

CHAPTER 14A

NEW JERSEY POLLUTANT DISCHARGE
ELIMINATION SYSTEM

Authority

N.J.S.A. 13:1B-3 et seq., 13:1D-1 et seq., 13:1D-29 et seq., 13:1E-1 et seq., 26:2C-1 et seq., 26:3A2-21, 40:55D-1 et seq., 58:10-23.11 et seq., 58:10A-1 et seq., 58:11-23 et seq., 58:11-49 et seq., 58:11-64 et seq., 58:11A-1 et seq. and 58:12A-1 et seq.

Source and Effective Date

R.2009 d.7, effective December 2, 2008.
See: 40 N.J.R. 1478(a), 41 N.J.R. 142(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 14A, New Jersey Pollutant Discharge Elimination System, expires on December 2, 2015.
See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 14A, Pollutant Discharge Elimination System, was adopted as R.1981 d.84, effective March 6, 1981. See: 12 N.J.R. 569(f), 13 N.J.R. 194(c). Subchapter 4, Additional Requirements for an Industrial Waste Management Facility, was adopted as R.1981 d.373, effective October 8, 1981. See: 12 N.J.R. 569(f), 13 N.J.R. 705(a).

Pursuant to Executive Order No. 66(1978), Chapter 14A was re-adopted as R.1983 d.260, effective June 8, 1983. See: 15 N.J.R. 606(a), 15 N.J.R. 1094(c). Subchapter 14, Oil and Grease Effluent Limitations, was adopted as R.1984 d.234, effective July 2, 1984. See: 15 N.J.R. 1313(b), 16 N.J.R. 1746(b). Subchapter 8, Public Comment and Notice Procedures, was amended by R.1988 d.59, effective February 1, 1988. See: 19 N.J.R. 1869(a), 20 N.J.R. 269(a).

Pursuant to Executive Order No. 66(1978), Chapter 14A was re-adopted as R.1989 d.339, effective June 2, 1989. See: 21 N.J.R. 707(a), 21 N.J.R. 1883(a). Petition for Rulemaking: Notice of Receipt of and Action on a Petition for Rulemaking. See: 23 N.J.R. 222(a), 23 N.J.R. 622(b). Public Notice: Opportunity for interested party review of rule amendments. See: 25 N.J.R. 411(a).

Appendix F, Values for Determination of NJPDES Permit Toxic Effluent Limitations, was repealed by R.1993 d.59, effective February 1, 1993. See: 24 N.J.R. 344(b), 25 N.J.R. 547(a). Public Notice: Revocation of NJPDES/SIU permits. See: 24 N.J.R. 491(a), 25 N.J.R. 600(a).

Subchapter 12, Requirements for a Treatment Works Approval, was repealed by R.1994 d.278, effective June 6, 1994. See: 25 N.J.R. 3282(a), 26 N.J.R. 2413(b). Prior to repeal, Subchapter 12 was amended by R.1987 d.445, effective November 2, 1987. See: 19 N.J.R. 2006(b); R.1987 d.458, effective November 16, 1987. See: 19 N.J.R. 2152(a); R.1989 d.339, effective July 3, 1989. See: 21 N.J.R. 707(a), 21 N.J.R. 1883(a); R.1989 d.436, effective August 21, 1989. See: 21 N.J.R. 819(a), 21 N.J.R. 2530(c); R.1990 d.444, effective September 4, 1990. See: 21 N.J.R. 2240(c), 22 N.J.R. 2754(a); Administrative Correction. See: 23 N.J.R. 3325(b); and R.1993 d.59, effective February 1, 1993. See: 24 N.J.R. 344(b), 25 N.J.R. 547(a). Subchapter 22, Treatment Works Approvals, Sewer Bans, Sewer Ban Exemptions; and Subchapter 23, Technical Requirements for Treatment Works Approval Applications, were adopted as R.1994 d.278, effective June 6, 1994. See: 25 N.J.R. 3282(a), 26 N.J.R. 2413(b).

The expiration date of Chapter 14A, Pollutant Discharge Elimination System, was extended by gubernatorial directive from June 2, 1994 to June 2, 1995; June 2, 1995 to June 2, 1996; June 2, 1996 to December 2, 1996; and December 2, 1996 to May 5, 1997. See: 26 N.J.R. 2462(a), 27 N.J.R. 2390(a), 28 N.J.R. 3330(b), and 29 N.J.R. 126(b), respectively.

