

"NCCW" means non-contact cooling water.

"N.J.A.C." means New Jersey Administrative Code.

"NJPDES" means the New Jersey Pollutant Discharge Elimination System.

"N.J.S.A." means New Jersey Statutes Annotated.

"NOAEC" means no observed adverse effect concentration.

"NOEC" means no observable effect concentration.

"NPDES" means the National Pollutant Discharge Elimination System.

"NT" means non-trout waters.

"OEP" means the Office of Environmental Planning.

"OM" means optional measure.

"PL" means the general surface water classification applied to Pinelands Waters.

"POTW" means publicly owned treatment works.

"PPSNC" means pretreatment program significant non-compliance.

"PQL" means practical quantification level.

"PVSC" means Passaic Valley Sewerage Commissioners.

"RCRA" means Resource Conservation and Recovery Act.

"RFA" means Request For Authorization under a general NJPDES permit.

"SBR" means Statewide Basic Requirement.

"SC" means the general surface water classification applied to coastal saline waters.

"SDWA" means the Federal or State Safe Drinking Water Acts (P. L. 95-523, as amended by P. L. 95-1900; 42 U.S.C. §§ 300f et seq. and N.J.S.A. 58:12A-1 et seq., respectively).

"SE" means the general surface water classification applied to saline waters of estuaries.

"SESCP" means soil erosion and sediment control plan.

"SIC" means Standard Industrial Classification.

"SIU" means significant indirect user.

"SNC" means significant non-compliance.

"SOD" means sediment oxygen demand.

"SSMP" means Statewide Sludge Management Plan.

"TDS" means total dissolved solids.

"TKN" means total Kjeldahl nitrogen.

"TM" means trout maintenance.

"TMDL" means total maximum daily load.

"TOC" means total organic carbon.

"TP" means trout production.

"TSD" means the USEPA Technical Support Document (See USEPA TSD).

"TSS" means total suspended solids.

"TTO" means total toxic organics.

"TUA" means toxic units acute

"TUC" means toxic units chronic

"TWA" means Treatment Works Approval.

"TWTDS" means treatment works treating domestic sewage.

"UIC" means Underground Injection Control program.

"ug/L" means micrograms per liter.

"USEPA" means the United States Environmental Protection Agency.

"USEPA TSD" means the USEPA Technical Support Document for Water Quality Based Toxics Control, (EPA/505/2-90-001), March 1991.

"USDA" means the United States Department of Agriculture.

"USDA-NRCS" means the United States Department of Agriculture—Natural Resources Conservation Service.

"USDW" means underground source of drinking water.

"USGS" means United States Geological Survey.

"USNRC" means the United States Nuclear Regulatory Commission.

"UST" means underground storage tank.

"VOC" means volatile organic compounds.

"WET" means whole effluent toxicity.

"WLA" means wasteload allocation.

"WQBEL" means water quality based effluent limitation.

"WQM plan" means Water Quality Management plan.

"WSC" means Written Statement of Consent.

Amended by R.2004 d.47, effective February 2, 2004.

See: 35 N.J.R. 169(a), 1331(a), 36 N.J.R. 813(a).

Added "AM", "MS4", "OM", "SBR".

7:14A-1.2 Definitions

As used in this chapter, the following words and terms shall have the following meanings:

"Abandoned well" means a well whose use has been discontinued or which is in a state of disrepair such that it cannot be used for its intended purpose or for observation purposes.

"Acidizing" means the injection of acid through the borehole or well into a formation to increase permeability and porosity by dissolving the acid-soluble portion of the rock constituents.

"Action levels" means permit conditions which are not effluent limitations but require a permittee to act if breached.

"Actual flow" means the volume of sewage and other wastes which a treatment works receives. Actual flow shall be determined by the arithmetic average of the metered daily volumes of waste received at a treatment works for the preceding period of three consecutive calendar months. Where peak flows have been determined by the Department to be seasonal in nature, the seasonal peak flow period shall be used in determining actual flow.

"Acute to chronic ratio" means the ratio of the acute toxicity of an effluent or a toxicant to its chronic toxicity. It is used as a factor for estimating chronic toxicity on the basis of acute toxicity data, or for estimating acute toxicity on the basis of chronic toxicity data.

"Acute toxicity" means a lethal or severe adverse sublethal effect (for example, immobilization of daphnids) to an organism exposed to a toxic substance for a relatively short period of time. Acute toxicity is measured by short-term bioassays, generally of 48 or 96 hour duration.

"Adequate conveyance capacity" means:

1. In the downstream sewers, the peak dry weather flow does not exceed 80 percent of the depth of the pipe and the peak wet weather flow does not result in overflows or discharges from any unpermitted discharge location; and

2. In downstream pumping stations with two pumps, peak dry weather flow shall be handled by one pump, and in pumping stations with more than two pumps, peak dry weather flow shall be handled with the largest pump out of service, and the peak wet weather flow does not result in any overflow or discharge from any unpermitted discharge location.

"Administratively" means those procedures used by the Department in conducting normal business operations.

"Administratively continued" means the procedure used by the Department to extend the time period for a permit, authorization, or approval beyond the administrative expiration date of that permit, authorization, or approval.

"Administrator" means the Administrator of the United States Environmental Protection Agency (USEPA) or an authorized representative.

"Affected person" means a person who has asserted (and not waived or withdrawn) a confidentiality claim covering information submitted to the Department.

"Affected sewerage entity" means any public or private sewerage authority, municipal utilities authority, joint meeting, State agency, county, municipality, or other entity which owns or operates any sewage treatment plant or sewage collection system, into which a treatment works will discharge; or which has jurisdiction to treat or convey sewage or other wastewater in the service area in which the proposed treatment works are to be located. "Agricultural land," for the purpose of N.J.A.C. 7:14A-20, means land on which a food crop, a feed crop, or a fiber crop is grown. This includes range land and land used as pasture.

"Agronomic rate" means the whole residual application rate on a dry weight basis designed:

1. To provide the amount of nitrogen or other nutrients needed by the food crop, feed crop, fiber crop, cover crop or vegetation grown on the land;
2. To minimize the amount of nitrogen or other nutrients from residual and all other fertilizer sources that passes below the root zone of the crop or vegetation grown on the land to the ground water or that runs off to surface waters; and
3. To provide the amount of calcium or magnesium oxides capable of neutralizing soil acidity.

"Algaecide" means chemical agents which have the capacity to destroy or otherwise control phytoplankton (algae) in water.

"Aliquot" means an individual sample of specified volume used to make up a total composite sample.

“Ambient study” means a water quality, biological, mixing zone, or other study conducted to determine the existing physical, chemical, or biological conditions in a waterbody, existing effects of a discharge or other activity on the physical, chemical, or biological conditions in a waterbody, and/or to predict the potential physical, chemical, or biological effects of a discharge or other activity on a waterbody.

“Anadromous fish” means fish that spend most of their life in saline waters and migrate to fresh waters to spawn.

“Animal feeding operation” means a lot or facility (other than an aquatic animal production facility) where the following conditions are met:

1. Animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and

2. Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

“Animal units” means the unit of measurement for any animal feeding operation calculated as follows: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 25 kilograms (approximately 55 pounds) multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

“Annual pollutant loading rate” means the maximum amount of a pollutant listed in 40 CFR 503.13 that can be applied to a unit area of land during a 365 day period.

“Annual whole residual application rate” means the maximum amount of a residual (dry weight basis) that can be applied to a unit area of land during a 365 day period.

“Applicant” means any person, corporation, government body or other legal entity which applies for a NJPDES permit or Departmental approval pursuant to this chapter.

“Application rates” means the hydraulic or loading limits determined and set by the Department governing the application of pollutants to the land or waters of the State.

“Apply residual or residual applied to the land” means land application of residual. This definition shall include apply sludge or sludge applied to the land as well as apply sewage sludge or sewage sludge applied to the land.

“Approved industrial pretreatment program” means an industrial pretreatment program prepared by a local agency and approved by the Department in accordance with 40 CFR Part 403 and N.J.A.C. 7:14A-19.

“Aquatic substrata” means soil material and associated biota underlying the water.

“Aquaculture projects” means a defined managed water area which uses discharges of pollutants into that designated area for the maintenance or production of harvestable freshwater, estuarine, or marine plants and animals.

“Aquifer” means a geologic formation, group of geologic formations, or a portion of a geologic formation capable of yielding a significant amount of ground water to wells or springs.

“Area of review” means the area surrounding an injection well described by the criteria set forth in N.J.A.C. 7:14A-8.13.

“Areawide plan” means any water quality management plan adopted pursuant to Sections 208 and 303 of the Federal Act and Section 5 of the “New Jersey Water Quality Planning Act,” N.J.S.A. 58:11A-1 et seq.

“Authorized representative” means those persons whose presence is in place of the actual entity, person, or Department, with all rights and responsibilities.

“Average monthly discharge limitation” means the highest allowable average of “daily discharges” over a calendar month calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

“Average weekly discharge limitation” means the highest allowable average of “daily discharges” over any seven consecutive days, calculated as the sum of all daily discharges measured during any seven consecutive days, divided by the number of daily discharges measured during that period.

“Background ground water quality” is the ground water quality that is not influenced by the discharge.

“Base flood” means a flood that has a one percent chance of occurring in any given year (that is, a flood with a magnitude equaled once in 100 years).

“Baseline Report” means a report required following promulgations of a Federal categorical standard, pursuant to 40 CFR 403.12(b).

“Batch discharge” means a “discharge” which occurs with interruption throughout the operating hours of the facility.

“Best management practices” or “BMPs” for purposes of this chapter means:

1. Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State; or

2. Methods, measures, or practices selected by an agency to meet its nonpoint source control needs.

BMPs also include treatment requirements, operating procedures, and techniques to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMPs include, but are not limited to, structural and nonstructural controls and operation and maintenance procedures. BMPs can be applied before, during, and after pollution-producing activities to reduce or eliminate the introduction of pollutants into receiving waters.

"Bimonthly" means occurring every two months.

"Bioaccumulation" means the increase of the concentration of a substance within the tissues of an organism, to levels in excess of that substance's ambient environmental concentration, directly from the water or through the ingestion of food (usually other organisms).

"Bioassay" means a toxicity test using aquatic organisms to determine the concentration or amount of a toxic substance causing a specified response in the test organisms under stated test conditions.

"Biocide" means chemical agents with the capacity to destroy biological life forms. Bactericides, insecticides, and pesticides are examples of biocides.

"Biological monitoring method" means a testing method which utilizes any biological system or any of its parts for assessing the presence or effects of one or more pollutants and/or environmental factors, either alone or in combination.

"Biochemical oxygen demand" or "BOD" means the quantity of dissolved oxygen in milligrams per liter (mg/l) either in an effluent or in a waterbody, required during stabilization of decomposable organic matter by aerobic biochemical action as determined by analytical procedures set forth in the Manual of Methods for Chemical Analysis of Water and Wastes (USEPA, Office of Technology Transfer, Washington, D.C., March 1983).

"Biota" means the animal and plant life of an ecosystem; flora and fauna collectively.

"Biweekly" means occurring every two weeks.

"Board or body" means any governmental entity, who has or shares authority to approve all or portions of permits either in the first instance, as modified or reissued, or on appeal.

"Bulk residual" means residual that is not sold or given away in a bag or other container for application to the land. This definition shall include bulk sludge or bulk sewage sludge.

"Bunker silo" means a structure with low walls, a sloping floor of an impervious material (usually concrete), and a leachate collection system, designed to hold dewatered residuals.

"Bypass" means the anticipated or unanticipated intentional diversion of waste streams from any portion of a treatment works.

"Carbonaceous biochemical oxygen demand" or "CBOD" means that portion of the biological oxygen depletion either in an effluent or in a waterbody which is due to the oxidation of carbon containing compounds.

"Casing" means a pipe or tubing of varying diameter and weight, lowered into a borehole during or after drilling in order to support the sides of the hole and thus prevent the walls from caving, to prevent loss of drilling mud into porous ground, or to prevent water, gas, or other fluid from entering the hole. For injection wells in Classes I, II, III, and IV, the pipe or tubing shall be a heavy metal (steel or iron).

"Catastrophic collapse" means the sudden and total failure of overlying strata caused by removal of underlying materials.

"Category one waters" means those waters designated in the tables in N.J.A.C. 7:9B-1.15(c) through (h), for purposes of implementing the antidegradation policies as set forth at N.J.A.C. 7:9B1.5(d), the SWQS, for protection from measurable changes in water quality characteristics because of their clarity, color, scenic setting, other characteristics of aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, or exceptional fisheries resources(s). These waters may include, but are not limited to:

1. Waters originating wholly within Federal, Interstate, State, County, or municipal parks, forests, fish and wildlife lands, and other special holdings that have not been designated as FW1 in N.J.A.C. 7:9B-1.15(h), Table 6;
2. Waters classified in N.J.A.C. 7:9B-1.15(c) through (g) as FW2 trout production waters and their tributaries;
3. Surface waters classified in this subchapter as FW2 trout maintenance or FW2 nont trout that are upstream of waters classified in this subchapter as FW2 trout production;
4. Shellfish waters of exceptional resource value; or
5. Other waters and their tributaries that flow through, or border, Federal, State, county or municipal parks, forest, fish and wildlife lands, and other special holdings.

"Category Two waters" means those waters not designated as Outstanding National Resource Waters or Category One in N.J.A.C. 7:9B-1.15, the SWQS, for purposes of implementing the Antidegradation Policies.

"Cementing" means the operation or process whereby a cement slurry is pumped into a drilled hole and/or forced behind the casing.

"Certified laboratory" means a laboratory certified by the Department in accordance with N.J.A.C. 7:18.

"Cesspool" means a covered pit with open-jointed lining into which untreated sewage is discharged, the liquid portion of which is disposed of by leaching into the surrounding soil, the solids or sludge being retained within the pit. A cesspool is an injection well.

"Chemical oxygen demand" or "COD" means a measure of the oxygen required to oxidize all compounds in water, both organic and inorganic (in milligrams per liter, mg/l) in a waste sample under specific conditions of an oxidizing agent, temperature and time as determined by analytical procedures set forth in the for Chemical Analysis of Water and Wastes (USEPA, Office of Technology Transfer, Washington, D.C., March 1983).

"Chlorine produced oxidants" means the sum of free and combined chlorine and bromine as measured by the methods approved under N.J.A.C. 7:18. In fresh waters the oxidants measured are comprised predominantly of hypochlorous acid (HOCl), hypochlorite ion (OCl-), monochloramine and dichloramine. In saline waters the oxidants measured are comprised predominantly of the oxidants listed for fresh waters plus hypobromous acid (HOBr), hypobromous ion (OBr-) and bromamines.

"Chronic toxicity" means death or other adverse impacts that affect the growth, survival, or reproductive success of an organism or its progeny after a relatively long exposure period to toxic substances. Chronic toxicity is measured using intermediate-term or long-term bioassays.

"Class 1 sewage sludge management facility" means any domestic treatment works (DTW) required to have an approved industrial pretreatment program under 40 CFR 403.8(a) (including any DTW located in a state that has elected to assume local program responsibilities pursuant to 40 CFR part 403.10(e)) and any treatment works treating domestic sewage classified as a Class 1 sewage sludge management facility by the Regional Administrator, or, in the case of State sewage sludge management program approval, the Regional Administrator in conjunction with the Commissioner, because of the potential for its sewage sludge use or disposal practice to affect public health and the environment adversely.

"Clean Water Act" (CWA) also known as the Federal Act or Federal Clean Water Act (33 U.S.C. §§ 1251 et seq.) including all subsequent supplements and amendments.

"Clean Water Act and regulations" means the Clean Water Act (CWA) and applicable regulations promulgated

thereunder. In the case of an approved State program (NJPDES), it includes State program requirements.

"Closed conduit" means any closed natural or artificial duct, such as a pipe, for conveying fluids.

"Coefficient of variation" means the statistical measure of variability calculated as the standard deviation divided by the estimated mean.

"col/100 mL" means the coliform colonies per 100 milliliters.

"Cold water aquatic animals" means, but is not limited to, the Salmonidae family of fish (for example, trout and salmon).

"Combined sewer overflow" means the excess flow from the combined sewer system which is not conveyed to the domestic treatment works for treatment, but transmitted by pipe or other channel directly to waters of the State.

"Combined sewer system" means a sewer system that is designed to carry sanitary sewage at all times and that also is designed to collect and transport stormwater from streets and other sources, thus serving a combined purpose.

"Commercial unit" means one or more buildings, or one or more rooms within a building, which will be occupied by a single individual, corporation, company, association, society, firm, partnership or joint stock company, and used for nonresidential purposes.

"Commissioner" means the Commissioner of the New Jersey Department of Environmental Protection or an authorized representative.

"Committed flow" means the sum of the actual flow plus the sum of all flows which are anticipated from connections which have been approved but are not yet in operation. The flow to be anticipated from any such connections shall be that flow approved by the Department.

"Complete permit application" means a permit application which is both administratively and technically complete. An administratively complete permit application is a permit application which complies with all of the requirements in the permit application checklist referenced in N.J.A.C. 7:14A-15.3(c). A technically complete permit application is a permit application which has been determined to be administratively complete and satisfactorily addresses the requirements in the permit application checklist and any specific permit application requirements for the particular type of discharge set forth in this chapter.

"Compliance monitoring report" means a report periodically submitted by a permittee to verify continued compliance. This term includes a Discharge Monitoring Report (DMR) and any report required in an SIU permit pursuant to 40 CFR 403.12(e).

"Composite sample" means a sample composed of several discrete samples combined in a known proportion. For NJPDES wastewater monitoring, a composite sample is a sample composed of several discrete samples collected at equal time intervals, or proportionally to the flow rate of the discharge.

"Composting" means the biological decomposition of de-watered organic residuals under controlled conditions of temperature, pH, oxygen and moisture, by which the volatile fraction, the putrescibility, and the pathogen concentrations in the residuals are reduced.

"Concentrated animal feeding operations" means an animal feeding operation which meets the criteria set forth in N.J.A.C. 7:14A-2.13.

"Concentrated aquatic animal production facilities" means a commercial aquarium, hatchery, fish farm, or other facility which meets the criteria set forth in N.J.A.C. 7:14A-2.14.

"Confidence interval" means the interval above and below the mean of the sample data set within which the true mean of the entire data set would be expected to be found.

"Confidence interval for individual data points" means the interval above and below the mean of the sample data set within which any individual datum would be expected to be found.

"Confidentiality claim" means a claim or allegation that information is entitled to confidential treatment because such information constitutes a trade secret.

"Confined aquifer" means an aquifer bounded above and below by impermeable beds or by beds of distinctly lower permeability than that of the aquifer itself; an aquifer containing confined ground water.

"Confining bed" means a body of impermeable or distinctly less permeable material stratigraphically adjacent to one or more aquifers.

"Confining zone" means a geological formation, group of formations, or part of a formation that is capable of limiting fluid movement above an injection zone.

"Connection" means, for purposes of N.J.A.C. 7:14A-22 only, any physical or operational change, associated with an increase in projected flow, to a collection system of any building, facility, or other structure either proposed or existing for which a building permit or other municipal approval including site plan or subdivision approval is required, and which connects directly or indirectly to any portion of a treatment works.

"Connection approval" means a treatment works approval to construct and/or operate a connection pursuant to N.J.S.A. 58:10A-6, N.J.A.C. 7:14A-2 or 7:14A-22 or a permit to construct and operate a sewer connection.

"Conservation Plan" means the information provided to a land user that includes guidance, alternatives, and decisions as needed to plan and apply resource management systems consistent with the National Conservation Planning Manual, Title 11, Natural Resources Conservation Service, United States Department of Agriculture, including all future amendments and supplements.

"Conservative parameter" means any parameter which is not significantly degraded by physical, chemical, or biological processes which may occur in a waterbody.

"Construction" means any placement, assembly or installation of facilities, equipment or treatment works, or modification of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities, equipment or treatment works, or entering into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering and design studies do not constitute a contractual obligation for the purposes of this definition.

"Control authority" means the entity responsible for administering an industrial pretreatment program pursuant to 40 CFR 403 and N.J.A.C. 7:14A-19 and shall be the Department in areas of the State served by a local agency without an approved industrial pretreatment program or the delegated local agency in all other areas of the State.

"Controlled streams" means any uni-directional waterbody where the quantity or timing of water flow is determined by dams which restrict or otherwise regulate the flow in the waterbody.

"Construction waste" means a construction waste as defined in N.J.A.C. 7:26-1.4, examples of which are identified in N.J.A.C. 7:26-1.7(e)1iii.

"Contaminant" means any physical, chemical, biological, or radiological pollutant or matter in water.

"Contiguous zone" means the entire zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone.

"Continuous discharge" means a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

"Conventional pollutant" means a pollutant designated under Section 304(b)(4) of the Federal Act.

"Co-permittee" means, for purposes of N.J.A.C. 7:14A-24.2 and 25.9 only, a permittee that is only responsible for NJPDES permit conditions relating to the discharge for which that permittee is an operating entity.

"Cover crop" means a crop of close growing grasses, legumes, or small grains grown primarily for seasonal protection and soil improvement. A cover crop usually is grown for one year or less, except where there is permanent cover as in orchards.

"Criteria" means those elements of the Surface Water Quality Standards, set forth at N.J.A.C. 7:9B, expressed as constituent concentrations, levels, or narrative statements, representing a quality of water that supports a designated use. When the criteria are met, water quality will generally protect the designated use.

"Criteria continuous concentration" means the chronic aquatic life criteria set forth in N.J.A.C. 7:9B-1.

"Criteria maximum concentration" means the acute aquatic life criteria set forth in N.J.A.C. 7:9B-1.

"Critical biological periods" means those time periods when significant portions of the biological community may be adversely affected by discharge activities, including reproductive periods or periods of stress resulting from non-biotic factors such as elevated temperature.

"Critical conditions" means the combination of those ambient conditions when the ambient water quality standards are more likely to be violated, such as elevated temperature or low flow periods.

"Cumulative pollutant loading rate" means the maximum amount of a pollutant listed in 40 CFR 503.13 that can be applied to an area of land.

"Cumulative substance" means a substance that may be bioaccumulated within an organism to concentrations that exert a toxic effect on that organism or render it unfit for consumption.

"Daily" means every calendar day including weekends and holidays.

"Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of

the pollutant expressed in designated units, calculated over the day.

"Daily monitoring" means monitoring conducted every calendar day, including weekends and holidays.

"Day" means an operating day or 24-hour period.

"Delegated local agency" means a local agency with an industrial pretreatment program approved by the Department.

"DEP Bulletin" means the publication issued by the Department designed to provide public notice of certain Department actions.

"Department" means the New Jersey Department of Environmental Protection.

"Designated use" means those surface water or ground water uses, both existing and potential, that have been established by the Department for waters of the State.

"Design flow" means the average daily volume of wastewater which a domestic treatment works was designed to treat or convey, or the maximum permissible volume of flow to a domestic treatment works as established by a NJPDES permit or a treatment works approval, whichever is most stringent.

"Designated project area" means the portions of the waters of the State within which the permittee or permit applicant plans to confine the cultivated species, using a method or plan of operation (including, but not limited to, physical confinement) which, on the basis of reliable scientific evidence, is expected to ensure that specific individual organisms comprising an aquacultural crop will enjoy increased growth attributable to the discharge of pollutants, and be harvestable within a defined geographic area.

"Diadromous fish" means fish that spend most of their life in one type of water, either fresh or saline, and migrate to the other type to spawn.

"Diffuser" means a device which is attached to the outfall pipe to improve the mixing of the effluent with the receiving water.

"Dike" means an embankment or ridge of either natural or man-made materials used to prevent the movement of liquids, sludges, solids or other materials.

"Direct discharge" means a discharge to surface water. A direct discharge includes any discharge through a separate storm sewer that does not lead to a DTW.

"Director" means the Director of the Department's Division of Water Quality, its predecessor or successor, or an authorized representative.

"Discharge" means an intentional or unintentional action or omission resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying, or dumping of a pollutant into the waters of the State, onto land or into wells from which the pollutant might flow or drain into such waters, or into waters or onto lands outside the jurisdiction of the State which pollutant enters the waters of the State, and shall include the release of any pollutant into a municipal treatment works. A leak into a secondary containment system which does not involve a release into the waters or lands of this State is not a "discharge" for purposes of applying the rules under this chapter to violations of the Underground Storage of Hazardous Substances Act, N.J.S.A. 58:11-49 et seq. and the rules promulgated pursuant thereto, N.J.A.C. 7:14B.

"Discharge Allocation Certificate" or DAC means the certificate issued by the Department which designates the quantity and quality of pollutants which may be discharged by any person planning to undertake any activity which will result in a discharge to surface water or a substantial modification in a discharge to surface water.

"Discharge Monitoring Report" means the EPA's uniform national form, as amended, for the reporting of self-monitoring results by permittees, and includes Baseline Reports.

"Discharger" means any person, corporation, municipality, sewerage authority or other entity, who causes or allows any discharge.

"Discharge to surface water" or "DSW" means a direct discharge to surface water as defined in N.J.A.C. 7:9B. DSW does not include a discharge to a DTW.

"Disinfection" means the removal, destruction, or inactivation of pathogenic and indicator organisms.

"Disposal" means the storage, treatment, utilization, processing, resource recovery of, or the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid or hazardous waste into or on any land or water so that the solid or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

"Disposal well" means a well used for the disposal of waste into a subsurface stratum.

"Dissolved metal" means that concentration of metal that passes through a 0.45 μm membrane filter.

"District Sludge Management Plan" means the formalized document developed by a Solid Waste Management District under the New Jersey Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., or its designated or delegated lead planning agency(ies) for submission to the State for certification as mandated in the Solid Waste Management Act. The Plan is adopted by the District and approved by the State. The District Sludge Management Plan is comprised of all forms in Appendix K of the Statewide Sludge Management Plan and is divided into four documents: an Inventory and Strategy Document, an Alternatives Document, a Selection Document, and an Implementation Document. For the purposes of the Statewide Sludge Management Plan, the District Sludge Management Plan shall also include the sludge management plans prepared by a sludge generator directed by the Department to plan in the event of District failure to plan.

"Domestic pollutant" means a pollutant which results from the discharge of household, commercial or other wastes from bathrooms, toilet facilities, home laundries and kitchens which are predominantly the result of natural human waste elimination associated with bodily function and food preparation.

"Domestic septage" means either liquid or solid material removed from a septic tank, cesspool, portable toilet, Type III marine sanitation device, or similar treatment works that receives only domestic sewage. Domestic septage does not include liquid or solid material removed from a septic tank, cesspool, or similar treatment works that receives process wastewater and does not include grease removed from a grease trap.

"Domestic sewage" means waste and wastewater from humans or household operations that is discharged to or otherwise enters a treatment works.

"Domestic treatment works" or "DTW" means all publicly owned treatment works as well as any privately owned treatment works processing primarily domestic wastewater and pollutants together with any ground water, surface water, storm water or process wastewater that may be present.

"Domestic wastewater" means the liquid waste or liquid borne wastes discharged into a domestic treatment works.

"Draft permit" means a publicly noticed document indicating the Department's intent to issue, deny, modify, revoke and reissue, revoke, or reissue a permit.

"Dredge spoils" means sediments, known as spoils, removed during dredging operations.

"Dry weight basis" means calculated on the basis of having been dried at 105 degrees Celsius until reaching a constant mass (that is, essentially 100 percent solids content).

"Drilling mud" means a heavy suspension used in drilling an injection well, introduced down the drill pipe and through the drill bit.

"EC₅₀" means the median effective concentration of a toxic substance expressed as a statistical estimate of the concentration that has a specified adverse effect on 50 percent of the test organisms under specified test conditions, based on the results of an acute bioassay.

"Effective date of a UIC program" means the date that a State UIC program is approved or established by the Administrator.

"Effluent concentrations consistently achievable through proper operations and maintenance" means:

1. For a given pollutant parameter, the 95th percent value for the 30-day average effluent quality achieved by a treatment works in a period of at least two years, excluding values attributable to upsets, bypasses, operational errors, or other unusual conditions; and
2. A seven-day average value equal to the product of the value derived under paragraph 1 of this definition, multiplied by 1.5.

"Effluent data" means with reference to any source of discharge of any pollutant:

1. Information necessary to determine the identity, amount, frequency, concentration, temperature, or other characteristics (to the extent related to water quality) of any pollutant which has been discharged by the source (or of any pollutant resulting from any discharge from the source), or any combination of the foregoing;
2. Information necessary to determine the identity, amount, frequency, concentration, temperature, or other characteristics (to the extent related to water quality) of the pollutants which, under an applicable standard or limitation, the source was authorized to discharge (including, to the extent necessary for such purpose, a description of the manner or rate of operation of the source); and
3. A general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).
4. Notwithstanding 1 through 3 above, the following information shall be considered to be "effluent data" only to the extent necessary to allow the Department to disclose publicly that a source is (or is not) in compliance with an applicable standard or limitation, or to allow the Department to demonstrate the feasibility, practicability, or attainability (or lack thereof) of an existing or proposed standard or limitation:

- i. Information concerning research, or the results of research, on any product, method, device, or installation (or any component thereof) which was produced, developed, installed, and used only for research purposes; and

- ii. Information concerning any product, method, device, or installation (or any component thereof) designed and intended to be marketed or used commercially but not yet so marketed or used.

"Effluent limitation" means any restriction on quantities, quality, discharge rates and concentration of chemical, physical, thermal, biological, radiological, and other constituents of pollutants established by permit, or imposed as an interim enforcement limit pursuant to an administrative order, including an administrative consent order.

"Effluent limitation guidelines" means a regulation published by the Administrator under Section 304(b) of the Federal Act.

"Emergency permit" means a permit issued in accordance with N.J.A.C. 7:14A-6.14.

"Epilimnion" means the freely circulating upper region of a thermally stratified waterbody extending from the surface to the thermocline.

"Excessive inflow/infiltration" means the quantities of infiltration/inflow (I/I) which can be economically eliminated from a sewer system as determined in a cost effectiveness analysis that compares the cost for correcting the I/I conditions to the total costs for transportation and treatment of the I/I (see also the definitions for "nonexcessive infiltration" and "nonexcessive inflow").

"Existing discharge" means a permitted discharge which is not a new source.

"Existing injection well" means an injection well other than a new injection well.

"Existing source" means any source which is not a new source, including presently existing discharges which are not currently permitted.

"Existing uses" means the following:

1. As related to the Ground Water Quality Standards, means those uses of ground water actually attained, whether or not they are included in the Ground Water Quality Standards, N.J.A.C. 7:9-6; and
2. For surface waters, those uses actually attained in the waterbody on or after November 28, 1975, whether or not they are included in the Surface Water Quality Standards, N.J.A.C. 7:9B.

"Facility" or "activity" means any hazardous waste management facility, injection well, NJPDES point source or

treatment works treating domestic sewage, or State approved dredge or fill activity, pursuant to Section 404 of the Federal Act, or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the RCRA, UIC, NJPDES, or 404 programs.

"Facilities eligible for treatment equivalent to secondary treatment" means treatment works which are eligible for consideration for effluent limitations described for treatment equivalent to secondary treatment if:

1. The BOD₅ and TSS effluent concentrations consistently achievable through proper operation and maintenance of the treatment works exceed the minimum level of the effluent quality set forth in N.J.A.C. 7:14A-12;
2. A trickling filter or waste stabilization pond is used as the principal process; and
3. The treatment works provide significant biological treatment of municipal wastewater.

"Facility-wide permit" means a single permit issued by the Department to the owner or operator of a priority industrial facility incorporating the permits, certificates, registrations, or any other relevant Department approvals previously issued to the owner or operator of the priority industrial facility pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., and the appropriate provisions of the Pollution Prevention Plan prepared by the owner or operator of the priority industrial facility pursuant to N.J.S.A. 13:1D-41 and 42.

"Federal Act" means the Clean Water Act or the Federal Water Pollution Control Act" (33 U.S.C. §§ 1251 et seq.) including all subsequent supplements and amendments.

"Feed crops" means crops produced primarily for consumption by animals.

"Fiber crops" means crops produced primarily for the production of plant fiber, but which also can be grown to produce products consumed by humans. Fiber crops include crops such as flax and cotton.

"Final cover," for the purpose of N.J.A.C. 7:14A-20, means the last layer of soil or other material placed on a surface disposal site at closure.

"Final permit decision" means the Department's determination to issue, deny, modify, suspend, or revoke a permit. Such a determination is a final agency action which is deemed pursuant to N.J.S.A. 58:10A-7 to constitute a contested case under the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

"Flow proportional composite" means a single sample which receives equal aliquots at equal flow intervals.

"Flow rate" means the volume per time unit given to the flow of gases or other fluid substance which emerges from an orifice, pump, or turbine or passes along a conduit or channel.

"Flow-through bioassay" means a toxicity test in which the test solutions flow into and out of the test chambers on a once-through basis for the duration of the test, in accordance with N.J.A.C. 7:18.

"Fluid" means, for the purposes of N.J.A.C. 7:14A-8, any material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or any other form or state.

"Food crops" means crops consumed by humans. These include, but are not limited to, fruit, vegetables, and tobacco.

"Food-chain crops" means food crops, fiber crops, and/or feed crops.

