

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JANUARY 4, 2010 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

**ENVIRONMENTAL PROTECTION
LAND USE MANAGEMENT
DIVISION OF WATER SUPPLY**

Safe Drinking Water Act Rules

Proposed Amendments: N.J.A.C. 7:10-2.4, 3.3 through 3.6, 3.8, 3.9, 10.2, 10.5, 10.7, 11.5, 11.7, and 11.10

Proposed New Rule: N.J.A.C. 7:10-3.10

Authorized by: Mark N. Mauriello, Acting Commissioner
Department of Environmental Protection

Authority: N.J.S.A. 13:1D-1 et seq., 58:11-9.1 et seq., 58:11-23 et seq., and 58:12A-1 et seq.

Calendar reference: See Summary below for explanation of exception to calendar requirement.

DEP Docket Number: 19-09-11/751

Proposal Number: PRN 2009-

A public hearing concerning this proposal will be held on:

Tuesday, February 2, 2010, at 9:00 A.M.
NJ Department of Environmental Protection
Public Hearing Room, 1st Floor
401 East State Street
Trenton, NJ, 08625

Submit written comments concerning this proposal by (60 days after publication) to:

Janis E. Hoagland, Esq.
Attn: DEP Docket Number: 19-09-11/751
Office of Legal Affairs
Department of Environmental Protection
401 East State Street
P.O. Box 402
Trenton, New Jersey 08625-0402

The Department of Environmental Protection (Department) requests that commenters submit comments on disk or CD as well as on paper. Submittal of a disk or CD is not a requirement. Submittals on disk or CD must not be access restricted (locked or read only) in order to facilitate use by the Department of the electronically submitted comments. The

Department prefers Microsoft Word 6.0 or above. Macintosh™ formats should not be used. Each comment should be identified by the applicable N.J.A.C. citation, with the commenter's name and affiliation following the comment.

This rule proposal document can be viewed or downloaded from the Department's web page at <http://www.nj.gov/dep/rules>.

The agency proposal follows:

Summary

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

The Safe Drinking Water Act (SDWA) rules, N.J.A.C. 7:10, establish the State primary and secondary drinking water regulations for public and nonpublic water systems, construction standards, fees, physical connections between an approved and an unapproved water supply, variance and exemption procedures, and provisions regarding civil administrative penalties and adjudicatory hearings under the New Jersey SDWA, N.J.S.A. 58:12A-1 et seq. The Department is proposing amendments to the SDWA rules to (1) address certain process changes recommended by the Permit Efficiency Review Task Force (convened by the Commissioner of the Department in 2008 to comprehensively review the Department's permitting programs) and (2) update the penalty and enforcement provisions to conform to the amendments to the SDWA at N.J.S.A. 58:12A-10 made by P.L. 2007, c. 246, commonly referred to as the Environmental Enforcement Enhancement Act, enacted effective January 2008. In 2010, the Department anticipates proposing additional amendments relating to permitting, the technical, managerial and financial review of public water systems, the operation and maintenance of public water systems, implementation of the requirements of the Federal Ground Water Rule (40 CFR 141.400, Subpart S), and new and revised maximum contaminant levels.

The following is a summary of the proposed amendments:

In Subchapter 2, General Requirements, the Department is proposing to amend N.J.A.C. 7:10-2.4 to include the current phone number used to report drinking water related emergencies to the Department.

In Subchapter 3, Civil Administrative Penalties and Requests for Adjudicatory Hearings, the Department is proposing amendments to incorporate changes to the enforcement provisions of the SDWA made by P.L. 2007, c. 246, commonly referred to as the Environmental Enforcement Enhancement Act (EEEEA). The statutory amendments (1) establish \$25,000 as the maximum for civil administrative and civil penalties; (2) require that assessed civil administrative penalties must fall within a range established by regulation for violations of similar type, seriousness, duration and conduct; (3) provide that a statement of the basis for the amount of civil penalties to be assessed be included in a penalty notice; (4) provide a period of 35 days rather than 20 days in which an alleged violator may request an administrative hearing;

(5) provide that, notwithstanding the \$25,000 maximum penalty, the Department may assess any economic benefit the violator has realized as a result of the violation; (6) revise the types of relief the Department may seek in a civil action, including providing that the Department may institute a civil action to recover reasonable costs for removing, correcting, or terminating the adverse effects of the violation; and (7) provide that persons who purposely, knowingly or recklessly violate the SDWA and/or these rules, including making a false or misleading statement to the Department, are subject to criminal sanctions including penalties.

At N.J.A.C. 7:10- 3.3(a), which sets forth the process by which the Department issues administrative orders, the Department is proposing to delete reference to such orders requiring abatement of the violation and to include, pursuant to the EEEA amendments, requiring compliance with the statutory, regulatory, or permit provision violated and/or restoration of the area which is the site of the violation. The area that is the site of a violation under these rules might be, for example, an aquifer where a well was incorrectly placed or the part of a water main on which a physical connection was incorrectly placed. Restoration or remediation in these instances might include sealing the well or removing the physical connection.

At N.J.A.C. 7:10-3.3(a), 3.4(b) and 3.5(b), the Department is proposing amendments that conform the rules to the EEEA amendments with regard to the period of time in which a violator has to request an administrative hearing after receipt of the Department's administrative order and/or notice of civil administrative penalty assessment. Specifically, the period in which to request a hearing is now 35 days rather than 20 days. At N.J.A.C. 7:10-3.6(a), 3.6(g), and 3.8(a), the Department is proposing amendments that reflect that, as provided by the EEEA amendments, the Department may assess penalties up to the new \$25,000 statutory maximum for each violation.

The Department is proposing to amend N.J.A.C. 7:10-3.4(a)3 to provide that the notice of civil administrative penalty assessment will include both the amount of the penalty and the basis for the penalty. At N.J.A.C. 7:10-3.4(c), "violation" is substituted for "offense" for clarity.

The Department is proposing to amend N.J.A.C. 7:10-3.6(d)1ii and (d)3i to update the citations to the applicable Federal rule. N.J.A.C. 7:10-3.6(d)1ii provides that the failure to provide public notice of violations in accordance 40 CFR 141.202 is a violation of major seriousness. N.J.A.C. 7:10-3.6(d)3i provides that the failure to provide public notice of violations in accordance 40 CFR 141.204 is a violation of minor seriousness. The Department is further proposing to add new N.J.A.C. 7:10-3.6(d)2iv to provide that the failure to provide public notice of violations in accordance with 40 CFR 141.203 is a violation of moderate seriousness.