Pursuant to Executive Order No. 66(1978), Subchapter 22, Treatment Works Approvals, Sewer Bans, Sewer Ban Exemptions; and Subchapter 23, Technical Requirements for Treatment Works Approval Applications, of Chapter 14A were re-adopted as R.1997 d.107, effective February 5, 1997. See: 28 N.J.R. 380(a), 28 N.J.R. 2779(a), 28 N.J.R. 3494(a), 28 N.J.R. 3858(a), 28 N.J.R. 4697(a), 28 N.J.R. 5028(a), 29 N.J.R. 1704(a). As a part of R.1997 d.107, effective May 5, 1997, Subchapter 1, General Information, was repealed and a new Subchapter 1, Abbreviations, Acronyms, and Definitions, was adopted; Subchapter 2, General Requirements for the NJPDES Permit, was repealed and a new Subchapter 2, General Program Requirements, was adopted; Subchapter 3, Additional Requirements Applicable to Discharges to Surface Water (DSW), was repealed and a new Subchapter 3, Determination of Permit Fees, was adopted; Subchapter 4, Additional Requirements for an Industrial Waste Management Facility, was repealed and a new Subchapter 4, Permit Application Requirements, was adopted; Subchapter 5, Additional Requirements for Underground Injection Control Program (UIC), was repealed; Subchapter 6, Additional Requirements for Discharges to Groundwater (DGW), was repealed and a new Subchapter 6, Conditions Applicable to All NJPDES Permits, was adopted; Subchapter 7, Procedures for Decision Making, was repealed and a new Subchapter 7, Requirements for Discharges to Ground Water (DGW), was adopted; Subchapter 8, Public Comment and Notice Procedures, was repealed and a new Subchapter 8, Additional Requirements for Underground Injection Control (UIC) Program, was adopted; Subchapter 9, Specific Procedures Applicable to Discharges to Surface Water (DSW), was repealed and a new Subchapter 9, Ground Water Monitoring Requirements for Sanitary Landfills, was adopted; Subchapter 10, Filing Requirements For NJPDES Permits, was repealed and a new Subchapter 10, Ground Water Monitoring Requirements for Hazardous Waste Facilities, was adopted; Subchapter 11, Public Access to Information and Requirements for Department Determination of Confidentiality, was repealed and a new Subchapter 11, Procedures and Conditions Applicable to NJPDES-DSW Permits, was adopted; Subchapter 12, Effluent Standards Applicable to Direct Discharges to Surface Water and Indirect Discharges to Domestic Treatment Works was adopted; Subchapter 13, Additional Requirements For DTWS, Local Agencies and Their Users, was repealed and a new Subchapter 13, Effluent Limitations for DSW Permits, was adopted; Subchapter 14, Oil and Grease Effluent Limitations, was repealed and a new Subchapter 14, Monitoring Frequency Requirements Applicable to DSW and SIU Permits, was adopted; Subchapter 15, Procedures for Decision Making—NJPDES Permit Processing Requirements; Subchapter 16, Transfer, Modification, Revocation and Reissuance, Renewal, Suspension, and Revocation of Existing Permits; Subchapter 17, Procedures for Decision Making—Adjudicatory Hearings and Stays of Permit Conditions; Subchapter 18, Public Access to Information and Requirements for Determination of Confidentiality; Subchapter 19, Pretreatment Program Requirements for Local Agencies; Subchapter 20, Standards for the Use or Disposal of Residual; and Subchapter 21, Requirements for Indirect Users, were adopted; and Appendix A, Average Ambient Water Temperature; Appendix B, Permit Application Testing Requirements; Appendix C, Criteria for Determining a Concentrated Animal Feeding Operation; Appendix D, Criteria for Determining a Concentrated Aquatic Animal Production Facility; Appendix E, Primary Industry Categories; Appendix G, Modified Equation for Determining “Area of Review”; and Appendix H, Schedule of Monitoring, were repealed.

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

In accordance with N.J.S.A. 52:14B-5.1d, Chapter 14A, Pollution Discharge Elimination System, expiration date was extended by gubernatorial directive from February 5, 2002 to February 5, 2004. See: 34 N.J.R. 1022(c).