"Foreign material" means material contained in a residual which is neither process oriented nor product oriented, or material which is not compatible with land application (for example, aeration piping or Phragmites rhizomes).

"Forest," for the purpose of N.J.A.C. 7:14A-20, means a tract of land thick with trees and underbrush.

"Formation" means a body of rock or unconsolidated sediments characterized by a degree of lithologic homogeneity which is prevailing, but not necessarily, tabular and is mappable on the earth's surface or traceable in the subsurface.

"Formation fluid" means "fluid" present in a "formation" under natural conditions as opposed to introduced fluids, such as "drilling mud."

"Freeboard" means the vertical distance between the top of a surface impoundment and the surface of the waste contained therein.

"Free liquids" means liquids which readily separate from the solid portion of a waste as defined by method 9095 (Paint Filter Liquids Test), as described in Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods (EPA Pub. No. SW-846).

"Fresh water(s)" means all nontidal and tidal waters generally having a salinity, due to natural sources, of less than or equal to 3.5 parts per thousand at mean high tide.

“FW” means the general surface water classification applied to fresh waters.

“FW1” means those fresh waters, as designated in N.J.A.C. 7:9B-1.15(h), Table 6, that are to be maintained in their natural state of quality (set aside for posterity) and not subjected to any man-made wastewater discharges or increases in runoff from anthropogenic activities. These waters are set aside for posterity because of their clarity, color, scenic setting, other characteristic of aesthetic value, unique ecological significance, exceptional recreational significance, or exceptional water supply significance.

“FW2” means the general surface water classification applied to those fresh waters that are not designated as FW1 or Pinelands Waters.

“Froude number” means the numerical quantity used to characterize the type of flow in an open channel from which a representative grab sample may be taken for the purposes of this subchapter.

“General permit” means a NJPDES permit authorizing a category of discharges within a geographic area. General permits include permits for similar types of discharges including, but not limited to, stormwater associated with industrial activity, non-contact cooling water, and car dealership car washes.

“Governmental entity” means a Federal, State, interstate agency, county or municipal government or school district whose jurisdiction is partially or entirely within the State.

“Grab sample” means an individual sample collected over a time period of less than 15 minutes.

“Ground water” means that portion of water beneath the land surface that is within the saturated zone.

“Ground Water Quality Standards” means the New Jersey rules at N.J.A.C. 7:9-6 which set forth a designated use or uses for the ground waters of the State, use classifications, water quality criteria for the State’s waters based upon such uses, and the Department’s policies concerning these uses, classifications and criteria.

“Grit and screenings” means solid waste generated during the preliminary treatment of domestic sewage in a treatment works. Grit includes sand, gravel, cinders or other materials with a high specific gravity. Screenings include relatively large materials such as rags typically removed by mechanical screening of domestic wastewater prior to primary or secondary treatment at a DTW.

“Hazardous pollutant” means:

1. Any toxic pollutant;

2. Any hazardous substance as defined by the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10-23.11; or

3. Any substance regulated as a pesticide under the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§ 136 et seq.; or

4. Any substance the use or manufacture of which is prohibited under the Federal Toxic Substances Control Act, 15 U.S.C. §§ 2601 et seq.; or

5. Any substance identified as a known carcinogen by the International Agency for Research on Cancer; or

6. Any hazardous waste designated pursuant to the New Jersey Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. or the Federal Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq.

“Hazardous substance” means any substance designated under 40 CFR 116 pursuant to Section 311 of the Federal Act, the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., or Section 4 of the State Act.

“Hazardous waste” means any waste that is defined or identified as a hazardous waste pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., N.J.A.C. 7:26G, or 40 CFR Part 261.

“Headworks analysis” means a mathematical method used to determine the maximum allowable loading of a pollutant at the “headworks” or influent to the treatment plant.

“Heating oil” means any grade of petroleum product including, but not limited to, No. 1, 2, 4 (light and heavy), 5 (light and heavy), and fuel oils, diesel and kerosene or any grade or type used to heat residential buildings.

“Holding time” means the length of the time from collection of the sample until the time of initiation of the analysis.

“Hydraulic jump” means the sudden passage of water in an open channel from low depth to high depth, during which the velocity changes from supercritical ($Fr > 1$) to subcritical ($Fr < 1$), where Fr stands for Froude Number.

“Hypolimnion” means the lower region of a stratified waterbody that extends from the thermocline to the bottom of the waterbody, and is isolated from circulation with the upper waters, thereby receiving little or no oxygen from the atmosphere.

“Illicit connection” means, for purposes of N.J.A.C. 7:14A-25 only, any physical or non-physical connection that discharges the following to a municipal separate storm sewer system (unless that discharge is authorized under a NJPDES permit other than the NJPDES permit for discharges from that system):

1. Domestic sewage;
2. Non-contact cooling water, process wastewater, or other industrial waste (other than stormwater); or
3. Any category of non-stormwater discharges that a permittee for the MS4 identifies as a source or significant contributor of pollutants pursuant to 40 C.F.R. 122.26(d)(2)(iv)(B)(1) or 122.34(b)(3)(iii).

Non-physical connections may include, but are not limited to, leaks, flows, or overflows into the municipal separate storm sewer system.

"Important species" means species that are commercially valuable (for example, within the top ten species landed, by dollar value); recreationally valuable; threatened or endangered; critical to the organization and/or maintenance of the ecosystem; or other species necessary in the food web for the well-being of the species identified in this definition.

"Impoundment" means a body of water confined by a dam, dike, floodgate, or other barrier.

"Incineration" means the combustion of organic or inorganic matter, or both, at high temperatures in an enclosed device.

"Income" means all sources of revenue from wherever derived, including wages, retirement benefits, consultant fees, interest, and stock dividends.

"Incorporated place" means the District of Columbia, or a city, town, township, or village that is incorporated under the laws of the State in which it is located.

"Indirect discharge" means any discharge, excluding any discharges by municipal collection systems, into any domestic treatment works.

"Indirect user" means an entity with an indirect discharge.

"Individual subsurface sewage disposal system" means a system for the disposal of sewage into the ground, which is designed and constructed to treat sanitary sewage in a manner that will retain most of the settleable solids in a septic tank and discharge the liquid effluent to a disposal field.

"Industrial pollutants" means non-domestic pollutants, including but not limited to, those pollutants regulated under Section 307(a), (b) or (c) of the Federal Act.

"Industrial pretreatment program" means a program designed to regulate the introduction of pollutants into a local agency's treatment works from any nondomestic source.

"Industrial Pretreatment Program Permit" or "IPP Permit" means authorization, license, or equivalent control document issued by a delegated local agency to implement the requirements of the IPP. An IPP Permit includes a letter of agreement entered into between a delegated local agency and a user of its municipal treatment works, setting effluent limitations and other conditions on the user of the agency's municipal treatment works.

"Industrial treatment works" means a treatment works which treats primarily process wastewater and/or industrial pollutants as determined by the percentage of process wastewater, or mass loading of BOD, COD or suspended solids in the wastewater flow. Industrial treatment works shall also include any treatment works, whether publicly or privately owned, which treats primarily wastewater or leachate from a municipal solid waste facility or a potable water treatment plant. This definition shall include SIU pretreatment works.

"Industrial waste" means non-domestic waste, including, but not limited to, those pollutants regulated under Section 307(a), (b), or (c) of the Federal Clean Water Act.

"Industrial wastewater treatment system" means any structure or structures by means of which industrial liquid waste or sludges are subjected to any treatment process.

"Industrial water supply" means water used for processing or cooling.

"Infiltration percolation lagoon" means a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), which is designed to transmit pollutants to the subsurface and which is not an injection well.

"Inhibition concentration" means that concentration of effluent which produces the specified inhibition effect in a chronic whole effluent toxicity test. An IC₂₅ is the concentration of effluent which produces an inhibition of 25 percent for the monitored effect as compared to the control.

"Injection well" means a well, septic system, subsurface disposal bed, cavity, tube or pipe, or any structure used to deliver fluids directly to a point below the ground surface.

"Injection zone" means a geological formation, group of formations, or part of a formation receiving fluids through a well.

"Interference" means:

1. Inhibiting or disrupting the operation of a DTW or its treatment processes so as to contribute to, or cause a violation of any condition of a State or Federal permit;
2. Discharging industrial process wastewater which, in combination with existing domestic flows, is of such quantity and/or quality as to exceed the treatment process design capacity; or

3. Preventing the use or disposal of sludge produced by the DTW in accordance with Section 405 of the Federal Act, the Federal Resource Conservation and Recovery Act (42 U.S.C. §§ 3251 et seq.), the Federal Clean Air Act (42 U.S.C. §§ 7401 et seq.), the Federal Toxic Substances Control Act (15 U.S.C. §§ 2601 et seq.), the Marine Protection, Research and Sanctuaries Act (33 U.S.C. §§ 1401 et seq. and 16 U.S.C. §§ 1431 et seq.), Sections 2, 4 and 6 of the State Act, and any regulations, criteria, or guidelines developed pursuant thereto, including, but not limited to, N.J.A.C. 7:14A-20, and the Statewide Sludge Management Plan.

"Intermittent stream" means a stream with a MA7CD10 flow of less than one-tenth (0.1) cubic foot per second.

"Interstate agency" means an agency of two or more states established by or under an agreement or compact approved by the Congress, or any other agency of two or more states.

"Irreparable harm" means significant undesirable effects occurring after the date of permit issuance which cannot be reversed after cessation or modification of the discharge.

"Joint meeting" means the meeting or assembly of the members of the governing bodies or boards of the several municipalities having authority to make and enter into contracts for the construction jointly of the works or improvements authorized by N.J.S.A. 40:63-70.

"Lake, pond, or reservoir" means any impoundment, whether naturally occurring or created in whole or in part by the building of structures for the retention of surface water, excluding sedimentation control and stormwater retention/detention basins and ponds designed for treatment of wastewater. Lakes, ponds, and reservoirs are characterized by a long term or permanent downgradient restriction of surface water flow from the impoundment and areas of quiescent water within the body of the impoundment. Lakes, ponds, and reservoirs are frequently characterized by greater water depths within the impoundment than either the upgradient or downgradient surface water flow and by shallow water lateral edges containing emergent or submerged plant species. For regulatory purposes, the upgradient boundary of a lake, pond, impoundment, or reservoir shall be considered to be the point at which areas of greater depth and relatively quiescent water can be differentiated from the upgradient surface water input into the impoundment under average flow conditions.

"Landfill" see sanitary landfill.

"Land application" means the controlled discharge of pollutants onto or into the surface soil horizon in such a manner that the materials are treated by and/or become incorporated into and blended with the soil.

"Land application of residual" means the spraying or spreading of residual onto the land surface; the injection of residual below the land surface; or the incorporation of residual into the soil so that the residual can either condition the soil or fertilize crops or vegetation grown in the soil. This definition shall include the land application of sludge and the land application of sewage sludge.

"Land-based sludge management criteria" means those standards established by the Department in the Statewide Sludge Management Plan adopted pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., or established pursuant to the Federal Act, or any regulations adopted pursuant thereto.

"Large municipal separate storm sewer system" means all municipal separate storm sewers, other than those owned or operated by the United States, that discharge to surface water and are either:

1. Located in an incorporated place with a population of 250,000 or more as determined by the 1990 Decennial Census by the Bureau of the Census. See 40 CFR Part 122, Appendix F (Newark is listed); or

2. Located in the counties listed in 40 CFR Part 122, Appendix H (No New Jersey counties are listed), except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties; or

3. Owned or operated by a municipality other than those described in paragraph 1 or 2 of this definition and that are designated by the Department as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under paragraph 1 or 2 of this definition. In making this determination the Department may consider the following factors:

- i. Physical interconnections between the municipal separate storm sewers;

- ii. The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in paragraph 1 of this definition;

- iii. The quantity and nature of pollutants discharged to waters of the United States;

- iv. The nature of the receiving waters; and

- v. Other relevant factors; or

4. Upon petition, designated by the Department as a large municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a storm water management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in paragraphs 1, 2, or 3 of this definition.

"LC₅₀" means the median lethal concentration of a toxic substance, expressed as a statistical estimate of the concentration that kills 50 percent of the test organisms under specified test conditions, based on the results of an acute bioassay.

"Leachate" means liquid that has been in contact with solid waste.

"Leachate collection system" means a system or device installed immediately above a liner that is designed, constructed, maintained, and operated to collect and remove leachate.

"Lead planning agency (delegated)" means the POTW which, by agreement with the District as defined in the Statewide Sludge Management Plan, is to execute sludge management and planning for that District.

"Letter of Land Application Management Approval" or "LLAMA" means the letter issued by the Department pursuant to N.J.A.C. 7:14A-20 and the Statewide Sludge Management Plan, containing a determination that use of residual or the operations at a residual land application site satisfy the requirements of the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., if operated consistently with the requirements stated within the letter.

"Level of pollutant control actually achieved" means:

1. For conventional and nonconventional pollutants, the effluent concentration consistently achieved through proper operation and maintenance as defined in this section with a 30-day and seven-day average effluent limitation.

2. For toxic pollutants, the effluent limitations based on existing effluent quality as defined at N.J.A.C. 7:14A-13.8 with a 30 day average and a daily maximum effluent limitation.

"Level of treatment" means the degree of waste removal and accompanying residual wastewater effluent to be attained by any discharger.

"Limiting nutrient" means a nutrient whose absence or scarcity exerts a restraining influence upon an aquatic biological population.

"Liner" means a continuous layer of soil or synthetic material which restricts the downward or lateral escape of any waste, waste constituents, or leachate. For the purposes of N.J.A.C. 7:14A-20, a liner shall have a hydraulic conductivity of 1x10(E-7) centimeters per second or less.

"Lithology" means the description of rocks on the basis of their physical, chemical and mineralogical characteristics.

"Load allocation" means the portion of a receiving water's total maximum daily load (TMDL) for a specific pollutant that is allocated to existing or future nonpoint sources of pollution.

"Local agency" means a political subdivision of the State, or an agency or instrumentality thereof, that owns or operates a municipal treatment works.

"Local limits" means any restriction on quantities, quality, or concentrations of pollutants discharged into a local agency's treatment works, developed to prevent upset, interference, or pass-through of pollutants to the treatment works, and to protect worker health and safety, and protect/improve the quality of the sludge generated by the treatment works.

"Log sorting and log storage facilities" means facilities whose discharges result from the holding of unprocessed wood, for example, logs or roundwood with bark or after removal of bark held in self-contained bodies of water (mill ponds or log ponds) or stored on land where water is applied intentionally on the logs (wet decking). (See 40 CFR part 429, subpart I, including the effluent limitations guidelines).

"Long term average effluent concentration" means the statistical estimation of the true mean of the entire population of effluent data points, considering effluent variability and the number of actual data points available to estimate the mean.

"Long term harmonic mean flow" means the number of daily flow measurements divided by the sum of reciprocals of the measured flows. It is the design flow used in calculating pollutant allocations for surface water quality standards which protect for health effects occurring after long term exposures. It is calculated by:

$$\text{Flow} = \frac{n}{\sum \frac{1}{Q_1} + \frac{1}{Q_2} + \dots + \frac{1}{Q_n}}$$

where n is the number of recorded flows and Q is the combined receiving water and effluent flow.

"Lower explosive limit for methane gas," for the purpose of N.J.A.C. 7:14A-20, means the lowest percentage of methane gas in air, by volume, that propagates a flame at 25 degrees Celsius and atmospheric pressure.

"Major facility" means:

1. For industrial facilities, any facility which scores 80 or more points on the NPDES permit rating work sheet using the USEPA rating criteria. A facility with less than the required score of 80 may still be classified as a Major facility by the Regional Administrator or the Department. In those situations, the Department shall state the reasons for doing so; and

2. For municipal facilities, any POTW with a design flow of 1.0 Million Gallons per Day or greater.

"Major modification to a permit" means any change to a permit the scope of which is described in N.J.A.C. 7:14A-16.4.

"Manmade" for purposes of this chapter, means constructed by man.

"Marketable residual product" or "sludge-derived product" means any residual or material derived from a residual which has been prepared for land application of residual in accordance with a permit issued pursuant to N.J.A.C. 7:14A-20 and which, at a minimum, meets the pollutant concentrations in 40 CFR 503.13(b)(1), the Class B pathogen requirements in 40 CFR 503.32 and one of the vector attraction reduction requirements in 40 CFR 503.33(b)(1) through (b)(8).

"Maximum daily discharge limitation" means the highest allowable "daily discharge" during the reporting period.

"Maximum projected effluent concentration" means the maximum effluent concentration that would be expected, based on the maximum reported concentration and the statistical variability of the reported effluent data.

"Maximum sewage treatment capacity" means the hydraulic, biological and sludge handling capacity limitations necessary to assure compliance with the terms and conditions of the NJPDES or NPDES Permit.

"Maximum value" means the highest value measured during the monitoring period.

"Medical waste" means isolation wastes; infectious agents; human blood and blood products; pathological wastes; sharps; body parts; contaminated bedding; surgical wastes and potentially contaminated laboratory wastes; dialysis wastes; and such additional medical items as the Administrator shall prescribe by regulation.

"Medium municipal separate storm sewer system" means all municipal separate storm sewers, other than those owned or operated by the United States, that discharge to surface water and are either:

1. Located in an incorporated place with a population of 100,000 or more but less than 250,000, as determined by the 1990 Decennial Census by the Bureau of the Census. (40 CFR Part 122, Appendix G) (Elizabeth, Jersey City, and Paterson are listed); or
2. Located in the counties listed in 40 CFR Part 122, Appendix I (No New Jersey counties are listed); or
3. Owned or operated by a municipality other than those described in paragraph 1 or 2 of this definition and that are designated by the Department as part of the large or medium municipal separate storm sewer system due to

the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under paragraph 1 or 2 of this definition. In making this determination the Department may consider the following factors:

- i. Physical interconnections between the municipal separate storm sewers;
- ii. The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in paragraph 1 above;
- iii. The quantity and nature of pollutants discharged to waters of the United States;
- iv. The nature of the receiving waters; or
- v. Other relevant factors; or

4. The Department may, upon petition, designate as a medium municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a storm water management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in paragraphs 1, 2, or 3 above.

"Membrane filter technique" means the method used to analyze for bacteria (that is, coliform bacteria) which utilizes sample filtration to trap bacterial organisms on a membrane filter.

"Memorandum of Agreement" means the agreement entered into under the Federal Act between the Administrator and the Commissioner, governing the relationship, duties, and rights of the parties in operating State NPDES and UIC programs (NJPDES).

"Minimum value" means the lowest data value measured during the monitoring period.

"Minor facility" means any facility or activity not classified a "major facility" by the Regional Administrator or the Department.

"Minor modification" means a change to a permit which does not constitute a major modification pursuant to N.J.A.C. 7:14A-16.4.

"Mixing zones" means areas of surface waters at or near the discharge location, as may be designated by the Department, into which wastewater effluents may be discharged for the purpose of mixing, dispersing, or dissipating such effluents.

"Monitoring report form" means the standard Department form, including any subsequent additions, revisions or modifications, for the reporting of self-monitoring results by permittees.

"Monthly" means one normal operating day each calendar month, on which, a reasonably representative sample of the discharge may be obtained. This day should be the same day every month (for example, the 2nd Tuesday of each month), unless otherwise directed in the permit. A normal operating day shall be a period of time reasonably representative of normal operating conditions.

"Monthly minimum percent removal" means the lowest percentage obtained for any single sampling event performed during the calendar month (minimum percent removal limitation).

"Monthly monitoring" means monitoring conducted at a minimum of once every calendar month.

"Most probable number" means the statistical estimate of bacterial densities used for reporting results from the multiple-tube fermentation technique.

"Multiple grab composite" means a combination of individual samples (aliquots) collected at a specific frequency over a specified time period. Each aliquot shall be analyzed individually before being combined into a single composite sample. The recorded values will be both the individually analyzed aliquots and the composite sample.

"Municipal authority" means a municipal authority as defined in the Municipal and County Utilities Authorities Law at N.J.S.A. 40:14B-3(5), and shall include a municipal utilities authority created by one or more municipalities and a county utilities authority created by a county.

"Municipality" means a city, town, borough, county, parish, district, association or other public body created by or under State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or a designated and approved management agency under Section 208 of the Federal Act (33 U.S.C. § 1288), except as provided at N.J.A.C. 7:14A-25.1(b).

"Municipal separate storm sewer" means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

1. Owned or operated by the United States, an interstate agency, a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe organization, or a designated and approved management agency under section 208 of the CWA (33 U.S.C. § 1288) that discharges to surface water or groundwater;
2. Designed and used for collecting or conveying stormwater;

3. Which is not a combined sewer;
4. Which is not part of a POTW; and
5. Which is not either of the following:

- i. A separate storm sewer(s) that is at an industrial facility, and that collects or conveys stormwater discharges associated with industrial activity that occurs at that facility; or
- ii. A separate storm sewer(s) that is at a construction site, and that collects or conveys stormwater discharges associated with small construction activity that occurs at that site.

"Municipal separate storm sewer system" or "MS4" means a "large," "medium" or "small" municipal separate storm sewer system as defined in this section.

"Municipal treatment works" means the treatment works of any municipality, county, or State agency or any agency or subdivision created by one or more municipal, county, or State governments and the treatment works of any public utility as defined in N.J.S.A. 48:2-13.

"National Pollutant Discharge Elimination System" or "NPDES" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 402, 318, and 405 of the Federal Act. The term includes any State program which has been approved by the Administrator.

"National Pretreatment Standard" means any regulation containing pollutant discharge limits promulgated by the USEPA in accordance with Section 307 (b) and (c) of the Federal Act, which applies to Indirect Users. This term includes prohibitive discharge limits established pursuant to 40 CFR 403.5.

"Natural flow" means the water flow that would exist in a waterway without the addition of flow of artificial origin.

"Natural water quality" means the water quality that would exist in a waterway or a waterbody without the addition of water or waterborne substances of artificial origin.

"New discharger" means any building, structure, facility, or installation:

1. From which there is or may be a discharge of pollutants;
2. Was not an existing source prior to August 13, 1979;
3. Which is not a new source; and
4. Which has never received a final NJPDES permit for discharges at that site.

This definition includes an indirect user which commences discharging into waters of the State after August 13, 1979. It also includes any existing mobile point source (other than an offshore or coastal oil and gas exploratory drilling rig) such as a seafood processing rig, seafood processing vessel, or aggregate plant, that begins discharging at a site for which it does not have a permit; and any offshore or coastal mobile oil and gas exploratory drilling rig or coastal mobile oil and gas development drilling rig that commences the discharge of pollutants after August 13, 1979, at a site for which it is not covered by an individual or general permit and which is located in an area determined by the Department in the issuance of the final permit to be an area of biological concern. In determining whether an area is an area of biological concern, the Department shall consider the factors specified in 40 CFR 125.122(a)(1) through (1).

An offshore or coastal mobile exploratory drilling rig or coastal mobile developmental drilling rig will be considered a new discharger only for the duration of its discharge in an area of biological concern.

"New injection well" means an injection well which begins injection after, August 15, 1983, the date New Jersey became authorized to implement the NPDES/UIC Program, as specified in 40 CFR 147.1550, Subpart FF.

"New Jersey Pollutant Discharge Elimination System" or "NJPDDES" means the New Jersey system for the issuance of permits pursuant to the State Act.

"New source" means any building, structure, facility, or installation, from which there is or may be a discharge of pollutants, the construction of which commenced:

1. After promulgation of standards of performance under Section 306 of the Federal Act which are applicable to such source;
2. After proposal of standards of performance in accordance with Section 306 of the Federal Act, which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within 120 days of their proposal; or
3. After the publication of the Pretreatment Standards under Section 307(c) of the Act which will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:
 - i. The building, structure, facility or installation is constructed at a site at which no other source is located;
 - ii. The building, structure, facility or installation totally replaces the process or production equipment that cause the discharge of pollutants at an existing source; or
 - iii. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at

the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

4. Construction of a new source as defined under this definition has commenced if the operating entity has:

i. Begun, or caused to begin as part of a continuous onsite construction program:

(1) Any placement, assembly, or installation of facilities or equipment; or

(2) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

ii. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.

"Nitrogenous biochemical oxygen demand" or "NBOD" means that portion of the biochemical oxygen depletion either in an effluent or in a waterbody which is due to the oxidation of nitrogen containing compounds.

"No observed adverse effect concentration" or "NOAEC" means the lowest concentration at which the organisms are adversely affected as compared to the control determined using hypothesis testing technique.

"No observable effect concentration" or "NOEC" means the maximum effluent concentration which results in no observable effect for the evaluated end-point. The NOEC is usually determined as the next lower tested concentration than the concentration which results in the lowest observable effect as compared to the controls. For discharge permits where the limitation is expressed as an NOEC, the results shall be reported as the calculated IC₂₅ and shall be considered equivalent to the observed NOEC.

"No measurable acute toxicity" or "NMAT" means a type of water quality based acute whole effluent toxicity limit imposed in accordance with N.J.A.C. 7:9B-4.6(c)5i(2), which requires that no mortality occurs in any acute toxicity test concentration, including 100 percent effluent, above normal background mortality levels for the test organism population. The normal background mortality level is the acceptable level of control mortality for a valid test specified in N.J.A.C. 7:18-6.6(v).

"Non-contact cooling water" means water used to reduce temperature for the purpose of cooling. Such waters do not come into direct contact with any raw material, intermediate product (other than heat) or finished product. Non-contact cooling water may however contain algacides, or biocides to control fouling of equipment such as heat exchangers, and/or corrosion inhibitors.

"Non-conventional pollutant" means any pollutant not defined as a conventional pollutant or a toxic pollutant.

"Non-delegated local agency" means a local agency which does not have an industrial pretreatment program approved by the Department.

"Nonexcessive infiltration" means the quantity of flow which is less than 120 gallons per capita per day (domestic base flow and infiltration) or the quantity of infiltration which cannot be economically and effectively eliminated from a sewer system as determined in a cost-effectiveness analysis. For domestic treatment works receiving wastewater from combined sewers, nonexcessive infiltration means the quantity of flow attributable to infiltration during dry weather shall be less than 40 gallons per capita per day (gpcd) or 1,500 gallons per day per inch diameter per mile of sewer.

"Nonexcessive inflow" means the maximum total flow rate during storm events which does not result in chronic operational problems related to hydraulic overloading of the treatment works or which does not result in a total flow of more than 275 gallons per capita per day (domestic base flow plus infiltration plus inflow) during a significant rainfall event which causes surface ponding and surface runoff. Chronic operational problems may include surcharging, backups, bypasses, and overflows.

"Non-hazardous waste" means a solid waste which is not a hazardous waste.

"Nonpersistent" means degrading relatively quickly, generally having a half-life of less than 96 hours.

"Nonpoint source" means:

1. Any man-made or man-induced activity, factor, or condition, other than a point source, from which pollutants are or may be discharged;
2. Any man-made or man-induced activity, factor, or condition, other than a point source, that may temporarily or permanently change any chemical, physical, biological, or radiological characteristic of waters of the State from what was or is the natural, pristine condition of such waters, or that may increase the degree of such change; or
3. Any activity, factor, or condition, other than a point source, that contributes or may contribute to water pollution.

"Nontrout waters" means fresh waters that have not been designated in N.J.A.C. 7:9B-1.15(c) through (h) as trout production or trout maintenance. These waters are generally not suitable for trout because of their physical, chemical, or biological characteristics, but are suitable for a wide variety of other fish species.

"Nutrient" means a chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the growth and development of organisms.

"Ocean waters" means those waters of the open seas lying seaward of the base line from which the territorial sea is measured, as provided for in the Convention on the Territorial Sea and the Contiguous Zone.

"Oil and grease" includes the nonpetroleum-based pollutants of animal and vegetable origin, and petroleum-based pollutants, which are analyzed by an EPA and/or New Jersey State Certified Laboratory approved method for oil and grease referenced in 40 CFR Part 136, as amended, including subsequent amendments, and the petroleum-based pollutants analyzed by an EPA and/or New Jersey State Certified Laboratory approved method for petroleum hydrocarbons cited in Methods for Chemical Analysis of Water and Wastes, USEPA, as amended.

"Open channel" means any natural or artificial waterway or closed conduit, including a gravity sewer, in which water flows with a free surface.

"Operating entity" or "operator" means any person who alone or along with other persons has primary management and operational decision-making authority over any part of a facility. This definition is not applicable to "operator" as that term is used in N.J.A.C. 7:14A-4.9(b)2, 22.6(a)4, 22.6(c)3, 23.25(a)3, or 23.25(a)4i.

"Other container" means either an open or closed receptacle that has a load capacity of one metric ton or less and may include, but is not limited to, a bucket, a box, a carton, and a vehicle or trailer.

"Outfall" means any point source which discharges directly to waters of the United States and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other waters of the United States and are used to convey waters of the United States.

"Outstanding National Resource Waters" means high quality waters that constitute an outstanding national resource (for example, waters of National/State Parks and Wildlife Refuges and waters of exceptional recreational or ecological significance) as designated in N.J.A.C. 7:9B-1.15(i).

"Owner or operator" means the owner or operator of any facility or activity subject to this chapter.

"Overburden" means any material of any nature, consolidated or unconsolidated, that overlies a mineral deposit, excluding topsoil or similar naturally-occurring surface materials that are not disturbed by mining operations.

"Overland flow" means the controlled discharge, by spraying or other means, of pollutants onto sloping land with maintained vegetation where a proportion of the wastewater may appear as runoff. Overland flow is also the movement of pollutants across the surface of the land where infiltration may occur.

"Packer" means a device lowered into a well to produce a fluid-tight seal.

"Participating municipality" means a municipality or other body which is a member of an affected sewerage entity or which has contracted to obtain sewage treatment services from a sewerage entity or other domestic treatment works.

"Passaic Valley Sewerage Commissioners" means the body described by that name under N.J.S.A. 58:14-2.

"Pass through" means a discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NJPDES permit (including an increase in the magnitude or duration of a violation).

"Pasture" means, for the purpose of N.J.A.C. 7:14A-20, land on which animals feed directly on feed crops such as legumes, grasses, grain stubble, or stover.

"Pathogen-free material" means a residual material generated from non-domestic processes where there is no contact with human wastes, animal wastes or other wastes which may contain pathogenic organisms. Pathogen-free material may include, but is not limited to, water treatment plant residual and certain types of food processing residual.

"Pathogenic organisms" means disease-causing organisms. These include, but are not limited to, certain bacteria, protozoa, viruses, and viable helminth ova.

"Percent removal" means a percentage expression of the removal efficiency across a treatment plant for a given pollutant parameter, as determined from the 30-day average values of the raw wastewater influent pollutant concentrations to the facility and the 30-day average values of the effluent pollutant concentrations for a given time period.

"Performance based limitations" means effluent limitations calculated using the existing effluent quality or the anticipated performance of a facility.

"Periodic report" means compliance monitoring report required pursuant to N.J.A.C. 7:14A-21.3(f).

"Permit" means an authorization, license, or equivalent control document issued by the Department or a delegated local agency to implement the requirements of this chapter even where any or all of the conditions of the permit have been stayed. Permit does not include any permit which has not yet been the subject of final agency action, such as a "draft permit". Permit includes a letter of agreement entered between a delegated local agency and a user of its municipal treatment works, setting effluent limitations and other conditions on the user of the agency's municipal treatment works. Permit also includes a general permit and a permit-by-rule.

"Permit by rule" means a provision of this chapter stating that a "facility or activity" is deemed to have a NJPDES permit if it meets the requirements of the applicable regulations.

"Permitted flow" means a treatment work's maximum allowable flow (usually in million gallons per day, or other appropriate unit of flow such as gallons per day) as stated in the facility's NJPDES Permit or TWA, whichever is more stringent.

"Permittee" means any person authorized to conduct activity pursuant to a permit.

"Permitting authority" means, for the purpose of N.J.A.C. 7:14A-20, either EPA or a State with an EPA-approved sewage sludge management program.

"Persistent" means relatively resistant to degradation, generally having a half life of over 96 hours.

"Person" means an individual, corporation, company, partnership, firm, association, owner or operator of a treatment works, political subdivision of this State and any state, Federal or interstate agency or an agent or employee thereof. "Person" shall also mean any responsible corporate official for the purpose of enforcement action under Section 10 of the State Act.

"Person who prepares residual" means either the person who generates a residual during the treatment of domestic sewage and/or process wastewater in a treatment works or the person who derives a material from the residual. This definition also includes a person who prepares sludge or a person who prepares sewage sludge.

"Petroleum hydrocarbons" or "petroleum-based oil and grease" includes the petroleum-based pollutants analyzed by an EPA and/or New Jersey State Certified Laboratory approved method for petroleum hydrocarbons cited in Methods for Chemical Analysis of Water and Wastes, USEPA, as amended.

"Pinelands waters" means all waters within the boundaries of the Pineland Area, except those waters designated as FW1 in N.J.A.C. 7:9B-1.15(h) Table 6, as established in the Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq., and as shown on Plate 1 of the "Comprehensive Management Plan" adopted by the New Jersey Pinelands Commission in November 1980.

"Plugging" means the act or process of stopping the flow of water, oil, or gas in a formation penetrated by a borehole or well.