The Federal rules require that each owner or operator of a public water system must give notice for all violations of the national primary drinking water regulations and for other situations such as failure to monitor for a specific parameter. Public notice requirements are divided into three tiers, to take into account the seriousness of the violation or situation and of

any potential adverse health effects that may be involved. Tier 1 public notice is required for all violations and situations with significant potential to have serious adverse effects on human health as a result of short term exposure. Tier 2 public notice is required for all other violations and situations with potential to have serious adverse effects on human health. Tier 3 public notice is required for all other violations that are not Tier 1 or 2. Accordingly, at N.J.A.C. 7:10-3.6(d), violations of the Tier 1 public notice requirements are categorized as violations of major seriousness; violations of the Tier 2 public notice requirements are categorized as violations of moderate seriousness; and violations of the Tier 3 public notice requirements are categorized as violations of minor seriousness.

The Department is proposing to amend N.J.A.C. 7:10-3.6(g) to note that the adjustment of the penalty to be assessed is undertaken at the Department's discretion.

N.J.A.C. 7:10-3.8(a) is proposed to be amended, consistent with the EEEA amendments to the SDWA, to include in the list of violations subject to civil penalties the failure to make a payment pursuant to a penalty payment schedule and the making of a false or misleading statement on an application or other document required to be submitted to the Department. At N.J.A.C. 7:10-3.8(b), the reference and citation to the Penalty Enforcement Law of 1999 are corrected.

At N.J.A.C. 7:10-3.9, the Department is proposing to replace reference to a court of competent jurisdiction with reference to the Superior Court, consistent with the EEEA amendments to the SDWA.

The Department is proposing new N.J.A.C. 7:10-3.10 to provide, in accordance with the EEEA amendments, that the Department may assess a violator for the economic benefit that the violator realized from the violation.

In Subchapter 10, Physical Connections and Cross-connection Control by Containment, the Department is proposing various amendments to reflect the current organization of the Department and to update contact information and website addresses. The Department is also proposing several amendments to implement recommendations by the Permit Efficiency Review Task Force. As noted previously, the Permit Efficiency Review Task Force was established by the Commissioner of the Department in March 2008 for the purpose of conducting a comprehensive analysis of the Department's permitting programs. The Task Force submitted recommendations to the Commissioner in its Final Report dated August 7, 2008 (available from the Department's website at www.nj.gov/dep/permittf/docs/final_report_8_7_08.pdf).

The general recommendations of the Permit Efficiency Review Task Force at 1.1 and 1.4 in the Final Report relate to electronic permitting and the submission of suitable electronic applications when the Department is ready to institute "e-permitting." Accordingly, as described

below, the Department is proposing amendments to enable the electronic processing of physical connection permits.

In recommendation 23.1 of the Final Report, the Permit Efficiency Review Task Force suggests that the Department delegate to the water purveyor the responsibility for ensuring that backflow prevention devices are installed properly throughout a water system. The Department examined and received input from stakeholders regarding both the benefits and challenges associated with the transfer of this responsibility to the water purveyor. Full delegation of this responsibility is limited by statute, as N.J.S.A 58:11-9 et seq., Interconnections Between Approved Public Potable Water Supplies and Unapproved Water Supplies, requires final permit approval by the State authority, that is, the Department. However, as described further below, the Department is proposing amendments that will mandate the use of certified testers for backflow prevention device testing and inspection for existing physical connection permits, which will relieve the Department of the role of directly overseeing the testing and inspection of already-installed and approved devices.

N.J.A.C. 7:10-10.2 sets forth general provisions and prohibitions related to the installation of physical connections. N.J.A.C. 7:10-10.2 allows any physical connection permit holder to use a certified tester for the purposes of quarterly pressure testing and inspection of a backflow prevention device. The Department is proposing amendments at N.J.A.C. 7:10-10.2(d) that will allow an applicant for an initial physical connection permit to use a certified tester for the initial installation testing and inspections, but not require it. However, once a permit is issued, the Department is proposing that, as of one year from the effective date of these amendments, the permit holder must employ a certified tester to conduct the required quarterly testing and inspections. Under N.J.A.C. 7:10-10.6, the inspection and testing of physical connection installations must be conducted either by a certified tester or by the facility owner in the presence of an authorized representative of the administrative authority and/or the water supplier. Where the system in which the installation is made serves a county, State, or Federal facility, the administrative authority is the Department. Making the use of a certified tester mandatory for these routine inspections for existing permits will conserve Department resources by eliminating duplication of effort in the reviews of testing and inspection data by the local administrative authority, the Department, and the water system, while still ensuring that the physical connection is installed and routinely tested in accordance with the requirements of the subchapter.

Proposed new N.J.A.C. 7:10-10.2(f) requires the permit holder to maintain copies of all information, data, and test results related to the physical connection permit at the facility where the physical connection is installed for five years from the date of issuance of the initial permit and for five years from the date of issuance of each renewal permit thereafter. The information must be made available for inspection by the Department, the local administrative authority, and/or the owner of the water system on request. The requirement to maintain records and make them available for inspection will ensure adequate oversight while conserving resources that

would otherwise be used to schedule and supervise the inspection of existing physical connections.

Existing N.J.A.C. 7:10-10.5(a) and (b) outline the application process for initial and renewal physical connection permits. At N.J.A.C. 7:10-10.5(a)1, the Department is proposing to incorporate the website address from which application forms can be obtained. Recommendation 17.1 of the Permit Efficiency Review Task Force encourages the Department to update and maintain its permit application checklists and ensure that they are current and available on the the Department website to better facilitate the submittal by applicants of administratively and technically complete applications. Consistent with this recommendation, the Department is making the application forms and checklists for physical connection permits available electronically on the Division's website.

At N.J.A.C. 7:10-10.5(b)1, the Department is proposing to repeal the provision under which the Department initiates the permit renewal process by mailing a copy of a renewal application to each permit holder. Instead, the Department is proposing to require the permit holder to submit a complete permit renewal application at least 60 days prior to expiration of the current permit, using a form obtained from the Department, including in electronic format from the Department's website. This change in process is intended to help streamline the renewal process and reduce the paperwork burden for both permit holders and the Department.

The Department is proposing to modify the renewal application submittal requirements at N.J.A.C. 7:10-10.5(b)2. N.J.A.C. 7:10-10.5(b)2vii is proposed to be repealed and replaced with proposed new N.J.A.C. 7:10-10.5(b)2vii through x. The application for renewal must list any modifications to existing devices or new devices that have been installed in the preceding year. As of one year from the effective date of these amendments, a certified tester must certify that each approved connection has been tested for tightness, inspected within the six months preceding the application, and was functioning satisfactorily as of the time of testing. This requirement will supersede the requirements at N.J.A.C. 7:10-10.5(b)2viii and (b)3 and 4 (to be combined as (b)3, as explained below), which currently govern the testing and certifications by the permit holder and the administrative authority and water system, and the submittal by the permit holder thereafter of the renewal application with supporting test results. The facility owner must certify that notification of the results of the testing and inspection have been provided to the water supplier and the local administrative authority.

