

**RESOLUTION TO AMEND THE RULES AND REGULATIONS OF
THE PEQUANNOCK RIVER BASIN REGIONAL SEWERAGE AUTHORITY**

WHEREAS, the Authority desires to approve a Policy to be implemented in connection with the calculation of sewage flows prior to the authorization of new connections and discharges of wastewater to the Authority System and other applicable purposes; and

WHEREAS, the Authority further desires to amend the Rules and Regulations (the "Service Rules") to set forth the Policy of the Authority concerning Capacity Assurance, as well as the manner of calculation and use of the methodology which underlies the Policy; and

WHEREAS, the Authority has provided at least seven (7) days prior written notice to each municipality served by it of its intention to hold a hearing, to deliberate upon and to potentially adopt the above described amendment to the Service Rules at the regular Public Meeting of the Authority on the date hereof; and

WHEREAS, the Authority has caused a notice to be published in the Official Newspapers of the Authority at least seven (7) days prior to the date hereof, notifying the public of the general nature of the proposed amendment, that a hearing is to be held and advising that the amendment is available for public inspection at the Office of the Authority, 1 Ace Road, Butler, New Jersey on Monday through Friday at regular business hours of the Borough of Butler; and

WHEREAS, the Authority has considered the proposed amendment to the Service Rules and finds that said amendment creates a clear and fair methodology for the implementation of the Authority's Capacity Assurance Policy; and

WHEREAS, the Authority has the statutory power to make and enforce rules and regulations for the management and regulation of its business and affairs and for the use, maintenance and operation of the sewerage system and any other of its properties and to amend the same pursuant to N.J.S.A. 40:14A-7(12); and

WHEREAS, the Authority is authorized pursuant to its Service Agreements with Butler, Bloomingdale, Kinnelon and Riverdale to make and enforce regulations and Service Rules, and to amend the same from time to time.

NOW, THEREFORE, BE IT RESOLVED, by the Pequannock River Basin Regional Sewerage Authority in the Counties of Morris and Passaic and the State of New Jersey on this 21st day of October, 2015 as follows:

- 1) Article IV entitled "Combined Sewers, New Sewers, Sewer Extensions" is hereby amended at Section 4.5 entitled "Capacity Assurance Program" and by the addition of new Section 4.6 "Capacity Assurance Policy: Treatment Works Approvals" as follows:

SECTION 4.5 CAPACITY ASSURANCE PROGRAM

- a. All Municipalities served by the Authority shall regulate flow, and shall implement all reasonable measures to provide for and limit discharges from their respective Local Sewerage Systems, as defined in the respective service agreements, and/or shall secure additional capacity allocation if available, so as not to exceed the capacity allocated by the Authority to each.
- b. Within 60 days of the receipt of a notice from the authority as to the adoption by the Authority of a Capacity Assurance Program in accordance with the provisions of N.J.A.C. 7:14A-23.16 and quarterly thereafter, each of the Municipalities served by the Authority shall submit the following information, certified by the Municipal Engineer.
 - i. Available Capacity Allocation (available to the Municipality by Service Contract)
 - ii. Actual Flow (per Authority flow metering reports, equal to the flow billed to the Municipality by the Authority over the prior fiscal year last concluded)
 - iii. Average Flow (equal to the average of Actual Flows over the prior 3 fiscal years last concluded)
 - iv. Reserved Flows (by Municipality, if any (flow unsanctioned by the Authority, TBSA or NJDEP)
 - v. Committed Flows (flows authorized by approved TWA Applications but not yet connected to the System, excluding Reserved Flows)
 - vi. Available Reserve Capacity (i minus iii, iv and v)