"Plugging record" means a systematic listing of permanent or temporary abandonment of water, oil, gas, test, exploration and waste injection wells, and may contain a well log, description of amounts and types of plugging material used, the method employed for plugging, a description of formations which are sealed and a graphic log of the well showing formation location, formation thickness, and location of plugging structures.

"Point source" means any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

"Pollutant" means any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. §§ 2011 et seq.)), thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, agricultural, and construction waste or runoff or other residue discharged directly or indirectly to the land, ground waters or surface waters of the State, or to a DTW. "Pollutant" includes both hazardous and nonhazardous pollutants.

"Pollutant limit" means, for the purpose of N.J.A.C. 7:14A-20, a numerical value that describes the amount of a pollutant allowed per unit amount of residual (for example, milligrams of pollutant per kilogram of total solids); the amount of a pollutant that can be applied to a unit area of land (for example, kilograms of pollutant per hectare); or the volume of a material that can be applied to a unit area of land (for example, gallons per acre.)

"Pond" see the definition for lake.

"Pressure" means the total load or force per unit area acting on a surface.

"Pretreatment" means the reduction in the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a DTW. The reduction or alteration may be obtained by physical, chemical, or biological processes, process changes or by other means, except by dilution. Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the DTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR 403.6(e) (the Combined Wastestream Formula).

"Pretreatment Act" means the Pretreatment Standards for Sewerage, N.J.S.A. 58:11-49 et seq.

"Pretreatment program significant noncompliance" or "PPSNC" means non-compliance by a source of indirect discharge which requires notification pursuant to 40 CFR 403.8(f)(2)(vii).

"Pretreatment standard" means any limitation on quantities, quality, rates, or concentrations of pollutants discharged into municipal or privately owned treatment works, adopted pursuant to the Pretreatment Act, Section 4 of the State Act, or any applicable National, State, or local regulations.

"Primary contact recreation" means water-related recreational activities that involve significant ingestion risks and includes, but is not limited to, wading, swimming, diving, surfing, and water skiing.

"Primary industry category" means any industry category listed in the NRDC settlement agreement (*National Resources Defense Council et al. v. Train*, 8 E.R.C. 2120 (D.D.C. 1976), modified 12 E.R.C. 1833 (D.D.C. 1979)); also listed in N.J.A.C. 7:14A-4—Appendix B, Table 1.

"Primary liner" means a liner consisting of synthetic material designed to prevent the flow of liquid from surface impoundments. A primary liner shall have properties of such a nature so as to impede the flow of liquids from surface impoundments throughout their active life, closure, and post-closure periods. Typically, a liner meeting these criteria will be at least 30 mil (0.03 inches) in thickness.

"Privately owned treatment works" means any device or system which is:

1. Used to treat wastes from any facility whose operator is not the operator of the treatment works; and
2. Is not a "POTW."

"Process wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product. Process wastewater includes, but is not limited to, leachate and cooling water other than non-contact cooling water. This definition includes the terms commercial wastewater and industrial wastewater as used in 40 CFR Part 503.

"Projected flow" means that flow which is estimated or anticipated to be generated from a facility, based upon the criteria contained in N.J.A.C. 7:14A-23.

"Property" means, for the purposes of N.J.A.C. 7:14A-8.1(b)iv, all the contiguous block(s) and lots(s), including vacant land owned or otherwise under the control of the owner or operator of the regulated facility, upon which a discharge is conducted or controlled as a result of the operation of a facility.

"Proper operations and maintenance" means the activities required to assure the dependable and economical function of a treatment works.

1. Operation means the control of the unit processes and equipment which make up the treatment works, including financial and personnel management, records, laboratory control, process control, safety and emergency operation planning.

2. Maintenance means the preservation of functional integrity and efficiency of equipment and structures. This includes preventative maintenance, corrective maintenance and replacement of equipment as needed.

"Proprietary information" means commercial or financial information which is used in one's business and is of a type customarily held in strict confidence or regarded as privileged and not disclosed to any member of the public by the person to whom it belongs.

"Public contact site" means, for the purpose of N.J.A.C. 7:14A-20, land with a high potential for contact by the public. This includes, but is not limited to, public parks, ball fields, cemeteries, plant nurseries, turf farms, and golf courses.

"Public hearing" is a hearing before a representative of the Department which provides the opportunity for public comment, but which does not include cross-examination.

"Publicly owned or operated" means owned or operated by the State, a county, a municipality, or other public body.

"Publicly owned treatment works" or "POTW" means any device or system used in the storage and treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by a State or municipality. This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment. Treatment works associated with potable water treatment and solid waste facilities shall be considered industrial treatment works for purposes of this chapter.

"Quarterly monitoring" means monitoring conducted at a minimum frequency of once every three calendar months.

"Radioactive waste" means any waste which contains radioactive material in concentrations which exceed those listed in 10 CFR Part 20, Appendix B, Table II, Column 2, or exceed the "Criteria for Identifying and Applying Characteristics of Hazardous Waste and for Listing Hazardous Waste" in 40 CFR Part 261, whichever is applicable.

"Range land" means, for the purpose of N.J.A.C. 7:14A-20, open land with indigenous vegetation.

"RCRA" means the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. §§ 6901 et seq.

"Reclamation site" means drastically disturbed land that is reclaimed using residual. This includes, but is not limited to, strip mines and construction sites.

"Regional Administrator" means the Regional Administrator of the appropriate Regional Office of the USEPA or an authorized representative of the Regional Administrator.

"Regional pump station" means any wastewater pumping station which conveys wastewater from more than one municipality or from at least 25 percent of a single municipality's sewer service area, and has a design capacity of at least 0.5 MGD.

"Reissuance of a permit" means the process of issuing a NJPDES permit after a permit has been revoked, or the process of renewing a permit.

"Remediation effluent standards" means the set of effluent limitations in N.J.A.C. 7:14A-12 Appendix C which have been developed using a specified technology and which are used for limitations for remediation projects in the absence of an adopted TMDL.

"Request for authorization" is the document submitted under N.J.A.C. 7:14A-6.13 to obtain authorization to discharge under a general permit.

"Reservoir" see the definition for lake.

"Residual" means a solid waste that consists of the accumulated solids and associated liquids which are by-products of a physical, chemical, biological, or mechanical process or any other process designed to treat wastewater or any other discharges subject to regulation under the State Act. For purposes of this chapter, residual includes, but is not limited to, marketable residual product, sludge and sewage sludge. Residual excludes screened vegetative waste and grit and screenings.

"Residual land application site" means the site used for land application of residual.

"Residual leachate collection system" means a system or device installed immediately above a liner that is designed, constructed, maintained, and operated to collect and remove leachate from a surface disposal site. This definition includes a sewage sludge leachate collection system.

"Residual-only facility" means any treatment works treating domestic sewage whose methods of sludge use or disposal are required to obtain a permit under 40 CFR 122.1(b)(3) or N.J.A.C. 7:14A-20. This term shall also apply to any treatment works whose method of residual use or disposal is required to obtain a permit under N.J.A.C. 7:14A-20.

"Residual stabilization" means the reduction of the volatile and putrescible fraction of sludge with attendant reduction in the numbers of pathogens. Residual stabilization processes include, but are not limited to, digestion, composting, heat treatment, and alkaline stabilization.

"Residual transport container" means a leakproof, closed, modular receptacle which is maintained in a nuisance-free manner, including, but not limited to, containing residual and odor.

"Residual use or disposal practice" means the collection, storage, treatment, transportation, processing, monitoring, use, or disposal of residual. This definition includes a sewage sludge use or disposal practice.

"Revocation of a permit" means the process of terminating of a permit.

"Reynolds number" means the numerical quantity used to characterize the type of flow in a closed conduit from which a representative grab sample may be taken for the purposes of this subchapter.

"River mile" or "R.M." means the distance, measured in statute miles, between two locations on a stream, with the first location designated as mile zero. For example, mile zero for the Delaware River is located at the intersection of the center line of the navigation channel and a line between the Cape May Light, New Jersey, and the tip of Cape Henlopen, Delaware.

"Rock crushing and gravel washing facilities" means facilities which process crushed and broken stone, gravel, and riprap (See 40 CFR part 436, subpart B, including the effluent limitations guidelines).

"Runoff" means, for the purpose of N.J.A.C. 7:14A-20, rainwater, leachate, or other liquid that drains overland on any part of a land surface and runs off of the land surface.

"Runoff coefficient" means the fraction of total rainfall that will appear at a conveyance as runoff.

"Saline waters" means waters having salinities generally greater than 3.5 parts per thousand at mean high tide.

"Sanitary landfill" means a solid waste facility, as defined in N.J.A.C. 7:26, at which solid waste is deposited on or into the land as fill for the purpose of permanent disposal or storage for a period of time exceeding six months, except that it shall not include any waste facility approved for disposal of hazardous waste pursuant to N.J.A.C. 7:26.

"Sanitary sewage" means any liquid waste containing animal or vegetable matter in suspension or solution, or the water carried wastes resulting from the discharge of water closets, laundry tubs, washing machines, sinks, dishwashers, or any other source of water carried waste of human origin or containing putrescible material. This term specifically excludes industrial, hazardous or toxic wastes and materials.

"Saturated zone" or "zone of saturation" means that part of the earth's crust in which all voids are filled with water.

"Schedule of compliance" or "compliance schedule" means a schedule of remedial measures including an enforceable sequence of actions, operations leading to compliance with water quality standards, an effluent limitation or other limitation, prohibition or standard.

"Seasonal high water table" means the maximum level to which ground water will be normally expected to rise due to the effects of natural precipitation and infiltration of water.

"Secondary contact recreation" means recreational activities where the probability of water ingestion is minimal and includes, but is not limited to, boating and fishing.

"Secondary liner" is a liner consisting of either soil or earthen materials at least three feet (0.91 meters) in thickness with a saturated hydraulic conductivity under maximum hydrostatic head conditions not more rapid than 1×10^{-7} centimeters per second, or synthetic material at least 30 millimeters (0.03 inches) in thickness designed to prevent the flow of liquid from surface impoundments. A secondary liner shall have properties of such a nature so as to ensure the prevention of the flow of liquids from surface impoundments throughout their active life, closure, and post-closure periods.

"Secretary" means the Secretary of the Army, acting through the Chief of Engineers.

"Sediment oxygen demand" means that portion of the oxygen depletion present in a receiving waterbody which is due to the substrate present in the waterbody.

"Separate sewer system" means a sewer system that is designed to only carry sanitary sewage and not designed to collect and transport stormwater from streets and other sources, thus serving a combined purpose.

"Separate storm sewer" means a conveyance or system of conveyances (including roads with drainage systems, streets, catch basins, gutters, ditches, man-made channels, or storm drains):

1. Designed or used for collecting or conveying stormwater;
2. Which is not part of a combined sewer system; and

3. Which is not part of a publicly owned treatment works (POTW).

"Septage" means the liquid and solid material pumped from a septic tank, cesspool, or similar domestic sewage treatment system, or a holding tank when the system is cleaned or maintained.

"Serious violation" means an exceedance, as set forth in a permit, administrative order, or administrative consent agreement, including interim enforcement limits, as follows:

1. For effluent limitations for pollutants that are measured by concentration or mass, except for whole effluent toxicity;

i. Violations of an effluent limitation that is expressed as a monthly average;

(1) By 20 percent or more for a hazardous pollutant; and

(2) By 40 percent or more for a nonhazardous pollutant;

ii. Violations of an effluent limitation that is expressed as a daily maximum or daily minimum without a monthly average;

(1) By 20 percent or more of the average of all of the daily maximum or minimum values for hazardous pollutant; and

(2) By 40 percent or more of the average of all of the daily maximum or minimum values for a nonhazardous pollutant;

2. For effluent limitations for whole effluent toxicity as follows:

i. For any violation of an LC₅₀ or a NOEC limit when, upon subtracting the toxicity test result from the whole effluent toxicity limit, the difference is as follows:

Whole Effluent Toxicity Limit (Percent Effluent)	Difference (Percent Effluent)
Greater than or equal to 80 and less than or equal to 100	Greater than or equal to 20
Greater than or equal to 50 and less than 80	Greater than or equal to 15
Greater than 10 and less than 50	Greater than or equal to 10
Less than or equal to 10	Greater than or equal to 9

ii. For any violation of whole effluent toxicity limitations expressed as no measurable acute toxicity (NMAT) with greater than or equal to 50 percent mortality in any test concentration, including 100 percent effluent; and

3. The greatest violation of a pH effluent range in any one calendar day which violation deviates from the midpoint of the range by at least 40 percent of the midpoint of the range excluding the excursions specifically excepted by a NJPDES permit with continuous pH monitoring. For example: Assuming that a permittee's effluent limitation range for pH is 6.0 to 9.0, the midpoint would be 7.5.

If the five separate readings of pH during a given day were 4.3, 5.8, 6.5, 6.0 and 6.5, the reading of 4.3 would be a serious violation as follows:

$$\frac{7.5 \text{ (midpoint)} - 4.3 \text{ (greatest exceedance)} \times 100}{7.5 \text{ (midpoint)}} = 42.6\%$$

For example: Using the same information as above. Forty percent of 7.5 is 3; therefore, if the greatest violation of a pH effluent range for any calendar day has a pH of 4.5 or less or a pH of 10.5 or greater, the violation would be a "serious violation."

4. Notwithstanding the above, the Department may utilize, on a case-by-case basis, a more stringent factor of exceedance to determine a serious violation if the Department states the specific reasons therefore, which may include the potential for harm to human health or the environment.

"Soil erosion and sediment control plan" means a plan which indicates land treatment measures, including a schedule of the timing for their installation, to minimize soil erosion and sediment in accordance with the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq.

"Seven day average value" means the greatest sum of all daily discharges measured during any seven consecutive days, divided by the number of daily discharges measured during that period. Results are commonly expressed in loading (kg/day) and/or concentration (mg/L).

"Severe property damage" means substantial physical damage to property, damage to the treatment facilities which would cause them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

"Sewage" means any wastes, including wastes from humans, households, commercial establishments, industries, and stormwater runoff, that are discharged to or otherwise enter a DTW.

"Sewage authority" see sewerage entity.

"Sewage from vessels" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes that are discharged from vessels, including graywater and regulated under Section 312 of the Federal Act or under the State Act. For the purposes of this definition, "graywater" means galley, bath, and shower water.

"Sewage sludge" means the solid, semi-solid, or liquid residue generated by the processes of a domestic treatment works. Sewage sludge includes, but is not limited to, domestic septage; scum or solids removed in primary, secondary, or advanced wastewater treatment processes; and any material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works.

"Sewage sludge use or disposal practice" means the collection, storage, treatment, transportation, processing, monitoring, use, or disposal of sewage sludge.

"Sewerage authority" means a sewerage authority created pursuant to the Sewerage Authorities Law, N.J.S.A. 40:14A-1 et seq.

"Sewerage entity" means a county or municipal utilities authority, municipality, corporation, or other legal entity which owns or operates a sewerage facility (that is, a sewage authority).

"Sewer extension" means any sewer pipe, line, structure or appurtenance used for the conveyance of domestic or industrial waste of a liquid nature, whether forced or by gravity, which:

1. Will extend along an easement through more than two properties, a roadway, or public right-of-way;
2. Conveys flows from more than two buildings; or
3. Conveys, or will convey, 8,000 gallons per day or more of sewage flow determined in accordance with the criteria specified in N.J.A.C. 7:14A-23.3. This includes all sewer lines from a single building if the building utilizes more than one sewer line to convey waste to the sewer system and the aggregate waste flow is 8,000 gallons per day or more.

"Sheen" means an iridescent appearance on the surface of water.

"Shellfish" means those mollusks commonly known as clams, oysters, or mussels.

"Shellfish waters" means waters classified as Approved, Seasonally Approved, Special Restricted, Seasonally Special Restricted or Condemned that support or possess the potential to support shellfish which are within the Coastal Area Facility Review Act (CAFRA) zone as delineated in 1973, (excluding: 1—The Cohansey River upstream of Brown's Run; 2—The Maurice River upstream of Route 548; 3—The Great Egg Harbor River upstream of Powell Creek; 4—The Tuckahoe River upstream of Route 50; 5—The Mullica River upstream of the Garden State Parkway) plus the adjacent areas between Route 35 (from its juncture with the CAFRA zone just north of Red Bank to its juncture with the CAFRA zone just south of Keyport) and the CAFRA zone and the area from the C.A.F.R.A. zone on the south northwesterly along Route 35 to the northern shore of the Raritan River, then easterly along the northern shore of the Raritan River to the southeast point of Perth Amboy, then due east to the New Jersey jurisdictional limit, and seaward along the jurisdictional limit to the Atlantic Ocean.

"Significant biological treatment" means the use of an aerobic or anaerobic biological treatment process in a treatment works to consistently achieve a 30-day average of at least 65 percent removal of BOD₅.

"Significant indirect user" or "SIU" means, solely for the purposes of this chapter:

1. Any user in the State including, but not limited to, any significant industrial user as defined in 40 CFR 403.3(t) but excluding municipal collection systems, who discharges wastewater into a local agency where:

- i. The user is subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N;

- ii. The user's average volume of process wastewater exceeds 25,000 gallons per day;

- iii. The amount of BOD, COD or Suspended Solids in the industrial process wastewater discharge exceeds the mass equivalent of 25,000 gallons per day of the domestic waste of the affected local agency;

- iv. The volume of industrial process wastewater in the discharge exceeds five percent or more of the average daily dry weather flow of the local agency;

- v. The user's discharge of process wastewater contributes, five percent or more of the daily mass loading of any of the pollutants listed in N.J.A.C. 7:14A-4, Appendix A Tables II through V;

- vi. The user is designated as an SIU by the control authority on the basis that the user has a reasonable potential for adversely affecting the local agency's operation;

- vii. The user is designated as an SIU by the control authority on the basis that the user has been in violation of any Federal, State, or local pretreatment standard or requirement, including, but not limited to, significant noncompliance as defined in 40 CFR 403.8(f)(2)(vii); or

- viii. The control authority determines it would be consistent with the intent of the Pretreatment Act or State Act to require a permit for the indirect user; and

2. Any user in areas of the State in which the Department is the control authority where:

- i. The user is determined to be a hazardous waste facility that received a permit in accordance with N.J.A.C. 7:26G-12;

- ii. The user's discharge consists of landfill leachate, which is either pure, treated, or diluted; or

- iii. The user's discharge consists of 25,000 gallons per day or more of process wastewater and/or polluted ground water which is pumped from the ground in order to decontaminate an aquifer; however

3. Upon finding that any user in the State has no reasonable potential for adversely affecting the local agency's operation or for violating any Federal, State, or local pretreatment standard or requirement, the control authority may at any time, on its own initiative or in response to a petition received from a user or a local agency, and in accordance with 40 CFR 403.8(f)(6), determine that any user specified in paragraphs 1 or 2 above, unless the user is subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N, is not a significant indirect user.

"Significant materials" means, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under section 101(14) of CERCLA; any chemical the facility is required to report pursuant to section 313 of title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with stormwater discharges.

"Significantly more stringent limitations" means BOD₅ and TSS limitations necessary to meet the percent removal requirements of at least five mg/l more stringent than the otherwise applicable concentration-based limitations (for example, less than 25 mg/l in the case of the secondary treatment limits for BOD₅ and TSS), or the percent removal limitations in N.J.A.C. 7:14A-12, if such limit as would, by themselves, force significant construction or other significant capital expenditure.

"Significant noncomplier" or "SNC" means any person, except a local agency for an exceedance of an effluent limitation for flow, who commits any of the violations described below, unless the Department uses, on a case-by-case basis, a more stringent frequency or factor of exceedance to determine a significant noncomplier and the Department states the specific reasons therefor, which may include the potential for harm to human health or the environment. Violations which cause a person to become or remain an SNC include:

1. A serious violation for the same pollutant, at the same discharge point source, in any two months of any consecutive six month period;
2. Exceedance of an effluent limitation expressed as a monthly average, for the same pollutant, at the same discharge point source, by any amount in any four months of any consecutive six month period;
3. If there is not an effluent limitation for a particular pollutant expressed as a monthly average, exceedance of the monthly average of the daily maximums for the effluent limitation, for the same pollutant, at the same discharge point source, by any amount in any four months of any consecutive six month period;

4. Any exceedance of an effluent limitation for pH by any amount, excluding the excursions specifically excepted by a NJPDES permit with continuous pH monitoring, at the same discharge point source in any four months of any consecutive six month period; or

5. Failure to submit a completed discharge monitoring report in any two months of any consecutive six month period.

"Significant portion of income" means 10 percent or more of gross personal income for a calendar year, except that it means 50 percent or more of gross income for a calendar year if the recipient is over 60 years of age and is receiving that portion under retirement, pension, or similar arrangement.

"Silviculture" means the management of forest land for timber. This practice sometimes contributes to water pollution as in clear-cutting.

"Silvicultural point source" means any discernible, confined and discrete conveyance related to rock crushing, gravel washing, log sorting, or log storage facilities which are operated in connection with silvicultural activities and from which pollutants are discharged into waters of the United States. The term does not include non-point source silvicultural activities such as nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance from which there is natural runoff. However, some of these activities (such as stream crossing for roads) may involve point source discharges of dredged or fill material which may require a CWA section 404 permit (See 33 CFR 209.120 and part 233).

"Site" means the land or water area upon which a source and its water pollution control facilities are physically located, including, but not limited to, adjacent land used for utility systems, repair, storage, shipping or processing areas, or other areas incidental to the industrial, manufacturing, or water pollution treatment processes.

"Site specific allocation" means a wasteload allocation for a specific pollutant to an existing or future point source based on site specific considerations rather than from a total maximum daily load (TMDL).

"SIU pretreatment works" means any treatment works serving exclusively a SIU facility and treating the facility's industrial process wastewater, or a combination of its process and domestic wastewater, prior to the discharge thereof into a domestic treatment works.

"Six hour composite sample" means a combination of individual aliquots obtained at a minimum frequency of one aliquot at 30-minute intervals over a six-hour period.

"Sludge" means the solid residue and associated liquid resulting from the physical, chemical or biological treatment of domestic or industrial wastewaters.

"Slug discharge" means any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge.

"Slurry tank" means a stationary, above or below ground tank, usually made of steel or preformed concrete, designed to hold liquid residuals. These tanks are generally uncovered and conventionally used for storage of manures.

"Small business exemption" means an exemption from submitting specific quantitative data for any business that qualifies as a small business as specified in N.J.A.C. 7:14A-4.3(c).

"Small minor facility" means any facility which discharges to surface water and meets one of the following descriptions:

1. Facilities receiving domestic wastewater with an effluent design flow or effluent permitted flow less than 0.5 MGD with no significant industrial or commercial component;
2. Elementary schools and churches with no off-site contributors;
3. Commercial dischargers, high schools, and technical schools with an effluent design flow or effluent permitted flow less than 0.1 MGD; or
4. Industrial facilities that meet the definition of a small business at N.J.A.C. 7:14A-4.3(c) and discharges less than 10,000 gallons per day, conditional upon approval by the Department.

"Small municipal separate storm sewer system" or "small MS4" means all municipal separate storm sewers (other than "large" or "medium" municipal separate storm sewer systems as defined in this section) that are:

1. Owned or operated by municipalities described under N.J.A.C. 7:14A-25.1(b);
2. Owned or operated by county, State, interstate, or Federal agencies, and located at public complexes as described under N.J.A.C. 7:14A-25.2(a)2;
3. Owned or operated by county, State, interstate, or Federal agencies, and located at highways and other thoroughfares as described under N.J.A.C. 7:14A-25.2(a)3; or
4. Owned or operated by county, State, interstate, Federal, or other agencies, and receive special designation under N.J.A.C. 7:14A-25.2(a)4.

"Soil erosion and sediment control plan" means a scheme which indicates land treatment measures, including a schedule of the timing for their installation, to minimize soil erosion and sediment in accordance with the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq.

"Sole or principal source aquifer" means an aquifer which has been designated by the Administrator pursuant to Section 1424 (a) or (e) of the SDWA.

"Solids/floatables" means any wastes or debris, floating, suspended, or otherwise contained in wastewater capable of being discharged to waters of the State.

"Solid waste" means a solid waste as defined in N.J.A.C. 7:26-1.6.

"Solid waste facility" means a facility as defined at N.J.A.C. 7:26-1.4.

"Source" means any facility or activity, from which there is or may be a discharge of pollutants.

"Spray irrigation" means a system for land application of pollutants, over maintained vegetated ground surfaces using sprinkler heads or nozzles as a method of application.

"Standards for residual use or disposal" means the standards at N.J.A.C. 7:14A-20, 7:26, 7:27 and 40 CFR Parts 257, 258 and 503 which govern minimum requirements for residual quality, management practices, and monitoring and reporting applicable to residual or the use or disposal of residual by any person. These standards may include, but are not limited to, standards for sewage sludge use or disposal.

"Standards for sewage sludge use or disposal" means the standards at N.J.A.C. 7:14A-20, 7:26, 7:27 and 40 CFR Part 258 and 503 which govern minimum requirements for sewage sludge quality, management practices, and monitoring and reporting applicable to sewage sludge or the use or disposal of sewage sludge by any person.

"State" means the State of New Jersey.

"State Act" means the New Jersey "Water Pollution Control Act," N.J.S.A. 58:10A-1 et seq., as amended.

"State/USEPA Agreement" means an agreement between the Regional Administrator and the State which integrates and coordinates USEPA and State activities, responsibilities and programs under the Federal Act, RCRA, and SDWA.

"Statewide sludge management plan" ("SSMP") means the most recent version of the document which has been adopted by the Department under the authority of N.J.S.A. 13:1E-46, as the component of the State Solid Waste Management Plan and the Statewide Water Quality Management Plan that establishes the objectives, criteria, and standards for the management of sewage sludge and domestic septage in New Jersey. The SSMP includes district and directed generator sludge management plans approved by the Department.

"Storage of residual" means the containment or placement of residual on land on which the residual remains for six months or less. The storage of residual does not include the treatment of residual. This definition includes the storage of sewage sludge.

"Storage pad" means a large, gently sloping surface, constructed of an impervious material (usually concrete), surrounded by a curb, with a drainage system for collection of leachate, designed to hold dewatered residuals.

"Stormwater" means water resulting from precipitation (including rain and snow) that:

1. Runs off the land's surface;
2. Is transmitted to the subsurface; or
3. Is captured by separate storm sewers or other sewerage or drainage facilities, or conveyed by snow removal equipment.

"Stormwater discharge (or stormwater DSW) associated with industrial activity" means:

1. A discharge to surface water, from a point source or a nonpoint source, of stormwater that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NJPDES program under N.J.A.C. 7:14A-2.5. For the categories of industries identified in this paragraph, the term includes, but is not limited to, stormwater discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined in 40 CFR part 401); sites used for the storage and maintenance of material handling equipment; sites used for treatment, storage, or disposal of by-product or waste product; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and final products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to stormwater. For the purposes of this paragraph, material handling activities include storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, by-product or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with stormwater drained from the above described areas. The term also excludes discharges that qualify for "Permanent No Exposure" exclusion under N.J.A.C. 7:14A-24.6. Industrial facilities include industrial facilities that are Federally, State, or municipally owned or operated that meet the description of the facilities listed in subparagraphs 1i through 1xi below. The following categories of facilities are considered to be engaging in "industrial activity" for purposes of this paragraph:

- i. Facilities subject to stormwater effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR subchapter N (except facilities with toxic pollutant effluent standards which are exempted under subparagraph 1xi below);

- ii. Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283 and 285), 29, 311, 32 (except 323), 33, 3441, 373.

- iii. Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(1) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or except for areas of non-coal mining operations which have been released from applicable State or Federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge stormwater contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations; (inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operating entity; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim);

- iv. Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under subtitle C of RCRA;

- v. Landfills, land application sites, and open dumps that receive or have received any industrial wastes (waste that is received from any of the facilities described under this paragraph) including those that are subject to regulation under subtitle D of RCRA;

vi. Facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5015 and 5093;

vii. Steam electric power generating facilities, including coal handling sites;

viii. Transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221-25), 43, 44, 45, and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under subparagraphs 1i through 1vii above or subparagraphs 1ix through 1xi below are associated with industrial activity;

ix. Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 MGD or more, or required to have an approved pretreatment program under 40 CFR part 403. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with section 405 of the Federal Act;

x. Construction activity including clearing, grading and excavation, except operations that result in the disturbance of less than five acres of total land area. Construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more. For a facility (other than an airport, powerplant, or uncontrolled sanitary landfill) that is owned or operated by a municipality with a population of less than 100,000, this subparagraph does not include construction activity that commenced prior to March 3, 2004, unless such activity required, but did not have, certification or approval issued under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., prior to March 3, 2004; and

xi. Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, and 4221-25; and

2. Any discharge to surface waters of stormwater that does not meet paragraph 1 above, but that the Department classifies as a "stormwater discharge associated with industrial activity" at the request of the permittee, applicant, or prospective applicant for that discharge. Such requests may be withdrawn at any time before or after such classification.

"Stormwater discharge (or stormwater DSW) associated with small construction activity" means the discharge to surface water, from a point source or a nonpoint source, of stormwater from:

1. Construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small construction activity does not include:

i. Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility;

ii. Construction activity that commenced prior to March 3, 2004, unless such activity required, but did not have, certification or approval issued under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., prior to March 3, 2004; and

2. Any other construction activity designated by the Department or the USEPA Regional Administrator, based on the potential for contribution to a violation of a surface water quality standard, or for significant contribution of pollutants to waters of the State.

"Stratum" means a single sedimentary bed or layer, regardless of thickness, that consists of generally homogeneous rock material.

"Stream temperature" means the temperature of a stream outside of a designated heat dissipation area.

"Subsidence" means the lowering of the natural land surface in response to any of the following: earth movements; lowering of fluid pressure; removal of underlying supporting material by mining or solution of solids, either artificially or from natural causes; compaction due to wetting (hydrocompaction); oxidation of organic matter in solids; or added load on the land surface.

"Surface casing" means the first string of well casing to be installed in the well.

"Surface disposal site" means an area of land where sewage sludge is placed or was left in place for final disposal. For the purposes of this chapter, "place sewage sludge" or "sewage sludge placed" shall refer to the surface disposal of sewage sludge. This definition does not include an area of land used for the land application of residual.

"Surface impoundment" or "impoundment" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may include a liner), which is designed to hold an accumulation of liquid or solid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling and aeration pits, ponds, and lagoons.

"Surface water" means water at or above the land's surface which is neither ground water nor contained within the unsaturated zone, including, but not limited to, the ocean and its tributaries, all springs, streams, rivers, lakes, ponds, wetlands, and artificial waterbodies.

"Surface water classifications" means names assigned by the Department in N.J.A.C. 7:9B to waters having the same designated uses and water quality criteria (for example, FW1, PL, FW2-NT, SE1, SC, Zone 1C).

"Surface Water Quality Standards" means the rules at N.J.A.C. 7:9B which set forth, for the surface waters of the State, designated uses, use classifications, and water quality criteria, and the Department's policies concerning these uses, classifications and criteria.

"Surrogate parameter" means a parameter which is used as an indicator of the pollutant concentration for one or more other parameters.

"Suspended Solids" see "total suspended solids".

"Suspension of a permit" means the temporary revocation of a permit for a specified period of time during the five year permit cycle.

"Synoptic well data" means a set of ground water related measurements sufficiently simultaneous so that the piezometric surface and ground water flow direction can be inferred accurately, and important fluctuations will not affect interpretation.

"Thermal alterations" means the increase or decrease in the temperature of surface waters, above or below the natural temperature, that may be caused by the activities of man.

"Thermal discharge" means the component of any discharge which is comprised of heat, and which shall be limited in accordance with Sections 301, 306, 316 of the Federal Act, Section 6 of the State Act.

"Thermocline" means the plane of maximum rate of change in temperature with respect to depth.

"30 day average" or "monthly average value" means the sum of all daily discharges measured during a calendar month, divided by the number of daily discharges measured during that month. Results are commonly expressed in loading (kg/day) and/or concentration (mg/L).

"Tidal waters" means fresh or saline water under tidal influence, up to the head of tide.

"Time proportional composite" means a single sample which receives equal aliquots at equal time intervals.

"Total dissolved solids" or "TDS" means the total dissolved (filterable) solids as determined by use of the method specified in 40 CFR Part 136.

"Total Kjeldahl nitrogen" or "TKN" means the summation of the organic nitrogen containing compounds present in effluent or ambient waters which is measured by the total Kjeldahl nitrogen analytical methodology in 40 CFR Part 136, Method 351.

"Total maximum daily load" or "TMDL" means a total maximum daily load formally established pursuant to Section 7 of the Water Quality Planning Act (N.J.S.A. 58:11A-7) and Section 303(d) of the Clean Water Act, 33 U.S.C. §§ 12512 et seq. A TMDL is the sum of individual wasteload allocations for point sources, load allocations for nonpoint sources of pollution, other sources such as tributaries or adjacent segments, and allocations to a reserve or margin of safety for an individual pollutant.

"Total recoverable metal" means the concentration of metal in an unfiltered sample following treatment with hot dilute mineral acid (as defined in Methods for Chemical Analysis of Water and Wastes, EPA-600/4-79-020, March 1979).