The emphasis in the revised renewal application requirements on providing information regarding modifications to existing devices and the installation of new devices, and the requirement that certified testers conduct device inspection and testing, will help expedite the review of the renewal permit applications by the Department. Proposed amendments to existing N.J.A.C. 7:10-10.5(b)3 and 4 combine the two subparagraphs into one, and limit its applicability to the period through one year from the effective date of the amendments, at which time the requirement for the certified tester's certification at proposed new N.J.A.C. 7:10-10.5(b)2ii will take effect. Existing N.J.A.C. 7:10-10.5(b)4, regarding the review and approval or denial of the

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JANUARY 4, 2010 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

renewal permit application is proposed to be recodified at N.J.A.C. 7:10-10.5(b)4, with an amendment deleting reference to reviewing the inspection and testing results, since these are already an integral part of the renewal application as submitted.

To further streamline the permitting process, the Department is proposing new N.J.A.C. 7:10-10.5(e) to require the submission of initial and renewal permit applications, as well as applications for permit modifications, electronically once the Department's electronic permit system is operational. This new subsection replaces the provision at existing N.J.A.C. 7:10-10.5(b)4 that requires electronic submittal only for renewal permits.

At N.J.A.C. 7:10-10.7, which governs the process for physical connection permit modifications, the Department is proposing that permit holders seeking changes in their permits submit an application, rather than submit a written request as well as, for certain modifications, a permit application as the rule currently requires. As noted previously, the Department has made all of its application forms available electronically. The application form for a permit modification specifies the same information that N.J.A.C. 7:10-10.7 currently requires for a written request for a permit modification.

Subchapter 11, Standards for the Construction of Public Community Water Systems, establishes the permit requirements and standards for the design and construction of new or modified public community water systems, with either groundwater or surface water sources. The subchapter also establishes the permit requirements and standards for the construction of distribution systems, including master permits and water main extension permits. The Department is proposing amendments to this subchapter to incorporate several recommendations from the Permit Efficiency Review Task Force, as described below.

At N.J.A.C. 7:10-11.5(e)1iii, new (e)4, and (g)4 the Department is proposing amendments to clarify when a water main extension is complete for the purposes of determining anticipated peak daily demand and anticipated peak monthly and annual demand for the proposed water system extension as part of the firm capacity and water allocation analysis submitted with the permit application. The analysis of available firm capacity (defined at N.J.A.C. 7:10-11.4 (a)3) and water supply ensures that the necessary infrastructure and water supply is available. Water suppliers can provide water service only within the limits of available firm capacity and water allocation permits and/or approved bulk purchase contracts. The Department reviews available firm capacity and allocation as part of the permit application review process. The Department utilizes water use reports for this purpose, identifying the water demands associated with current customers as well as pending demands associated with all previously approved, but not yet constructed, water main extensions or connections to the water system authorized pursuant to an approved permit. The proposed amendments provide that construction of the water main extension will be considered complete for the purpose of conducting this analysis when water is being delivered to the realty improvements approved under the water main extension permit. If at the time of the analysis, there are realty

improvements authorized under the permit to which water is not being delivered, the number of such realty improvements cannot exceed the threshold at which a water main extension permit is required in accordance with N.J.A.C. 7:10-11.10(b)1.

Proposed new N.J.A.C. 7:10-11.5(m) establishes a five-year term for public community water system permits issued pursuant to Subchapter 11 on or after the effective date of the amendments, with the opportunity to obtain a two-year extension. Currently permits are issued with a standard condition that establishes an effective term of three years, with the opportunity to obtain two (consecutive) 18-month extensions. In 2006 the Department processed more than 70 requests to extend the term of approved permits. In 2007 more than 50 requests for permit extensions were processed. Recommendation 22.1 in the Permit Efficiency Review Task Force Final Report suggests that the term of water main extension permits be increased where there are not significant or adverse environmental impacts on water supply. The proposed five-year term with one two-year extension responds to this recommendation. It will afford permit holders a potential maximum of seven years for construction, rather than the current potential maximum of six years, and will lessen the administrative burden on permit holders and the Department to process permit extensions. The environmental impacts associated with water system permits are assessed as part of the initial permit application review process. Extending the term of an approved permit would not be expected to result in any significant or adverse environmental impacts so long as the conditions of the permit continue to be satisfied.

Proposed N.J.A.C. 7:10-11.5(m) requires a request to extend the term of an existing permit be submitted at least 90 days before the expiration of the existing permit and defines the conditions under which an extension of the term of a water system permit will be approved. The permit holder must demonstrate that the project and/or conditions on which the existing permit was based, specifically, available water supply, firm capacity, and system demands, have not changed significantly since the time of the initial approval. A permit extension request will be denied if the permit holder has received a Department order regarding a violation of the existing permit.

Proposed new N.J.A.C. 7:10-11.5(n) provides that, after notification from the Department, applications for water system permits under Subchapter 11 are to be submitted electronically. As noted previously, this responds to the recommendation of the Permit Efficiency Review Task Force that the Department begin to facilitate electronic permitting.

Proposed amendments to N.J.A.C. 7:10-11.7(h)1 and (l)1 correct cross-references.

N.J.A.C. 7:10-11.10 establishes the permit requirements and standards for the construction of distribution systems, including master permits and water main extension permits. The Department is proposing to delete reference to interconnections under the requirements for master permits at N.J.A.C. 7:10-11.10(a). Since interconnections provide a new source of water supply for the system and can trigger different monitoring requirements or have an impact on a

system's firm capacity, it is important that the Department conduct the permit review to, among other things, ensure that proper contracts between water systems are in place. Consistent with proposed N.J.A.C. 7:10-11.5(m), which establishes the term for all permits issued under Subchapter 11, including master permits, as five years, the Department is similarly proposing that the period for the set number of service connections covered by a master permit be five years. It currently is three years.

Proposed new N.J.A.C. 7:10-11.10(a)3 will require water suppliers that have submitted an average of four or more permit applications per year over a three year period to apply for a master permit upon notice from the Department. This requirement responds to recommendation 21.1 of the Permit Efficiency Review Task Force Final Report, which suggests that the Department should "mandate that large purveyors use the master permit." The Department evaluated the number of water main extension permits submitted during the three-year period from 2006 through 2008 to determine how to best maximize efficiency and reduce workload. The Department estimates that 21 systems and 430 permits (or 44 percent of the total water main extension permits submitted) over the three year period from 2006 through 2008 would have met the proposed threshold. Increasing the use of master permits will reduce the permit review workload for the Department and enable purveyors to extend service to the limits of the supply and firm capacity identified in the master permit without the need to submit multiple permit applications and fees.