In accordance with N.J.S.A. 52:14B-5.1d, Chapter 14A, Pollutant Discharge Elimination System, expiration date was extended by gubernatorial directive from February 5, 2004 to February 5, 2006. See: 36 N.J.R. 1191(b).

Subchapter 5, Wastewater Discharge Requirements, was recodified from N.J.A.C. 7:9-5.1, 5.3 and 5.7 as 7:14A-5.1, 5.2 and 5.3, respectively, by administrative change. See: 37 N.J.R. 3648(a).

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 14A, Pollutant Discharge Elimination System, was extended by gubernatorial directive from February 5, 2006 to May 5, 2007. See: 38 N.J.R. 1318(a).

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 14A, Pollutant Discharge Elimination System, was extended by gubernatorial directive from May 5, 2007 to December 5, 2007. See: 39 N.J.R. 2248(b).

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 14A, Pollutant Discharge Elimination System, was extended by gubernatorial directive from December 5, 2007 to June 5, 2008. See: 40 N.J.R. 150(a).

Chapter 14A, Pollutant Discharge Elimination System, was readopted as R.2009 d.7, effective December 2, 2008. As a part of R.2009 d.7, Chapter 14A was renamed New Jersey Pollutant Discharge Elimination System; Subchapter 5, Wastewater Discharge Requirements was repealed; and Subchapter 7, Requirements for Discharges to Ground Water (DGW), was renamed Requirements for Discharges to Groundwater (DGW), effective January 5, 2009. See: Source and Effective Date. See, also, section annotations.

Subchapter 1, Abbreviations, Acronyms, and Definitions, was renamed Abbreviations, Acronyms and Definitions by R.2009 d.372, effective December 21, 2009. See: 41 N.J.R. 1565(a), 41 N.J.R. 4735(a).

Research Note

The Water Quality Regulations of the Interstate Environmental Commission appear as Appendix A to Title 7.

Law Review and Journal Commentaries

Discharge Permit Rules Encourage Prevention. Robert J. Curley, Francis X. Journick, Jr., 135 N.J.L.J. No. 8, S14 (1993).

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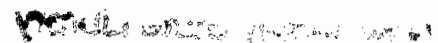
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grown for one year or less, except where there is permanent cover as in orchards.

“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.

“Dental facility” means any dental clinic, dental office, or dental practice, including hospitals, dental schools, and community health centers.

“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.

“Department sanctioned analytical method” or “DSAM” means a method that laboratories may be certified to perform if they qualify under the requirements of the Regulations Governing the Certification of Laboratories and Environmental Measurements rules at N.J.A.C. 7:18. Mandatory methods, published or referenced in the Code of Federal Regulations, become DSAMs on their stated effective date. DSAMs that are needed for analysis of Department program regulatory samples, are designated as DSAMs by procedures described at N.J.A.C. 7:18-2.21.

“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, for the purposes of management of residuals including sewage sludge and of solid and hazardous waste, 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 Doc-

ument, 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 other treatment works processing primarily domestic sewage and pollutants together with any ground water, surface water, stormwater 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.

"Dredged spoil" means sediments, known as spoil, removed during dredging operations.

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

"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).

"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.

“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.

"Waste Characterization Report" means the Department's form used primarily for the reporting of surface water sampling data for nonlimited parameters, such as periodic priority pollutant scans; groundwater monitoring well results; and residual monitoring information.

"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 free 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”.

Administrative corrections.

See: 36 N.J.R. 4133(a).

Administrative correction.

See: 37 N.J.R. 1517(a), 37 N.J.R. 4245(a).

Administrative corrections and changes.

See: 38 N.J.R. 1445(a).

Administrative correction.

See: 38 N.J.R. 5153(a).

Amended by R.2007 d.304, effective October 1, 2007.

See: 38 N.J.R. 3393(a), 39 N.J.R. 4117(a).

Added definitions “Amalgam separator”, “Amalgam waste”, “Dental facility” and “ISO 11143”.

Amended by R.2009 d.7, effective January 5, 2009.

See: 40 N.J.R. 1478(a), 41 N.J.R. 142(a).