"Total suspended solids" or "TSS" means the total nonfilterable residue as determined by analytical procedures set forth in the Manual of Methods for Chemical Analysis of Water and Wastes (USEPA Office of Technology Transfer, Washington, D.C. March 1983).

"Total suspended solids concentrations achievable with waste stabilization ponds" means a TSS value, determined by the Department subject to USEPA approval, which is equal to the effluent concentration achieved 90 percent of the time within the State or appropriate contiguous geographical area by waste stabilization ponds that are achieving the monthly average values for BOD₅ specified in N.J.A.C. 7:14A-12.

"Toxicity test" see "bioassay".

"Toxic pollutant" or "toxic substance" means any pollutant identified pursuant to the Federal Act, or any pollutant or combination of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly or indirectly by ingestion through food chains, may, on the basis of information available to the Department, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformation, in such organisms or their offspring. Toxic pollutants shall include but not be limited to those pollutants identified pursuant to Section 307 of the Federal Act or Section 4 of the State Act, or in the case of "sludge use or disposal practices," any pollutant identified pursuant to Section 405(d) of the Federal Act.

"Trade secret" means the whole or any portion or phase of any scientific, technical or otherwise proprietary information, design, process, procedure, formula, or improvement which is used in one's business and is secret and of value. A trade secret shall be presumed to be secret when the owner takes measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes. A trade secret shall not apply to effluent data as provided in Section 9(c) of the State Act and as defined in this section.

"Treatment of hazardous waste" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such wastes or so as to recover energy or material resources from the waste, or so as to render such waste nonhazardous, or less hazardous; safer to transport, store or dispose of; or amenable for recovery, amenable for storage, or reduce in volume.

"Treatment of residual" means the preparation of a residual for final use or disposal. Treatment of residual includes, but is not limited to, thickening, stabilization, and dewatering of the residual. Treatment of residual does not include storage of the residual. This definition includes the treatment of sewage sludge.

"Treatment works" means any device or system whether public or private, used in the storage, treatment, recycling, or reclamation of municipal or industrial waste of a liquid nature including intercepting sewers, outfall sewers, sewage collection systems, cooling towers and ponds, pumping, power and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any other works including sites for the treatment process or for ultimate disposal of residues resulting from such treatment. Additionally, "treatment works" means any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of pollutants, including stormwater runoff, or industrial waste in combined or separate stormwater and sanitary sewer systems.

"Treatment works treating domestic sewage" means a DTW or any other sewage sludge or wastewater treatment devices or systems, regardless of ownership (including Federal facilities) used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated for the disposal of sewage sludge. This definition does not include septic tanks or similar devices. The Regional Administrator or Commissioner may designate any person subject to the standards for sewage sludge use or disposal in 40 CFR Part 503 or N.J.A.C. 7:14A-20, as a "treatment works treating domestic sewage" through issuance of a permit where it is found that there is a potential for adverse effects on public health and the environment from sludge quality or sludge handling, or residual use or disposal practices, or where there is a finding that such designation is necessary to ensure that such person is in compliance with 40 CFR Part 503 or N.J.A.C. 7:14A-20.

"Treatment works approval" means an approval issued pursuant to N.J.S.A. 58:10A-6 and N.J.A.C. 7:14A-22, or pursuant to former N.J.S.A. 58:12-3 (Repealed by P.L. 1977, c. 74, Section 14 effective July 24, 1977).

"Trout maintenance waters" means waters designated in N.J.A.C. 7:9B for the support of trout throughout the year.

"Trout production waters" means waters designated in N.J.A.C. 7:9B for use by trout for spawning or nursery purposes during their first summer.

"24-hour composite sample" means a combination of individual aliquots obtained at a minimum frequency of one aliquot at hourly intervals over a 24-hour period.

"201 Facilities Plans" means plans for wastewater treatment facilities adopted pursuant to Section 201 of the Federal Act.

"Type I error" means an error that occurs when a true null hypothesis is rejected erroneously. In the monitoring context a Type I error occurs when a test incorrectly indicates contamination or an increase in contamination at a regulated unit.

"UIC permit" means a NJPDES-DGW permit issued for underground injection control.

"Ultimate sludge management alternative" means the final management of sludge at a facility or operation such that no additional permit or approval actions are required for further processing or movement.

"Uncontrolled sanitary landfill" means a landfill or open dump, whether in operation or closed, that does not meet the requirements for runoff or runoff controls established pursuant to subtitle D of RCRA.

"Underground injection" means a well injection.

"Underground source of drinking water" or "USDW" means an aquifer or its portion which supplies any public water system; or

1. Which contains a sufficient quantity of ground water to supply a public water system; and
 - i. Currently supplies drinking water for human consumption; or
 - ii. Contains fewer than 10,000 mg/l total dissolved solids; and
2. Which is not Class III ground water, in accordance with N.J.A.C. 7:9-6.5(f).

"Unsaturated zone" means the subsurface volume between the land's surface and the top of the saturated zone (water table), where moisture does not fill all the pore spaces in the formation or soil.

"Unstable area" means land subject to natural or human-induced forces that may damage the structural components of a surface disposal site. This includes, but is not limited to, land on which the soils are subject to mass movement.

"Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as, lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

"USEPA approved model" means water quality models which have been accepted by the USEPA Center for Exposure Assessment Modeling in Athens, Georgia, and for which the Center provides technical support.

"USEPA Technical Support Document" means the USEPA Technical Support Document for Water Quality Based Toxics Control, (EPA/505/2-90-001), dated March 1991, as amended, incorporated herein by reference.

"User" means any person, individual, firm, company, partnership, corporation, association, group or society, mobile source, and includes political subdivisions of this State and any Federal, State or interstate agency discharging to a DTW.

"Variance" means any mechanism or provision under Sections 301 or 316 of the Federal Act or under 40 CFR Part 125, or in the applicable "effluent limitations guidelines" which allows modification to or waiver of the generally applicable effluent limitation requirements or time deadlines of the Federal Act. This includes provisions which allow the establishment of alternative limitations based on fundamentally different factors or on Section 301(c), 301(g), 301(h), 301(i), or 316(a) of the Federal Act.

"Vector attraction" means the characteristic of a residual that attracts rodents, flies, mosquitoes, or other organisms capable of transporting infectious agents.

"Warm water aquatic animals" means and includes, but is not limited to, the Ameiuride (catfish), Centrarchidae (sunfish) and Cyprinidae (minnow) families of fish.

"Wasteload" means the amount of chemical, physical, radiological, or biological matter contained within a waste discharge.

"Wasteload allocation" means the portion of a receiving water's total maximum daily load for a specific pollutant that is allocated to one of its existing or future point sources of pollution. WLAs constitute a type of water quality-based effluent limitation.

"Waste management unit boundary" means a vertical surface located at the hydraulically downgradient limit of the MSWLF unit. This vertical surface extends down into the uppermost aquifer.

"Water quality based effluent limitations" means effluent limitations established so that the quality of the waters receiving a discharge will meet the Surface Water Quality Standards of N.J.A.C. 7:9B, after the introduction of the effluent.

"Water quality criteria" means a designated concentration of a constituent that, when not exceeded, will protect an organism, an organismic community or a prescribed water use or quality.

"Water quality management plans" or "WQMPs" means the plans prepared pursuant to Sections 208 and 303 of the Federal Act and the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., including the Statewide, areawide, and county WQM plans.

"Water quality standards" means the physical, chemical, biological and esthetic characteristics of a water body as described by State water quality criteria, N.J.A.C. 7:9B, or the water quality which would result from existing discharges under design conditions, whichever is more stringent as determined by the Department.

"Waters of the State" means the ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

"Weekly" means every seventh day (the same day each week) and a normal operating day, unless otherwise specified in the permit. A normal operating day shall be a period of time reasonably representative of normal operating conditions, on which a representative sample of the discharge may be obtained.

"Weekly monitoring" means monitoring conducted at a minimum of once every seven calendar day period.

"Well" means a bored, drilled or driven shaft, or a dug hole, whose depth is greater than the largest surface dimension.

"Well injection" means the subsurface emplacement of fluids through an injection well.

"Well log" means a log obtained from a well showing such information as relative location and depth of soils horizons and geologic units indicating textural and other petrologic characteristics. Well logs may also show geophysical properties such as resistivity, radioactivity, spontaneous potential and acoustic velocity as in function of depth.

"Well monitoring" means the measurement by on-site instruments or laboratory methods of the quality of water in a well.

"Well plug" means a watertight and gastight seal installed in a borehole or well to prevent movement of fluids.

"Well record" means a concise statement of the available data regarding a well, such as a scout ticket; a full history or day-by-day account of a well, from the day the well was surveyed to the day production ceased.

"Well stimulation" means several processes used to clean the well bore, enlarge channels, and increase pore space in the interval to be injected thus making it possible for wastewater to move more readily into the formation, and includes surging, jetting, blasting, acidizing, or hydraulic fracturing.

"Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions commonly known as hydrophytic vegetation. The Department shall evaluate the parameters of hydrology, soils, and vegetation to determine the presence and extent of wetlands.

"Whole effluent toxicity" or "WET" means the aggregate toxic effect of an effluent measured by a toxicity test.

"Working hours" means the established core operation hours of the Department, including but not limited to 8:00 A.M. through 5:00 P.M., Monday through Friday.

"Written statement of consent" means a Departmental form or a resolution by a governmental entity (as specified by the Department for the action requested) signed by an authorized representative of the governmental entity, which expresses that entity's acknowledgment of an application submitted to the Department for approval.

"Zone" means the general surface water classification applied to the mainstem Delaware River and Delaware Bay.

"Zone of saturation" means saturated zone.

Administrative correction.
See: 29 N.J.R. 3822(a).

In "Hazardous waste", amended N.J.A.C. references; Changed "Level of pollutant concentration actually achieved" to "Level of pollutant control actually achieved", and added reference to nonconventional pollutants; in "Medium municipal separate storm sewer system", in 1, inserted "(As of May 5, 1997, only Elizabeth, Jersey City, and Paterson are listed)", and in 2, inserted "(As of May 5, 1997, no New Jersey counties are listed)"; in "Operating entity", deleted reference to "operator error"; in "Significant indirect user", amended N.J.A.C. references; in "Surface impoundment", changed "wastes containing fee liquids" to "wastes containing free liquids"; and deleted "Total suspended solids concentrations achievable with waste stabilization ponds".

Amended by R.2004 d.47, effective February 2, 2004.

See: 35 N.J.R. 169(a), 35 N.J.R. 1331(a), 36 N.J.R. 813(a).

Added "Cesspool", "Illicit connection", "Small municipal separate storm sewer system", "Stormwater discharge (or stormwater DSW) associated with construction activity"; rewrote "Connection", "Co-permittee", "Interstate agency", "Large municipal separate storm sewer system", "Medium municipal separate storm sewer system", "Municipality", "Municipal separate storm sewer", "Stormwater", "Stormwater discharge associated with industrial activity"; deleted "Run-off" for purposes of N.J.A.C. 7:14A-10 only, and "Run-on".

Case Notes

Flow monitoring; requirement for surface water discharge permit. Public Interest Research Group of New Jersey v. Yates Industries, Inc., D.N.J.1991, 757 F.Supp. 438, reconsideration denied in part, granted in part 790 F.Supp. 511.

Citation to upset definition; pollutant discharger not entitled to upset defense to permit limit exceedances which occurred prior to inclusion of upset provision in discharge permit; burden of proof of upset on discharger. Student Public Interest Research Group of New Jersey v. P.D. Oil & Chemical Storage, Inc., 627 F.Supp. 1074 (D.N.J. 1986).

Regulation defining "connection" was inapplicable to a regional or local sewerage authority established pursuant to N.J.S.A. 40:14-1 et seq., and had nothing to do with connection fees as therein prescribed. Nestle USA-Beverage Division, Inc. v. Manasquan River Regional Sewerage Authority, 330 N.J.Super. 510, 750 A.2d 157 (N.J.Super.A.D. 2000).

Citation to definitions of thermal, municipal and industrial discharges. Public Service Electric and Gas Co. v. Dept. of Environmental Protection, 101 N.J. 95, 501 A.2d 125 (1985).

Corporation officer held personally responsible for administrative penalty assessment when company violates water pollution law during irregularly scheduled operation. Department of Environmental Protection v. Port Norris Oyster Company, Inc. and Weaton, 97 N.J.A.R.2d (EPE) 12.

Sewage treatment plant properly denied penalty waiver; "upset". Septembers on the Hill, Inc. v. DEPE, 94 N.J.A.R.2d (EPE) 165.

Piercing corporate veil not necessary; officers liable as "responsible corporate officials". Department of Environmental Protection v. Engineered Precision Casting Co., 93 N.J.A.R.2d (EPE) 87.

Evidence was sufficient to establish unlawful discharge of pollutants. Salem Packing Company v. New Jersey Department of Environmental Protection, 92 N.J.A.R.2d (EPE) 270.

SUBCHAPTER 2. GENERAL PROGRAM REQUIREMENTS

7:14A-2.1 Purpose and scope

(a) This chapter establishes the regulatory framework under the authority of N.J.S.A. 58:10A-1 et seq., 58:11A-1 et seq., 58:11-49 et seq., 58:10-23.11 et seq., 58:11-18.10 et seq., 13:1D-1 et seq., 13:1E-1 et seq., 58:4A-5, 58:4A-4.1, 58:12A-1 et seq. 42 U.S.C. §§ 300F et seq., and 33 U.S.C. §§ 1251 et seq., within which the Department regulates the discharge of pollutants to the surface and ground waters of the State.

(b) The intent of these rules is to:

1. Restore, enhance, and maintain the chemical, physical, and biological integrity of the waters of the State;
2. Protect public health and safety;
3. Protect potable water supplies;
4. Safeguard fish and aquatic life and scenic and ecological values;
5. Enhance the domestic, municipal, recreational, industrial, agricultural and other uses of water; and
6. Prevent, control, and abate water pollution.

(c) This chapter sets forth the rules concerning implementation and operation of the New Jersey Pollutant Discharge Elimination System (NJPDES) permit program and the Treatment Works Approval (TWA) program. Each delegated local agency (DLA) shall issue and administer permits in accordance with an approved industrial pretreatment program, and the requirements of N.J.A.C. 7:14A-19 and applicable sections of N.J.A.C. 7:14A-21.

(d) It shall be unlawful for any person to discharge any pollutant except in conformity with a valid NJPDES permit issued by the Department, unless specifically exempted by this chapter.

(e) It shall be unlawful for any person to build, install, modify, or operate any facility for the collection, treatment, or discharge of any pollutant, except in conformance with the TWA requirements contained in N.J.A.C. 7:14A-22 and 23.

Case Notes

Standing to challenge pollutant discharge: no federal limitation period applicable to citizen suit; liability established by polluter's admissions and official reports that effluent limits exceeded. *Student Public Interest Research Group of New Jersey v. P.D. Oil & Chemical Storage, Inc.*, 627 F.Supp. 1074 (D.N.J.1986).

Water pollution violation; discharge of sand-filled wash water into groundwater lagoon without permit. *Department of Environmental Protection v. Brick-Wall Corp.*, 93 N.J.A.R.2d (EPE) 141.

Sewage treatment facility was shown to have discharged pollutants in violation of administrative consent order. *Sheffield Hills Sewage Treatment Plant v. Division of Water Resources*, 92 N.J.A.R.2d (EPE) 163.

7:14A-2.2 Liberal construction and severability

(a) This chapter shall be liberally construed to permit the Department to effectuate the purposes of the State and Federal Acts.

(b) If any subchapter, section, subsection, provision, clause, or portion of this chapter or the application thereof to any person is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the subchapter, section, subsection, clause, portion, or application directly involved in the

controversy in which such judgment shall have been rendered and it shall not affect or impair the remainder of this chapter or the application thereof to other persons.

7:14A-2.3 Incorporation by reference

(a) The requirements applicable to the NJPDES program of the Federal Clean Water Act (33 U.S.C. §§ 1251 et seq.), the Federal Safe Drinking Water Act (42 U.S.C. §§ 300F et seq.), the State Act, and all Federal regulations cited in this chapter, including, but not limited to, 40 CFR Parts 110, 122, 123, 124, 125, 129, 133, 136, 144, 258, 264, 403, and National Pretreatment Standards in 40 CFR chapter I, subchapter N, and including all amendments and supplements thereto, are incorporated into this chapter by reference unless the context clearly indicates otherwise. A copy of the Federal Act, the State Act, or any Federal regulation cited in this chapter may be obtained at the State Library.

(b) The Delaware River Basin Commission Water Quality Regulations, including all amendments and supplements thereto, and the Interstate Environmental Commission Water Quality Regulations, including, all amendments and supplements thereto, are incorporated into this chapter by reference unless the context clearly indicates otherwise.

(c) Wherever the requirements of this chapter are more stringent than existing requirements of a Federal regulation, the requirements of this chapter shall apply.

(d) For provisions of this chapter that incorporate Federal statutory requirements, amendments to the Federal statutes after the promulgation of these rules supersede these rules, as of the effective date of such amended Federal statute, to the extent that such Federal statutory amendments are not inconsistent with State statutory requirements. For provisions of this chapter that incorporate State statutory requirements, amendments to the State statute after the promulgation of these rules supersede these rules, as of the effective date of such amended State statute. The Department shall, subsequently, amend this chapter as necessary in accordance with the State Administrative Procedure Act.

Administrative change.
See: 34 N.J.R. 1902(a).

7:14A-2.4 Activities that require a NJPDES permit

(a) The NJPDES permitting program shall regulate and issue permits for the discharge of pollutants to surface and ground waters of the State, pursuant to the State and Federal Acts, except for those activities specifically prohibited or exempted pursuant to N.J.A.C. 7:14A-2.4(d) and 2.5, respectively.

(b) The Department shall, at a minimum, issue NJPDES permits for the following activities:

1. Discharge of pollutants to surface and ground waters;

2. A discharge from an indirect user;
3. The land application of municipal wastewaters and/or industrial wastewaters, including, but not limited to, spray irrigation, overland flow, and infiltration-percolation lagoons;
4. The discharge from facilities under the jurisdiction of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.;
5. The storage of any liquid or solid pollutant, in a manner designed to keep it from entering the waters of the State;
6. The discharge of pollutants into wells;
7. Discharges from concentrated animal feeding operations as specified in N.J.A.C. 7:14A-2.13;
8. Discharges from concentrated aquatic animal production facilities as specified in N.J.A.C. 7:14A-2.14;
9. Discharges from aquaculture projects;
10. Discharges from silvicultural point sources;
11. Discharges of stormwater to surface water and groundwater, including discharges through storm sewers, as set forth in N.J.A.C. 7:14A-24 and 25;
12. Discharges from site remediation projects;
13. The treatment, storage or disposal of hazardous waste which is not regulated by the Hazardous Waste Management Regulations, N.J.A.C. 7:26; and
14. Those treatment works treating domestic sewage, or residual use or disposal practices, pursuant to Section 405(d) of the Federal Act and Sections 4 and 6 of the State Act, including, but not limited to, the land application of residual.

(c) The Department shall determine, on a case-by-case basis, that facilities which are otherwise eligible for general permits and which do not generally require individual permits may be required to obtain an individual permit because of their contributions to water pollution. Whenever the Department determines that an individual permit is required under this section, the Department shall notify the discharger in writing of the reasons for such a determination and shall include an application form with such notice. The discharger shall apply under N.J.A.C. 7:14A-4 for a permit within 60 days of receipt of such notice, except for a discharger of stormwater under N.J.A.C. 7:14A-24.2, who shall apply within 180 days unless the Department approves a later date. In such a case, comment regarding the appropriateness of the initial determination to require an individual permit may be submitted during the public comment period under N.J.A.C. 7:14A-15.11 and in any subsequent hearing.

(d) The Department shall not issue a permit when prohibited by 40 CFR 122.4 or N.J.S.A. 58:10A-6(e).

Amended by R.2004 d.47, effective February 2, 2004.
See: 35 N.J.R. 169(a), 35 N.J.R. 1331(a), 36 N.J.R. 813(a).
Rewrote (b)11 and (c).

7:14A-2.5 Exemptions

(a) The following activities are exempt from the requirements to obtain a NJPDES permit from the Department:

1. Any direct discharge of sewage from vessels, effluent from properly functioning marine engines, laundry, shower, and galley sink wastes, or any other discharge incidental to the normal operation of a vessel. This exemption does not apply to the following:

1. The number and type of animals confined;
2. A description of the means of discharge; and
3. The name and address of the owner or operator.

(d) On a case-by-case basis and after conducting an on-site inspection, the Department shall designate, as a concentrated animal feeding operation, any animal feeding operation which does not meet the criteria in (b) above if (d)1 and 2 below are met:

1. The Department determines that the operation is a significant contributor of pollution to the waters of the State. In making this determination the Department shall consider the following factors:

- i. The size of the animal feeding operation and the amount of wastes reaching waters of the State;
- ii. The location of the animal feeding operation relative to waters of the State;
- iii. The means of conveyance of animal wastes and process waste waters into waters of the State;
- iv. The slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal wastes and process wastewaters into waters of the State; and
- v. Other relevant factors; and

2. The Department determines that:

- i. Pollutants are discharged into waters of the State through a manmade ditch, flushing system, or other similar manmade device; or
- ii. Pollutants are discharged directly into waters of the State which originate outside of the facility and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

Amended by R.2004 d.47, effective February 2, 2004.
See: 35 N.J.R. 169(a), 35 N.J.R. 1331(a), 36 N.J.R. 813(a).
Rewrote (a), (c) and (d).

7:14A-2.14 Specific criteria for concentrated aquatic animal production facilities

(a) Except for indirect discharges, a permit shall be obtained for any discharge from an animal production facility if the animal production facility meets the criteria in (b) below or is required to obtain a permit under (d) below.

(b) An animal production facility shall be considered a concentrated aquatic animal production facility if it is a hatchery, fish farm, or other facility that contains, grows, or holds aquatic animals in either of the following categories:

1. Cold water fish species, including but not limited to, the Salmonidae family of fish (for example, trout and salmon), or other cold water aquatic animals in ponds,

raceways, or other similar structures which discharge at least 30 days per year, but does not include:

- i. Facilities which produce less than 9,090 harvest weight kilograms (approximately 20,000 pounds) of aquatic animals per year; and
- ii. Facilities which feed less than 2,272 kilograms (approximately 5,000 pounds) of food during the calendar month of maximum feeding.

2. Warm water fish species, including, but not limited to, the Ameiuride, Centrarchidae and Cyprinidae families of fish (for example, respectively, catfish, sunfish, and minnows), or other warm water aquatic animals in ponds, raceways, or other similar structures which discharge at least 30 days per year, but does not include:

- i. Closed ponds which discharge only during periods of excess runoff; or
- ii. Facilities which produce less than 45,454 harvest weight kilograms (approximately 100,000 pounds) of aquatic animals per year.

(c) Any aquatic animal production facility which does not meet the criteria in (b) above, shall submit the following information to the Department to determine if a permit is required:

1. The number and type of animals confined;
2. A description of the means of discharge; and
3. The name and address of the owner or operator.

(d) The Department shall require on a case-by-case basis any aquatic animal production facility to obtain a permit upon determining that:

1. It is a significant contributor of pollution to the waters of the State. In making this determination the Department shall consider the following factors:
 - i. The location and quality of the receiving waters of the State;
 - ii. The holding, feeding, and production capacities of the facility;
 - iii. The quantity and nature of the pollutants reaching waters of the State; and
 - iv. Other relevant factors.

SUBCHAPTER 3. DETERMINATION OF PERMIT FEES

7:14A-3.1 Fee schedule for NJPDES permittees and applicants

(a) Except as provided in (j) and (l) below, the general conditions and applicability of the fee schedule for NJPDES permittees and applicants are as follows:

1. Except as provided by (k) below, the Department shall collect an annual fee for the billing year July 1 to June 30 from all persons that are issued a NJPDES permit or authorization to discharge under a NJPDES general permit or submit a NJPDES permit application or request for authorization.

2. The Department shall not assess any fee to public schools or religious or charitable institutions.

3. All NJPDES permittees/applicants that are issued a draft or final NJPDES permit, or that are issued an authorization to discharge under a final NJPDES general permit, shall submit payment within 30 days of assessment of the fee by the Department.

i. Upon receipt of a completed application or request for authorization, the Department shall assess the minimum fee as set forth in (h) below.

ii. Upon issuance of the final permit or of an authorization to discharge under a final NJPDES general permit, the annual fee shall be calculated and pro-rated for the period of the fee year remaining. The minimum fee already paid shall then be subtracted from the pro-rated assessment. In no case, however, will such payment of a pro-rated fee result in a fee that is less than the minimum fee for the category of discharge. The permittee may request a fee recalculation as provided at (a)6 below, once the first required monitoring report has been completed.

4. Payment of all fees shall be made by check or money order, payable to "Treasurer, State of New Jersey" and submitted to:

New Jersey Department of the Treasury
Division of Revenue
PO Box 417
Trenton, New Jersey 08625-0417

5. If the permittee/applicant fails to submit payment to the Department of the Treasury within 30 days of assessment of the fee, the Department may, in its discretion, take one or more of the following actions:

i. Return the NJPDES permit application or request for authorization to the applicant;

ii. Deny issuance of a final permit or authorization under a final general permit;

iii. Revoke a final permit (including revocation of a permittee's authorization to discharge under a general permit); and/or

iv. Assess penalties pursuant to N.J.S.A. 58:10A-10 and N.J.A.C. 7:14-8.

6. If the permittee objects to the assessment, the Department shall recalculate a permit fee upon receipt of a request from the permittee in writing within 30 days of assessment of the fee. The Department shall not recalculate a fee where the permittee has failed to submit information in compliance with its NJPDES permit.

i. A permittee may only contest a fee imposed pursuant to (k) below based on the following:

(1) The Department has no factual basis to sustain the charges assessed in the fee;

(2) The activities for which the fee was imposed did not occur;

(3) The charges are false or duplicative; or

(4) The charges were not properly incurred because they were not associated with the Department's oversight or remediation of the case.

ii. A permittee may not contest a fee imposed pursuant to (k) below if the challenge is based on the following:

(1) An employee's hourly salary rate;

(2) The Department's salary additive rate, indirect rate, or fringe benefit rate; or

(3) Management decisions of the Department, including decisions regarding who to assign to a case, how to oversee the case or how to allocate resources for case review.

iii. A permittee objecting to a fee imposed pursuant to (k) below shall include the following in a request for a fee review:

(1) A copy of the bill;

(2) Payment of all uncontested charges, if not previously paid;

(3) A list of specific fee charges contested;

(4) The factual questions at issue in each of the contested charges;

(5) The name, mailing address and telephone number of the person making the request;

(6) Information supporting the request or other written documents relied upon to support the request.

7. The Department, in calculating Environmental Impact, shall use information reported by the permittee on Discharge Monitoring Reports (DMRs) and/or Monitoring Report Forms (MRFs) for the 12 month period for which data is available on the Department's computer. The selected 12 month monitoring period will be documented in the Annual NJPDES Fee Schedule Report. Where this information is not available, the Department shall use permit limitations, information submitted in permit applications, technical reports prepared by the Department or submitted by the permittee, or other permits issued by the Department.

8. Except as provided by (k) below, the Department, upon the revocation of a NJPDES permit, or revocation of a NJPDES/SIU permit in accordance with N.J.A.C. 7:14A-21.9, shall upon written request of the permittee prorate the fee for the number of days that the facility was in operation or was discharging under a valid NJPDES/SIU permit during the billing year and return to the permittee the amount that is in excess of the minimum annual fee for the specific category of discharge.

9. Except as provided by (k) below, the annual fee for all discharges is calculated by applying the formula:

Fee = (Environmental Impact x Rate) + Minimum Fee, where:

i. Environmental Impact is the Department's assessment of potential risk of discharge to the environment as derived under (c) through (g) below.

ii. Rate is the dollar cost for each weighted unit of Environmental Impact. Rate is calculated as follows:

Rate = (Budget-Sum of Minimum Fees)/Total Environmental Impact

(1) Budget is the total budget for the category of Discharge.

(2) The Sum of Minimum Fees is the total amount of minimum fees to be paid by all dischargers in the category of discharge.

(3) Total Environmental Impact is the sum of environmental impact for all dischargers in the category.

(4) The budget and the total environmental impact shall be adjusted to reflect those facilities, if any, assessed a maximum permit fee.

iii. The minimum fee is a base cost to which the product of the Environmental Impact and the Rate identified under (a)9i and ii above is added. The minimum fee for any permit category is calculated by using the following formula and rounding to the nearest \$50.00 increment:

Minimum Fee = $\frac{\text{Hours} \times \text{Cost Per Hour}}{5}$, where:

Hours = Total hours allocated by the Department on the administration, including permit issuance, inspection and data management, of the permit per facility over a five year period in each category.

Cost Per Hour = Total personnel cost per hour, including fringe benefits and indirect costs.

The minimum fees are set forth in Table III below. For any new or revised category of discharge, the Department shall calculate a minimum fee and shall list it in the Annual NJPDES Fee Schedule Report for public comment under (b) below.

10. The maximum fee to be assessed for any category of discharge shall be 10 percent of the budget for the category of discharge.

11. If a factual dispute involving a fee imposed pursuant to (k) below cannot be resolved informally, a permittee may request an adjudicatory hearing on the matter pursuant to N.J.A.C. 7:14A-17.2.

(b) The Department shall prepare an Annual NJPDES Fee Schedule Report and provide for a public hearing on the Report.

1. The Annual NJPDES Fee Schedule Report shall include the following:

i. A detailed financial statement of the actual administrative cost of the NJPDES program by account title;

ii. A detailed financial statement of the actual revenue collected, including any surplus which can be credited or any deficit to be assessed in determining the fee schedule;

iii. A detailed financial statement of the anticipated cost of the NJPDES program, including:

(1) A breakdown of the program by account title;

(2) An estimate of the amount of fees that will be collected; and

(3) The current year's fee schedule.

iv. A report of the NJPDES program activities, including:

(1) A list of permits issued;

(2) A list of facilities inspected;

(3) A list of administrative orders and administrative consent orders issued by the Department (by type of order and discharge involved); and

(4) A summary of variance request activities under Section 316 of the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.).

v. A list of all minimum fees calculated in accordance with (a)9iii above, and the basis for any new or revised minimum fee.

2. The Department shall provide for a hearing on the Annual NJPDES Fee Schedule Report. The Department shall provide public notice of the hearing at least 30 days prior to the date of the hearing:

i. In the New Jersey Register and one newspaper of general circulation; and

ii. By mailing a copy of the Report to each NJPDES applicant/permittee the Department identifies as subject to a NJPDES annual fee.

3. The Department shall publish a Notice of Adoption of the Annual NJPDES Fee Schedule Report, which shall include a summary of the public comments and Department responses. Upon publication of this Notice of Adoption in the New Jersey Register, any adopted new or revised minimum fee(s) identified in the Notice of Adoption shall be incorporated into Table III as an administrative change.

(c) The annual fee for discharges to surface water is calculated by using the following Environmental Impact in the annual fee formula:

1. The Environmental Impact of a discharge to Surface Water from an industrial treatment works (ITW) regulated under an individual NJPDES permit is derived by applying the formula:

Environmental Impact = (Total Pollutant Load + Heat Load) where:

i. Total Pollutant Load is the sum of all limited pollutants (in kilograms per day) multiplied by their associated risk factors as listed in Table I below.

(1) Net loadings will be used if a net limit has been established in the NJPDES permit. If a permittee reports a pollutant load less than zero, a zero will be used to calculate the Total Pollutant Load.

(2) Any pollutant listed in Table I will be deleted from the Total Pollutant Load, if reported as non-detectable in all samples for the monitoring period. When any of the pollutants listed in Table I is detected at least once in the monitoring period, the Department shall calculate the Total Pollutant Load using one-half the reported minimum detection limit for pollutant concentrations.

ii. Heat Load is the average mBTU's (million British Thermal Units) per hour of the effluent discharged. Where Heat Load is not reported in mBTU's per hour, the Department shall estimate the Heat Load using the calculated difference between the influent and effluent temperature (in degrees celsius) multiplied by the amount (in million gallons per day) of effluent discharged and a unit conversion factor of 0.6255. The Department shall use an average influent temperature of 5.57 degrees celsius during the period November to April and 18.87 degrees celsius during the period May to October.

2. The Department shall assess an additional fee to NJPDES permittees who request a variance under Section 316 of the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.). The annual fee shall be assessed on the basis of the administrative cost that is incurred by the Department and the cost of the technical review performed by a consultant hired by the Department.

3. The Environmental Impact of a discharge to surface water from a domestic treatment works (DTW) regulated under an individual NJPDES permit is derived by applying the formula:

Environmental Impact = Average kilograms per day of oxygen demand discharged, as measured by Biochemical Oxygen Demand (BOD₅), Carbonaceous Biochemical Oxygen Demand (CBOD₅) or other oxygen demand parameter selected by the Department, as determined in accordance with (a)7 above.

4. The Environmental Impact value for any type of discharge to surface water regulated under a general permit shall be zero.

