

## §451-A. Time schedule variances

**1. Power to grant variances.** The department may grant a variance from any statutory water pollution abatement requirement, pursuant to section 414-A, subsection 1, paragraph D, to any municipality or quasi-municipal entity, hereinafter called the "municipality," upon application by it. The department may grant a variance only upon a finding that:

A. Federal funds for the construction of municipal waste water treatment facilities are not available for the project; [PL 1983, c. 566, §26 (AMD).]

B. The municipality has demonstrated that it has completed preliminary plans acceptable to the department for the treatment of municipal wastes and for construction of that portion of the municipal sewage system intended to be served by the planned municipal treatment plant when that plant first begins operations; and [PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §51 (AMD).]

C. Beginning on October 1, 1976, the municipality shall collect, from each discharger into its sewage system and each discharger not connected to the sewage system that has signed an approved agreement with the municipality pursuant to subsection 2, a fee sufficient to equal their proportionate share of the actual current cost of operating the sewage system for which preliminary plans have been completed and approved pursuant to paragraph B. Actual current costs include but are not limited to preliminary plans, final design plans, site acquisition, legal fees, interest fees, sewer system maintenance and rehabilitation and other administrative costs. A municipality may provide, when permitted under the federal construction grant program, that in lieu of such annual fees paid by dischargers, the municipality may apportion an appropriate amount from general revenues to cover that share of fees to be paid by dischargers.

The funds collected or apportioned pursuant to this paragraph and interest collected thereon must be invested and expended pursuant to Title 30-A, subpart 9.

Any funds paid by a discharger or discharger not connected to the sewage system pursuant to this paragraph may be credited to the account of the discharger if the municipality is subsequently reimbursed by the federal construction grant program. The credit arrangement must be determined by agreement between the municipality and the discharger. [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §51 (AMD).]

Variances are issued for a term certain not to exceed 3 years, and may be renewed, except that no variance may run longer than the time specified for completion of the municipal waste treatment facility. Notwithstanding the provisions of this subsection, no variance issued under this section may extend beyond July 1, 1988. Upon notice of the availability of federal funds, the municipality shall present to the department for approval an implementation schedule for designing, constructing and placing the waste collection and treatment facilities in operation.

Variances may be conditioned upon reasonable and necessary terms relating to appropriate interim measures to be taken by the municipality to maintain or improve water quality.

[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §51 (AMD).]

**1-A. Time schedule for salt and sand-salt storage program.** An owner or operator of a salt or sand-salt storage area is not in violation of any groundwater classification or reclassification adopted on or after January 1, 1980 with respect to discharges to the groundwater from those facilities, if the owner or operator has completed all steps required to be completed by the schedules set forth in this subchapter. The commissioner shall administer this schedule according to the project priority list adopted by the board pursuant to section 411 and the provisions of this subsection. A municipal or county site classified as Priority 4 or Priority 5 as of April 1, 2000, which was registered pursuant to

section 413 prior to October 15, 1997, is not in violation of any groundwater classification or reclassification with respect to discharges to the groundwater from those facilities.

A. Preliminary notice for municipal and county Priority 3 projects must be completed and submitted to the Department of Transportation within 2 months of receipt of a certified letter from the Department of Transportation notifying the municipality or county of funds available for the construction of a facility. [PL 2013, c. 523, §3 (AMD).]

B. [PL 1999, c. 387, §5 (RP).]

C. [PL 1999, c. 387, §5 (RP).]

D. For municipal and county Priority 3 projects, review of final plans with the Department of Transportation must be completed within 14 months of receipt of a certified letter from the Department of Transportation notifying the municipality or county of funds available for the construction of a facility. [PL 2013, c. 523, §3 (AMD).]

E. Construction of municipal and county Priority 3 projects must be completed and the facility must be in operation within 26 months of receipt of a certified letter from the Department of Transportation notifying the municipality or county of funds available for the construction of a facility. [PL 2013, c. 523, §3 (AMD).]

In no case may violations of the lowest groundwater classification be allowed. In addition, no violations of any groundwater classifications adopted after January 1, 1980 may be allowed for more than 26 months from the date of an offer of a state grant for the construction of those facilities.

The department may not issue time schedule variances under subsection 1 to owners or operators of salt or sand-salt storage areas.

An owner or operator of a salt or sand-salt storage area who is in compliance with this section is exempt from the requirements of licensing under section 413, subsection 2-D.

An owner or operator is not in violation of a schedule established pursuant to this subsection if the owner or operator is eligible for a state grant to implement the schedule and the state grant is not available.