- vii. List of all properties (by Lot/Block and street address) connected to the Local Sewerage System of the Municipality
 - viii. List of quarterly water consumption as billed to all properties connected to the Local Sewerage System (per vii above, by property) over the past 3 years Listing of estimated water consumption for all properties connected to the Local Sewerage System (per vii above, by property) not served by the municipal or public water system
- c. Within 30 days of the succeeding quarterly report data, the Authority will file with each Municipality a summary report on the Authority system with information supplied by the four Municipalities pursuant to (b) above.
- d. Whenever the sum of Average Flows and Committed Flows exceeds 80% of the capacity allocated in aggregate to the Municipalities served by the Authority, the Authority shall implement the Capacity Assurance Program referred to in subsection (a) above by issuing notices to the Municipalities.
- e. Within 60 days of receipt of the notice set forth in (d) above, each Municipality shall file a report with the Authority as to the following:
- i. Measures intended to be implemented so as to enhance water conservation
 - ii. Measures intended to be implemented so as to assure the disconnection of roof leaders, sump pumps, and other sources of inflow, and to the extent available, reconnection of the same to storm sewers, all in accordance with Section 4.4 of these Service Rules.
 - iii. Establishment of a process for a quarterly report to be filed on or before the end of each quarter (as of January 31, April 30, July 31 and October 31) updating the information submitted pursuant to subsection (b) above.
 - iv. Measures intended to be implements so as to impose a municipal sewer connection ban when Committed Flow reaches 100% of the capacity allocation to the Municipality.

- f. In the event that the Average Flow plus the Committed Flow to the Authority System is at 100% of the capacity allocated to a Municipality and the Authority determines that the measures call for in subsections (b) and (e) have not been appropriately addressed and that additional flows may result in the exceedance by the Municipality of its contractual capacity allocation, then the Authority shall cease to process Treatment Works Approvals, and shall request that the Municipality discontinue the connection of any additional Users to its Local Sewerage System. The Authority will further provide notice to the Municipality that it (1) may petition for transfer of available capacity, if any, from the other Municipalities served by the Authority or (2) if capacity is therefrom unavailable, petition the Authority to secure additional capacity allocations from the Two Bridges Sewerage Authority by means of expansion of the existing treatment plant or inter-agency allocation transfer. The Municipality receiving such notice shall bear all costs of any capacity allocation transfer so required.
- g. If the Municipality is unable or unwilling to secure additional capacity allocation through the above means and refuses to discontinue the issuance of permits for such connections, or otherwise fails to respond to the Authority's notice with respect to the same, then the Authority may determine to apply to a court of competent jurisdiction for an Order implementing the requirements of these regulations, enforcing the provisions of the applicable service agreement, or for such other injunctive or other relief as shall be appropriate in the circumstances.

SECTION 4.6: CAPACITY ASSURANCE POLICY: TREATMENT WORKS APPROVAL

a. Purpose

This Capacity Assurance Policy is intended to monitor municipal flows to assure compliance with the service contract Reserve Capacity Allocations of the Boroughs of Bloomingdale, Butler, Kinnelon and Riverdale prior to the Authority's authorization for new connections to the System by means of Treatment Works Approvals.

The Reserve Capacity Allocations are set forth by the 2008 Amendment to the 1990 Amendment to the 1985 Service Contract and the 2008 Amendment to the 1987 Riverdale Service Contract as may be periodically revised [including an anticipated amendment for transfer of 91,000 gpd to Riverdale in equal shares from Bloomingdale and Kinnelon (the "2015 Riverdale Capacity Transfer")] as follows:

Participant/ Customer	Current Reserve Capacity Allocation		Allocation Reserve Capacity Following Proposed 2015 Transfer ¹	
	GPD	%	GPD	%
Bloomingtondale	950,000	36.54	904,500	34.79
Butler	991,000	38.11	991,000	38.11
Kinnelon	250,000	9.62	204,500	7.87
Riverdale	409,000	15.73	500,000	19.23
Total Reserve Capacity	2,600,000	100.00	2,600,000	100.00

¹Subject to final approval

Applicants requesting Authority approval for new connections to the System will be required to prepare a "Capacity Assurance Calculation" as defined herein to confirm that the municipality's Available Reserve Capacity is sufficient to serve the proposed Project.

The Capacity Assurance Policy Calculation shall be prepared and certified by a New Jersey licensed professional engineer in connection with any NJDEP Treatment Works Approval (TWA) application filed with the Authority for a Project with a Projected Flow of 8,000 gallons per day (gpd) or greater.

b. Administration

This Capacity Assurance Policy shall be administered by the Authority through its Consulting Engineer who shall review the Applicant's Capacity Assurance Calculation to determine the adequacy of Available Reserve Capacity. Upon review of the Applicant's Capacity Assurance Calculation the Consulting Engineer shall advise the Board prior to its action on the Treatment Works Approval Application if the municipality has adequate Available Reserve Capacity Allocation to serve the Projected Flows from the proposed Project.