(d) Except as provided by (k) below, the annual fee for discharges to groundwater, except for residuals and landfills covered in (e) and (f) below, is calculated by using the following Environmental Impact in the annual fee formula:

1. The Environmental Impact of a Discharge to Groundwater regulated by an individual NJPDES permit is derived by applying the formula:

Environmental Impact = (Risk x Quantity x Groundwater Rating Factor) where:

i. Risk is the sum of the rating numbers, based on the degree of hazard, assigned by the Department to each type of waste stored, treated or discharged. The rating numbers are assigned as follows:

Rating	Risk
1	Non-contact cooling water, treated groundwater filter backwash, sanitary wastewater with at least secondary treatment
2	Other treated and untreated sanitary wastewater, food processing waste, stormwater runoff including runoff from non-hazardous waste storage areas, sanitary sludge, discharge from quarry operations including sand and gravel operations
5	Non-hazardous industrial process waste
15	Metal plating waste, hazardous industrial process waste, landfill leachate, or groundwater, wastewater, stormwater runoff or sludge containing hazardous constituents

ii. Quantity is the average daily volume in millions of gallons discharged by the permittee for the monitoring period selected by the Department in (a)7 above. Where quantity is unavailable or is unknown, the Department shall assign a default quantity of 0.002 million gallons per day for discharges from domestic treatment works and a default quantity of 0.001 million gallons per day for other discharges.

iii. Groundwater Rating Factor is one tenth of the sum of the Groundwater Monitoring Status Factor, the Aquifer Factor, Groundwater Use Factor and Permeability Rating where:

(1) Ground Water Monitoring Status Factor is the rating number, assigned to the facility based on the level of monitoring and/or remediation required at the facility, as set forth in the NJPDES permit, administrative order, administrative consent order or directive letter as follows:

Rating	Status
1	Permittee is not required to conduct ground water monitoring under the NJPDES permit
2	Permittee is conducting post-closure or post remediation monitoring
2	Permittee is required to conduct detection monitoring
5	Ground water remediation and/or hydraulic source control is being performed at the site.
5	Alternative concentration limits have been established
10	Compliance monitoring is required as ground water contamination has been identified in detection monitoring phase and/or ground water remediation is required

(2) Aquifer Factor is the rating number, based on ground water yield potential, assigned to each formation listed in Table II below. Where a facility is located on an unlisted formation, the Department shall determine the aquifer factor. Where the facility is located on more than one formation the highest rating number will be assigned.

(3) Ground water use is the rating number assigned to the municipality where the permitted facility is located based on the percentage of the municipality that relies on public or private wells for drinking water and the volume of ground water withdrawn in million gallons per day (MGD). The Department, in the Annual NJPDES Fee Schedule Report, prepared pursuant to (b) above, shall set forth the individual ratings assigned to each municipality. Where a municipality's percent use and volume result in different ratings, the highest Ground Water Use rating number derived below shall apply. Ground Water Use rating numbers are assigned as follows:

Rating	Ground Water Use	Percent Use	Volume in MGD
5	A	>50%	>3
3	B	10%-50%	1-3
1	C	<10%	1

(4) Permeability Rating is the rating number, based on hydraulic conductivity in centimeters per second, of the geological formation immediately beneath the regulated unit or if present, the facility liner material for facilities in detection monitoring. For all other facilities, the permeability rating is based on the hydraulic conductivity of the geological material contaminated. Facilities assigned a Ground-water Monitoring Status factor of 10, that have demonstrated control of the plume of groundwater con-

tamination shall be assigned a permeability rating of 10. Where permeability is unavailable or is unknown, the Department shall assume a permeability rating of 20. The rating numbers are assigned as follows:

Rating	Permeability
10	<10 ⁻⁷
11	10 ⁻⁶
12	10 ⁻⁵
14	10 ⁻⁴
18	10 ⁻³
20	10 ⁻²
22	>10 ⁻²

2. The Environmental Impact value of any type of discharge to ground water regulated under a general permit shall be zero.

(e) The Environmental Impact value for facilities which land apply, handle or distribute residuals listed in (h)3 below shall be zero.

(f) Except as provided by (k) below, the annual fee for discharges to ground water from sanitary landfills and sites containing wrecked or discarded equipment is calculated by using the following Environmental Impact in the annual fee formula:

1. The Environmental Impact of a Discharge to Ground Water from sanitary landfills and sites containing wrecked or discarded equipment is derived by applying the formula:

Environmental Impact = (W1 + W2) x (Closure Status Factor + Ground Water Rating Factor) where:

i. W1 is the total number of acres filled as of January 1, 1985 multiplied by the sum of the rating numbers, based on the degree of hazard, assigned by the Department to each waste type (as set forth in N.J.A.C. 7:26-2.13) permitted for disposal before January 1, 1985. The rating numbers are assigned as follows:

Rating	Waste Type
1	Types 13, 23
2	Types 10, 12, 27, 72, 73, 74
4	Types 18, 25
8	Types 26, 70 and wrecked or discarded equipment
16	Types 17, 28, 76, 77

ii. W2 is the total cumulative amount of each waste type received (in cubic yards) since January 1, 1985 divided by 4,840 (the square yards in an acre) and multiplied by the rating number assigned to each waste type as set forth in (f)1i above.

iii. Closure Status Factor is the rating number, based on the operating status of the landfill, assigned by the Department to each facility. The rating numbers are assigned as follows:

Rating	Closure Status
1.0	Operating landfill and sites containing wrecked or discarded equipment
0.5	Landfill terminated after January 1, 1982 without a Department approved closure plan
0.2	Landfill terminated prior to January 1, 1982
0.1	Landfill terminated and properly closed in accordance with a Department approved closure plan

iv. Ground Water Rating Factor is the number derived under (d)1iii above.

(g) The annual fee for discharges by a significant indirect user to a domestic treatment works is calculated by using the following Environmental Impact in the annual fee formula:

1. The Environmental Impact of a discharge by a significant indirect user (SIU) to a domestic treatment works (DTW) is derived by applying the formula:

Environmental Impact = (Total Pollutant Load)

i. Total Pollutant Load is the sum of all limited pollutants (in kilograms per day) multiplied by their associated risk factors as listed in Table I below.

(1) Any pollutant listed in Table I will be deleted from the Total Pollutant Load, if reported as non-detectable in all samples for the monitoring period. When any of the pollutants listed in Table I is detected at least once in the monitoring period, the Department shall calculate the Total Pollutant Load using one-half the reported minimum detection limit for pollutant concentrations.

(h) The fees for exemptions for certain types of residual use or disposal operations shall be assessed as follows:

1. Permit exemptions or Letters of Land Application Management Approvals authorizing the land application of sludge-derived products at specific sites in accordance with a Department-approved distribution program shall be assessed a fee of \$250.00 for the duration of the permit exemption or Letter of Land Application Management Approval. The Department will not consider a request for a permit exemption or Letter of Land Application Management Approval complete unless the request is accompanied by the fee; and

2. General distribution permit exemptions providing Department approval of a sludge derived product distribution program which is not directly regulated for residuals handling through an individual NJPDES permit shall be assessed a fee of \$2,700 for the duration of the exemption. The Department will not consider a request for a permit exemption complete unless the request is accompanied by the fee.

(i) (Reserved)

(j) For NJPDES Permit No. NJ0088323 (referred to as the category 5G3 "construction activity" stormwater general permit), there is no annual or minimum fee. Instead, a fee of \$300.00 shall be paid by check or money order, payable to "Treasurer, State of New Jersey," and submitted to the applicable soil conservation district along with each request for authorization submitted under that permit, except as provided in (j)1 below. The soil conservation district shall forward all such checks and money orders to the State Soil Conservation Committee in the Department of Agriculture, which shall cause such checks and money orders to be deposited to the credit of the State. The soil conservation district shall not certify any request for authorization that is not accompanied by this fee.

1. For a project that the New Jersey Department of Transportation (NJDOT) is constructing or proposes to construct for which a stormwater discharge is regulated under this general permit, the fee of \$300.00 shall be paid to the Department.

(k) The fee for discharges to groundwater required for conducting remediation, as defined by N.J.A.C. 7:26E, of contaminated sites, and for any NJPDES discharge to groundwater permits issued by the Site Remediation Program, is calculated and billed through requirements specified in N.J.A.C. 7:26C-9.3.

(l) The Department shall assess, where applicable, the fee for laboratory certification pursuant to the schedule set forth at N.J.A.C. 7:18.

(m) Any fee under this section that is subject to N.J.A.C. 7:1L shall be payable in installments in accordance with N.J.A.C. 7:1L.

Table I
RISK CATEGORIES

Risk Factor 100	101	102	103	104	105
SURFACE WATER					
TDS	TSS	Tin	Styrene	Arsenic	Lead
Chloride	Phosphorus	Aluminum	Nickel	Beryllium	Mercury
Sulfate	Phthalic	Antimony	Copper	Asbestos	Cadmium
Fluoride	Acid	Barium	Silver	Acid fraction compounds	Chromium-hex
Iron	Sulfide	Chromium-trivalent	Cobalt	Base-Neutral Compounds	Pesticides
	Molybdenum	Oil & Grease	Ammonia	Volatile Organics	PCBs
	Bismuth	Surfactants	Cyanide		PBB
	Manganese	N(nitrite, nitrate	Selenium		
	Zinc	Kjeldhal, diss.			

& Total)
Oxidizable Matter
Petroleum
Hydrocarbons

INDIRECT USERS

BOD	TDS	1,1 Dichloroethylene	Nickel	Beryllium	Carbon
TSS	Iron	Copper	Silver	1,1,1-Trichloroethane	Tetrachloride
COD	Antimony	Zinc	Asbestos	Lead	Mercury
Oil & Grease	Bismuth	Chromium-Trivalent	Cobalt	Arsenic	Cadmium
	Tin	Barium	Selenium	Bis(2-ethylhexyl)phthalate	Chromium, hex
	Manganese	Cyanide	Benzene	Dichlorodifluoromethane	Total
	Inorganic	Dimethyl phthalate	1,2-Dichloroethane	Trichlorofluoromethane	Pesticides
	Sulfur	Surfactants	Chloroform	Total Toxic Organics**	PCBs
	Compounds	Petroleum	Ethylbenzene	Volatile Organics*	Dioxin
		Hydrocarbons	1,2,4-Trichlorobenzene	TVOS as in	
				N.J.A.C. 7:27-17.3**	
		Total Toxic Metals**	Naphthalene	Chlorobenzene	
		Nitrogen Compounds/	Vinyl Chloride	Toluene	
		Ammonia	Base Neutral	1,2-Trans-Dichloroethylene	
		Phenols	Compounds*	Trichloroethylene	
			Acid Extractable		
			Compounds		
			1,1,2,2-		
			Tetrachloroethane		
			Bromoethane		
			1,2-Dichloropropane		
			1,1-Dichloroethane		
			1,1,2-Trichloroethane		
			Dichlorobenzene		
			Di-n-butyl Phthalate		
			Anthracene		
			Tetrachloroethylene		
			Pentachlorophenol		
			Butyl Benzyl phthalate		
			Di-n-octyl Phthalate		

* Unlisted

** Not Itemized

Table II
FORMATION RATINGS

<u>System</u>	<u>Formation</u>	<u>Potential</u>	<u>Points</u>
Quaternary			
Pleistocene	Glacial drift	Poor	2
	Mercer, Middlesex	Mod to Very Good	10
	Other Counties	Moderate to Good	8
	Cape May	Moderate to Minor	6
	Pennsauken	Moderate to Minor	6
	Bridgeton		
Tertiary			
Pleistocene	Beacon Hill	Poor	2
Pleistocene	Cohansey	Very Good	10
Miocene	Kirkwood	Good to Moderate	8
Eocene	Piney Point	Minor	4
	Shark River	None	1
	Manasquan	Poor	2
Paleocene	Vincentown	Poor to Good	8
	Hornerstown	None to Poor	2
Cretaceous			
	Tinton	None to Poor	2
	Red Bank	None to Minor	4
	Navesink	None to Poor	2
	Mount Laurel	Moderate	6
	Wenonah	Minor	4
	Marshalltown	None to Poor	2
	Englishtown	Good to Moderate	8
	Woodbury	None	1
	Merchantville	None	1
	Raritan-Magothy	Very Good	10
Triassic			
	Watchung	Minor	4
	Diabase	Minor	4
	Brunswick	Minor to Good	8
	Lockatong	Poor	2
	Stockton	Moderate to Good	8
	Border Conglomerates	Minor	4
Devonian			
	Kunnemunk	Poor	2

System	Formation	Potential	Points
	Bellvale	Poor to Minor	4
	Cornwall/Pequanac	Poor	2
	Kanouse	Poor	2
	Marcellus	Poor	2
	Onondaga	Moderate	6
	Schoharie	Minor	4
	Esopus	Poor	2
	Oriskany (includes Glenerie and Port Ewen)	Poor	4
	Becraft (Minisink)	Poor	2
	New Scotland	Minor	4
	Kalkberg (Stormville)	Minor	4
	Coeymans	Minor	4
Silurian			
	Manlius	Minor	4
	Rondout	Minor	4
	Decker	Minor	4
	Bossardville	Minor	4
	Poxono Island	Minor	4
	High Falls	Minor	4
	Longwood	Minor	4
	Shawangunk and Green Pond	Poor	2
Ordovician			
	Jacksonberg	Minor	4
	Ontelaunee	Minor	4
	Epier	Minor	4
	Rickenback	Moderate	6
Cambrian			
	Allentown Upper	Minor	4
	Allentown Lower	Moderate to Very Good	10
	Leithsville	Very Good	10
	Hardystown	Poor	2
Precambrian			
	Franklin	Minor to Moderate	6
	Crystalline Rocks	Minor to Moderate	6

Table III

Minimum Fees

Permit Fee Category ¹	Min Fee Code	Minimum Fee
1. Major DSW Domestic Treatment Works (DTW)—Individual Permit	MMJ	\$6,400
2. Minor DSW Domestic Treatment Works (DTW)—Individual Permit	MMI	\$2,400
3. Combined Sewer Overflow—Individual Permit Component or General Permit	CSO	\$5,400
4. Major Industrial DSW—Individual Permit	IMJ	\$5,700
5. Minor Industrial DSW—Individual Permit	IMI	\$2,400
6. General Permit—Industrial DSW, DGW, or both (unless otherwise listed)	IGN	\$1,300
7. Industrial Stormwater—Individual Permit	IST	\$2,350
8. Stormwater—Basic Industrial General Permit (5G2)	SBG	\$500.00
9. DGW—Initial Individual Permit ²	GWN	\$3,950
10. DGW—Renewed or Continued Individual Permits ²	GWE	\$1,600
11. DGW—General Permit (I1 and I2)	GGN	\$500.00
12. DGW—General Permit (T1)	GT1	\$300.00
13. DGW—Operating Landfill Individual Permit	LND	\$3,950
14. Residuals Use or Disposal Operations (unless otherwise listed)	RES	\$6,700
15. Residuals—Food Processors/WTPs ³ Individual Permit	RFP	\$2,550

Permit Fee Category¹

Min Fee Code	Minimum Fee
RTZ	\$1,600
RTG	\$400.00
RPH	\$650.00
RSG	\$500.00
SIU	\$3,600
6	\$2,500
6	\$500.00
7	
¹ For names corresponding to the general permit category see N.J.A.C. 7:14A-6.13(c). ² For a domestic or industrial facility issued an individual NJPDES Discharge to Groundwater permit, the minimum fee is \$3,950 for the first five years of that permit, and \$1,600 if the permit is renewed or administratively continued. All other domestic or industrial facilities issued an individual NJPDES Discharge to Groundwater permit shall be assessed a minimum fee of \$1,600. ³ WTPs refer to potable water treatment plants. ⁴ Refers to a Residuals Transfer Facilities individual permit. ⁵ Refers to a Residuals—Reed Beds individual permit. ⁶ This permit is issued and administered by the Division of Solid and Hazardous Waste. ⁷ Fee based on category for type of discharge.	

Administrative correction.

See: 29 N.J.R. 3822(a).

In (c)4, substituted "general permit" for "general plan"; and in (d)1i, changed the rating in the table from "21" to "2".

Public Notice: NJPDES Annual Fee Report, FY 1997.

See: 29 N.J.R. 5105(a).

Public Notice: NJPDES Annual Fee Report, FY 1998.

See: 30 N.J.R. 4078(a).

Public Notice: NJPDES Annual Fee Report, FY 1999.

See: 31 N.J.R. 2977(a).

Public Notice: NJPDES Annual Fee Report, FY 2000.

See: 32 N.J.R. 2131(a).

Public Notice: NJPDES Annual Fee Report, FY 2001.

See: 33 N.J.R. 2345(a).

Amended by R.2002 d.34, effective January 22, 2002.

See: 33 N.J.R. 3636(a), 34 N.J.R. 595(a).

Rewrote the section.

Administrative correction.

See: 34 N.J.R. 920(b).

Public Notice: NJPDES Annual Fee Report, FY 2002.

See: 34 N.J.R. 1859(b).

Public Notice: NJPDES Annual Fee Report, FY 2003.

See: 35 N.J.R. 2370(a).

Amended by R.2004 d.47, effective February 2, 2004.

See: 35 N.J.R. 169(a), 35 N.J.R. 1331(a), 36 N.J.R. 813(a).

Rewrote (j).

Public Notice: NJPDES Annual Fee Report, FY 2004.

See: 36 N.J.R. 2947(c).

Case Notes

DEP could issue discharge permit to owner of closed landfill, only if Department had substantial evidential basis for believing that landfill actually was discharging pollutants that might flow or drain into State's waters. *V. Concrete Co. v. Department of Environmental Protection*, 115 N.J. 1, 556 A.2d 761 (1989).

Fee structure for pollutant discharge elimination system permits issued under Water Pollution Control Act did not have to be determined on a permit-specific cost-related basis; graduated fee schedule proportional to the deleterious impact of the permittee's discharge was reasonable; use of a bioassay factor in determining toxicity and calculating the NJPDES fees was neither arbitrary nor unreasonable. *GAF Corp. v. New Jersey Dep't of Environmental Protection*, 214 N.J.Super. 446, 519 A.2d 931 (App.Div.1986).

Fee schedule adopted to recover cost of surface water pollutant discharge permitting system proper as based on aggregate, rather than individual permit, costs: volume-based system for thermal dischargers proper: refunds due industrial users properly limited to credit on behalf of suit parties. *Public Service Electric and Gas Co. v. Dept. of Environmental Protection*, 101 N.J. 95, 501 A.2d 125 (1985).

Former regulation's method of assessing fees for discharges to surface waters invalid as unrelated to legislative policy and not established in a reasonable manner; Department's determination as to excess fee assessment credits supported by substantial credible evidence. *Public Service Electric and Gas Co. v. Dept. of Environmental Protection*, 193 N.J.Super. 676, 475 A.2d 665 (App.Div.1984), affirmed 101 N.J. 95, 501 A.2d 125 (1985).

SUBCHAPTER 4. PERMIT APPLICATION REQUIREMENTS

7:14A-4.1 Purpose and scope

This subchapter sets forth the minimum NJPDES permit application requirements, which apply to all applicants for NJPDES permits, unless otherwise specified.

7:14A-4.2 Application requirements

(a) Any person who is engaged in an activity or proposes to commence an activity that requires an individual NJPDES permit pursuant to N.J.A.C. 7:14A-2 shall submit a complete application to the Department in accordance

with this subchapter. Any person wishing to be authorized under a general permit shall comply with the application requirements in the applicable general permit.

(b) Once an applicant has complied with N.J.A.C. 7:14A-4.3(a)13, requiring submittal of the application to the local agency or sewerage entity and municipality, the applicant shall submit two copies of all NJPDES permit applications to:

New Jersey Department of Environmental Protection

Bureau of Permit Management

Division of Water Quality

PO Box 029

Trenton, NJ 08625-0029

Attn: Administrative Review Unit

(c) It is the duty of any person who is or will be an operating entity for any part of a facility which includes a discharge or activity regulated pursuant to this chapter to obtain a NJPDES permit. When a facility or activity is owned by one or more persons, but is currently operated by another person, it is the operating entity's duty to obtain a NJPDES permit. However, the property owner (record owner of fee title interest) shall sign the "Property Owner's Certification" in the NJPDES-1 Form for all DGW permits.

(d) Whenever pursuant to (c) above, more than one person is required to obtain an individual NJPDES permit for one or more discharges or activities at a specific site, the Department may issue a single permit and may list all of these persons as permittees. Such a permit may identify permit conditions that apply to one or more of those permittees.

(e) The schedule for submission of applications (or requests for authorization under a general permit) is as follows:

1. Any person proposing a new facility or activity, which requires a NJPDES permit pursuant to N.J.A.C. 7:14A-2.4 and is not exempt pursuant to N.J.A.C. 7:14A-2.5, shall submit an application at least 180 days before the date on which the activity is proposed to commence, unless an alternative date has been established by the Department. The schedule for submitting an application for certain stormwater discharges is set forth in N.J.A.C. 7:14A-24.4 and 25.4.

2. For general permits, alternate dates for submitting requests for authorization may be specified under the terms of the applicable general permits.

3. Any person planning to continue discharging after the expiration date of an existing NJPDES permit shall file an application for renewal or a request for authorization under a general permit at least 180 calendar days prior to the expiration of the existing permit, unless:

i. Otherwise required under (e)4 below;

ii. The existing permit is a general permit that provides for automatic renewal of authorization when that general permit is renewed (see N.J.A.C. 7:14A-6.13(d)9), or that provides for retroactive renewal of authorization after a new request for authorization is submitted or granted under the renewed general permit; or

iii. The existing permit is an individual permit where:

(1) The permittee has been notified by the Department prior to submitting a renewal application pursuant to N.J.A.C. 7:14A-2.7 that the permit qualifies for expedited permit renewal under N.J.A.C. 7:14A-16.3(h), and elects to participate; or

(2) The permittee has a stormwater only permit and is approved by the Department for expedited permit renewal.

4. (Reserved)

5. Any existing facility or activity which is required to obtain an individual NJPDES-SIU permit pursuant to N.J.A.C. 7:14A-2.4(b)2 and does not have an individual NJPDES-SIU permit shall apply within 180 days of the effective date of this chapter, or of a determination of the Department, that the discharge requires an individual NJPDES-SIU permit.

6. All existing facilities or activities which require an individual NJPDES-SIU permit due to promulgation of new Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subpart N, will be notified of the application date by the Department following submittal of the Baseline Report, as required pursuant to 40 CFR 403.12(b). See also N.J.A.C. 7:14A-21.3(b).

(f) The Department shall not issue a draft permit for an individual NJPDES permit before receiving a complete permit application, in accordance with N.J.A.C. 7:14A-15.4.

Administrative correction.

See: 29 N.J.R. 3822(a).

Amended N.J.A.C. references.

Amended by R.2004 d.47, effective February 2, 2004.

See: 35 N.J.R. 169(a), 35 N.J.R. 1331(a), 36 N.J.R. 813(a).

Rewrote (e)1.

7:14A-4.3 Application information requirements

(a) All applicants for an individual NJPDES permit shall provide the following information to the Department using the application form(s) provided by the Department (except as specified in N.J.A.C. 7:14A-24.7, 25.9 and 25.10 for stormwater discharges):

1. The activities conducted by the applicant which require it to obtain a NJPDES permit including a brief description of the nature of the business, project, facility, or activity;

2. The name, mailing address, and location of the facility for which the application is submitted;

3. Up to four SIC codes which best reflect the principal products or services provided by the facility;

4. The expiration date of the existing permit or proposed start up date for a new source or for a new discharge or activity;

5. Identification of the general type of waste discharged, or expected to be discharged upon commencement of operations, including sanitary wastes, or non-contact cooling water. This information shall include any cooling water additives that are used or expected to be used upon commencement of operations, along with their composition;

6. Identification of facility ownership, and status as Federal, State, private, public or other entity, the name, address, and telephone number of all:

i. Operating entities of the treatment works;

ii. Owners of the land or property; and

iii. Licensed operators of the treatment works;

7. The name, address, and telephone number of any DTW being utilized (if applicable);

8. The name of the applicant's parent corporation;

9. A listing of all permits or construction approvals received or applied for by the applicant or its parent corporation at the site under any of the following programs:

i. Hazardous Waste Management program under RCRA;

ii. NJPDES permits or Treatment Works Approvals under the State or Federal Acts;

iii. UIC program under N.J.A.C. 7:14A-8;

iv. Prevention of Significant Deterioration (PSD) program under the Clean Air Act;

v. Nonattainment program under the Clean Air Act;

vi. National Emission Standards for Hazardous Pollutants (NESHAPS) preconstruction approval under the Clean Air Act;

vii. Ocean dumping permits under the Marine Protection Research and Sanctuaries Act;

viii. Dredge or fill permits under Section 404 of the Federal Act; and

ix. Other relevant environmental permits, including Federal and State permits, such as stream encroachment or wetlands permits;

1. Effective performance based upon treatment levels for which the treatment works was designed;
2. Adequate funding;
3. Effective management;
4. Adequate operator staffing and training;
5. Regularly scheduled inspection and maintenance programs; and
6. Adequate laboratory and process controls including appropriate quality assurance procedures as described in 40 CFR Part 136 and applicable State laws and rules.

(b) Any permittee who operates a treatment works shall satisfy the licensing requirements of the "Water Supply and Wastewater Operators Licensing Act," N.J.S.A. 58:11-64 et seq., and promulgated pursuant thereto. This subsection requires the operation of back-up or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the NJPDES permit or where required by applicable law or regulation.

(c) All permittees shall submit written verification to the Department that an operation and maintenance manual for the treatment works, including related appurtenances and collection system, has been or will be completed by the effective date or a compliance date included in a new or renewed NJPDES permit issued subsequent to May 5, 1997. A permittee does not need to submit the operation and maintenance manual to the Department, unless specifically directed to do so. When the Department directs a permittee to submit the operation and maintenance manual, the Department shall state the reasons for requiring the submittal in a letter requesting the submittal. In the case of a NJPDES permit for stormwater discharges or separate storm sewers which expressly exempts permittees from this provision, the exemption shall apply only to the discharge authorized by the permit. Any affected permittee shall comply with the following operation and maintenance manual requirements:

1. The operation and maintenance manual shall be made available for inspection upon request by an authorized representative of the Department.
2. The operation and maintenance manual shall be amended whenever there is a change in the treatment works design, construction, operations or maintenance which substantially changes the treatment works operations and maintenance procedures.
3. An operation and maintenance manual shall describe, at a minimum, the following:
 - i. Operator and staff responsibilities;
 - ii. Staff guidance for emergency situations;
 - iii. Identification of NJPDES permit requirements and the obligation to meet these requirements;

iv. Operating procedures including a detailed description of each major treatment unit/process with relationship to related units, safe operating procedure for normal operation, including common operating problems, safe operating procedures for operating during emergency conditions, and any fail-safe features;

v. A program of regularly scheduled inspection and maintenance; and

vi. An emergency plan in accordance with (d) below.

(d) An emergency plan shall be included as part of the operation and maintenance manual, except for those operations issued permits under N.J.A.C. 7:14A-20.

1. When a person has prepared an emergency plan required by regulations other than this chapter, such plans or plan and any amendments necessary to meet the requirements of this section will satisfy the requirements of this section provided the plan is labeled to identify the requirements listed in this section.

2. An emergency plan shall be amended whenever:

i. There is a modification, including expansion, of the treatment works; or

ii. Any other conditions related to the plan have changed.

3. The emergency plan shall be designed to ensure effective operation of the treatment works under emergency conditions, and shall consist, at a minimum, of the following elements:

i. A vulnerability analysis which shall estimate the degree to which the treatment works would be adversely affected by each type of emergency situation which could reasonably be expected to occur, including but not limited to those emergencies caused by natural disaster, civil disorder, strike, sabotage, faulty maintenance, negligent operation or accident;

(1) The vulnerability analysis shall include, but is not limited to, an estimate of the effects of such an emergency upon the following:

(A) Power supply;

(B) Communication;

(C) Equipment;

(D) Supplies;

(E) Personnel;

(F) Security; and

(G) Emergency procedures to be followed.

ii. An evaluation of the possible adverse effects on public health and the environment due to such an emergency; and

iii. An emergency operation plan for ensuring, to the maximum extent possible, uninterrupted treatment works operation and a manual of procedures for the implementation of such plan, including procedures for the notification of any appropriate regulatory agency, affected water supply purveyors, and any other municipal authority or agency. The plan and manual shall address each of the emergency situations described in the vulnerability analysis.

4. The Department shall not individually review and approve an emergency plan as part of the permit issuance process. The Department's decision not to review and approve an emergency plan shall not exempt a person from liability for violations arising from an emergency situation. A person shall take all necessary actions to mitigate the damage to the waters of the State arising from an emergency situation. Such actions shall not be limited by the emergency operating plan and the operation and maintenance manual.

5. Failure to have on file any part of the operation and maintenance manual in compliance with (c) above and failure to implement the emergency plan pursuant to this subsection shall each constitute a violation of this chapter.

6. In emergency situations, a permittee shall implement the requirements of the emergency plan to the fullest extent possible. In addition, any conditions of the emergency plan that the permittee can implement prior to an emergency situation to reduce the potential for an emergency situation, shall be implemented.

(e) A municipality or sewerage authority who is not a permittee (for example, does not have a direct surface or groundwater discharge) but who owns and operates a treatment works used only for the collection or transportation of domestic sewage is not required to prepare an operations and maintenance manual. However, the municipality or sewerage authority shall be responsible for the proper operation and maintenance of that treatment works. The criteria for proper operations and maintenance and an emergency plan pursuant to (a) and (d) above, may be used as a guideline and implemented as applicable.

7:14A-6.13 General permits

(a) The Department shall issue a general permit to authorize a category of surface water, ground water, or indirect discharges, residual use or disposal practices, or facilities within a geographic area, described in (b) below, except those otherwise eligible for authorization but which are authorized pursuant to individual permits or other general permits. The area shall correspond to existing geographic or political boundaries, such as:

1. Designated planning areas under Sections 208 and 303 of the Federal Act and Section 5 of the "New Jersey Water Quality Planning Act", N.J.S.A. 58:11A-1 et seq.;
2. Sewer districts or sewerage agencies;
3. City, county, or State political boundaries;
4. State highway systems;
5. Standard metropolitan statistical areas as defined by the Office of Management and Budget;
6. Urbanized areas as designated by the Bureau of Census according to criteria in 39 FR 15202 (May 1, 1974); or
7. Any other appropriate division or combination of boundaries.

(b) A general permit may be written to regulate within the area described in (a) above, either:

1. Stormwater discharges;
2. Non-contact cooling water discharges;
3. Combined sewer overflows; or
4. A category of discharges other than those listed in (b)1 through 3 above, if they all:
 - i. Involve the same or substantially similar types of operations;
 - ii. Discharge the same type of wastes or engage in similar residual use or disposal practices;
 - iii. Require the same or similar effluent limitations, operating conditions, or standards for residual use or disposal;
 - iv. Require the same or similar monitoring; and
 - v. In the opinion of the Department, are more appropriately controlled under a general permit than under individual permits.

(c) General permits may be issued, modified, revoked and reissued, suspended, or revoked in accordance with applicable requirements of N.J.A.C. 7:14A-15, 16 and 17. The Department shall publish in the New Jersey Register a notice of administrative change revising the list of general permits in the table below to reflect any of these general permit actions. The list in this table is for informational purposes only. The Department advises prospective applicants to obtain a copy of the most recent general permit list from the Department's Division of Water Quality at PO Box 029, Trenton, New Jersey 08625, or from the Division's website (<http://www.state.nj.us/dep/dwg>). A copy of any general permit on the list may be obtained from the same address.

NJPDES Permit No.	Category	Name of General Permit
NJ0108308	11	Stormwater Basins at Sanitary Landfills

Discharge
Type1
DWG

Year
Issued
2001

NJPDES Permit No.	Category	Name of General Permit	Discharge Type ¹	Year Issued
NJ0108642	I2	Filter Backwash Water from Potable Water Treatment Plants	DGW	2003
NJ0130281	T1	Existing Sanitary Septic Systems	DGW	2003
NJ0142051	LSI	Lined Surface Impoundment	DGW	2003
NJ0138631	R8	Concentrated Animal Feeding Operation (CAFO)	DGW/DSW	2003
NJ0107671	SM	Scrap Metal Stormwater	DGW/DSW	1999
NJ0088315	5G2	Basic Industrial Stormwater	DGW/DSW	2002
NJ0141852	R9	Tier A Municipal Stormwater	DGW/DSW	2004
NJ0141861	R10	Tier B Municipal Stormwater	DGW/DSW	2004
NJ0141879	R11	Public Complex Stormwater	DGW/DSW	2004
NJ0141887	R12	Highway Agency Stormwater	DGW/DSW	2004
NJ0088323	5G3	Construction Activity Stormwater	DSW	2002, modified in 2004
NJ0108456	CPM	Concrete Products Manufacturing Stormwater	DGW/DSW	2003
NJ0134791	R5	Newark Airport Complex Stormwater	DSW	2000
NJ0070203	CG	Non-contact Cooling Water	DSW	2000
NJ0102709	B4B	Groundwater Petroleum Product Clean-up	DSW	2003
NJ0105023	CSO	Combined Sewer Overflow	DGW	2000
NJ0128589	B6	Swimming Pool Discharges	DSW	1998
NJ0132933	BG	Hydrostatic Test Water	DSW	1999
NJ0134511	B7	Construction Dewatering	DSW	1999
NJ0105767	EG	Land Application Food Processing Residuals	RES	2003
NJ0132519	ZG	Residuals Transfer Facilities	RES ¹	1999
NJ0132501	4G	Residuals—Reed Beds	RES	2002

¹ Acronyms identifying "Discharge Type" have the following meanings:

DGW	Discharge to Groundwater
DSW	Discharge to Surface Water
RES	Residual Use or Disposal

(d) An authorization under a general permit shall be obtained as follows:

1. Except as provided in (d)7 and 8 below, persons seeking authorization under a general permit shall submit to the Department a written request for authorization. A person who fails to submit a request for authorization in accordance with the terms of the permit is not authorized to discharge under the terms of the general permit unless:

i. The general permit, in accordance with (d)7 below, contains a provision that a request for authorization is not required; or

ii. The Department notifies a person that the discharge is authorized by a general permit in accordance with (d)8 below.