In the introductory paragraph, inserted “, unless the context clearly indicates otherwise”; added definitions “Common plan of development or sale”, “Construction cost”, “Department sanctioned analytical method”, “Exceptional quality”, “Monitoring Report Submittal Form”, “Non-significant categorical indirect user”, “Reclaimed water for beneficial reuse”, “Residual additives”, “Residual blending and distribution”, “Residuals Transfer Report”, “Reuse feasibility study” and “Waste Characterization Report”; and rewrote definitions “Disposal”, “Domestic treatment works”, “Individual subsurface sewage disposal system”, “Monitoring report form”, “Oil and grease”, “Petroleum hydrocarbons”, “Pretreatment program significant noncompliance”, “Property”, “Serious violation”, “Significant indirect user” or “SIU”, “Slug discharge”, “Solid waste”, “Stormwater discharge (or stormwater DSW)”, and “Surface disposal site”.

Amended by R.2009 d.372, effective December 21, 2009.

See: 41 N.J.R. 1565(a), 41 N.J.R. 4735(a).

Substituted definition “Category One waters” for definition “Category one waters”; and rewrote definition “Category One waters”.

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).

On appeal, the court held that the Department of Environmental Protection did not err in requiring a developer to obtain a pollution discharge elimination system permit for its proposed housing development, despite the developer’s claim that the agency’s working definition of the term “property” was an unauthorized expansion of the definition found in the New Jersey Pollution Discharge Elimination System (NJPDES) regulations, and that the agency could not use the definition without amending its regulations, because: (1) having a common plan of development, as set forth in the working definition, was a form of control by the property owner for purposes of the regulatory definition of property; (2) at the time of the developer’s application, the property was in common ownership, and the septic systems were being planned as part of one housing development of 31 units; (3) under the proposed development plan, each separate set of buildings would have a separate property owners association to maintain the septic system and other common areas on that property, while a master association would be responsible for overall management of the entire development including the storm water management system; and (4) the Department could reasonably conclude that both before and after construction, the entire housing complex would be under unitary control thereby justifying its treatment as one property; additionally, to have accepted the developer’s argument would have permitted it to discharge 6,200 gallons of sewage per day without meeting the standards of the NJPDES permitting system, which would be contrary to the purpose of the Water Pollution Control Act and the NJPDES regulations to protect New Jersey waters from pollution. SJC Builders v. State Dep’t of Env’tl. Protection, 378 N.J. Super. 50, 874 A.2d 586, 2005 N.J. Super. LEXIS 171 (App.Div. 2005).

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.

Amyl acetate
 Aniline
 Benzonitrile
 Benzyl chloride
 Butyl acetate
 Butylamine
 Captan
 Carbaryl
 Carbofuran
 Carbon disulfide
 Coumaphos
 Cresol
 Crotonaldehyde
 Cyclohexane
 2,4-D (2,4-dichlorophenoxy acetic acid)
 Diazinon
 Dicamba
 Dichlobenil
 Dichlone
 2,2-Dichloropropionic acid
 Dichlorvos
 Diethyl amine
 Dimethyl amine
 Dinitrobenzene
 Diquat
 Disulfoton
 Diuron
 Epichlorohydrin
 Ethion
 Ethylene diamine
 Ethylene dibromide
 Formaldehyde
 Furfural
 Isoprene
 Isopropanolamine dodecylbenzenesulfonate
 Kelthane
 Kepone
 Mercaptodimethur
 Methyl mercaptan
 Methyl methacrylate
 Methyl parathion
 Mevinphos
 Mexacarbate
 Monoethyl amine
 Monomethyl amine
 Naled
 Napthenic acid
 Nitrotoluene
 Phenolsulfanate
 Phosgene
 Propargite
 Propylene oxide
 Pyrethrins
 Quinoline
 Resorcinol
 Strontium
 Strychnine
 Styrene
 2,4,5-T (2,4,5-Trichlorophenoxy acetic acid)
 TDE (Tetrachlorodiphenylethane)
 2,4,5-TP[2-(2,4,5-Trichlorophenoxy) propanoic acid]
 Trichlorofan
 Triethanolamine dodecylbenzenesulfonate
 Triethylamine
 Trimethylamine
 Uranium

Vanadium
 Vinyl acetate
 Xylene
 Xylenol
 Zirconium

Administrative correction.
 See: 29 N.J.R. 3822(a).
 In Table II, deleted "Trichlorofluoromethane" and inserted "Trichloroethylene"
 Administrative corrections.
 See: 38 N.J.R. 1445(a).
 Amended by R.2009 d.7, effective January 5, 2009.
 See: 40 N.J.R. 1478(a), 41 N.J.R. 142(a).
 Rewrote the appendix.