In accordance with the above referenced service contracts, the Authority shall make a final determination on approval or denial the TWA Application in accordance with this Capacity Assurance Policy based on the adequacy of Available Reserve Capacity. Other matters to be taken into consideration as to approval or denial of the TWA Application include, for example, prior local approval, compliance with applicable NJDEP regulations as well as compliance with the Authority's Service Rules. The Authority may approve the TWA Application if the municipality's Available Reserve Capacity allocation exceeds the Projected Flow required for the proposed Project subject of the Treatment Works Approval Application.

If, in the Board's final determination, the municipality does not have adequate Available Reserve Capacity in order to service the Projected Flow set forth by the Treatment Works Approval Application, the application shall be denied.

c. Capacity Assurance Calculation Methodology

The municipality's Available Reserve Capacity shall be determined by the difference between the municipality's Reserve Capacity Allocation in accordance with its current service contract less the municipality's Average Flow [over the 3 fiscal years last concluded plus the Projected Flow for the Project plus either the Permitted Flows for projects previously approved or the Committed Flows for projects previously approved as recorded by the Authority's metering system [and as may be adjusted at the end of the fiscal year] prior to filing the TWA Application in Year 0. The Average Flow plus the Projected Flow for the subject Project plus Permitted Flows – or Committed Flows – shall be determined to calculate Available Reserve Capacity utilizing the methodology herein defined.

i. Actual Flow

Actual Flows shall be equal to the year-end flows as billed to the municipality for the fiscal years ended October 31st.

ii. Average Flow

The Average Flow shall be determined by the average of the Year 1 Flow, Year 2 Flow and Year 3 Flow as herein defined over the prior three fiscal years last concluded prior to the Applicant's filing of the TWA Application in Year 0.

iii. Committed Flow

Committed Flows are defined by NJDEP regulations at N.J.A.C.7:14A-1.2 and Form WQM-003, Section 3. However, for purposes of this Capacity Assurance Policy and related Capacity Assurance Calculation, Committed Flows shall refer to flows previously approved within the municipality (i.e., Permitted Flows) through NJDEP's issuance of a Treatment Works Approval Permit but not yet connected to the System as of the date of filing the Project TWA application in Year 0.

iv. Connected Flows

All Connected Flows for connections made throughout the period of calculation shall be accounted for as described below for the Level 2 Capacity Assurance Calculation methodology as defined herein.

Connected Flows for connections made to the System prior to filing the TWA application for the Project in Year 0 shall be based on records available within the municipality including Certificates of Occupancy for units or buildings connected to the System annually.

For that portion of previously approved flows (i.e., the Permitted Flows) connected to the System (i.e., the Connected Flows), the Applicant must evidence, through copies of and a summary listing of Certificates of Occupancy (CO) for each property connected to the System [with dates of each CO issued for connections made pursuant to approved TWA Permit(s)] for those properties physically connected to the System prior to the filing of the TWA Application for the Project in Year 0.

d. Definitions

The following terms are applicable to the Capacity Assurance Calculations in accordance with this Capacity Assurance Policy:

Actual Flow	Qact
Available Reserve Capacity	CAPavail
Average Flow	Qavg
Committed Flow	Qcom
Connected Flow	Qconn
Permitted Flow	Qper
Projected Flow	Qproj
Project	PROJ
Reserve Capacity Allocation	CAPall
Reserved Flows	Qr
Year 1 Flow	Q ₁
Year 2 Flow	Q ₂
Year 3 Flow	Q ₃

Actual Flow (Qact): Actual Flow equals the municipality's year-end flow as billed to the municipality by the Authority.

Available Reserve Capacity (CAPavail): Available Reserve Capacity equals the municipality's current Service Contract Reserve Capacity Allocation less the Average Flow including the Projected Flow for the Project and the Permitted Flows (Level 1 Calculation) or the Committed Flows (Level 2 Calculation) as defined herein.