At N.J.A.C. 7:10-11.10(b), the Department is proposing to increase the thresholds that determine whether an individual permit for a water distribution improvement, such as a water main extension, not otherwise covered by a master permit must be obtained and what type of application information must be submitted. At N.J.A.C. 7:10-11.10(b)1, the threshold number of realty improvements is increased from less than 15 to less than 30, and the threshold non-residential demand is increased from 6,000 gallons per day to 12,000 gallons per day. At N.J.A.C. 7:10-11.10(b)2, the threshold length of water main is increased from 1,500 feet or more to 3,000 feet or more.

The proposed revised thresholds were determined based on the examination of the number and scope of distribution system permit applications submitted to the Department from 2006 through 2008. The goal of the review was to establish thresholds that would facilitate focusing Department resources on the review of projects that have a greater potential to significantly impact water users, with a view toward eliminating Department review of projects with only one or two service connections, low demand, and little off-site water main construction.

During the three-year period noted above, the Department received approximately 350 to 400 distribution system permit applications each year. An increase in the threshold for realty improvements from less than 15 to less than 30 at a set threshold of 1,500 feet of water main would have resulted in a reduction of 15 to 20 distribution permits (or five percent) per year and

would have resulted in significant savings in Department resources. However, raising both the threshold for realty improvements from less than 15 to less than 30 and the threshold for water main extensions from 1,500 feet or more to 3,000 feet or more would have resulted in an estimated reduction of 75 distribution system project applications (25 percent) per year. The Department therefore determined that the proposed threshold of 3,000 feet or more (corresponding to the approximate frontage for 30 realty improvements with one-acre lots) would save resources and meet the goals described above.

The proposed revised thresholds are expected to result in approximately 75 to 100 fewer permit applications per year, thereby enabling the Department to focus its resources on larger projects with the potential for more significant water supply and public health impacts. Smaller projects, that is, those below the proposed thresholds, will be reviewed by the respective water systems to ensure that the projects meet the standards of N.J.A.C. 7:10-11.10(b)4.

Social Impact

The proposed amendments to the enforcement and penalty provisions incorporate and implement the changes to the SDWA made by the Environmental Enforcement Enhancement Act (EEEA), which modified and enhanced the Department's enforcement powers under various environmental protection statutes. The EEEA amendments strengthen the enforcement and penalty provisions, and, by deterring violations, support protections to the public that the safe drinking water rules provide.

The proposed amendments to the physical connection permit provisions will have a positive social impact because, consistent with the Permit Efficiency Review Task Force recommendations, they streamline the permitting process, reduce paperwork for the Department and permit applicants, and conserve Department resources while still ensuring the physical connections are installed in compliance with the rules. Effective backflow prevention measures are necessary to ensure continual protection of the quality of the potable water in the distribution system.

The proposed amendments to the rules governing the construction of public community water systems will have a positive social impact as they are designed to make the permitting process more efficient, consistent with the Permit Efficiency Review Task Force recommendations. Amendments that will help achieve efficiency include those requiring that purveyors obtain a master permit for water main extensions when they have frequently sought individual permits for such extensions. Similarly, the amendments clarifying what constitutes completion of construction of water main extensions will facilitate better planning related to available water capacity by both the Department and the water suppliers.

Economic Impact

The proposed amendments to reflect the EEEA amendments to the SDWA strengthen the Department's enforcement capabilities under the Safe Drinking Water program. There should be no economic impact as a result of the proposed amendments for the majority of purveyors, water suppliers or other businesses affected by the rule. For violators, however, there is a potential increased, negative economic impact because of the increased maximum civil, civil administrative, and criminal penalties.

The proposed amendments to the physical connection permit provisions will have an economic impact on those businesses that seek physical connection permits. The amendments mandate the use of certified testers for renewal permits, rather than allowing their use as an option. The cost of using a certified tester varies between \$100 and \$300 per test. The Department believes that most businesses already use certified testers and thus currently incur this cost. However, the amendments could have a negative impact on those water systems or businesses that will now be required to secure the services of certified testers. The amendments will likely have a positive economic impact on certified testers as their services will be in greater demand.

The proposed amendments regarding the construction of public community water systems are expected to have a positive economic impact for water systems that will no longer need to file permit applications and pay the associated permit review fees for infrastructure construction that does not meet the revised permitting thresholds. Businesses associated with the construction of those projects are also expected to be impacted positively as construction activities can be initiated more quickly, since time will not be needed for permit applications and reviews. Similarly, water systems might realize a positive economic impact since new water users can be connected and charged user fees sooner. The degree of economic impact on water systems and the public is dependent on the number of projects and permits requested by a water system and the size of the water system. The establishment of a permit term of five years, with one two-year extension, is expected to have a positive economic impact because it will provide additional time for the construction of approved projects. The requirement for the submission of master permit applications for those systems submitting four or more water main extension permit applications per year on notification will expedite the approval process by reducing the need for Department reviews of multiple permit applications as well as the time and costs associated with the preparation of multiple permit applications by the water systems or developers.

The proposed amendments establishing in the five-year permit term may have a negative economic impact on water systems because they will be required to reserve a portion of available firm capacity and allocation without the benefit of income associated with water service connections and new customers if the projects are not completed. These impacts, if incurred, may be able to be offset through increased charges to developers who request such reserves. There may also be a reduction in income for those businesses, primarily consulting firms, that prepare permit applications on behalf of the developers or water systems.

Finally, the proposed amendments may have a negative impact on State revenues through the loss of permit application fees for projects that will fall below the new permit thresholds. The Department estimates a loss of less than \$100,000 in revenues. This revenue loss, however, is consistent with the reduced staff level support that should be necessary to support the reduced workload of permit application reviews.

Environmental Impact

The Department anticipates a positive impact on the environment as a result of the proposed amendments. The SDWA rules provide the Department with the authority to assure the provision and maintenance of high quality potable water necessary to safeguard the health and welfare of the citizens of the State. The rules indirectly contribute to the protection of potable water resources in the State, as the requirements to monitor and treat water for potable use create an incentive to protect the integrity and purity of the resources from which the water is drawn.

The proposed EEEA amendments to the enforcement and penalty provisions will serve as a deterrent to those who would violate the provisions of N.J.A.C. 7:10. The Department anticipates that the proposed amendments will provide the regulated community with a strong incentive to conduct their activities in conformance with the Department's rules, thereby protecting the citizens of the State. The proposed amendments enable the Department to issue orders requiring the restoration of areas that are the sites of the violation. As noted previously in the summary, this could include actions such as sealing a well to protect an aquifer, which would provide an environmental protection benefit.