[PL 2013, c. 523, §3 (AMD).]

**1-B. Department of Transportation storage areas.** A sand and salt storage area owned by the Department of Transportation and registered prior to October 1, 1999 is not in violation of a groundwater classification or reclassification adopted on or after January 1, 1980 with respect to discharges of groundwater from that area if:

A. The Department of Transportation biennially submits to the Legislature a budget request sufficient to comply with this subsection and section 413; [PL 2003, c. 502, §2 (NEW).]

B. Prior to the use of funds appropriated by the Legislature to carry out the purposes of this subsection, the Department of Transportation presents to the department for comment and response a plan for the use of those funds by outlining a sand and salt storage area specific expenditure plan to prevent pollution, avoid future abatement or clean-up costs and comply with applicable federal guidelines; and [PL 2003, c. 502, §2 (NEW).]

C. The Department of Transportation reports annually to the department on the status of available funds and the department determines that pursuant to this report the Department of Transportation is making timely use of the funds consistent with the plan and comments provided pursuant to paragraph B. [PL 2003, c. 502, §2 (NEW).]

[PL 2003, c. 502, §2 (NEW).]

**2. Exemptions.** Any person, other than a municipality, maintaining a discharge subject to the requirements of sections 413, 414 and 414-A is exempt from the requirements of section 414-A,

subsection 1, paragraph D, if, by July 1, 1976 or on the commencement of a licensed discharge, whichever occurs later, such discharger presents to the Department of Environmental Protection and receives approval of a contract agreeing to connect to the existing or planned municipal sewage system immediately upon completion of construction and commencement of operation of such treatment plant. Such contract must insure that, in the case of a new discharge, such new discharge will not cause serious water quality problems, including but not limited to downgrading the receiving waters so as to make them unsuitable for currently existing uses. For the purpose of this section, a "new discharge" is a discharge that commences or a discharge that changes characteristics or increases licensed volume by more than 10% on or after October 1, 1975.

[PL 2015, c. 329, Pt. A, §23 (AMD).]

**3. Failure to comply with agreement.** Failure to comply with any of the terms of an agreement approved pursuant to subsection 2 shall immediately render such agreement null and void and discharges included in such an agreement shall immediately cease or shall only discharge in accordance with the standards of best practicable treatment specified in section 414-A, subsection 1, paragraph D, and all other requirements of sections 414 and 414-A.

[PL 1975, c. 209 (NEW).]

**4. Pretreatment systems.** Where a discharger otherwise exempted from constructing treatment facilities pursuant to this section will be required to pretreat effluents before discharge into the municipal system pursuant to any requirement of state or federal law, the pretreatment system shall be installed upon commencement of the discharge.

[PL 1983, c. 566, §27 (AMD).]

**5. Fees.** Municipalities and quasi-municipal entities shall assess and collect the fees to be charged pursuant to this section in accordance with the provisions of chapter 11, and Title 30-A, chapters 161 and 213.

[PL 1987, c. 737, Pt. C, §§89, 106 (AMD); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §8, 10 (AMD).]

**6. Power to grant variances to owners of private dwellings.**

[PL 1983, c. 566, §28 (RP).]

**7. Power to grant variances to owners of a single family dwelling.**

[PL 1987, c. 180, §3 (RP); PL 1987, c. 192, §15 (RP).]

## SECTION HISTORY

PL 1973, c. 423, §8 (NEW). PL 1975, c. 209 (RPR). PL 1975, c. 700, §§1,2 (AMD). PL 1977, c. 185 (AMD). PL 1977, c. 564, §§138,139 (AMD). PL 1983, c. 566, §§26-29 (AMD). PL 1985, c. 162, §6 (AMD). PL 1987, c. 180, §3 (AMD). PL 1987, c. 192, §§14,15 (AMD). PL 1987, c. 492 (AMD). PL 1987, c. 737, §§C88,C89, C106 (AMD). PL 1987, c. 769, §A176 (AMD). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,C10 (AMD). PL 1989, c. 890, §§A40,B51,52 (AMD). PL 1989, c. 926, §1 (AMD). PL 1991, c. 9, §II5 (AMD). PL 1991, c. 622, §X13 (AMD). PL 1991, c. 824, §A86 (AMD). PL 1993, c. 54, §1 (AMD). PL 1999, c. 387, §5 (AMD). PL 2003, c. 502, §2 (AMD). PL 2013, c. 523, §3 (AMD). PL 2015, c. 329, Pt. A, §23 (AMD).

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