SUBCHAPTER 5. (RESERVED)

SUBCHAPTER 6. CONDITIONS APPLICABLE TO ALL NJPDES PERMITS

7:14A-6.1 Purpose and scope

(a) This subchapter sets forth the minimal conditions which apply to all NJPDES permits unless the permit or fact sheet as described in N.J.A.C. 7:14A-15.8 specifically includes an exemption from one or more of these required conditions.

(b) The Department shall incorporate all permit conditions either expressly or by reference in the permit. A permit that incorporates conditions by reference shall contain citations to the specific applicable rule section(s).

7:14A-6.2 General conditions applicable to all permittees

(a) The following conditions apply to all NJPDES permits issued by the Department unless specifically exempted in the permit:

1. A permittee shall comply with all the conditions of the NJPDES permit;
2. The discharge of any pollutant not specifically regulated in the NJPDES permit or listed and quantified in the NJPDES application or request for authorization shall constitute a violation of the permit, unless the permittee can prove by clear and convincing evidence that the discharge of the unauthorized pollutant did not result from any of the permittee's activities which contribute to the generation of its wastewater.

3. A permittee shall not attain any concentration limitation by dilution. (For example, no permittee shall increase the use of process water or cooling water or otherwise attempt to dilute a discharge as a partial or complete substitute for adequate treatment to attain permit limitations or water quality standards).

4. Even if the permit has not yet been modified to incorporate the requirement, a permittee shall comply with the following within the time provided in the specified regulations that establish the following:

i. Applicable effluent standards or prohibitions established under Section 307(a) and (c) of the Federal Act for toxic pollutants; and

ii. Standards for sewage sludge use or disposal established under Section 405(d) of the Federal Act and N.J.A.C. 7:14A-20.

5. A permittee shall take all reasonable steps to minimize or prevent any activity in violation of its permit which has a reasonable likelihood of adversely affecting human health or the environment.

6. A permit shall not convey any property rights of any sort or any exclusive privilege.

7. A permit shall not authorize any injury to persons or property or invasion of other private rights, or any infringement of Federal, State or local law or regulations;

8. A permit is not transferable to any person except after written notice in accordance with N.J.A.C. 7:14A-16.2.

9. All permittees with discharges that flow through an outfall pipe, unless such outfall pipe is completely and continuously submerged, or is not assigned a Discharge Serial Number (DSN), shall notify the Department that a tag to mark the location of the pipe has been or will be installed on the pipe by the effective date of the permit, or by May 5, 1998, whichever is sooner.

i. The outfall tag shall be:

- (1) Legible;
- (2) Located as near to the end of the outfall pipe as possible;
- (3) Made of a durable material such as metal; and
- (4) Maintained on a regular basis, such as cleaned and inspected to ensure that the tag is properly attached.

ii. The outfall tag shall display, at a minimum, the following information:

- (1) The name of the facility where the discharge originates;
- (2) The NJPDES permit number;
- (3) The NJDEP Hotline phone number; and
- (4) The Discharge Serial Number for that particular outfall;

10. When the Department reopens the permit by modification or revocation and reissuance, it shall do so, at a minimum, for the following:

i. Any discharger within a primary industrial category, as listed in N.J.A.C. 7:14A-4 Appendix A, Table 1, if an applicable standard or limitation is promulgated under Sections 301(b)(2) (C) and (D), 302, 304(b)(2), or 307(a)(2), (b), (c) or (d) of the Federal Act and that effluent standard or limitation is more stringent than any effluent limitation in the permit or controls a pollutant or pollutant parameter not limited in the permit;

ii. Any permit issued to a treatment works treating domestic sewage or residual-only facilities, to incorporate any applicable standard for residual use or disposal promulgated under section 405 (d) of the Federal Act or N.J.A.C. 7:14A-20, and the standard for residual use or disposal is more stringent than any requirements for residual use or disposal in the permit, or controls a pollutant or practice not limited in the permit;