2. The contents of the request for authorization shall be specified in the general permit and shall require the submission of information necessary for adequate program implementation, including, at a minimum, the legal name and address of the owner and operating entity, the facility name and address, type of facility or discharges, the receiving surface or ground water(s) or DTW, and the certification required under (d)3 below. Unless the general permit specifies otherwise, the request for authorization shall include all of the forms, information, signatures, and certification(s) that this chapter requires to be included

ed in an application for a NJPDES permit. The request for authorization shall also include any other certification specified in the general permit.

3. In addition to the information required under (d)2 above, the request for authorization shall include, when specified in the general permit, a certification that arrangements have been made for publication, in a daily or weekly newspaper within the area affected by the facility, of a notice which states that a request for authorization under a general permit has been submitted pursuant to N.J.A.C. 7:14A-6.13(d). This notice shall also identify the general permit under which authorization is sought, the legal name and address of the owner and operating entity or, the facility name and address, type of facility or discharges, and the receiving surface or ground water(s) or DTW. Each general permit shall set forth the form of notice appropriate to that general permit.

4. General permits shall specify the deadlines for submitting requests for authorization and the date(s) when a person is authorized to discharge under the permit.

5. General permits shall specify whether a person that has submitted a complete and timely request for authorization in accordance with the general permit, and that is eligible for authorization under the permit, is authorized to discharge in accordance with the permit either upon:

i. Receipt of the request for authorization by the Department, after a waiting period specified in the general permit, where applicable;

ii. On a date specified in the general permit; or

iii. Upon the person's receipt of notification of authorization by the Department.

6. Authorization may be suspended, revoked, or denied in accordance with (j) through (m) below. The Department shall publish in the DEP Bulletin, or other similar DEP publication, a quarterly report of each authorization issued under a general permit.

7. Discharges from DTWs, combined sewer overflows, municipal separate storm sewer systems, primary industrial facilities, and stormwater discharges associated with industrial activity shall submit a request for authorization to the Department. Other discharges may, at the discretion of the Department, be authorized under a general permit without submission of a request for authorization where the Department finds that a request for authorization requirement is inappropriate. The Department shall provide in the public notice of the general permit the reasons for not requiring a request for authorization. In making such a finding, the Department shall consider:

i. The type of discharges;

ii. The expected nature of the discharges;

iii. The potential for toxic and conventional pollutants in the discharges;

iv. The expected volume of the discharges;

v. Other means of identifying discharges authorized by the permit; and

vi. The estimated number of discharges to be authorized by the permit.

8. The Department may notify a person that the discharge is authorized by a general permit, even if the person has not submitted a request for authorization. A person so notified may nonetheless request an individual permit under (i) below.

9. A general permit may provide for automatic renewal of authorization when that general permit is reissued, provided the discharge authorized under the general permit continues to be eligible. If such a general permit requires a request for authorization under (d)1 above, the most recently submitted request for authorization is also a timely and complete request for authorization under the reissued permit (for any permittee who had authorization under the permit immediately prior to the effective date of the reissued permit), and the Department shall issue a notice of renewed authorization to the permittee.

i. If the permittee is aware that any information in that most recently submitted request for authorization is no longer true, accurate, and/or complete, the permittee shall provide the correct information to the Department within 90 days after that effective date, if the permittee has not done so already.

ii. A permittee whose authorization is renewed under this paragraph may request to be excluded from the reissued general permit in accordance with (g) below, and may also request a stay of the application to that permittee of any conditions of the reissued permit in accordance with N.J.A.C. 7:14A-17.6.

(e) The Department may require any permittee authorized by a general permit to apply for and obtain an individual NJPDES permit or seek and obtain authorization under another general permit. Also, any person may, in accordance with the procedures set forth at (l) below, petition the Department to take action under this subsection. An individual NJPDES permit or another general permit may be required when:

1. There is evidence that the permittee may be a significant contributor of pollutants. In making this determination, the Department may consider the location of the discharge, facility, or activity, the size of the discharge or activity, the quantity and nature of pollutants, the quality of the receiving waters, and other relevant factors;

2. The permittee is not in compliance with the conditions of the general permit;

3. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants;

4. Effluent limitation guidelines are promulgated for the activity authorized by the general permit;

5. A Water Quality Management Plan containing different requirements applicable to the permittee is adopted;

6. Circumstances have changed since the time of authorization or the request for authorization such that the discharge is no longer appropriately controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized activity is necessary;

7. The Department acquires new information indicating that the permittee otherwise is not eligible for the general permit according to terms specified in the general permit; or

8. New standards for residual use or disposal are promulgated for the residual use and disposal practice covered by the general permit.

(f) To require any permittee authorized by a general permit to apply for an individual NJPDES permit or seek authorization under another general permit as provided in (e) above, the Department shall notify the permittee in writing, as follows:

1. The notice shall include:

- i. A brief statement of the reasons for the determination that an individual permit or authorization under a different general permit is necessary;
- ii. An application form or the applicable request for authorization form;
- iii. A statement setting a time for the permittee to file the application or the applicable request for authorization; and
- iv. A statement that on the effective date of the individual NJPDES permit or on the date of the permittee's authorization under another general permit, the individual permittee's authorization under the general permit shall automatically terminate.

2. The Department may grant additional time for application for an individual permit or request for authorization, upon request by the permittee. If a permittee fails to submit in a timely manner an application form or request for authorization form required by the Department under this subsection, the permittee's authorization under the general permit will be automatically revoked at the end of the day specified for submitting the application form or request for authorization form.

(g) Any permittee authorized by a general permit may request to be excluded from authorization under the general permit by applying for an individual NJPDES permit or for another general permit. The permittee shall submit an application under N.J.A.C. 7:14A-4.1, or a request for authorization for the other general permit (if required under (d) above), with reasons supporting the request. A request for an individual permit shall be processed under N.J.A.C. 7:14A-15, 16, and 17. A request for another general permit shall be processed under this section and the terms of the other general permit. The request shall be granted by the issuing of any individual permit, or by the issuing of authorization under the other general permit, if the reasons cited by the permittee are determined to be adequate to support the request.

(h) When a permittee authorized by a general NJPDES permit is issued an individual NJPDES permit for the authorized discharge, or obtains authorization for that discharge under another general permit, the permittee's authorization under the general permit is automatically revoked on the effective date of the individual permit or on the date of the permittee's authorization under another general permit, whichever the case may be. When an individual NJPDES permit is denied to a permittee authorized by a general permit, or the permittee is denied authorization under another general permit, the permittee's author-

ization under the general permit is automatically revoked on the date of such denial, unless otherwise specified by the Department.

(i) If a permittee's discharge is excluded from a general permit solely because that discharge already is authorized by an individual permit or authorization under another general permit, the permittee may request that the individual permit or authorization be revoked or modified, as appropriate, and that the discharge be authorized by a general permit identified in that request. The permittee shall submit a request for revocation or modification, with reasons supporting the request, to the Department. The permittee shall submit any request for revocation or modification of an individual permit under N.J.A.C. 7:14A-16, and that request shall be processed under N.J.A.C. 7:14A-15, 16 and 17. If the Department revokes or modifies the individual permit or authorization, and if authorization under a general permit is issued, after the permittee submits any request for authorization required under (d) above, the permittee shall be authorized under the general permit. In reviewing such requests, the Department may consider:

1. The location of the discharge;
2. The size of the discharge or activity;
3. The quantity and nature of pollutants reaching the surface or ground waters of the State;
4. The quality of the receiving waters;
5. Antibacksliding requirements in N.J.A.C. 7:14A-13.19, if applicable; and
6. Any other factors the Department considers relevant to determining whether the discharge is best regulated under one permit or the other.

(j) The Department may suspend or revoke a permittee's authorization under a general permit for causes specified in N.J.A.C. 7:14A-16.6. Such suspension or revocation of authorization is a type of permit suspension or revocation under N.J.A.C. 7:14A-16.6. A requirement pursuant to (f) above that a permittee apply for an individual permit or seek authorization under another general permit is not a revocation within the meaning of N.J.A.C. 7:14A-16.6, even if the permittee's authorization is eventually revoked in favor of an individual permit or another general permit, or is automatically revoked under (f)2 above, as a result of the permittee's failure to submit in a timely manner an application form or request for authorization form.

(k) If the Department directs the permittee to apply for an individual permit or seek authorization under another general permit, the permittee may ask the Department to reconsider its decision by sending a letter to the Commissioner within 30 days of the issuance of the initial decision. The letter shall be sent to:

Office of Legal Affairs
Department of Environmental Protection
401 East State Street
P.O. Box 402
Trenton, NJ 08625-0402

Both the envelope and the letter shall clearly indicate that it is a "REQUEST FOR RECONSIDERATION OF GENERAL PERMIT DETERMINATION." The Commissioner may act on the request with 60 days; if the Commissioner fails to take any action the request shall be deemed denied. In no event shall an order from the Department directing a permittee to apply for an individual permit or seek authorization under another general permit (or a denial of a request to reconsider that order) be deemed final agency action.

(l) The following requirements apply to petitions filed under (e) above:

1. Any petition shall state clearly and concisely:
 - i. The name, address, and telephone number of the petitioner;
 - ii. The petitioner's interest in the petition (including any organizational affiliations and any economic interest);
 - iii. The name and address of the permittee whose authorization could be affected by the petition;
 - iv. The number of the permit under which that permittee is authorized; and
 - v. The reasons why the petition should be granted (including any citations to any relevant legal authority).
2. The petitioner shall serve the petition on both the Department and the permittees whose authorization could be affected by the petition.
3. The permittees whose authorization could be affected shall have 30 days from the date the petition was served to respond to the petition. Any response shall be served on both the Department and the petitioner. The Department thereafter may in its discretion seek further information relevant to the petition.
4. The Department shall determine whether to grant the petition based upon materials submitted in accordance with this subsection and based upon the criteria set forth in (e) above. The Department shall notify both the petitioner and the permittees whose authorization is affected by the petition of the Department's determination.
5. Either party may ask the Department to reconsider its decision regarding a petition by sending a letter to the Commissioner within 30 days of the issuance of the initial decision. The letter shall be sent to the Department's Office of Legal Affairs, at the address listed above, and both the envelope and the letter shall clearly indicate that it is a "REQUEST FOR RECONSIDERATION OF PETITION DETERMINATION." The Commissioner may act on the request within 60 days; if the Commissioner fails to take any action the request shall be deemed denied. It shall be considered final agency action where the ultimate outcome of the agency proceedings is that the petition is denied by the Commissioner.

(m) The following requirements apply to denial of requests for authorization:

1. The Department shall deny a request for authorization if it determines that the subject discharge is not eligible for the general permit for which the person has requested authorization.
2. The Department may deny a request for authorization if it determines that the discharge is not appropriately regulated under the relevant general permit because of:
 - i. Its location;
 - ii. The size of the discharge or activity;
 - iii. The quantity and nature of pollutants reaching the waters of the State;
 - iv. The quality of the receiving waters; or
 - v. Other relevant factors.
3. If the Department denies a request for authorization, it shall notify the person of that denial in writing. A person whose request for authorization has been denied may ask the Department to reconsider its decision by sending a letter to the Commissioner within 30 days of the issuance of the initial denial. The letter shall be sent to the Department's Office of Legal Affairs, at the address listed above, and both the envelope and the letter shall clearly indicate that it is a "REQUEST FOR RECONSIDERATION OF GENERAL PERMIT DETERMINATION." The Commissioner may act on the request within 60 days; if the Commissioner fails to take any action the request shall be deemed denied. In no event shall a denial of a request for authorization, or a request to reconsider that denial, be deemed final agency action.

(n) An authorization may be transferred to a new permittee in accordance with the requirements for an automatic transfer at N.J.A.C. 7:14A-16.2(d).

(o) With the consent of the permittee, the Department shall revoke an authorization to discharge under a general permit without following the procedures set forth in N.J.A.C. 7:14A-15.6, if the discharge has ceased.

Amended by R.2002 d.34, effective January 22, 2002.

See: 33 N.J.R. 3636(a), 34 N.J.R. 595(a).

Rewrote (c).

Petition for Rulemaking.

See: 35 N.J.R. 2954(a), 4136(b).

Amended by R.2004 d.47, effective February 2, 2004.

See: 35 N.J.R. 169(a), 35 N.J.R. 1331(a), 36 N.J.R. 813(a).

In (c), rewrote table; in (d)7, added "municipal separate storm sewer systems,".

7:14A-6.14 Emergency permits

(a) Under the specified circumstances listed in (b) below, the Department may issue an emergency permit, except for a DSW, to allow the discharge of pollutants, where such discharge is unpermitted or the discharge consists of pollutants not covered by an effective permit.

7:14A-24.2 Stormwater discharges for which a NJPDES permit is required under this subchapter; exemptions

(a) A NJPDES permit under this subchapter is required for the following stormwater DSW and DGW:

1. Stormwater DSW for which a permit was issued under Section 402 of the Federal Act (33 U.S.C. § 1342) prior to February 4, 1987 (see N.J.A.C. 7:14A-24.7(a) and (c));

2. Stormwater DSW associated with industrial activity from point or nonpoint sources (see N.J.A.C. 7:14A-24.7(a) and (b));

3. Stormwater DSW associated with small construction activity from point or nonpoint sources (see N.J.A.C. 7:14A-24.7(a));

4. Stormwater DSW and DGW that are from concentrated animal feeding operations and for which a NJPDES permit is required under N.J.A.C. 7:14A-2.13 (see N.J.A.C. 7:14A-4.7 and 4.8);

5. Stormwater DSW from large or medium municipal separate storm sewer systems (see N.J.A.C. 7:14A-25.10);

6. Stormwater DSW and DGW from small municipal separate storm sewer systems (small MS4s) identified under N.J.A.C. 7:14A-25.2(a) or (b) (see N.J.A.C. 7:14A-25.5);

7. Stormwater DSW from point or nonpoint sources (other than activities identified under N.J.A.C. 7:14A-2.5(a)4 or 5) for which either the Department or the USEPA Regional Administrator determines (also see N.J.A.C. 7:14A-24.7(a) and (c), 25.2(a)4 and 25.5) that:

i. Stormwater controls are needed for the point source discharge based on total maximum daily loads (TMDLs) that address the pollutant(s) of concern; or

ii. The point or nonpoint source discharge, or category of discharges within a geographic area, contributes to a violation of a surface water quality standard, or is a significant contributor of pollutants to surface water;

8. Stormwater DSW and DGW from agricultural and silvicultural nonpoint sources regulated under N.J.A.C. 7:14A-2.5(d); and

9. Stormwater DGW otherwise exempt under N.J.A.C. 7:14A-7.4(a)5i or ii, if the Department determines that the discharge is likely to contravene the Groundwater Quality Standards at N.J.A.C. 7:9-6, or may result in violation of the Surface Water Quality Standards at N.J.A.C. 7:9B (see N.J.A.C. 7:14A-4.7, 25.2(a)4 and 25.5).

(b) Whenever it is determined that a NJPDES permit is required under (a)7 or 9 above, or under both (a)3 above and paragraph 2 of the N.J.A.C. 7:14A-1.2 definition of "stormwater discharge associated with small construction

activity," the Department shall notify the operating entity in writing of the reasons for such a determination, and shall include instructions on how to apply for a NJPDES permit. In such a case, and if the operating entity has applied for an individual NJPDES permit, comment regarding the appropriateness of the initial determination may be received during the public comment period under N.J.A.C. 7:14A-15.11 and in any subsequent hearing, unless the reason for that determination was a decision made by USEPA under 40 C.F.R. 122.26(a)(9)(i)(C), (a)(9)(i)(D) or (b)(15)(ii), or under 40 C.F.R. 123.35(b) or (c). The operating entity shall apply for a NJPDES permit in accordance with N.J.A.C. 7:14A-24.4.

(c) The following stormwater discharges are exempt from the requirement to obtain a NJPDES permit from the Department:

1. Stormwater DSW not identified under (a) above;

2. Stormwater DSW from mining operations or oil and gas exploration, production, processing or treatment operations or transmission facilities, composed entirely of flows which are from conveyances or systems of conveyances (including, but not limited to, pipes, conduits, ditches, and channels) used for collecting and conveying precipitation runoff and which are not contaminated by contact with or that has not come into contact with, any overburden, raw material, intermediate products, finished product, byproduct or waste products located on the site of such operations; and

3. Stormwater DGW that are from municipal separate storm sewers, residential areas (including residential streets, parking lots, easements, and open space), commercial areas other than areas of high pollutant loading as described under N.J.A.C. 7:14A-7.4(b)5ii, or animal feeding operations, but that are not through underground injection regulated under N.J.A.C. 7:14A-8 and not identified under (a) above.

(d) The permit requirements for large and medium municipal separate storm sewer systems, and for stormwater discharges associated with industrial activity that discharge through such systems, contained in 40 C.F.R. 122.26(a)(3) and (a)(4) are incorporated into this chapter by reference.

(e) For stormwater discharges associated with industrial activity which discharge through a privately owned and operated separate storm sewer system (private conveyance system), the Department shall either:

1. Issue a single NJPDES permit (or a single authorization under a general NJPDES permit) to the operating entity for the portion of the private conveyance system that discharges to surface water, with each discharger to the private conveyance system a co-permittee to that permit (or to an authorization under a general permit); or

2. Issue individual permits (or authorizations under a general permit) to each discharger of stormwater associat-

ed with industrial activity through the private conveyance system.

3. Where there is more than one operating entity for a single private conveyance system, all operating entities for stormwater discharges associated with industrial activity shall submit applications (or requests for authorization under a general permit).

4. Any permit authorizing more than one operating entity shall identify the effluent limitations, or other permit conditions, if any, that apply to each operating entity.

(f) Combined sewer systems that discharge to waters of the State are point sources that require NJPDES permits applied for in accordance with N.J.A.C. 7:14A-4, and are not subject to the provisions of this subchapter or N.J.A.C. 7:14A-25. Stormwater discharges to combined or sanitary sewer systems are not subject to the provisions of this subchapter or N.J.A.C. 7:14A-25.

(g) Whether a stormwater discharge from a municipal separate storm sewer is or is not subject to regulation under this subchapter or N.J.A.C. 7:14A-25 shall have no bearing on whether the owner or operating entity for the discharge is eligible for funding under title II, title III or title VI of the Federal Act. See 40 C.F.R. Part 35, Subpart I, Appendix A(b) H.2.j.

7:14A-24.3 Petitions

(a) Any operating entity for a municipal separate storm sewer system may petition the Department to require a separate NJPDES permit for any discharge into the municipal separate storm sewer system.

(b) Any person may petition the Department to require a NJPDES permit for a point source DSW which is composed entirely of stormwater which contributes to a violation of a surface water quality standard or is a significant contributor of pollutants to waters of the State.

(c) The owner of or operating entity for a municipal separate storm sewer system may petition the Department to reduce the Census estimates of the population served by such separate system or the population within an urbanized area to account for stormwater discharged to combined sewers as defined by 40 C.F.R. 35.2005(b)(11) that is treated in a publicly owned treatment works. In municipalities in which combined sewers are operated, the Census estimates of population may be reduced proportional to the fraction, based on estimated lengths, of the length of combined sewers over the sum of the length of combined sewers and municipal separate storm sewers where an applicant has submitted the NJPDES permit number associated with each discharge point and a map indicating areas served by combined sewers and the location of any combined sewer overflow discharge point.

(d) Any person may petition the Department for the designation of a large or medium municipal separate storm sewer system as defined by paragraph 4 of the definitions of "large municipal separate storm sewer system" or "medium municipal separate storm sewer system" in N.J.A.C. 7:14A-1.2.

(e) The Department shall make a final determination on any petition received under this section within 90 days after receiving the petition, except as provided in (e)1 below.

1. For petitions under (a) or (b) above to require a NJPDES permit under N.J.A.C. 7:14A-25.2(a) for a stormwater discharge from a small MS4, the Department shall make a final determination on the petition within 180 days after its receipt.

7:14A-24.4 Deadlines to apply for NJPDES permit for stormwater discharges

(a) Any operating entity for a stormwater DSW or DGW identified under (a)1 through 8 below that does not have an effective NJPDES permit authorizing its stormwater discharges shall submit a request for authorization for a general NJPDES permit, or an application for an individual NJPDES permit, in accordance with the following deadlines:

1. Except as provided in (a)1i through vii below, for any "stormwater discharge associated with industrial activity" as defined in N.J.A.C. 7:14A-1.2 that is not authorized by a stormwater general permit, the request for authorization for a stormwater DSW general permit, or an application for an individual stormwater DSW permit made pursuant to N.J.A.C. 7:14A-24.7, shall have been submitted by April 1, 1993.

i. For any stormwater discharge associated with industrial activity from a facility (other than an airport, powerplant, or uncontrolled sanitary landfill) that is owned or operated by a municipality with a population of less than 100,000, the request for authorization or individual permit application shall be submitted by March 3, 2004.

ii. Facilities that are owned or operated by a municipality and that were rejected by the USEPA as members of part 1 group application under 40 C.F.R. 122.26(e)(2) shall have submitted the request for authorization or individual permit application no later than 180 days after the date of receipt of the notice of rejection or April 1, 1993, whichever was later.

iii. If the discharge is from a nonpoint source and is not identified under (a)1iv below, the request for authorization or individual permit application shall have been submitted by November 3, 1997. No NJPDES permit shall have required pollutants in such a discharge to be controlled before November 3, 1997.

iv. If the Department classifies the discharge as a "stormwater discharge associated with industrial activity" under paragraph 2 in the definition of that term in N.J.A.C. 7:14A-1.2, the request for authorization or individual permit application shall be submitted within 180 days of receipt of written notice of such classification, unless the Department approves a later date.

v. A group application submitted to USEPA under 40 C.F.R. 122.26(e)(2) does not qualify under this paragraph as a request for authorization under a NJPDES general permit, or as an application for an individual NJPDES permit. If a facility was approved by the USEPA as a member of a group application pursuant to 40 C.F.R. 122.26(e)(2), or if a facility which was a participant of a group application was not approved or rejected by the USEPA pursuant to 40 C.F.R. 122.26(e)(2) by April 1, 1993, the facility shall have either have submitted a written request for authorization under an applicable NJPDES general permit, or applied for an individual NJPDES permit, by October 1, 1993 (except as provided in (a)1i above).

vi. When an individual permit application for discharges of stormwater is submitted pursuant to N.J.A.C. 7:14A-24.7 for a facility that already has an individual DSW permit that does not authorize all of those discharges, then that application shall be submitted in the following manner:

(1) If that DSW permit has expired, or is due to expire within 180 days of the submission of that application, then that application shall be submitted as part of the application for renewal of that DSW permit (such submission may supplement a renewal application previously submitted to the Department).

(2) If that DSW permit has not expired and is not due to expire within 180 days of the submission of that application, then that application shall be submitted either as part of the application for renewal of that DSW permit, or in a request under N.J.A.C. 7:14A-16.4 to modify that DSW permit to authorize all of those discharges of stormwater.

vii. The following is applicable to entities proposing new discharges of stormwater associated with industrial activity. General permits for such discharges shall specify deadlines for submitting requests for authorization under such permits. An entity submitting an individual permit application for such a discharge shall submit an application at least 180 days before that entity intends to commence industrial activity which may result in a discharge of stormwater associated with that industrial activity (unless (a)1vii(1) below is applicable, or the Department approves a later date).

(1) An entity submitting an individual permit application for a stormwater discharge from construction activity as described under subparagraph 1x of the definition of "stormwater discharge associated

with industrial activity" in N.J.A.C. 7:14A-1.2 shall submit an application at least 90 days before the date on which construction is to commence (unless the Department approves a later date).

2. Entities with existing NJPDES DSW permits for stormwater discharges associated with industrial activity shall maintain these permits unless these entities obtain different NJPDES permits for these discharges. (These existing NJPDES permits are subject to N.J.A.C. 7:14A-2.7 and 2.8, and may be renewed, modified, revoked and reissued, suspended, or revoked in accordance with the applicable requirements of N.J.A.C. 7:14A-15, 16 and 17.) Any entity planning to continue its stormwater discharges associated with industrial activity after the expiration date of its NJPDES permit for that discharge shall comply with N.J.A.C. 7:14A-4.2(e)3 and 24.7.

3. The following is applicable if a large or medium municipal separate storm sewer system is designated under paragraphs 3 or 4 of the definitions of "large municipal separate storm sewer system" or "medium municipal separate storm sewer system" in N.J.A.C. 7:14A-1.2. Part 1 of the application under N.J.A.C. 7:14A-25.10(a) shall be submitted within 12 months after designation of a "large municipal separate storm sewer system," or within 18 months after designation of a "medium municipal separate storm sewer system." Based on information received in the part 1 application, the Department will approve or deny a sampling plan under 40 C.F.R. 122.26(d)(1)(iv)(E) within 90 days after receiving the part 1 application. Part 2 of the application shall be submitted to the Department within 12 months after the deadline for submitting the part 1 application.

4. For a stormwater DSW or DGW that is the subject of a notice under N.J.A.C. 7:14A-24.2(b), or that is subject to N.J.A.C. 7:14A-24.7(a)5, a request for authorization for a stormwater general permit, or an application for an individual permit, shall be submitted within 180 days of notice, unless the Department approves a later date.

5. For stormwater DSW and DGW from nonpoint sources regulated under N.J.A.C. 7:14A-2.5(d), the discharger shall apply for a NJPDES permit in accordance with the deadline contained in that subsection.

6. Except as provided in (a)6i below, the deadline to obtain NJPDES permit authorization for all stormwater DSW identified under paragraph 1 of the definition of "stormwater discharge associated with small construction activity" in N.J.A.C. 7:14A-1.2 is March 3, 2004, or the date on which construction commences, whichever is later. General permits for such discharges shall specify deadlines for submitting requests for authorization under such permits. An entity submitting an individual permit application for such discharges shall submit an application at least 90 days before the date on which construction is to commence (unless the Department approves a later date), or by March 3, 2004, whichever is later.

i. The deadline to obtain NJPDES permit authorization for stormwater discharge associated with small construction activity at oil and gas exploration, production, processing, and treatment operations or transmission facilities is March 10, 2005, or the date on which construction commences, whichever is later. General permits for such discharges shall specify deadlines for submitting requests for authorization under such permits. An entity submitting an individual permit application for such discharges shall submit an application at least 90 days before the date on which construction is to commence (unless the Department approves a later date), or by December 10, 2004, whichever is later.

7. The deadline to apply for a NJPDES permit for all stormwater DSW and DGW from small municipal separate storm sewer systems (small MS4s) identified under N.J.A.C. 7:14A-25.2(a) is March 3, 2004, except as provided in N.J.A.C. 7:14A-25.4(a)1 through 3.

8. The deadline for Tier B municipalities to apply for the Tier B Municipal Stormwater Permit under N.J.A.C. 7:14A-25.8 (for stormwater DSW and DGW from certain small MS4s) is March 3, 2004, except as provided in N.J.A.C. 7:14A-25.8(b)1 and 2.

(b) The Department shall issue or deny individual permits (or authorization under general permits) for the following DSW composed entirely of stormwater in accordance with the following schedule:

1. The Department shall issue or deny individual NJPDES permits (or authorization under general NJPDES permits) for stormwater discharges associated with industrial activity no later than April 1, 1994, or for new sources or existing sources which did not submit a complete NJPDES individual permit application or request for authorization by April 1, 1993, one year after receipt of a complete NJPDES individual permit application or request for authorization (unless the general permit specifies a shorter time period); and

2. The Department shall issue or deny permits for large or medium municipal separate storm sewer systems by the deadlines contained in 40 C.F.R. 122.26(e)(7)(ii) and (iii), which are incorporated into this chapter by reference.

7:14A-24.5 Requests for information about stormwater discharges associated with industrial activity

(a) The Department may, by written notice, request any person whom the Department has reason to believe may own or operate a facility with a "stormwater discharge associated with industrial activity" as defined in N.J.A.C. 7:14A-1.2 to either:

1. Declare to the Department that person's intent to obtain a DSW permit for a "stormwater discharge associated with industrial activity";

2. Submit a "Permanent No Exposure Certification" form to the Department under N.J.A.C. 7:14A-24.6; or

3. Provide other information to the Department that explains why, in that person's judgment, that person is not required to obtain, for property or operations owned or operated by that person, a DSW permit for a "stormwater discharge associated with industrial activity" as defined in N.J.A.C. 7:14A-1.2. Such information may include:

i. Information about the nature, source, and location of the stormwater discharge from such property or operations; or

ii. Information concerning that person (for example, information explaining why that person does not have a duty under N.J.A.C. 7:14A-4.2(c) to obtain a NJPDES permit).

(b) A written notice under (a) above shall include a statement that such notice was sent pursuant to this section and the State Act, and that failure to respond to such notice in the manner required by this section is a violation of the State Act. Such notice shall also briefly explain why the Department has reason to believe that person may own or operate a facility with a "stormwater discharge associated with industrial activity" as defined in N.J.A.C. 7:14A-1.2. (For example, one sufficient reason is information indicating that the person may own or operate an establishment classified under a Standard Industrial Classification (SIC) code expressly listed in the definition of "stormwater discharge associated with industrial activity," or a landfill, steam electric power generating plant, treatment works treating domestic sewage, or construction operation that results in the disturbance of land.) Such notice may also require the person's response to be on a form provided by the Department, and to include a certification substantially equivalent to that required in a permit application under N.J.A.C. 7:14A-4.9(d).

(c) Upon receipt of a written notice under (a) above, the person shall provide a written response in accordance with this section within 60 days, unless the notice specifies a longer time period. The Department, in its discretion, may also extend the time allowed for submitting a response for good cause shown.

(d) Nothing in (a) through (c) above shall exempt any person from any deadline to apply for a NJPDES permit under N.J.A.C. 7:14A-4.2(e) and 24.4, or prevent the Department from making other requests for information under N.J.A.C. 7:14A-2.11 or the State Act.

7:14A-24.6 "Permanent No Exposure" of industrial activities and materials to stormwater

(a) Subject to the limitations and provisions in (g), (i) and (j) below, an operating entity for an industrial facility is excluded from the requirement to obtain a NJPDES DSW permit for discharge(s) composed entirely of stormwater if:

1. There is "Permanent No Exposure" of industrial materials and activities to rain, snow, snowmelt and/or runoff and runoff discharged to surface water; and

2. The operating entity satisfies the conditions in (d) below.

(b) Discharges that qualify for this exclusion are not "stormwater discharges associated with industrial activity" as defined in N.J.A.C. 7:14A-1.2.

(c) For purposes of this section:

1. "Permanent No Exposure" means that all industrial materials are stored and/or all industrial activities are performed inside a permanent building or permanent structure that is anchored to a permanent foundation, and that is completely roofed and walled (except as provided in (f) below).

2. "Industrial materials and activities" include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, by-product, final product or waste product.

(d) To qualify for this exclusion, the operating entity for the industrial facility shall:

1. Attain the condition of "Permanent No Exposure" identified under (a)1 above;

2. Complete and sign in accordance with N.J.A.C. 7:14A-4.9 the Department's "Permanent No Exposure Certification" form (see (h) below);

3. Submit the signed certification to the Department once every five years;

4. Allow the Department to inspect the facility to verify that the operating entity meets the applicable conditions, and to make inspection reports available to the public upon request; and

5. For facilities that discharge through a municipal separate storm sewer system (MS4), and at the request of that MS4's operating entity, submit a copy of the "Permanent No Exposure Certification" to that entity, and allow inspection and public reporting by that entity.

(e) The exclusion is not transferable. In the event that the operating entity changes, the new operating entity must submit a new "Permanent No Exposure Certification" and is subject to the same conditions in (d) above.

(f) To qualify for this exclusion, a permanent building or permanent structure is not required for:

1. Dumpsters or other rigid containers of similar or larger size, that are used only for routine collection and temporary storage of industrial or other waste materials generated at the facility, and that are watertight, leak proof, and covered, with no visible residue or contamination on the external exposed surfaces;

2. Adequately maintained vehicles in normal operating condition used in material handling; and

3. Pipe that is not deteriorated and does not leak, and that is installed for use in the transportation or conveyance of materials at or through the facility. For purposes of this paragraph, "pipe" does not include pumps, inlet valves, or outlet valves.