As discussed above, the proposed amendments to the permitting provisions will result in a more efficient process and conserve Department resources. The amendments will increase Department efficiency by allowing the extension of permits so long as there are not significant adverse environmental or water supply impacts. The amendments will enable the Department to focus staff resources on more environmentally critical issues.

Federal Standards Analysis

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 at 52:14B-23, requires State agencies which adopt, readopt or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a Federal Standards Analysis. The Federal government does not regulate the issuance of physical connection or water system permits. Provisions related to the assessment and issuance of penalties for violations of the SDWA are delegated to the State by the Federal government. Therefore, no Federal Standards Analysis is required for these amendments.

Jobs Impact

The proposed amendments relating to the EEEA should not have any impact on the generation or loss of jobs since they relate to the enforcement of the SDWA regulatory program and apply only to violators of the SDWA rules.

The proposed amendment mandating the use of certified testers for renewal physical connection permits may result in an increase in jobs for that industry. Other proposed amendments related to water main extension permits are not expected to have any impact on the number of jobs in the State. As discussed in the Economic Impact above, the proposed amendments are expected to provide for more timely construction of projects requiring water main extension permits. Consultants and engineering firms will not be significantly affected, despite the decline in the number of permit applications submitted to the Department because their services will still be needed to supply design and construction services to developers and water systems.

Agricultural Industry Impact

The rules proposed for amendments are not expected to have any impact on the agricultural industry. The water quality of agricultural wells (typically used for irrigation) is not subject to the SDWA rules. In general, public water systems are not used as a water source for agricultural purposes, although there are public transient noncommunity water systems in New Jersey that serve migrant farm camps and could be affected by the enforcement provisions proposed in subchapter 3 if they fail to comply with the SDWA regulations

Regulatory Flexibility Statement

Approximately 800 of the community and nontransient noncommunity water systems and approximately 2,000 transient noncommunity in the State are considered small businesses, under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Small businesses will incur the penalties proposed only if they are determined to be in violation of the SDWA rules; there should be no additional record keeping reporting or other compliance requirements associated with this portion of the amendments.

Additionally, while the physical connection program mainly affects the largest manufacturing and chemical plants in the State, it also applies to small businesses such as dry cleaners, metal platers and medical facilities using certain agents or chemicals that are connected to a community water supply. The requirement that these businesses use certified testers will increase their ability to comply with the regulations by increasing the numbers of individuals authorized to test and certify physical connections. In terms of recordkeeping, the proposed amendments at N.J.A.C. 7:10-10.2(f) require that physical connection permit holders maintain all

information, data and test results related to the physical connection required at the facility where the connection is located for a period of five years. Since the Department will be relying on the certification of others regarding conformance of standards, it is important that such information be maintained and available to the Department to ensure adequate oversight.

Smart Growth Impact

Executive Order No. 4 (2002) requires State agencies that adopt, amend or repeal any rule to describe the impact of the proposed rule on the achievement of smart growth and implementation of the New Jersey State Development and Redevelopment Plan (State Plan). The Department has evaluated this rulemaking to determine the nature and extent of the impact of the amendments on smart growth and implementation of the State Plan.

The purpose of the New Jersey SDWA rules is to ensure that the drinking water available to consumers meets the drinking water standards and that the quantity and delivery pressure of potable water is sufficient for the safety and protection of public health. The amendments related to the EEEA strengthen enforcement capabilities and would not have any impact on smart growth. To the extent that these proposed amendments encourage protection of potable water supply they support the overall goals of the State. Proposed amendments to revise the thresholds of permit application review are expected to expedite smaller projects (those having between 15 and 30 service connections) that are consistent with State planning objectives by reducing Department oversight. Under N.J.A.C. 7:10-11.10(b)4 a connection to or extension of water system cannot be undertaken unless there is adequate firm capacity and water allocation and the project does not conflict with the applicable adopted Areawide Water Quality Management Plan pursuant to N.J.A.C. 7:15. This provision continues to ensure that future development related to connections below the proposed new thresholds will be consistent with State planning objectives to the extent they are addressed in the adopted Areawide Water Quality Management Plans.

Housing Affordability Impact Analysis

Pursuant to N.J.S.A. 52:14B-4(a), the Department has evaluated the proposed amendments to determine their impact, if any, on the affordability of housing. The Department has determined that the amendments will have an insignificant impact. Though costs for potable water treatment plant construction, operations and monitoring are passed on to residential customers, the costs for water are very low compared to the overall costs of housing. Therefore, there is an extreme unlikelihood that the rules will evoke a change in the average costs associated with housing.

Smart Growth Development Impact Analysis

Pursuant to N.J.S.A. 52:14B-4(a), the Department has evaluated the proposed amendments to determine the impact, if any, on smart growth development. The Department has

determined that the amendments will have an insignificant impact. Though costs for potable water treatment plant permits, operations, construction and monitoring are passed on to residential customers, the costs for water are very low compared to the overall costs of housing. Therefore, there is an extreme unlikelihood that the amendments will evoke a change in housing production in Planning Areas 1 or 2, or within designated centers under the State Development and Redevelopment Plan.

Full text of the proposed amendments follows (additions indicated on boldface **thus**; deletions indicated in brackets [thus]):

CHAPTER 10
SAFE DRINKING WATER ACT
SUBCHAPTER 2. GENERAL REQUIREMENTS

7:10-2.4 Reporting of changes to plants and emergencies

- (a) (No change.)
- (b) A supplier of water shall notify the Department by telephone at (609) 292-5550 during business hours, or [(609) 292-7172] **(877) WARN-DEP** during non-business hours, within six hours of the occurrence of any emergency that may tend to lessen the quality or pressure of delivered water, or increase the likelihood of delivery of water that does not meet the standards set forth in N.J.A.C. 7:10-5.

SUBCHAPTER 3. CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR ADJUDICATORY HEARINGS

7:10-3.3 Procedures for issuing an administrative order pursuant to the State Act

- (a) Whenever the Department finds that a person has violated any provision of the State Act, or any regulation, rule, permit, or order adopted or issued by the Department pursuant thereto, the Department may issue an order specifying the provision or provisions of the State Act, regulation, rule, permit, or order of which the person is in violation citing the action which constituted the violation, [ordering abatement] **requiring compliance with the provision violated and/or requiring restoration of the area which is the site** of the violation, and giving notice to the person of his or her right to a hearing on the matters contained in the order. The ordered party shall have [20]**35** days from receipt of the order within which to deliver to the Department a written request for a hearing in accordance with N.J.A.C.