Average Flow (Qavg): Average Flow equals the average of the Year 1 Flow plus the Year 2 Flow plus the Year 3 Flow over the 3 fiscal years last concluded prior to filing the TWA application.

Committed Flow (Qcom): Committed Flow means that portion of the Permitted Flow not yet connected to the system prior to the Applicant's filing the TWA application. Committed Flows shall be equal to the remaining portion of the Permitted Flow set forth by an Applicant's TWA Application for all units not then connected to the System.

Connected Flow (Qconn): Connected Flow means that portion of the Permitted Flow connected to the System prior to the Applicant's filing the TWA application in Year 0. The Connected Flows shall be calculated based on connections physically made to the municipality's system in a particular year as determined by Certificates of Occupancy issued each year.

Permitted Flow (Qper): The Permitted Flow equals the flows approved by NJDEP Treatment Works Approval permits for projects within the municipality prior to the Applicant's filing of a TWA Application for the Project in Year 0.

Projected Flow (Qproj): The Projected Flow is that flow included in the Applicant's TWA application for the Project.

Project (PROJ): Project shall mean the residential, commercial or industrial development as proposed by the Applicant's Treatment Works Approval Application.

Reserve Capacity Allocation (CAPall): The municipality's Reserve Capacity Allocation shall be equal to the Reserve Capacity Allocation set forth by its current service contract with the Authority.

Reserved Flows (Qr): Reserved Flow shall mean any capacity formally reserved by a Municipality to serve future undesignated projects. Reserved Flows are subject to the discretion of the Municipality unsanctioned by the Authority, the Two Bridges Sewerage Authority or NJDEP.

Year 1 Flow (Q₁): The Year 1 Flow equals the Actual Flow billed by the Authority to the municipality for the Authority's fiscal year last concluded prior to the Applicant's filing of the TWA Application for the Project in Year 0.

Year 2 Flow (Q₂): The Year 2 Flow equals the Actual Flow as billed by the Authority to the municipality for the Authority's fiscal year immediately preceding Year 1.

Year 3 Flow (Q₃): The Year 3 Flow equals the Actual Flow as billed to the municipality for the Authority's fiscal year immediately preceding Year 2.

e. Capacity Assurance Calculation

The Applicant shall file with its TWA Application a Level 1 Capacity Assurance Calculation and, if necessary, a Level 2 Capacity Assurance Calculation based on the general Methodology described in Section 3 and the Definitions included in Section 4 as follows:

LEVEL 1 CALCULATION

$$\text{CAPavail} = [\text{CAPall}] - [\text{Qavg} + \text{Qproj} + \text{Qper} + \text{Qr}]$$

The Level 1 Calculation shall be based on Permitted Flows only without an accounting for Connected Flows.

If the Level 1 Calculation indicates that the Available Reserve Capacity (CAPavail) is greater than the Projected Flow (Qproj) required for the Project, no further calculations will be required unless directed by the Authority.

If the Level 1 Calculation indicates that the Available Reserve Capacity (CAPavail) is less than the Projected Flow (Qproj) required for the Project, the Applicant shall prepare a Level 2 Calculation based on Committed Flows to account for Connected Flows connected prior to filing of the TWA application for the Project in Year 0 as follows:

LEVEL 2 CALCULATION

$$\text{CAPavail} = [\text{CAPall}] - [\text{Qavg} + \text{Qproj} + \text{Qcom} + \text{Qr}]$$

The Applicant shall file the Level 1 Calculation and, if necessary, the Level 2 Calculation with its TWA Application package.

- 2) Notwithstanding the provisions of the Service Agreements with the municipalities, and in order to provide for an expanded period of time for the review of the adopted amendment of the Service Rules above set forth, this amendment shall take effect thirty (30) days after a copy thereof is mailed to each such municipality.
- 3) Notwithstanding that any provision of the Service Rule Amendment set forth in this Resolution may be held invalid by any Court of competent jurisdiction, all remaining provisions shall continue in full force and effect.
- 4) This Resolution shall take effect as provided by law.

Certified to be a true copy of a Resolution enacted at a duly convened Public Meeting of the Pequannock River Basin Regional Sewerage Authority held on October 21, 2015.



Edwin Howard, Secretary