(g) This exclusion is subject to the following limitations:

1. Stormwater discharges from construction activities as described under subparagraph 1x of the definition of "stormwater discharge associated with industrial activity" in N.J.A.C. 7:14A-1.2, and "stormwater discharge associated with small construction activity" as defined at N.J.A.C. 7:14A-1.2, are not eligible for this exclusion.

2. This exclusion is available on a facility-wide basis only, not for individual outfalls or drainage areas.

3. If circumstances change and industrial materials or activities become exposed to rain, snow, snowmelt, and/or runoff and runoff discharged to surface water (except as provided in (f) above), the conditions for this exclusion no longer apply. In such cases, a NJPDES permit shall be obtained for the discharge and the discharge becomes subject to enforcement as an unpermitted discharge of stormwater associated with industrial activity unless and until a permit is obtained.

i. Any conditionally exempt discharger who anticipates changes in circumstances should submit an application or RFA and obtain a NJPDES permit authorization prior to the change of circumstances.

4. Notwithstanding the provisions of this section, the Department retains the authority to require an operating entity to submit an application or RFA (and deny this exclusion) upon making a determination that any stormwater discharge from the facility causes, has a reasonable potential to cause, or contributes to an excursion in surface waters above an applicable surface water quality standard, including designated uses.

5. This section does not exclude any operating entity for a municipal separate storm sewer system (MS4) from any requirement under N.J.A.C. 7:14A-24 or 25 to obtain a NJPDES permit for stormwater discharge from the MS4.

(h) A completed "Permanent No Exposure Certification" shall include all of the following information, and must be submitted on a form provided by the Department:

1. The name, mailing address and phone number of the operating entity;

2. The name, address, and location of the facility;

3. A statement that the person signing the certification has read and understands the eligibility requirements for claiming a condition of "Permanent No Exposure" and obtaining this exclusion; and

4. A statement that the operating entity has attained the condition of "Permanent No Exposure" identified under (a)1 above, and understands its obligation to comply with all applicable conditions for the exclusion under (d) above, and to apply for a NJPDES permit prior to any discharge of stormwater associated with industrial activity from the facility.

(i) For an operating entity that is authorized to discharge stormwater under a valid NJPDES permit, the Department shall perform an inspection to confirm that all applicable conditions for the exclusion under (d) above have been met prior to modifying the permit to delete such discharge in accordance with N.J.A.C. 7:14A-16.4(b)1, revoking the permit in accordance with N.J.A.C. 7:14A-16.6(a)4, or revoking authorization under a general permit in accordance with N.J.A.C. 7:14A-6.13(j).

1. If the Department confirms that all applicable conditions for the exclusion have been met, the modification or revocation shall be effective as of the date of the Department's receipt of the "Permanent No Exposure Certification."

i. Until the operating entity receives a final modification or revocation from the Department, the operating entity's authorization under the NJPDES permit and all conditions of the permit, including any monitoring and reporting requirements, remain fully effective and enforceable with respect to the stormwater discharge.

2. Based on an inspection of the facility, if the Department determines that one or more applicable conditions for the exclusion have not been met, the Department will respond in writing with the reasons for the denial. The operating entity's authorization under the NJPDES permit and all conditions of the permit remain fully effective and enforceable.

(j) For an operating entity that is not authorized to discharge stormwater under a valid NJPDES permit, the conditional exclusion shall be effective as of the date of the Department's receipt of the "Permanent No Exposure Certification" if the conditions of this section have been satisfied.

1. If the Department inspects the facility in accordance with (d)4 above and determines that any condition of this section has not been satisfied, the Department shall deny the conditional exclusion and require the operating entity to submit a permit application or RFA for the stormwater discharge associated with industrial activity.

7:14A-24.7 Permit application requirements for stormwater discharges associated with industrial activity or small construction activity, and for certain other stormwater DSW

(a) Operating entities for stormwater discharges associated with industrial activity or small construction activity (from point or nonpoint sources), and for industrial or commercial stormwater DSW (from point or nonpoint sources) identified under N.J.A.C. 7:14A-24.2(a)1 or 7, shall apply for an individual NJPDES DSW permit or request authorization under a final stormwater general NJPDES DSW permit in accordance with the deadlines set forth at N.J.A.C. 7:14A-24.4. Any such operating entity that is required or seeks to obtain an individual DSW permit shall submit an individual permit application in accordance with the requirements of N.J.A.C. 7:14A-4 as modified and supplemented by this section and N.J.A.C. 7:14A-24.8. Except as provided in (a)2 and (b) below, this individual permit application shall include (for discharges composed entirely of stormwater) the NJPDES-1 Form, NJPDES Form RF, and NJPDES Form R, Part A (the facility's residual use or residual disposal practices may require the completion of additional sections of Form R). If this individual permit application is for a stormwater discharge mixed with domestic sewage and/or an industrial nonstormwater discharge that requires a NJPDES-DSW permit, the operating entity shall comply with N.J.A.C. 7:14A-4, but is exempt from the requirements of (a)1 and 2 below, and shall not submit NJPDES Form RF.

1. Except as provided in (a)2 through 4, (a)6 and (b) below, an individual permit application for a stormwater DSW under this subsection shall include the following:

i. A site map showing:

(1) The facility boundaries;

(2) Topography (or indicating the outline of drainage areas covered in the application if a topographic map is unavailable) of the facility, including generalized stormwater flow and drainage patterns;

(3) The location and size (approximate size for earthen structures or channels) of each of the facility's drainage and discharge structures and natural drainage channels;

(4) The location, drainage area, and identification number of each stormwater outfall;

(5) The location and identification number of each drainage area not served by a stormwater outfall;

(6) Paved areas and buildings within each drainage area;

(7) Each area known to be used at present or in the three years prior to the submittal of this application for outdoor storage or disposal of "significant materials" as defined in N.J.A.C. 7:14A-1.2;

(8) Each existing structural control measure to reduce pollutants in stormwater runoff;

(9) Materials loading and access areas;

(10) Areas where pesticides, herbicides, soil conditioners and fertilizers are applied;

(11) Each of the facility's onsite residual or hazardous waste treatment, storage or disposal facilities (including each area not required to have a RCRA permit which is used for accumulating hazardous waste under 40 C.F.R. 262.34);

(12) The location (to the extent practicable) where solid, liquid, or hazardous waste is stored at the facility;

(13) Springs, streams, rivers, canals, lakes, ponds, bays, the ocean, or other surface water bodies which receive stormwater discharges from the facility; and

(14) Each sampling location for stormwater sampling data reported in the application;

ii. An 8.5 inch x 11 inch copy of a portion of a U.S. Geological Survey Topographic Map(s), 7.5 minute Quadrangle Series extending one mile beyond the facility boundaries. The facility boundaries must be marked on the copy;

iii. The latitude and longitude to the nearest second of each stormwater outfall, and the name of the receiving surface water(s) of each stormwater outfall and each drainage area not served by a stormwater outfall;

iv. If stormwater is discharged to receiving surface water(s) through an offsite public or private storm drainage system, the name of the owner(s) of that system;

v. An estimate of the area of impervious surfaces (including paved areas and building roofs) and the total drainage area of each outfall and of each area not served by an outfall and a narrative description of the following on-site features at the facility:

(1) "Significant materials" (as defined in N.J.A.C. 7:14A-1.2) known by the applicant to have been treated, stored or disposed in a manner to allow exposure to stormwater;

(2) Method of treatment, storage or disposal of such materials;

(3) Materials management practices employed currently (and in the past, if the applicant has information), to minimize contact by these materials with stormwater runoff;

(4) Materials loading and access areas;

(5) The location, manner and frequency in which pesticides, herbicides, soil conditioners and fertilizers are applied;

(6) The location and a description of existing structural and non-structural control measures to reduce pollutants in stormwater runoff; and

(7) A description of the treatment the stormwater receives, including the ultimate disposal of any solid, hazardous, or fluid wastes other than by discharge;

vi. A certification that all outfalls (and all drainage areas not served by outfalls) that should contain stormwater discharges associated with industrial activity have been tested or evaluated for the presence of non-stormwater discharges which are not authorized by a NJPDES permit; tests for such non-stormwater discharges may include smoke tests, fluorometric dye tests, analysis of accurate schematics, as well as other appropriate tests. The certification shall include a description of the method used, the date of any testing, and the on-site drainage locations that were directly observed during a test;

vii. Existing information the applicant has regarding significant leaks or spills of toxic or hazardous pollutants at the facility, including the approximate date and location of the spill or leak, and the type and amount of material released. For purposes of the preceding sentence, significant leaks or spills at a facility generally include releases of oil or hazardous substances in excess of reportable quantities under Section 311 of the Clean Water Act, 33 U.S.C. § 1321 (see 40 C.F.R. 110.10 and 40 C.F.R. 117.21) or Section 302 of CERCLA (see 40 C.F.R. 302.4);

viii. Quantitative data based on samples collected during storm events and collected in accordance with N.J.A.C. 7:14A-24.8 from all outfalls (and all drainage areas not served by outfalls) containing a stormwater discharge associated with industrial activity for the following parameters:

(1) Any pollutant limited in an effluent guideline to which the facility is subject;

(2) Any pollutant specifically limited in the facility's NJPDES DSW permit for its process wastewater (if the facility is operating under an existing NJPDES DSW permit);

(3) Oil and grease, pH, BOD5, COD, TSS, total phosphorus, total Kjeldahl nitrogen, and nitrate plus nitrite nitrogen;

(4) Any information on the discharge required under N.J.A.C. 7:14A-4.4(b)5i and ii and (b)6. For purposes of those provisions, an applicant is expected to know or have reason to believe that a pollutant is present in an effluent based on an evaluation of the expected use, production, manufacturing of an intermediate or final product or byproduct, or storage of the pollutant, or on any previous analyses for the pollutant. (For example, any pesticide manufactured by a facility may be expected to be present in contaminated stormwater runoff from the facility.);

(5) Measurements or estimates of the maximum flow rate and of the total amount of discharge for the storm event(s) sampled, and the method of flow measurement or estimation. (This information and the information required under (a)1viii(6) below is required only for the storm event(s) which resulted in any maximum pollutant concentration reported under (a)1viii(1) through (4) above for the flow-weighted composite sample.); and

(6) The date and duration (in minutes) of the storm event(s) sampled, rainfall measurements or estimates of the storm event (in inches) which generated the sampled runoff and the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event (in hours);

ix. The source(s) (if known) of each pollutant (except pH) listed in the application pursuant to (a)1viii above;

x. In preparing an individual permit application under (a)1 above, both outfalls and drainage areas not served by outfalls shall be regulated in the same manner as "outfalls" for purposes of (a)1viii(4) above and N.J.A.C. 7:14A-4.4(b) and 24.8;

xi. Any operating entity for a discharge composed entirely of stormwater is exempt from the requirements of N.J.A.C. 7:14A-4.3(a)15, 16, 17, 21 and 22, and 4.4(a), (b)3i and ii and (b)7; and

xii. Any operating entity for a new source or new discharge (as defined in N.J.A.C. 7:14A-1.2) composed in part or entirely of stormwater shall include estimates for the pollutants or parameters listed in (a)1viii above instead of actual sampling data, along with the source of each estimate. Any operating entity for a new source or new discharge composed in part or entirely of stormwater must provide quantitative data for the parameters listed in (a)1viii above within two years after commencement of discharge, unless such data has already been reported under the monitoring requirements of the NJPDES permit for the discharge. Any operating entity for a new source or new discharge composed entirely of stormwater is exempt from the requirements of N.J.A.C. 7:14A-4.3(a)15, 16, 17, 21iii and 22, and 4.4(b)3 through 7.

2. Except as provided in (a)5 below, the operating entity for an existing or new stormwater discharge that is associated with construction activity solely under subparagraph 1x of the definition of "stormwater discharge associated with industrial activity" in N.J.A.C. 7:14A-1.2, or solely under the definition of "stormwater discharge associated with small construction activity" in N.J.A.C. 7:14A-1.2, is exempt from the requirements of (a)1 above and N.J.A.C. 7:14A-4.3(a)11, (a)15 through 22, (c) and (d) and 4.4, and shall not submit NJPDES Form RF. Such operating entity shall, if applying for an individual NJPDES DSW permit, submit the NJPDES-1 Form, NJPDES Form RFC, and NJPDES Form R, Part A (the facility's residual use or residual disposal practices may require the completion of additional sections of Form R). The application shall include the following:

i. A narrative description of:

(1) The location and nature of the construction activity;

(2) The nature of fill material used or disturbed during the construction activity; and

(3) Existing data describing the soil or the quality of the stormwater discharge;

ii. An 8.5 inch x 11 inch copy of a portion of a U.S. Geological Survey Topographic Map(s), 7.5 minute Quadrangle Series extending one mile beyond the facility boundaries. The facility boundaries must be marked on the copy;

iii. If the facility is within the Pinelands Area (as defined by N.J.S.A. 13:18A-11), documentation that the Pinelands Commission has reviewed and approved the facility, or that the Pinelands Commission will not review the facility based upon a certification or approval issued under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq.;

iv. A stormwater pollution prevention plan for the construction activity. This stormwater pollution prevention plan shall include:

(1) The total land area of the site (in acres);

(2) The land area of the site (in acres) that is expected to be cleared, graded, excavated, or otherwise disturbed during the term of the permit;

(3) The name of the receiving surface water(s);

(4) If stormwater is discharged to receiving surface water(s) through an offsite public or private storm drainage system, the name of the owner(s) of that system;

(5) A site map showing:

(A) Facility boundaries;

(B) Areas of land disturbance (existing and proposed);

- (C) Areas where land will not be disturbed;
- (D) The approximate location of the kinds of soil present (applicants may mark the facility boundaries on a copy of a detailed soil map published by the United States Department of Agriculture where available);
- (E) Existing and proposed land cover (for example, wooded area, open grassed area, pavement, buildings);
- (F) Generalized drainage patterns and approximate slopes (existing and proposed);
- (G) Locations of major drainage and discharge features (existing and proposed) and natural drainage channels;
- (H) Locations of soil storage piles (existing and proposed);
- (I) Each existing onsite residual or hazardous waste treatment, storage or disposal facility;
- (J) The location (to the extent practicable) of all storage or disposal sites at the facility for solid or liquid waste;
- (K) Locations of proposed major structural and nonstructural best management practices (BMPs) to control stormwater pollutants during and after construction;
- (L) Surface water bodies which receive stormwater discharges from the facility; and
- (M) Whether the drainage system immediately receiving stormwater discharged from the facility is a surface water body, an offsite public or private storm drainage system, or other system as applicable;
- (6) A narrative description of proposed BMPs to control pollutants in stormwater discharges during construction, including:
 - (A) Appropriate erosion and sediment control BMPs that at a minimum meet standards established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. (and implementing rules). The narrative description shall include a brief description of applicable State and local erosion and sediment control requirements; and
 - (B) BMPs to control waste such as discarded building materials, concrete truck washout, chemicals, litter, sanitary waste, and other solid or hazardous waste at the construction site;
- (7) Copies of approved State or local requirements for BMPs under (a)2iii(6) above;
- (8) Maintenance procedures and inspection procedures for BMPs under (a)2iii(6) above; and

- (9) Identification of non-stormwater discharges;
 - v. An estimate of the post-construction runoff coefficient of the site, and the increase in the area of impervious surface after the construction addressed in the individual permit application is completed; and
 - vi. A narrative description of proposed BMPs to control pollutants in stormwater discharges that will occur after construction operations have been completed, including a brief description of applicable State or local stormwater management controls and erosion and sediment control requirements.
- 3. The operating entity for an existing or new discharge composed entirely of stormwater from an oil or gas exploration, production, processing, or treatment operation, or transmission facility is not required to apply for a NJPDES DSW permit in accordance with this section, unless the facility:
 - i. Has had a discharge of stormwater resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 C.F.R. 117.21 or 40 C.F.R. 302.6 at anytime since November 16, 1987;
 - ii. Has had a discharge of stormwater resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 C.F.R. 110.6 at any time since November 16, 1987; or
 - iii. Contributes to a violation of a surface water quality standard.
- 4. The operating entity for an existing or new discharge composed entirely of stormwater from a mining operation is not required to apply for a NJPDES DSW permit in accordance with this section, unless the discharge has come into contact with any overburden, raw material, intermediate products, finished product, byproduct or waste products located on the site of such operations.
- 5. Applicants shall provide such other information as the Department may reasonably require under N.J.A.C. 7:14A-4.3(e) to determine whether to issue a NJPDES DSW permit. The Department may require any operating entity subject to (a)2 above to comply with (a)1 above and submit NJPDES Form RF.
 - (b) A group application submitted to USEPA under former 40 C.F.R. 122.26(c)(2) does not qualify under (a) above as an application for an individual NJPDES permit, or as a request for authorization under a NJPDES general permit. However, if a facility was approved by the USEPA as a member of a group application pursuant to 40 C.F.R. 122.26(e)(2) and applies to the Department for an individual NJPDES permit for a stormwater discharge associated with industrial activity, the Department may accept the quantitative data in Part 2 of that group application in lieu of quantitative data collected at the applicant's facility for that stormwater discharge, provided that:

1. The quantitative data in Part 2 of that group application is submitted to the Department by the entity that prepared the group application or by the applicant; and

2. The USEPA has not informed that entity that the quantitative data in Part 2 that was submitted to the Department is inaccurate or incomplete.

(c) Operating entities for stormwater DSW (from point or nonpoint sources) that are identified under N.J.A.C. 7:14A-24.2(a)1 or 7, but that are not from industrial or commercial facilities or from small MS4s, shall apply for an individual NJPDES DSW permit or request authorization under a final stormwater general NJPDES DSW permit in accordance with the deadlines set forth at N.J.A.C. 7:14A-24.4(a)4. Any such operating entity that is required or seeks to obtain an individual DSW permit shall submit an individual permit application in accordance with the requirements of N.J.A.C. 7:14A-4 (except N.J.A.C. 7:14A-4.3(a)11, (a)15 through 24, (c) and (d) and 4.4). This individual permit application shall include:

1. The NJPDES-1 Form;
2. Other information required under N.J.A.C. 7:14A-4.3 (except as exempted above in this subsection);
3. An 8.5 inch x 11 inch copy of a portion of a U.S. Geological Survey Topographic Map(s), 7.5 minute Quad-range Series extending one mile beyond the facility boundaries. The facility boundaries must be marked on the copy; and
4. Such other information as the Department may reasonably require under N.J.A.C. 7:14A-4.3(e).

7:14A-24.8 Sample collection procedures for individual stormwater DSW permit applications

(a) When "quantitative data" for a pollutant are required under N.J.A.C. 7:14A-24.7(a)lviii (or under N.J.A.C. 7:14A-25.10(a) and 40 C.F.R. 122.26(d)(2)(iii)) in an individual NJPDES permit application for a stormwater DSW, the applicant shall collect samples in accordance with N.J.A.C. 7:14A-4.4(b) (also see N.J.A.C. 7:14A-24.7(a)1x) and the following paragraphs (procedures or requirements in (a)1 through 4 below are subject to change under (a)5 below):

1. All samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inch and at least 72 hours from the previously measurable (greater than 0.1 inch) storm event. Where feasible, the variance in the duration of the event and the total rainfall of the event should not exceed 50 percent from the average or median rainfall event in that area.

2. For all pollutants requiring analysis under N.J.A.C. 7:14A-24.7, quantitative data must be reported for a grab sample taken during the first 30 minutes (or as soon thereafter as practicable) of the stormwater discharge.

3. For all pollutants requiring analysis under N.J.A.C. 7:14A-24.7 (or under N.J.A.C. 7:14A-25.10, where applicable), quantitative data must be reported for a flow-weighted composite sample (except as provided in (a)3i and ii below). This sample must be taken for either the entire stormwater discharge or for the first three hours of the stormwater discharge. (Notwithstanding N.J.A.C. 7:14A-4.4(b)2ii, a 24-hour composite sample of the stormwater discharge is not required.) Only one analysis of the composite of aliquots is required.

i. A minimum of one grab sample may instead be taken for stormwater discharges from holding ponds or other impoundments with a retention period greater than 24 hours.

ii. Flow-weighted composite samples shall not be taken for pH, temperature, cyanide, total phenols, chlorine produced oxidants, oil and grease, petroleum hydrocarbons, all volatile organics, and fecal coliform, fecal streptococcus, and other bacterial indicators.

iii. The flow-weighted composite sample shall be:

(1) Taken with a continuous sampler;

(2) A combination of a minimum of three sample aliquots taken in each hour of discharge for the entire discharge; with each aliquot being separated by a minimum period of fifteen minutes; or

(3) A combination of a minimum of three sample aliquots taken in each of the first three hours of the discharge, with each aliquot being separated by a minimum period of 15 minutes.

4. Notwithstanding N.J.A.C. 7:14A-4.4(b)5ii, stormwater permit applicants are not required to report the daily maximum or daily average for any pollutant. Notwithstanding N.J.A.C. 7:14A-4.4(b)3vi, stormwater permit applicants are not required to report as total mass:

i. Any sampling data from grab samples; or

ii. Any sampling data for flow, or for any pollutants that cannot be appropriately expressed in terms of mass (including, but not limited to, pH, acute and chronic whole effluent toxicity, temperature, and fecal coliform, fecal streptococcus, and other bacterial indicators).

5. The Department may allow or establish (in the Pollutant Analysis Summary in NJPDES Form RF or elsewhere) appropriate site-specific sampling procedures or requirements, including:

i. Sampling locations, the season in which the sampling takes place, the minimum duration between the previous storm event and the storm event sampled, the minimum or maximum level of precipitation required for an appropriate storm event, and the form of precipitation sampled (snowmelt or rainfall); and

ii. The type of sampling (for example, grab sample or flow-weighted composite sample), whether and how to measure (or estimate) and report flow, protocols for collecting samples that may differ from protocols for collecting samples under 40 C.F.R. 136 or N.J.A.C. 7:18, time duration between the collection of sample aliquots in flow-weighted or other composite samples, mode of reporting sampling results (for example, concentration or loading) or other sampling or storm event information, and additional time for submitting data on a case-by-case basis.

7:14A-24.9 Monitoring requirements for certain stormwater discharges

(a) For small municipal separate storm sewer systems, and for stormwater discharges associated with industrial activity or small construction activity that are not subject to an effluent limitation guideline that establishes monitoring requirements or numeric effluent limitations, monitoring requirements shall be established on a case-by-case basis depending upon the nature and effect of the discharge. The permittee shall be required to monitor such discharges in accordance with N.J.A.C. 7:14A-11.2(a)2, or, at a minimum:

1. For small municipal separate storm sewer systems subject to N.J.A.C. 7:14A-25.6 or 25.8, the permittee shall comply with the requirements for evaluation, recordkeeping, and reporting in N.J.A.C. 7:14A-25.6(j) or 25.8(i), respectively.

2. For stormwater discharges associated with industrial activity or small construction activity:

i. The permittee shall conduct an annual inspection of the facility to identify areas contributing to a stormwater discharge associated with industrial activity or small construction activity and evaluate whether measures to reduce pollutant loadings identified in a stormwater pollution prevention plan are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed;

ii. The permittee shall prepare a report summarizing the result of the annual inspection conducted under (a)2i above. This report shall be accompanied by an annual certification that the facility is in compliance with its stormwater pollution prevention plan and the permit, except that if there are any incidents of non-compliance, those incidents shall be identified in the certification. If there are incidents of non-compliance, the report shall identify the steps being taken to remedy the non-compliance and to prevent such incidents from recurring. The permittee shall maintain this report and certification for a period of at least five years from the date of the report. This period may be extended by written request from the Department at any time; and

iii. Such report and certification shall be signed by a person described in N.J.A.C. 7:14A-4.9.

iv. Permittees that are not required to submit monitoring reports at least annually pursuant to this subsection shall report to the Department at least annually all instances of non-compliance not reported under N.J.A.C. 7:14A-6.7, 6.8 and 6.10.

(b) The operating entity for a large or medium municipal separate storm sewer system shall include, in its annual report, a summary of data, including monitoring data, that is accumulated throughout the reporting year, in accordance with N.J.A.C. 7:14A-25.10(b) and 40 C.F.R. 122.42(c).

7:14A-24.10 Additional requirements for stormwater discharges associated with construction activity

(a) This section sets forth additional requirements applicable to "stormwater discharge associated with small construction activity" as defined at N.J.A.C. 7:14A-1.2, and to stormwater discharge associated with construction activity described under subparagraph 1x of the N.J.A.C. 7:14A-1.2 definition of "stormwater discharge associated with industrial activity." The Department may issue general and/or individual NJPDES permits for such discharges. The NJPDES permit program for such discharges shall be designed to reduce pollutants in such discharges. The program components include:

1. NJPDES permit conditions requiring that operating entities for construction sites implement appropriate erosion and sediment control BMPs. NJPDES permits shall require compliance with the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules;

2. NJPDES permit conditions requiring that operating entities for construction sites control waste such as discarded building materials, concrete truck washout, chemicals, litter, sanitary waste, and other solid or hazardous waste at the construction site that may cause adverse impacts to water quality;

3. For construction activities described under subparagraph 1x of the N.J.A.C. 7:14A-1.2 definition of "stormwater discharge associated with industrial activity," NJPDES permit conditions imposing any additional requirements necessary to achieve the applicable technology-based standards of "best available technology" and "best conventional technology" based on the Department's best professional judgment, effluent limitations and standards promulgated under Section 301 of the Federal Act (33 U.S.C. § 1311), or new source performance standards promulgated under Section 306 of the Federal Act (33 U.S.C. § 1316);

4. NJPDES permit conditions requiring that operating entities for construction sites develop, submit for review, and implement a stormwater pollution prevention plan for construction activity. (This stormwater pollution prevention plan shall include site descriptions, descriptions of appropriate control measures, copies of approved State or

local requirements, maintenance procedures, inspection procedures, and identification of non-stormwater discharges.);

5. The review of stormwater pollution prevention plans, including the consideration of potential water quality impacts of construction activity;

6. The implementation of applicable provisions of N.J.A.C. 7:50-4.81 through 4.85 (coordinated permitting in the Pinelands Area);

7. The receipt and consideration of information submitted by the public; and

8. Site inspection and enforcement of control measures.

SUBCHAPTER 25. MUNICIPAL STORMWATER REGULATION PROGRAM

Authority

N.J.S.A. 13:1D-1 et seq.; 40:55D-1 et seq.;
58:10A-1 et seq. and 58:11A-1 et seq.

Source and Effective Date

R.2004 d.47, effective February 2, 2004.
See: 35 N.J.R. 169(a), 35 N.J.R. 1331(a), 36 N.J.R. 813(a).

7:14A-25.1 Scope

(a) This subchapter sets forth requirements applicable to the Municipal Stormwater Regulation Program, which regulates discharges to surface water and groundwater of stormwater from large, medium, and small municipal separate storm sewer systems.

(b) For purposes of this subchapter, "municipality" means a "municipality" as defined in the Municipal Land Use Law at N.J.S.A. 40:55D-5, that is, any city, borough, town, township, or village.

7:14A-25.2 Identifying municipalities, public complexes, and highways or other thoroughfares regulated under the small MS4 program

(a) A NJPDES permit is required for the stormwater discharges to surface water or groundwater identified in (a)1 through 4 below. The operating entities for those discharges shall apply for a NJPDES permit in accordance with N.J.A.C. 7:14A-25.4(a) and 25.5(a).

1. Tier A municipalities: All stormwater discharges from small MS4s that are owned or operated by and located in a municipality that is assigned to Tier A under N.J.A.C. 7:14A-25.3(a)1;

2. Public complexes: All stormwater discharges from small MS4s that are owned or operated by a county, State, interstate, or Federal agency at a "public complex" located entirely or partially in a municipality that is assigned to Tier A under N.J.A.C. 7:14A-25.3(a)1, or in a municipality that receives a waiver under (d) below. For purposes of this subsection, a "public complex" is a single lot (or two or more lots that are contiguous or on a college or university campus) which contains at least two buildings owned or operated by the same governmental entity, and:

i. Is at a campus of a college or university which Statewide has a combined total of at least 1,000 employees (usually present at least six hours per day on weekdays) or full-time students; or

ii. Is at any other public facility (for example, a military base, hospital, prison, or general administration facility), and has a combined total of at least 1,000 employees, military personnel, or residents (including patients or prisoners) usually present at least six hours per day on weekdays.

3. Highways or other thoroughfares: All stormwater discharges from small MS4s that are owned or operated by a county, State, interstate, or Federal agency at a highway or other thoroughfare (including a maintenance or service facility or rest area for such a thoroughfare). For purposes of this subsection, a "highway or other thoroughfare" does not include:

i. Any thoroughfare confined to the grounds of a single building, or of two or more buildings that are not a "public complex" as described under (a)2 above (unless that building(s) is a maintenance or service facility for a highway or other thoroughfare not confined to such grounds);

ii. Any thoroughfare confined to the grounds of a "public complex" (each such thoroughfare is instead considered part of the "public complex"); or

iii. Any thoroughfare (other than the Palisades Interstate Parkway) confined to an officially designated park, forest, recreational area, natural area, wildlife management area, or area set aside for water supply protection.

4. Special designations: All of the following stormwater discharges from municipal separate storm sewers (which for purposes of this paragraph does not include "large" or "medium" municipal separate storm sewer systems, or separate storm sewers in very discrete areas, such as individual buildings):

i. All stormwater discharges from municipal separate storm sewers that the Department designates as "small MS4s that contribute substantially to the pollutant loadings of a physically interconnected municipal separate storm sewer that requires a NJPDES permit" under this subsection, or under N.J.A.C. 7:14A-24.2(a)5, 7 or 9;

ii. All stormwater discharges that are from municipal separate storm sewers, and that are designated under N.J.A.C. 7:14A-24.2(a)7 or 9;

iii. All stormwater discharges that are from municipal separate storm sewers, and that are determined to require a NJPDES permit in response to a petition under N.J.A.C. 7:14A-24.3;

iv. All stormwater discharges whose operating entity is granted a waiver under (d) below, but that are subsequently determined to require a NJPDES permit under (e) below; and

v. All stormwater discharges from municipal separate storm sewers designated by USEPA under 40 C.F.R. 123.35(b).

(b) Each municipality that is assigned to Tier B under N.J.A.C. 7:14A-25.3(a)2, and that operates a small MS4 that discharges to surface water or groundwater, shall apply for the Tier B Municipal Stormwater Permit under N.J.A.C. 7:14A-25.8.

(c) All stormwater discharges to surface water or groundwater that are from small MS4s but not identified under (a) or (b) above are exempt from the requirement to obtain a NJPDES permit from the Department, except as provided in N.J.A.C. 7:14A-8.3, Prohibition of underground injection.

(d) The duty to obtain a permit under section 402 of the Federal Act (33 U.S.C. § 1342) is waived for all operating entities for each small MS4 that is:

1. Owned or operated by and located in a municipality that is assigned to Tier B under N.J.A.C. 7:14A-25.3(a)2; and

2. Located within an urbanized area as determined by the 2000 Decennial Census by the Bureau of the Census or a subsequent and superseding Decennial Census.

3. This waiver applies solely to stormwater discharges from the small MS4s meeting the criteria at (d)1 and 2 above to surface waters of the State, and is subject to (e) below. This waiver does not exempt any Tier B municipality from the duty to obtain the Tier B Municipal Stormwater Permit where required under (b) above.

4. The Department shall publish in the New Jersey Register a notice of administrative change revising (as appropriate under this subsection or (e) below) the list of municipalities in the table below, and shall mail notice of such revision to the affected municipality(ies) and county(ies). Each notice under this subsection shall identify the reason for the revision. The list in this table is for informational purposes only. Any person may obtain the most current list of municipalities to which the waiver applies and which are assigned to Tier B from the Department's Division of Water Quality, Bureau of Non-point Pollution Control at PO Box 029, Trenton, New

Jersey 08625, or from the Division's website (<http://www.state.nj.us/dep/dwq>).

Municipalities to which Waiver Applies
and which Are Assigned to Tier B

Bergen County

Rockleigh Borough

Teterboro Borough

Burlington County

Chesterfield Township

Fieldsboro Borough

Springfield Township

Camden County

Pine Valley Borough

Tavistock Borough

Cumberland County

Deerfield Township

Gloucester County

Elk Township

Woolwich Township

Hunterdon County

Bethlehem Township

Bloomsbury Borough

East Amwell Township

Franklin Township

Lebanon Township

Tewksbury Township

Union Township

West Amwell Township

Monmouth County

Interlaken Borough

Upper Freehold Township

Morris County

Harding Township
 Salem County
 Oldmans Township
 Upper Pittsgrove Township
 Somerset County
 Far Hills Borough
 Millstone Borough
 Rocky Hill Borough
 Sussex County
 Andover Borough
 Fredon Township
 Warren County
 Allamuchy Township
 Harmony Township

(e) The waiver under (d) above is based on the fact that the small MS4s identified do not have any of the characteristics set forth in (e)1 or 2 below, and based on the presumption that those small MS4s are of such minimal extent and serve such a small population that none of their stormwater discharges have any of the characteristics set forth in (e)3i through iii below. An operating entity to which the waiver applies may subsequently be required to apply for a NJPDES permit under (a) above if circumstances change. The Department shall require any operating entity to which the waiver applies to apply for a NJPDES permit under (a) above for a stormwater discharge from that entity's small MS4 if:

1. The municipality in which the small MS4 is located is reassigned from Tier B to Tier A in accordance with N.J.A.C. 7:14A-25.3(a)1 (for a reason other than the review under this subsection of the operating entity's waiver);
2. That stormwater discharge is identified under (a)4ii, iii or v above (special designations); or
3. Information specific to the small MS4 demonstrates to the Department's satisfaction that the stormwater discharge from the small MS4:
 - i. Contributes substantially to the pollutant loadings of a physically interconnected MS4 (see (a)4i above) that requires a NJPDES permit under (a) above;

- ii. Contains a pollutant(s) for which stormwater controls have been established as part of a USEPA approved or established "total maximum daily load" (TMDL) that addresses the pollutant(s) of concern; or
- iii. Requires an individual UIC permit under N.J.A.C. 7:14A-8.5(d).

