at the hearing.
- (e) If a permittee has requested to arrange for a public hearing and the Department determines that a public hearing is warranted based on (a) above, it shall be the sole responsibility of the applicant to secure the use of an adequate facility to hold the public hearing and to obtain any ancillary services associated with the public hearing including, but not limited to, a stenographer and/or tape recording. The location, time and date of the public hearing shall be mutually acceptable to the Department and the applicant.
- (f) When a permittee arranges the public hearing, it shall provide the Department with two copies of the public hearing transcript at no charge to the Department.
- (g) The Department shall make available for public inspection a written transcript of the public hearing. A copy of the transcript will be sent, on request, for a reasonable fee for copying.

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**7:14A-15.13 OBLIGATION TO RAISE ISSUES AND PROVIDE INFORMATION DURING THE PUBLIC COMMENT PERIOD**

- (a) Any applicant or permittee or person interested in being considered a party to an action pursuant to N.J.A.C. 7:14A-17.3 who believes that any action under N.J.A.C. 7:14A-15.10(a) is inappropriate shall raise all reasonably ascertainable issues and submit, in writing to the Department by certified mail (return receipt requested), or by other means which provides verification of the date of delivery to the Department all such reasonably ascertainable arguments and factual grounds supporting them, including all supporting materials, by the close of the public comment period. If an applicant or permittee or any person fails to raise any reasonably ascertainable issues within the public comment period, the right to raise or contest any such issues in any subsequent adjudicatory hearing or appeal shall be deemed to have been waived. All supporting materials shall be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or consist of State or Federal statutes and regulations, USEPA documents of general applicability, or other generally available reference materials. Commenters shall make any supporting material incorporated by reference available at the request of the Department.

**7:14A-15.14 REOPENING OF THE PUBLIC COMMENT PERIOD**

- (a) Upon its determination that any data, information or argument submitted during the comment period raises significant legal and/or factual issues that are likely to affect the final decision on the permit, the Department shall take one or more of the following actions:
1. Prepare a new draft permit, appropriately modified, pursuant to N.J.A.C. 7:14A-15.6;
  2. Prepare a revised statement of basis under N.J.A.C. 7:14A-15.7, or a revised fact sheet pursuant to N.J.A.C. 7:14A-15.8, and reopen the comment period under (a)3 below; or
  3. Reopen or extend the comment period to give a person the opportunity to comment on the data, information or arguments so submitted.
- (b) Comments filed during the reopened or extended comment period shall be limited to the relevant legal and/or factual issues that prompted the reopening or extension of the comment period. The public notice under N.J.A.C. 7:14A-15.10 shall define the scope of the reopened or extended comment period.
- (c) The Department shall publish public notice of any of the actions specified at (a) above in accordance with N.J.A.C. 7:14A-15.10, except when the comment period is reopened or extended for 15 days or less, in which case, the Department shall provide only the applicant and all persons who commented on

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the draft permit with oral or written notice of the reopened or extended public comment period.

**7:14A-15.15 FINAL PERMIT DECISION, AND ISSUANCE AND EFFECTIVE DATE OF A PERMIT**

- (a) The Department shall issue a final permit decision after the close of the public comment period. The Department also shall notify, in writing, the applicant or permittee and each person who submitted written comments or requested notice of the final permit decision. This notification shall include reference to the procedures provided to the applicant or permittee and persons other than the applicant or permittee for contesting the Department's decision on a permit.
- (b) A final permit shall not become effective until 30 days from receipt by the permittee of the permit except when:
  - 1. An effective date is not specified in the permit but the permit specifies that the permittee may request the establishment of the effective date at a subsequent time;
  - 2. A later effective date is specified in the permit; or
  - 3. The Department has received no comment from persons other than the permittee on the draft permit and an immediate effective date is requested by the permittee, in writing, and the Department concurs.
- (c) After the issuance of a final permit decision:
  - 1. A treatment works approval, if required by N.J.A.C. 7:14A-22.3, shall be obtained.
  - 2. The permittee or any other person considered a party to the action under N.J.A.C. 7:14A-17.3 may request an adjudicatory hearing to contest the final permit decision in accordance with N.J.A.C. 7:14A-17.2.