7:10-3.5. After the hearing and upon finding that a violation has occurred, the Department may issue a final order. If no hearing is requested, then the order shall become final after the expiration of the [20]**35**-day period. A request for hearing shall not automatically stay the effect of the order.

7:10-3.4 Procedures for assessment, settlement and payment of civil administrative penalties for violations

- (a) To assess a civil administrative penalty under the State Act, the Department shall notify the violator by certified mail (return receipt requested) or by personal service. This notice of civil administrative penalty assessment shall:
 - 1. - 2. (No change.)
 - 3. Specify the amount of the civil administrative penalty to be imposed **and the basis thereof**; and
 - 4. (No change.)
- (b) Payment of the civil administrative penalty is due upon receipt by the violator of the Department's final order in a contested case, or when a notice of civil administrative penalty assessment becomes a final order, as follows:
 - 1. If no hearing is requested pursuant to N.J.A.C. 7:10-3.5, a notice of civil administrative penalty assessment becomes a final order on the [21st]**36th** day following receipt of the notice of civil administrative penalty assessment by the violator;
 - 2. - 4. (No change.)
- (c) The Department may treat [an offense] **a violation** as a first offense solely for the purpose of determining the civil administrative penalty under N.J.A.C. 7:10-3.6 or 3.7 if the violator has not committed the same offense in the three years immediately preceding the date of the pending offense.
- (d) (No change.)

7:10-3.5 Procedures to request an adjudicatory hearing to contest an administrative order and/or a notice of civil administrative penalty assessment; procedures for conducting adjudicatory hearings

- (a) (No change.)
- (b) If the Department does not receive the written request for hearing within [20] **35** days after receipt by the person of the administrative order and/or notice of civil administrative penalty assessment being contested, the Department shall deny the hearing request.
- (c) – (d) (No change.)

7:10-3.6 Civil administrative penalties for violations of the State Act - general

- (a) The Department may assess a civil administrative penalty pursuant to this section of [not more than \$5,000 for each first offense, not less than \$5,000 and not more than \$10,000 for the second offense, and not less than \$5,000 and] up to \$25,000 [for the third and each subsequent offense] **for each violation** of the State Act or any regulation, rule, permit, or order adopted or issued by the Department pursuant thereto.
- (b) - (c) (No change.)
- (d) The seriousness of the violation shall be determined as major, moderate or minor as set forth in (d)1 through 3 below.

1. Major seriousness shall apply to any violation that has caused or has the potential to cause serious harm to human health or which seriously deviates from the requirements of the State Act, or any regulation, rule, permit, or order adopted or issued pursuant thereto. Violations of major seriousness shall include, but not be limited to, violations which are in complete contravention of such requirements or if some of the requirements are met, which severely impair or undermine the operation or intent of the requirements. Violations of major seriousness shall include, but not be limited to:
 - i. (No change.)
 - ii. Failure to provide public notice of violations in accordance with [40 CFR 141.32(a)(1)(iii)] **40 CFR 141.202**;
 - iii. - vi. (No change.)
 2. Moderate seriousness shall apply to any violation which has caused or has the potential to cause substantial harm to human health or which substantially deviates from the requirements of the State Act, or any regulation, rule, permit, or order adopted or issued pursuant thereto. Violations of moderate seriousness shall include, but not be limited to, violations which are in substantial contravention of such requirements or if some of the requirements are met, which substantially impair or undermine the operation or intent of the requirements. Violations of moderate seriousness shall include, but not be limited to:
 - i. - ii. (No change.)
 - iii. Failure to institute corrective measures for MCL violations in accordance with N.J.A.C. 7:10-[5.7.]**5.6**.
 - iv. Failure to provide public notice of violations in accordance with 40 CFR 141.203.**
 3. Minor seriousness shall apply to any other violation not included in (d)1 or 2 above. Violations of minor seriousness shall include, but not be limited to:
 - i. Failure to provide public notice for violations in accordance with [40 CFR 141.32(b)] **40 CFR 141.204**;
 - ii. - iii. (No change.)
- (e) – (f) (No change.)
- (g) The Department may, **at its discretion**, adjust the amount of any penalty assessed pursuant to (f) above based upon any or all of the factors listed in (g) 1 through 5 below. No such factor constitutes a defense to any violation. In no case shall the assessed penalty be more than [\$5,000 for each first offense, less than \$5,000 or more than \$10,000 for the second offense, and less than \$5,000 or more than \$25,000 for the third and each subsequent offense.]**\$25,000 per day for each offense.**
1. - 5. (No change.)

7:10-3.8 Civil penalties for violations of the State Act

- (a) Any person who violates the provisions of the State Act, any regulation, rule, permit, or order adopted or issued by the Department pursuant thereto, or an administrative order or a court order issued pursuant to the State Act, or who fails to pay a civil administrative penalty in full pursuant to N.J.A.C. 7:10-3.4(b), **or who fails to make a payment pursuant to a**

penalty payment schedule entered into with the Department, or who knowingly makes any false or misleading statement on any application, record, report, or other document required to be submitted to the Department, shall be subject, upon order of a court, to a civil penalty of not more than ~~[\$10,000]~~**\$25,000** for each violation, and each day during which a violation continues shall constitute an additional, separate, and distinct violation.

- (b) Any penalty established pursuant to this section may be imposed and collected with costs in a summary proceeding pursuant to the Penalty Enforcement Law[, N.J.S.A. 2A:58-1 et seq.]**of 1999, N.J.S.A. 2A:58-10 et seq.** The Superior Court shall have jurisdiction to enforce the provisions of the Penalty Enforcement Law **of 1999** in connection with the State Act.

7:10-3.9 Civil actions for violations of the State Act

The Department may institute an action or proceeding in [a court of competent jurisdiction] **Superior Court** for injunctive and other relief for any violation of the State Act, or any regulation, rule, permit or order adopted or issued by the Department pursuant thereto, and the court may proceed in the action in a summary manner.

7:10-3.10 Economic Benefit

In addition to any civil penalty or civil administrative penalty imposed or assessed pursuant to this subchapter, the Department may assess the economic benefit (in dollars) that the violator has realized as a result of not complying, or by delaying compliance, with the requirements of the State Act or any rule, administrative order or permit issued pursuant thereto.