(f) Whenever a NJPDES permit is required under (a)4 above (special designations), or a municipality is assigned to Tier A under N.J.A.C. 7:14A-25.3(a)1v, the Department shall notify the operating entity in writing of the reasons for such a determination, and shall include instructions on how to apply for a NJPDES permit.

1. If the operating entity applies for an individual NJPDES permit in response to such notice, comment regarding the appropriateness of the initial determination may be received during the public comment period under N.J.A.C. 7:14A-15.11 and in any subsequent hearing, unless the reason for that determination was a decision made by USEPA under 40 C.F.R. 122.26(a)(9)(i)(C) or (a)(9)(i)(D), or under 40 C.F.R. 123.35(b) or (c).

2. If the operating entity is a municipality that has applied for or received authorization under the Tier B Municipal Stormwater Permit (see N.J.A.C. 7:14A-25.8), the applicable requirements of N.J.A.C. 7:14A-6.13 shall also be followed.

Administrative change.
 See: 36 N.J.R. 2419(a).

7:14A-25.3 Assignment of municipalities to Tier A or Tier B

(a) All municipalities are assigned either to Tier A or Tier B as follows:

1. An entire municipality is assigned to Tier A if that municipality:
 - i. Is located entirely or partially within an urbanized area as determined by the 2000 Decennial Census by the Bureau of the Census or a subsequent and superseding Decennial Census, and has a population of at least 1,000 within an urbanized area as determined by that Census;
 - ii. Has a population density of at least 1,000 per square mile, and a population of at least 10,000 as determined by that Census;
 - iii. Has a stormwater sewer system discharging directly into the salt waters of Monmouth, Ocean, Atlantic, or Cape May counties (using the N.J.A.C. 7:22A-1.4 definitions of "stormwater sewer system" and "salt waters"). A municipality is deemed to have such a system if that municipality is one of the "Affected Municipalities" listed in N.J.A.C. 7:22A Appendix A, unless it is determined in response to a petition under N.J.A.C. 7:22A-3.2(b) or 4.9(b) that N.J.A.C. 7:22A Appendix A erroneously includes or omits the municipality;
 - iv. Requests Tier A assignment from the Department; or

v. Operates a stormwater discharge(s) identified under N.J.A.C. 7:14A-25.2(a)4 (special designations), provided that the Department determines that such identification warrants assignment of the municipality to Tier A. In making this determination, the Department may consider the following with respect to the identified stormwater discharge(s) and to other stormwater discharge(s) from small MS4(s), if any, operated by the municipality: the location or size of the discharge from the small MS4(s), the quantity and nature of pollutants reaching the water of the State, the quality of the receiving waters, or other relevant factors.

2. Every municipality not assigned to Tier A is assigned to Tier B.

3. The Department shall publish in the New Jersey Register a notice of administrative change revising the list of Tier A and Tier B municipalities in the table below, and shall mail notice of such revision to the affected municipality(ies) and county(ies). Each notice under this paragraph shall identify the reason for the revision. The list in this table is for informational purposes only. Any person may obtain the most current list of such municipalities from the Department's Division of Water Quality, Bureau of Nonpoint Pollution Control at PO Box 029, Trenton, New Jersey 08625, or from the Division's website (<http://www.state.nj.us/dep/dwq>).

	<u>Tier A Municipalities</u>	<u>Tier B Municipalities</u>
Atlantic County	All municipalities not listed under Tier B	Hammonton Town Mullica Township
Bergen County	All municipalities not listed under Tier B	Rockleigh Borough Teterboro Borough
Burlington County	All municipalities not listed under Tier B	Bass River Township Chesterfield Township Fieldsboro Borough New Hanover Township North Hanover Township Springfield Township Washington Township Woodland Township Wrightstown Borough
Camden County	All municipalities not listed under Tier B	Pine Valley Borough Tavistock Borough
Cape May County	All municipalities not listed under Tier B	Woodbine Borough
Cumberland County	Bridgeton City Millville City	All municipalities not listed under Tier A
Vineland City Essex County Gloucester County	All municipalities	None
	All municipalities not listed under Tier B	Elk Township South Harrison Township Woolwich Township
Hudson County	All municipalities	None
Hunterdon County	Clinton Town Clinton Township Flemington Borough High Bridge Borough Lebanon Borough Raritan Township Readington Township	All municipalities not listed under Tier A

	<u>Tier A Municipalities</u>	<u>Tier B Municipalities</u>
Mercer County	All municipalities not listed under Tier B	Hopewell Borough
Middlesex County Monmouth County	All municipalities not listed under Tier B	None Interlaken Borough Roosevelt Borough Upper Freehold Township
Morris County	All municipalities not listed under Tier B	Harding Township
Ocean County	All municipalities not listed under Tier B	Plumsted Township
Passaic County	All municipalities	None
Salem County	Carneys Point Township Penns Grove Borough Pennsville Township Pittsgrove Township	All municipalities not listed under Tier A
Somerset County	All municipalities not listed under Tier B	Far Hills Borough Millstone Borough Rocky Hill Borough
Sussex County	Andover Township Byram Township Hopatcong Borough Newton Town Sparta Township Stanhope Borough	All municipalities not listed under Tier A
Union County	All municipalities	None
Warren County	Alpha Borough Greenwich Township Hackettstown Town Independence Township Lopatcong Township Mansfield Township Phillipsburg Town Pohatcong Township	All municipalities not listed under Tier A

Administrative change.
See: 36 N.J.R. 2419(a).

7:14A-25.4 Deadlines to apply for NJPDES permits for small MS4s

(a) The deadline to apply for a NJPDES permit for all stormwater discharges identified under N.J.A.C. 7:14A-25.2(a) is March 3, 2004, except as provided in (a)1 through 3 below.

1. If notice from the Department is received that a municipality has been reassigned from Tier B to Tier A, or that a special designation has been made under N.J.A.C. 7:14A-25.2(a)4, the deadline is 180 days after receipt of that notice, unless the Department approves a later date.

2. The following is applicable to entities proposing new facilities or activities (for example, new small MS4s, or increasing the number of employees or students) that would result in any stormwater discharges identified under N.J.A.C. 7:14A-25.2(a):

i. General permits for such discharges shall specify deadlines for submitting requests for authorization under such permits.

ii. Entities submitting an individual permit application for such discharges shall submit an application at least 180 days before the date on which the activity is proposed to commence (unless the Department approves a later date), or March 3, 2004, whichever is later.

3. Any entity planning to continue discharging from a small MS4 after the expiration date of its NJPDES permit for that discharge shall comply with N.J.A.C. 7:14A-4.2(e)3. General permits for stormwater discharges from small MS4s shall provide for automatic renewal of authorization when those general permits are renewed (see N.J.A.C. 7:14A-4.2(e)3 and 6.13(d)9).

(b) The deadline for Tier B municipalities to apply for the Tier B Municipal Stormwater Permit is set forth in N.J.A.C. 7:14A-25.8(b).

7:14A-25.5 Applying for a NJPDES permit for a small MS4

(a) All operating entities that are required under N.J.A.C. 7:14A-25.2(a) to apply for a NJPDES permit for stormwater discharges from small MS4s shall submit a request for authorization (RFA) under a general NJPDES permit in accordance with (a)1 below, or an application for an individual NJPDES permit under N.J.A.C. 7:14A-25.9.

1. An operating entity seeking authorization under a general NJPDES permit shall submit to the Department a written RFA. The RFA shall include a certification acknowledging the best management practices and measurable goals specified in the general permit and required by N.J.A.C. 7:14A-25.6, and shall also include information specified in the general permit in accordance with N.J.A.C. 7:14A-6.13(d)2.

(b) All Tier B municipalities that are required under N.J.A.C. 7:14A-25.2(b) to apply for the Tier B Municipal Stormwater Permit shall submit a request for authorization in accordance with N.J.A.C. 7:14A-25.8(d).

7:14A-25.6 Content of NJPDES permits for small MS4s

(a) The NJPDES small MS4 permit shall require at a minimum that the permittee develop, implement, and enforce a stormwater program designed to reduce the discharge of pollutants from the permittee's small MS4 to the maximum extent practicable, to protect water quality, and to satisfy the appropriate water quality requirements of the Federal Act and the State Act. The stormwater program required under a general permit shall include the Statewide Basic Requirements (SBRs) that are listed under (b)1 and (b)3 through 8 below (and that may be set forth in more detail in the NJPDES permit). The stormwater program shall also include any additional measures (AMs) required under (e) below, and any other control or evaluation measures specified in the NJPDES permit. At the permittee's discretion, the stormwater program may also include optional measures (OMs) in accordance with (i) below. Except as provided in N.J.A.C. 7:14A-25.8(e)1 and (g), this section and N.J.A.C. 7:14A-25.7 do not apply to the Tier B Municipal Stormwater Permit.

1. Best management practice (BMP) requirements are generally the most appropriate form of effluent limitations when designed to satisfy technology-based requirements (including reductions of pollutants to the maximum extent practicable) and to protect water quality. Implementation of BMPs (other than OMs) consistent with the provisions of the stormwater program required pursuant to this section and the provisions of the NJPDES permit required pursuant to N.J.A.C. 7:14A-25.2(a) constitutes compliance with the standard of reducing pollutants to the maximum extent practicable.

2. The NJPDES permit shall specify (for the permittee's first permit term) a time period of up to five years from the date of notification of general permit authorization (or the date of individual permit issuance) for the permittee to fully develop and implement its stormwater program for SBRs, and for any other measures specified in the NJPDES permit. For an AM required under (e) below, the areawide or Statewide water quality management plan will specify a time period for the permittee to fully develop and implement its stormwater program for that AM, and that time period will be listed in the permit when the permit is issued or in a minor modification to the permit.

3. The permittee shall prepare and implement a written stormwater pollution prevention plan (SPPP) that describes the permittee's stormwater program, and identifies the person or persons responsible for implementing or coordinating that program (including, at the permittee's discretion, OMs). If the permittee wants to share responsibilities for implementing one or more control measures (other than OMs) with one or more other entities pursuant to N.J.A.C. 7:14A-25.7(a), the SPPP must describe which measure(s) the permittee will implement, and identify the entity(ies) that will implement the other measure(s) within the area served by the permittee's small MS4.

4. The Department shall include the requirements in N.J.A.C. 7:14A-25.4 through 25.7 in any NJPDES permit issued for small MS4s, or develop limits in an individual NJPDES permit based on a permit application submitted for a small MS4 under N.J.A.C. 7:14A-25.5 and 25.9.

5. The Department shall issue under N.J.A.C. 7:14A-6.13 one or more general NJPDES permits for stormwater discharges from small MS4s. The Department shall make guidance available to assist permittees in the design and implementation of stormwater programs.

(b) The Statewide Basic Requirements (SBRs) are as follows:

1. Public involvement/participation: The permittee shall, at a minimum, comply with applicable State and local public notice requirements when providing for public participation in the development and implementation of the permittee's stormwater program.

2. Construction site stormwater runoff control: This SBR applies to discharges to surface water only. Under N.J.A.C. 7:14A-25.7(b), any NJPDES permit issued for small MS4s shall recognize that the Department is responsible for developing, implementing, and enforcing a NJPDES permit program to reduce pollutants in stormwater runoff to small MS4s from construction activities that result in a land disturbance of one acre or more. Reduction of pollutants in stormwater discharges from construction activity disturbing less than one acre shall be included in the program if the construction activity is part of a larger common plan of development or sale that would disturb one acre or more. This program is part of the NJPDES permit program for stormwater discharges associated with construction activity addressed under N.J.A.C. 7:14A-24.10.

3. Post-construction stormwater management in new development and redevelopment:

i. To prevent or minimize water quality impacts, the permittee shall develop, implement, and enforce a program to address stormwater runoff from new development and redevelopment projects that disturb one acre or more, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into the permittee's small MS4. The permittee shall, in its program:

(1) Develop and implement strategies which include a combination of structural and/or nonstructural BMPs appropriate for the permittee's small MS4;

(2) Use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under State law (or Federal law, if the permittee is a Federal agency); and

(3) Ensure adequate long-term operation and maintenance of BMPs.

ii. The program under (b)3i above shall require compliance with the applicable design and performance standards established under N.J.A.C. 7:8 for major development as defined in N.J.A.C. 7:8-1, unless:

(1) Those standards do not apply because of a variance or exemption under N.J.A.C. 7:8; or

(2) Alternative standards are applicable under a water quality management plan adopted in accordance with N.J.A.C. 7:15.

iii. The program under (b)3i above shall also require compliance with standards set forth in the NJPDES permit to control passage of solid and floatable materials through storm drainage inlets. For purposes of this subsection, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids.

iv. If the permittee is a municipality, the municipality shall, in its program under (b)3i above:

(1) Ensure that any residential development and redevelopment projects that are subject to the Residential Site Improvement Standards for stormwater management (N.J.A.C. 5:21-7) comply with those standards (including any exception, waiver, or special area standard that was approved under N.J.A.C. 5:21-3);

(2) Adopt and reexamine a municipal stormwater management plan in accordance with N.J.A.C. 7:8; and

(3) Adopt and implement a municipal stormwater control ordinance or ordinances in accordance with N.J.A.C. 7:8. The ordinance(s) shall control stormwater from non-residential development and redevelopment projects. Where necessary to implement the municipal stormwater management plan, the ordinance(s) shall also:

(A) Control aspects of residential development and redevelopment projects that are not pre-empted by the Residential Site Improvement Standards; and

(B) Set forth special area standards approved by the Site Improvement Advisory Board for residential development or redevelopment projects under N.J.A.C. 5:21-3.5.

4. Public education on stormwater impacts: The permittee shall implement a public education program about the impacts of stormwater discharges on surface water and groundwater, and about the steps that the public can take to reduce pollutants in stormwater runoff. As part of this education program, the permittee shall inform public employees, businesses, and the general public of hazards associated with illicit connections and improper disposal of waste.

5. Prohibiting improper disposal of waste:

i. The permittee shall develop a map, showing the location of the end of all MS4 outfall pipes (if any) that are operated by the permittee, and that discharge within the permittee's jurisdiction to a surface water body (for example, a lake or pond, the Atlantic Ocean or one of its estuaries, or a river or stream including an intermittent stream). This map shall also show the location (and name, where known to the permittee) of all surface water bodies receiving discharges from those outfall pipes. The permittee shall submit a copy of this map to the Department if requested.

ii. The permittee shall develop, implement and enforce a program to detect and eliminate illicit connections to the permittee's small MS4. The permittee shall, to the extent allowable under State law (or Federal law, if the permittee is a Federal agency), effectively prohibit, through ordinance or other regulatory mechanism,

illicit connections to the permittee's small MS4, and implement appropriate enforcement procedures and actions.

iii. The permittee shall, to the extent allowable under State law (or Federal law, if the permittee is a Federal agency), effectively prohibit, through ordinance or other regulatory mechanism, other improper disposal of waste into the permittee's small MS4, and implement appropriate enforcement procedures and actions. "Improper disposal of waste" does not include any discharge that is regulated by a NJPDES permit other than the NJPDES permit for discharges from the permittee's small MS4.

iv. The permittee shall coordinate its programs under (b)5i, ii and iii above with related components of the permittee's education program under (b)4 above.

6. Control of solid and floatable materials: The permittee shall develop and implement an operation and maintenance program that prevents or reduces the discharge of solid and floatable materials resulting from the permittee's small MS4. This program is applicable to areas owned or operated by the permittee (including roads).

7. Maintenance yards and highway service areas: The permittee shall develop and implement an operation and maintenance program that prevents or reduces pollutant runoff from maintenance yards and highway service areas owned or operated by the permittee.

8. Employee training: Using training materials that are available from USEPA, the Department or another State agency, or other organizations, the programs under (b)3, (b)5iii, (b)6 and (b)7 above shall include (where applicable) employee training to prevent and reduce stormwater-related pollution from activities such as park and open space maintenance, vehicle fleet and building maintenance, new construction and land disturbances, and stormwater system maintenance.

(c) For each of the SBRs listed under (b)1 and (b)3 through 8 above, BMPs and measurable goals shall be specified or identified as follows:

1. Any general NJPDES permit for small MS4s shall specify:

i. The BMPs that the permittee or another entity (see (a)3 above) will implement for each of those SBRs; and

ii. The measurable goals for each of those BMPs including, as appropriate, an implementation schedule specifying the month and year in which the permittee or another entity will undertake each required action, including interim milestones and the frequency of the action.

2. Individual NJPDES permit applications under N.J.A.C. 7:14A-25.9(d) shall identify the information in

(c)li and ii above. The individual NJPDES permit as issued may specify BMPs and measurable goals that are the same as or different from the BMPs and measurable goals identified in the application.

(d) If, at the time the NJPDES permit is issued, modified, revoked and reissued, or renewed, a qualifying State or local program requires the permittee to implement one or more of the SBRs (or SBR components) listed under (b) above, or of the AMs (or AM components) required under (e) below, the Department may include conditions in the NJPDES permit that direct the permittee to follow that qualifying program's requirements rather than the corresponding requirements under (b) above or (e) below. For purposes of this subsection, a qualifying State or local program is a State or local municipal stormwater program that imposes, at a minimum, the relevant requirements under (b) above or (e) below. This subsection does not apply to the requirements in (b)2 above (construction site stormwater runoff control), or to the requirements in (b)3 above for compliance with the Stormwater Management Rules, N.J.A.C. 7:8, and the Residential Site Improvement Standards, N.J.A.C. 5:21.

(e) The permittee's stormwater program shall include any additional measures (AMs) required under this subsection. AMs are non-numeric or numeric effluent limitations that are expressly required to be included in the stormwater program by an areawide or Statewide water quality management plan (WQM plan) adopted in accordance with N.J.A.C. 7:15. AMs may modify, or be in addition to, SBRs listed under (b) above.

1. AMs may be adopted in an areawide or Statewide WQM plan before or after the Department issues the NJPDES permit. The Department shall provide written notice of the adoption of the AM to each permittee whose stormwater program must include that AM, and shall list each adopted AM in the permit when the permit is issued or in a minor modification to the permit. For AMs other than numeric effluent limitations, the areawide or Statewide WQM plan shall specify the BMPs that the permittee or another entity (see (a)3 above and N.J.A.C. 7:14A-25.8(e)) will implement, and the measurable goals for each of those BMPs. AMs may be required by:

- i. A TMDL approved or established by USEPA, or an equivalent analysis that determines such AMs are needed to protect water quality;
- ii. A regional stormwater management plan adopted under N.J.A.C. 7:8; or
- iii. Other elements of areawide or Statewide WQM plans readopted in accordance with N.J.A.C. 7:15.

(f) Whenever a NJPDES permit specifies measures other than SBRs, AMs, or numeric effluent limitations, the NJPDES permit shall specify the BMPs that the permittee or another entity (see (a)3 above) shall implement, and the measurable goals for each of those BMPs.

(g) Permittees shall meet measurable goals specified under (c), (e) or (f) above in order to demonstrate compliance with SBRs, AMs, or other measures, respectively. The Department shall make guidance available for those measures prior to March 3, 2004 (for SBRs), when AMs are adopted in WQM plans, or when the Department issues the NJPDES permit (for other measures).

(h) The permittee shall comply with other applicable NJPDES permit requirements, standards and conditions established in the individual or general NJPDES permit.

(i) At the permittee's discretion, and to the extent allowable under law, the stormwater program may also include optional measures (OMs), which are BMPs that are not implemented for SBRs or AMs (or for other measures specified in the NJPDES permit), but that prevent or reduce the pollution of waters of the State. The SPPP shall specifically identify such BMPs (if any) as OMs, and identify actions to implement those OMs. Failure to implement an OM identified in the SPPP shall not be considered a violation of the NJPDES permit or this section.

(j) Requirements for evaluation, recordkeeping, and reporting are as follows:

1. The permittee shall evaluate compliance with NJPDES permit conditions, including progress towards achieving the measurable goals identified for BMPs under (c), (e) or (f) above.

2. The permittee shall keep records required by the NJPDES permit for at least five years from the date of the record. The Department may, at any time, extend this period through a written notice in accordance with N.J.A.C. 7:14A-6.6(a). The permittee shall submit these records to the Department if requested. The permittee shall make these records, including its SPPP, available to the public at reasonable times during regular business hours (see N.J.A.C. 7:14A-18 for confidentiality provisions).

3. The permittee shall submit an annual report to the Department unless the permittee is relying on another entity to satisfy all of its NJPDES permit obligations under N.J.A.C. 7:14A-25.7(a) (including its obligation to file the annual report required by this paragraph). The report, which shall be submitted on a form provided by the Department, shall include:

- i. The status of compliance with NJPDES permit conditions, including progress towards achieving the measurable goals;
- ii. For those SBRs or AMs (if any) that give the permittee a choice of BMPs, identification of the BMP(s) chosen by the permittee (including any change in any BMP identified in the previous annual report), and a summary of the actions that the permittee intends to undertake during the next 12 months to implement the chosen BMPs;

- iii. A summary of the actions undertaken to implement OMs, if any; and
- iv. Notice that the permittee is relying on another entity to satisfy some of its NJPDES permit obligations (if applicable).

7:14A-25.7 Sharing of responsibility to implement control measures for a small MS4

(a) A permittee may rely on another governmental, private, or nonprofit entity (for example, a watershed association) to satisfy the permittee's NJPDES permit obligations to implement one or more control measures (or component(s) thereof) for that permittee's small MS4 if:

1. The other entity, in fact, implements the measure(s), or component(s) thereof;
2. The particular measure(s), or component(s) thereof, is at least as stringent as the corresponding NJPDES permit requirement; and
3. The other entity agrees in writing (or is required by law) to implement the measure(s), or component(s) thereof, on the permittee's behalf. The permittee is responsible for compliance with the permittee's NJPDES permit obligations if the other entity fails to implement the measure(s), or component(s) thereof. In the annual reports the permittee must submit under N.J.A.C. 7:14A-25.6(j)3, the permittee shall specify that it is relying on another entity to satisfy some of the permittee's NJPDES permit obligations. If the permittee is relying on another entity regulated under the NJPDES permit program to satisfy all of that permittee's NJPDES permit obligations, including that permittee's obligation to file annual reports required by N.J.A.C. 7:14A-25.6(j)3, the permittee shall notify the Department of this reliance in writing, and shall also note this reliance in the permittee's SPPP.

(b) In some cases, the Department may recognize, either in an individual NJPDES permit or in a general NJPDES permit, that a governmental entity other than the permittee in question is responsible under a NJPDES permit for implementing one or more of the control measures, or component(s) thereof, for that permittee's small MS4, or that the Department itself is responsible. Where the NJPDES permit provides such recognition, the permittee in question is not required to include such measure(s), or component(s) thereof, in that permittee's stormwater program. The permittee is not responsible for such measure(s), or component(s) thereof, but is responsible for the all other measure(s), or component(s) thereof, in the stormwater program. Under N.J.A.C. 7:14A-16.4(b)21, the NJPDES permit may be reopened and modified to include the requirement to implement a measure(s), or component(s) thereof, if the other governmental entity or the Department does not implement it. At a minimum, any NJPDES permit issued for small MS4s shall recognize that under N.J.A.C. 7:14A-25.6(b)2, the Department is responsible for imple-

menting the SBR for construction site stormwater runoff control.

7:14A-25.8 Tier B Municipal Stormwater General Permit

(a) Each municipality that is assigned to Tier B under N.J.A.C. 7:14A-25.3(a)2, and that operates a small MS4 that discharges to surface water or groundwater, shall apply for the Department's Tier B Municipal Stormwater General Permit (Tier B Permit). The Department shall make this general NJPDES permit available to Tier B municipalities throughout the State. This general permit is not in any respect a permit under section 402 of the Federal Act (33 U.S.C. § 1342).

(b) The deadline for Tier B municipalities to apply for authorization under this general permit is March 3, 2004, except as provided in (b)1 and 2 below.

1. If a municipality receives notice from the Department that the municipality has been reassigned from Tier A to Tier B, the deadline is 90 days after receipt of that notice.

2. If the municipality does not operate a small MS4 on March 3, 2004, but is proposing to operate a new small MS4 after that date, the deadline is 90 days before the date on which operation is proposed to commence, or March 3, 2004, whichever is later.

(c) The Tier B Permit shall provide for automatic renewal of authorization when the Department renews the general permit (see N.J.A.C. 7:14A-4.2(e)3 and 6.13(d)9).

(d) To apply, the municipality shall submit to the Department a written request for authorization (RFA). The RFA shall include a certification acknowledging the best management practices (BMPs) and measurable goals specified in this general permit and required by (f) or (g) below, and shall also include information specified in the general permit in accordance with N.J.A.C. 7:14A-6.13(d)2. After receiving the RFA, the Department shall notify the municipality in writing that the municipality is authorized to discharge under this general permit, or that the municipality is not authorized to discharge under this general permit because the municipality is assigned to Tier A under N.J.A.C. 7:14A-25.3(a)1. The Department shall publish a list of municipalities that are authorized to discharge under this general permit on the Division's website (<http://www.state.nj.us/dep/dwq>).

(e) Each municipality that is authorized to discharge under the Tier B Permit shall develop, implement, and enforce a stormwater program that includes the Statewide Basic Requirements (SBRs) listed in (e)1 and 2 below (and that may be set forth in more detail in the general permit). The stormwater program shall also include any additional measures (AMs) required under (g) below. The municipality may share responsibilities for implementing any of these SBRs or AMs with one or more other entities. Nothing in

this section shall be construed as preventing the municipality from also implementing other stormwater control measures as allowed by statute. Such control measures are not governed by the Tier B stormwater program. The SBRs are as follows:

1. Post-construction stormwater management in new development and redevelopment: To prevent or minimize water quality impacts, the municipality shall develop, implement, and enforce a program to address stormwater runoff from new development and redevelopment projects. This program shall meet the requirements listed in N.J.A.C. 7:14A-25.6(b)3.

2. Public education on stormwater impacts: The municipality shall implement a local public education program about the impacts of stormwater discharges on surface water and groundwater, and about the steps that the public can take to reduce pollutants in stormwater runoff.

(f) The Tier B Permit shall specify:

1. The BMPs that the Tier B municipality or another entity will implement for each of the SBRs listed under (e) above; and

2. The measurable goals for each of those BMPs including, as appropriate, an implementation schedule specifying the month and year in which the municipality or another entity will undertake each required action, including interim milestones and the frequency of the action.

(g) The Tier B municipality's stormwater program shall include any additional measures (AMs) required under this subsection. AMs are non-numeric or numeric effluent limitations that are expressly required to be included in the stormwater program by an areawide or Statewide water quality management plan (WQM plan) adopted in accordance with N.J.A.C. 7:15. AMs may modify, or be in addition to, SBRs listed under (e)1 and 2 above. AMs required under this subsection are subject to N.J.A.C. 7:14A-25.6(e)1.

(h) Tier B municipalities shall meet measurable goals specified under (f) or (g) above. The Department shall make guidance available to assist municipalities in the design and implementation of Tier B stormwater programs.

(i) Requirements for recordkeeping and reporting are as follows:

1. The Tier B municipality shall keep records required by this general permit for at least five years from the date of the record. The municipality shall submit these records to the Department if requested.

2. The Tier B municipality shall submit an annual report to the Department. The report, which shall be submitted on a form provided by the Department, shall evaluate progress towards achieving the measurable goals specified for BMPs under (f) or (g) above.

7:14A-25.9 Individual NJPDES permit applications for small MS4s

(a) An operating entity that is subject to N.J.A.C. 7:14A-25.5(a) shall apply for an individual NJPDES permit under (c) or (d) below for stormwater discharges from small MS4s if:

1. An application is required pursuant to N.J.A.C. 7:14A-2.4(c) or 6.13(e), in which case the Department shall specify whether (c) and/or (d) below is applicable; or

2. A general NJPDES permit applicable to the entity's small MS4 stormwater discharge is not available.

(b) An operating entity that is not required under (a) above to apply for an individual NJPDES permit may on its own initiative apply for an individual NJPDES permit under (c) below for stormwater discharges from small MS4s.

(c) The following is applicable to an operating entity that seeks authorization to discharge under an individual NJPDES permit, and seeks to implement under the permit a stormwater program that is different from the stormwater program under N.J.A.C. 7:14A-25.6.

1. If the permit is for discharge to surface water, the operating entity shall submit to the Department a permit application that includes the information required by N.J.A.C. 7:14A-25.10(a). The entity does not need to submit the information required by 40 C.F.R. 122.26(d)(1)(ii) and (d)(2)(i) regarding the entity's legal authority, unless the entity intends for the Department to take such information into account when developing the entity's permit conditions.

2. If the permit is for discharge to groundwater, the operating entity shall submit to the Department a permit application that includes:

i. The information required by N.J.A.C. 7:14A-4.3 (except 4.3(a)11 and 15 through 24) and 7.9. In accordance with N.J.A.C. 7:14A-7.9(a)1, the entity shall submit the information required pursuant to N.J.A.C. 7:14A-7.9(d), except when, after consultation with the Department during a pre-application conference, it is determined that the information is not necessary to develop permit conditions for the small MS4;

ii. An 8.5 inch x 11 inch copy of a portion of a U.S. Geological Survey Topographic Map(s), 7.5 minute Quadrangle Series extending one mile beyond the area served by the small MS4 that is the subject of the permit application. The boundaries of that area shall be marked on the copy; and

iii. Any information required by the Department under N.J.A.C. 7:14A-8.17 (if an individual UIC permit is sought).

(d) An operating entity that seeks to implement a stormwater program under N.J.A.C. 7:14A-25.6 may seek authorization to discharge under an individual NJPDES permit only if the Department requires that entity to submit an application under (a)1 above and this subsection, or if an application is required under (a)2 above. The operating entity shall submit to the Department an application that includes:

1. The information required under N.J.A.C. 7:14A-4.3(a)1, 2, 3, 6 and 9, and 25.6(c);
2. An estimate of the area, in square miles, served by the entity's small MS4;
3. A map, showing the location of the end of MS4 outfall pipes, that satisfies the requirement for such a map in N.J.A.C. 7:14A-25.6(b)5i (if the entity operates any MS4 outfall pipes);
4. Any information required under N.J.A.C. 7:14A-8.17 (if an individual UIC permit is sought); and
5. Other information required under N.J.A.C. 7:14A-4.3(e).

(e) If a small MS4 is in the same urbanized area as a medium or large MS4 with a NJPDES stormwater permit, and if the operating entity for the medium or large MS4 is willing to have the operating entity for that small MS4 participate in its stormwater program, both operating entities may jointly seek a modification of the medium or large MS4 permit to include the operating entity for the small MS4 as a limited co-permittee. As a limited co-permittee, the operating entity for the small MS4 will be responsible for compliance with the NJPDES permit conditions applicable to that entity's jurisdiction. If an operating entity for a

small MS4 chooses this option for discharge to surface water, the entity shall comply with N.J.A.C. 7:14A-25.10(a) rather than N.J.A.C. 7:14A-25.6, except that the entity does not need to comply with 40 C.F.R. 122.26(d)(1)(iii) and (iv) and (d)(2)(iii) (discharge characterization). The entity may satisfy the requirements in 40 C.F.R. 122.26(d)(1)(v) and (d)(2)(iv) (identification of a management program) by referring to the medium or large MS4's stormwater program.

7:14A-25.10 Requirements for large and medium municipal separate storm sewer discharges

(a) Application requirements for operating entities for discharges to surface water from large and medium municipal separate storm sewers are contained in 40 C.F.R. 122.26(d), which is incorporated into this chapter by reference. Also incorporated into this chapter by reference, for purposes of this subsection only, are the definitions at 40 C.F.R. 122.26(b)(5) and (6) of "major municipal separate storm sewer outfall" and "major outfall." References to a "NJPDES permit" or "permit" in 40 C.F.R. 122.26(d) shall be understood to mean a NJPDES permit under this chapter, unless the context clearly indicates otherwise. References to an "illicit discharge" in 40 C.F.R. 122.26(d) shall be understood to mean an "illicit connection" as defined at N.J.A.C. 7:14A-1.2. Any operating entity for a discharge under this subsection is exempt from the requirements of N.J.A.C. 7:14A-4.3(a)11 and 15 through 24, (c) through (e) and 4.4(a) and (b)3 through 7.

(b) The operating entity for a large or medium municipal separate storm sewer system that discharges to surface water shall submit an annual report by the anniversary of the date of the issuance of the NJPDES permit for such system. The report shall include the information required under 40 C.F.R. 122.42(c), which is incorporated into this chapter by reference.