

CHAPTER 319

AN ACT concerning water supply management, and amending P.L.1981, c.262.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 7 of P.L.1981, c.262 (C.58:1A-7) is amended to read as follows:

C.58:1A-7 Diversion of water, permit, renewal; criteria for critical water supply concerns.

7. a. A person shall not divert more than 100,000 gallons per day of any waters of the State or construct any building or structure which may require a diversion of water unless the person obtains a diversion permit or water usage certification, as appropriate, pursuant to section 6 of P.L.1981, c.262 (C.58:1A-6).

b. Every diversion permit issued or water usage certification approved pursuant to section 6 of P.L.1981, c.262 (C.58:1A-6) shall be renewed by the department upon the expiration thereof, with any conditions deemed appropriate by the department, for the same quantity of water, except that the department may, after notice and public hearing, limit that quantity to the amount currently diverted, subject to contract, or reasonably required for a demonstrated future need. In designated areas of critical water supply concern, the department may, after notice and public hearing, modify the conditions of an existing diversion permit or water usage certification in order to (1) limit or reduce the quantity of water which lawfully may be diverted to the safe or dependable yield of the resource; (2) transfer the point of diversion; or (3) require a permittee to utilize alternate sources of water, upon a determination that the existing diversion or continued use of the same source in excess of the safe and dependable yield, as the case may be, adversely impacts or threatens to adversely impact the water resources of the State.

c. For any surface water or ground water source or area of the State that the department determines to be approaching conditions that may require the commissioner to designate that region as an area of critical water supply concern, and that meets the criteria established pursuant to subsection d. of this section, the department may, after notice and opportunity for public hearing, issue a temporary diversion permit which may be modified or terminated to any person seeking a new or modified permit to divert any waters of the State or to construct any building or structure or commence any activity which may require a diversion permit or water usage certification, as appropriate, pursuant to section 6 of P.L.1981, c.262 (C.58:1A-6).

The duration of any temporary permit issued by the department pursuant to this subsection shall be for no longer than five years. The department may alter the conditions or amount of water allowed to be diverted, terminate the permit or renew the temporary permit for a subsequent term.

For the duration of the temporary permit issued by the department pursuant to this subsection, the permittee shall actively seek an alternative for the permittee's long-term water supply needs which, in the department's opinion, may be viable for the permittee to replace the previously allowable diversion amount.

Whenever the department terminates or modifies the conditions of a temporary permit, the department shall provide adequate advance notice to the permittee of the department's intentions and the rationale therefor. The department's rationale may include, but need not be limited to, an explanation of the status of watershed and water supply planning and infrastructure conditions and improvement initiatives for surface water or ground water sources or areas and alternatives which, in the department's opinion, may be viable for the permittee to replace the previously allowable diversion amount. These alternatives may include, but need not be limited to, reuse of treated wastewater effluent or other alternatives approved by the department.

Nothing herein shall alter the authority of the department to administer and enforce the provisions of P.L.1981, c.262 (C.58:1A-1 et seq.) or P.L.1993, c.202 (C.58:1A-7.3 et al.) or any rules, regulations and orders adopted, issued or effective thereunder pertaining to designated areas of critical water supply concern.

Any procedures or requirements necessary to implement the provisions of this subsection shall be contained in rules and regulations adopted by the department pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

d. The department may issue a temporary permit pursuant to subsection c. of this section only when the proposed diversion, construction or activity is intended to serve the long-term water supply needs of the permittee and water users of Salem or Gloucester counties.

2. This act shall take effect immediately.

Approved January 3, 2002.