SUBCHAPTER 10. PHYSICAL CONNECTIONS AND CROSS CONNECTION CONTROL BY CONTAINMENT

7:10-10.2 General provisions and prohibitions

- (a) – (c) (No change.)
- (d) Any [holder of a current] **applicant for an initial** physical connection permit may, at his **or her** option, use a certified tester selected from the most current list of certified testers supplied by the certifying agency to the Department pursuant to N.J.A.C. 7:10-10.8(f) for the purpose of performing [quarterly] **the initial** pressure test[s] and inspection[s] of backflow prevention devices pursuant to N.J.A.C. 7:10-10.6. **As of (one year from the effective date of this amendment), any holder of a physical connection permit shall use a certified tester for the purpose of performing quarterly pressure tests and inspections pursuant to N.J.A.C. 7:10-10.6.**
- (e) (No change.)
- (f) **The permit holder shall maintain all information, data, and test results related to the physical connection required pursuant to this subchapter at the facility where the approved physical connection installation is located for a minimum period of five years**

from the date of issuance of the initial physical connection permit and from the date of issuance of each renewal permit thereafter. All such information shall be made available for inspection by the Department, the administrative authority, or the owner of the water system on request.

7:10-10.5 Physical connection permit application and renewal procedures

(a) Initial physical connection permit regulations are as follows:

1. Prior to the installation of a physical connection, the owner of the facility where the installation is to be made shall submit to the Department and to the owner of the public community water system a completed application form for an initial physical connection permit. The application form may be obtained from the Department at the [Bureau of Safe Drinking Water] **Division of Water Supply**, PO Box 426, Trenton, New Jersey 08625-0426, **or from the Department's website at www.state.nj.us/dep/watersupply.**

2. – 8. (No change.)

(b) Permit renewal rules are as follows:

1. [Prior to the expiration of a permit, the Department shall mail a Physical Connection Permit Renewal application form to each holder of a current physical connection permit issued pursuant to this subchapter.] **At least 60 days prior to the expiration of a permit, the holder of a current physical connection permit shall submit to the Department a complete permit renewal application on the form obtained from the Department at the address specified in (a)1 above.**

2. The Physical Connection Permit Renewal application [form includes] **requires** the following information:

i. – v. (No change).

vi. A record of the dates of quarterly pressure tests and internal inspections; [and]

[vii. Either certifications from the supplier of water and/or the administrative authority that the backflow prevention device(s) was functioning satisfactorily at the time of the tests, if the administrative authority and/or the supplier of water representative was present during the tests or certification from the certified tester through submission of the Quarterly Physical Connection Test and Maintenance Report recommending that the physical connection permit be renewed for one year.]

vii. A description of all modifications to existing devices and/or all new devices installed during the year preceding the application;

viii. Until (the date that is one day before the effective date of the amendments), either certifications from the supplier of water and/or the administrative authority that the backflow prevention device(s) was functioning satisfactorily at the time of the tests, if the administrative authority and/or the supplier of water representative was present during the tests or certification from the certified tester through submission of the Quarterly Physical Connection Test and Maintenance Report recommending that the physical connection permit be renewed for one year.

- ix. **As of (one year from the effective date of the amendments), a certification by a certified tester that the approved physical connection:**
 - (1) **Has been tested for tightness under prevailing pressure conditions at least once every three months during the year preceding the renewal application;**
 - (2) **Has been subjected to an internal inspection within the six months preceding the renewal application; and**
 - (3) **Was functioning satisfactorily at the time of the tests; and**
 - x. **A certification by the facility owner that:**
 - (1) **The administrative authority and the supplier of water have been notified that the device was functioning satisfactorily at the time of the tests; and**
 - (2) **All information provided in the application is accurate and complete. The certification shall acknowledge that knowingly providing false or incomplete information may subject the facility owner to enforcement action in accordance with this chapter.**
3. **Until (the date that is one day before the effective date of these amendments),** [Upon] **upon** completion of the inspection and pressure testing of the existing installation, the permit holder shall obtain the certification of the authorized representative of the administrative authority and/or the owner of the public community water system as to the results of the inspection and quarterly pressure tests recorded on the Quarterly Physical Connection Test and Maintenance Report form if the administrative authority and/or the supplier of water's representative was present during the tests[.
- 4.] The permit holder shall submit the completed Physical Connection Permit Renewal application form to the Department, along with the completed Quarterly Physical Connection and Maintenance Report forms for the preceding year required by N.J.A.C. 7:10-10.6. [Upon notification from the Department, the permit holder shall submit the completed Physical Connection Permit Renewal application form to the Department, along with the completed Quarterly Physical Connection and Maintenance Report forms for the preceding year required by N.J.A.C. 7:10-10.6, electronically in a format compatible with the Department's computer system.]
- [5.]4. The Department shall review the completed Physical Connection Permit Renewal application [form and results of the inspection and pressure testing conducted pursuant to (b) 3 and 4 above], and shall notify the applicant-owner of the facility in writing of its decision to renew the physical connection permit or deny the application. If an application is denied, the Department shall state the reason(s) for the denial.
- (c) – (d) (No change.)
- (e) Within 120 days after notification from the Department, every application for an initial or a renewal physical connection permit or for a permit modification under N.J.A.C. 7:10-10.7 shall be submitted electronically in a format and manner compatible with the Department's electronic permit system.**
- 7:10-10.7 Physical connection permit modifications; termination of physical connection permits on removal of physical connection installations

- (a) To effect an administrative change to an existing physical connection permit, the holder of the physical connection permit shall [notify the Department in writing] **submit an application on a form obtained from the Department at the address set forth at N.J.A.C. 7:10-10.5(a)** within 14 days of such change. The [notification] **application** shall specify the permit holder's name, permit number, and address, and shall describe the administrative change. An administrative change to an existing physical connection permit is required for any one or more of the following:
1. - 4. (No change.)
- (b) A holder of an existing physical connection permit who seeks to make any of the below-listed modifications to an approved physical connection installation shall submit [a written request] **an application** [for approval to the Department] **on a form obtained from the Department at the address set forth at N.J.A.C. 7:10-10.5(a)**. The [request for approval and an application for an initial physical connection permit as required pursuant to (c) below] **application** shall specify the permit holder's name, permit number, and address, and shall describe the proposed modification(s). [A written request for approval] **An application** is required for any one or more of the following:
1. – 3. (No change.)
- (c) [In addition to the written request for approval required pursuant to (b) above, t] **The** holder of an existing physical connection permit shall submit an application in accordance with the requirements of N.J.A.C. 7:10-10.5(a) to modify the existing physical connection permit for either of the modifications specified at (b)2 and (b)3 above, or for the modifications specified at (b)1 above if the replacement of the backflow prevention device is the replacement of a double check valve assembly with a reduced pressure zone backflow preventer assembly pursuant to N.J.A.C. 7:10-10.3(b) and (c).
- (d) and (e) (No change.)