**7:14A-15.16 RESPONSE TO COMMENTS**

- (a) The Department shall specifically respond to comments concerning draft permits from persons, including comments from affected states, by issuing a response to comments document at the time that a final permit decision is issued. The document shall:
  - 1. State what action the Department has taken on the final permit or permit decision;
  - 2. Specify which provisions, if any, of the draft permit have been changed in the final permit, and the reasons for the change. The Department shall make only those changes which do not destroy the value of the original

This is a courtesy copy of this rule. All of the Department's rules are compiled in Title 7 of the New Jersey Administrative Code.

fact sheet or statement of basis; and

3. Briefly describe and respond to all significant and relevant comments on the draft permit raised during the public comment period, or during any public hearing.

- (b) A person may arrange to review the response to comments document by telephoning the Department's Bureau of Central Services and Property Management at (609) 292-0400.

#### **7:14A-15.17 ADMINISTRATIVE RECORD FOR THE FINAL PERMIT**

- (a) The Department shall base final permit decisions made pursuant to N.J.A.C. 7:14A-15.15 on the administrative record, which shall consist of the following:
  1. The administrative record for the draft permit under N.J.A.C. 7:14A-15.9;
  2. All comments received during the public comment period established under N.J.A.C. 7:14A-15.10 including any extension or reopening under N.J.A.C. 7:14A-15.14;
  3. The tape or transcript of any public hearing(s) held under N.J.A.C. 7:14A-15.12;
  4. Any written materials submitted at any public hearing held under N.J.A.C. 7:14A-15.12;
  5. The response to comments document prepared under N.J.A.C. 7:14A-15.16 and any new material placed in the record under that section;
  6. Other documents contained in the supporting file for the permit; and
  7. The final permit.
- (b) Any of the materials described at (a) above that are readily available in the offices of the Department or are published and generally available need not be physically included in the administrative record provided a specific reference to such materials is made in the fact sheet or statement of basis.
- (c) A person may arrange to review the administrative record by telephoning the Department's Office of the Records Custodian at (609) 341-3121.



## **N.J.A.C. 7:14A-15: APPENDIX A      GUIDE TO THE NJPDES PERMIT PROCESSING REQUIREMENTS**

Appendix A is designed to assist a new applicant, or permittee in following the permit procedural requirements set out in this chapter. An applicant should read the full text of the regulations before applying for a permit.

The flow chart outlines a sequence of events directed by arrows and is divided into two sections as follows:

### **SECTION 1 - APPLICATION PROCEDURES**

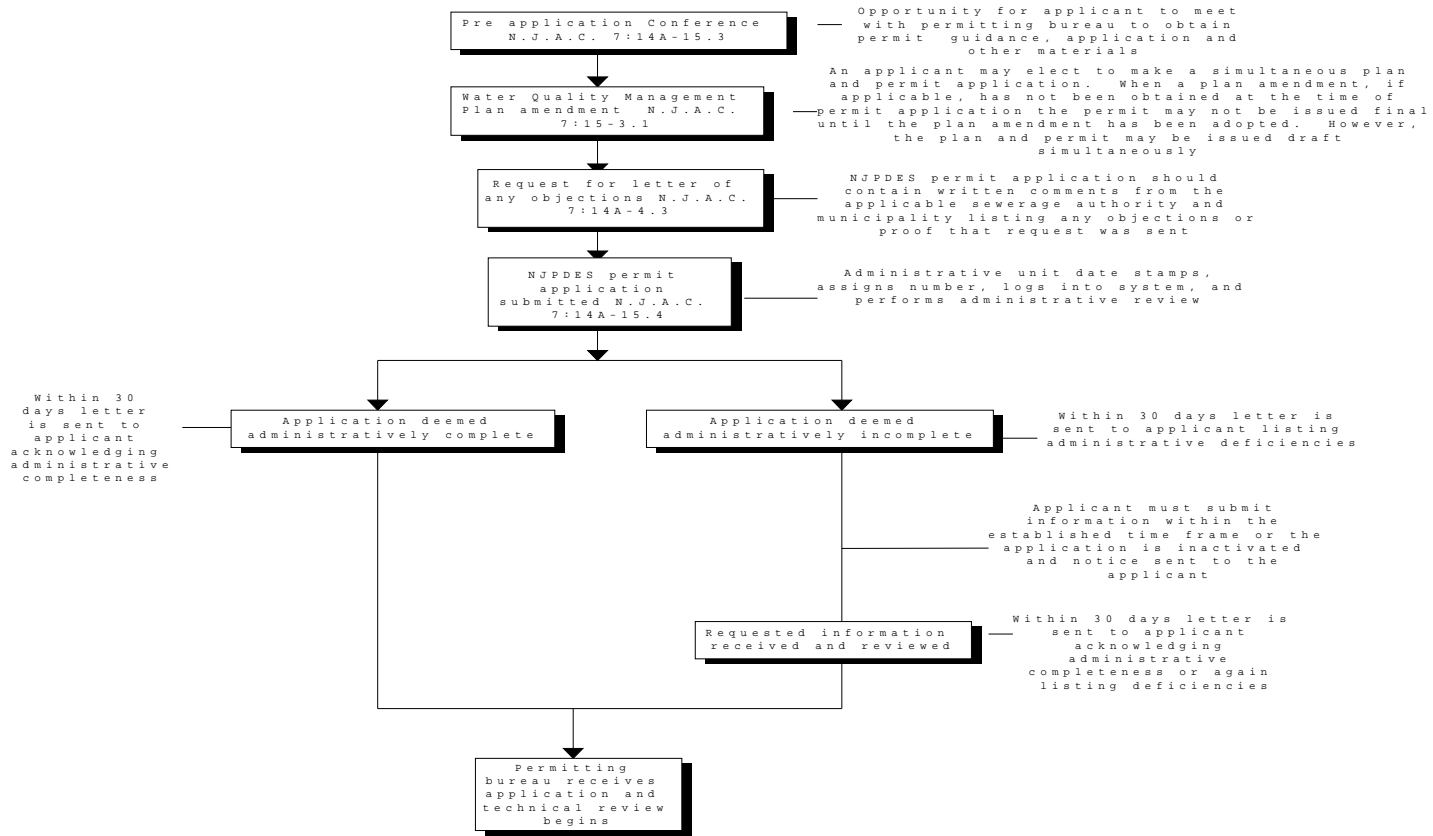
Section 1 outlines the actions leading to a permit application and the Department's administrative review of the application. The key items in this section are that prior to a permit application an applicant shall have:

1. Received a determination of consistency (unless submitting a concurrent permit and plan amendment application) pursuant to N.J.A.C. 7:14A-15.4(b) in accordance with the Statewide Water Quality Management Planning Rules at N.J.A.C. 7:15; and
2. Requested a letter of comment or objections from the municipality or sewerage authority pursuant to N.J.A.C. 7:14A-4.3(a)13.

### **SECTION 2 - PERMIT DECISION PROCESS**

Section 2 outlines the steps in the technical review of the permit application, how a permit will be prepared and publicly noticed for comment, and how a final permit decision will be issued. The key item in this section is the public comment period (N.J.A.C. 7:14A-15.10). Unless issues are raised during this period they may not be adjudicated during the hearing process if the applicant appeals the Department's final decision on the permit.

# Application Procedures



# Per m i t D e c i s i o n P r o c e s s