SUBCHAPTER 11. STANDARDS FOR THE CONSTRUCTION OF PUBLIC COMMUNITY WATER SYSTEMS

7:10-11.5 Permit requirement; application contents

- (a) – (d) (No change.)
- (e) Except for a non-capacity related water system modification, a firm capacity and water allocation analysis for the proposed water system shall be submitted on the form available from the Department[, Water Supply Administration] **at the Division of Water Supply**, 401 East State Street, PO Box 426, Trenton, N.J. 08625-0426, or from the Department's web site at www.state.nj.us/dep/watersupply. The firm capacity and water allocation analysis shall demonstrate that either (e)1 and 2 below are both met, or as an alternative to (e)1 and (2) below, that (e)3 below is met:

1. The proposed water system will have adequate firm capacity to meet peak daily demand, including:
 - i. – ii. (No change.)
 - iii. Anticipated peak daily demand, as of the date of application submission, from:
 - (1) All previously approved, but not yet [constructed] **completed**, water main extensions or connections to the water system authorized pursuant to N.J.A.C. 7:10-11.10(b); and
 - (2) Where a permit is not required pursuant to N.J.A.C. 7:10-11.10(b), all water main extensions or connections to the water system, committed to[, but] **by the water supplier, which have not yet been completed**[, by the water supplier],
2. - 3. (No change.)
- 4. For the purpose of the firm capacity and water allocation analysis under this subsection, the construction of a water main extension shall be considered complete when water is being delivered to the realty improvements approved under the permit, provided that the number of any realty improvements to which water is not being delivered is below the threshold for a permit as set forth at N.J.A.C. 7:10-11.10(b).**
- (f) (No change.)
- (g) For the purposes of demonstrating compliance with the applicable water allocation permit limits and/or bulk purchase agreements under (e)2 above, the applicant shall estimate anticipated water demand as follows:
 1. - 3. (No change.)
 4. To the estimated peak monthly and annual demand calculated in (g)2 and 3 above, add the anticipated peak monthly and annual water demand on the proposed water system, as of the date of application submission, from:
 - i. All previously approved, but not yet [constructed] **completed**, water main extensions or connections to the water system authorized pursuant to N.J.A.C. 7:10-11.10(b); and
 - ii. Where a permit is not required pursuant to N.J.A.C. 7:10-11.10(b), all water main extensions or connections to the water system committed to [but] **by the water supplier, which have not yet been completed** [by the water supplier].
5. (No change.)
- (h) – (l) (No change.)
- (m) Each permit for a public community water system issued under this subchapter on or after (the effective date of these amendments) is valid for a term of five years from the date of issuance. If construction of a facility is not completed prior to the permit expiration date, upon request the Department shall extend the permit term by a period of up to two years, provided:**
 - 1. The request to extend a permit is submitted to the Department at least 90 days prior to expiration date of the existing permit;**
 - 2. The permit holder demonstrates that there has been no significant change in any of the following between the date the existing permit was issued and the date the application for extension is submitted:**

- (i) **The project and activities that were approved in the existing permit including projected demand if applicable; and**
 - (ii) **The available firm capacity and water allocation determined in accordance with N.J.A.C. 7:10-11.5(e);**
- 3. The Department shall deny a permit extension if the permit holder is in receipt of a Department order regarding a violation of any of the terms of the existing permit;**
- 4. If the requirements of this subsection are not met, the existing permit shall expire and construction activities shall stop until a new permit is obtained; and**
- 5. An expired permit shall not be extended.**
- (n) Within 120 days after notification from the Department, every application for a permit for a public community water system, as well as the supporting documentation required at (c) through (i) above, shall be submitted electronically in a format and manner compatible with the Department's electronic permit system.**

7:10-11.7 Standards for the construction and development of ground water sources

- (a) - (g) (No change.)
- (h) Regulations for pump testing, sampling and recordkeeping are as follows:
 - 1. Each well shall be tested to determine the water yield. Except as provided in [(k)](h) 3 below, such testing shall be run at 120 percent of design pump capacity and until either the drawdown or the rate of drawdown is stabilized (0.2 ft/hour or less) for a minimum period of six hours. Minimum pumping durations are as follows:
 - i. - ii. (No change.)
 - 2. - 5. (No change.)
- (i) - (k) (No change.)
- (l) Additional requirements for ground water sources other than wells are as follows:
 - 1. Where an application for a permit under this subchapter is made for the derivation of water from ground sources, such as a radial collector, infiltration gallery or spring, the provisions of (a) through [(n)](k) above shall apply.
 - 2. (No change.)
- (m) (No change.)

7:10-11.10 Permit requirements and standards for the construction of distribution systems; master permits

- (a) [A] **Except as otherwise directed by the Department under (a)3 below, a supplier of water may apply for a master permit, including all proposed routine water main extensions and/or replacements, and transmission mains [and interconnections], covering a set maximum number of service connections for a period not exceeding [three] five years. At the time of application for such master permit, the supplier of water shall submit specifications and an engineer's report demonstrating that the water system can meet the requirements of this**

subchapter, as well as a system distribution map that differentiates between existing and proposed water mains. The following shall apply to master permits:

1. Each master permit shall be renewed annually; [and]
 2. A master permit is available only to public community water systems [.]; **and**
 3. **A supplier of water shall apply for a master permit within six months from the date of notification by the Department that the system has submitted, over the three years preceding the Department's notice, an average of four or more applications for permits for water main extensions and/or replacements and/or transmission mains per year.**
- (b) For any distribution system improvement such as water main extension and/or replacement, transmission main or interconnection not covered by a master permit issued pursuant to (a) above, the supplier of water shall comply with the following:
1. For any water main extension or connection to an existing water main which includes new residential service to more than [15] **30** realty improvements but less than 50 new service connections, or generates a new non-residential average demand of more than [6,000] **12,000** gallons per day determined pursuant to Table 1 at N.J.A.C. 7:10-12.6(b), submit a completed permit Standard Application Form pursuant to N.J.A.C. 7:10-11.5(c)1, the Simplified Water Main Certification Form available from the **Department at** [Bureau of Safe Drinking Water] **Division of Water Supply**, PO Box 426, Trenton, New Jersey 08625-0426, **or from the Department's website at www.state.nj.us/dep/watersupply**, the permit application review fee specified at N.J.A.C. 7:10-15.3(d)2, and a plan showing the location of existing and proposed water mains. The Simplified Water Main Certification Form includes the following information:
 - i. – iv. (No change.)
 2. For any water main construction which includes 50 or more new service connections, or is [1,500] **3,000** or more feet in length, or includes an interconnection with another public community water system, submit a water distribution map depicting locations of existing mains and proposed extension(s) of water mains, **and** a complete permit application pursuant to N.J.A.C. 7:10-11.5(b), including the permit application review fee specified at N.J.A.C. 7:10-15.3(d)3 or 4, as applicable.
 3. – 4. (No change.)
- (c) – (g) (No change.)