iii. All dischargers, to incorporate any applicable effluent standard or any effluent limitation, including any effluent standards or effluent limitations to control the discharge of any toxic pollutants or pollutant parameters such as acute or chronic whole effluent toxicity, or chemical specific toxic parameters, requirements related to toxicity reduction or to implement a TMDL or watershed management plan adopted in accordance with N.J.A.C. 7:15-7, when the effluent standard or limitation is more stringent than any effluent limitation in the permit or controls a pollutant or pollutant parameter not limited in the permit; and

iv. DTWs, to incorporate the applicable pretreatment program conditions as approved by the Department;

11. The permittee shall take such corrective actions as required under the Federal and State Acts, and other relevant provisions of law, including, at a minimum, accelerated and/or additional types of monitoring, temporary repairs, ceasing discharge, or where ceasing discharge is not possible, other measures to mitigate the effects of violating its NJPDES permit;

12. If a permittee wishes to continue an activity regulated by a NJPDES permit after the expiration date of the permit, the permittee must comply with the reapplication procedures listed in N.J.A.C. 7:14A-4;

13. All permittees must comply with the noncompliance reporting requirements of N.J.A.C. 7:14A-6.10 for any noncomplying discharge listed in N.J.A.C. 7:14A-6.10(a); and

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

SUBCHAPTER 13. EFFLUENT LIMITATIONS FOR DSW PERMITS

7:14A-13.1 Purpose and scope

This subchapter sets forth the procedures the Department will use in imposing numeric or non-numeric effluent limitations in DSW permits.

7:14A-13.2 Types of effluent limitations

(a) Each DSW permit shall include conditions meeting the following requirements, as applicable:

1. Technology based limitations determined in accordance with N.J.A.C. 7:14A-13.3 and 13.4. Technology based limitations include secondary treatment standards for DTWs, effluent limitations guidelines, and case-by-case limitations developed through a best professional judgment analysis. Applicability criteria are at N.J.A.C. 7:14A-13.3(b);

i. For DTWs, effluent limitations based on secondary treatment as defined at 40 CFR 133 and incorporated into N.J.A.C. 7:14A-12;

ii. For dischargers other than DTWs, effluent limits requiring:

(1) Effluent limitations based on the best practicable control technology currently available (BPT);

(2) For conventional pollutants, effluent limitations based on the best conventional pollutant control technology (BCT);

(3) For all toxic pollutants, effluent limitations based on the best available technology economically achievable (BAT);

(4) For pollutants which are neither toxic nor conventional pollutants, effluent limitations based on BAT.

2. Water quality based limitations determined in accordance with N.J.A.C. 7:14A-13.6 when the Department has determined that the discharge causes, has the reasonable potential to cause, or contributes to an excursion above the SWQS. Water quality based limitations include limitations based on a TMDL adopted in accordance with N.J.A.C. 7:15-7. Applicability criteria are at N.J.A.C. 7:14A-13.3(a);

3. Limitations based on a WQM Plan adopted in accordance with N.J.A.C. 7:15. Applicability criteria are at N.J.A.C. 7:14A-13.3(d);

4. Limitations based on State effluent standards in accordance with N.J.A.C. 7:14A-12. Applicability criteria are at N.J.A.C. 7:14A-13.3(c); and

5. Limitations based on existing effluent quality and determined in accordance with N.J.A.C. 7:14A-13.8 when the Department determines that such limitations are necessary. Applicability criteria are at N.J.A.C. 7:14A-13.3(e).

Administrative change.

See: 38 N.J.R. 1445(a).

Amended by R.2009 d.7, effective January 5, 2009.

See: 40 N.J.R. 1478(a), 41 N.J.R. 142(a).

In (a)4, deleted "and N.J.A.C. 7:14A-5.3" from the end of the first sentence.

7:14A-13.3 Applicability of effluent limitations

(a) DSW permits shall include water quality based effluent limitations or requirements where the Department determines that effluent limitations, guidelines or standards established pursuant to (b) through (e) below are not sufficient to achieve surface water quality standards established pursuant to N.J.A.C. 7:9B, or to attain and maintain a specified water quality through water quality related effluent limitations established pursuant to Section 302 of the Federal Act. In addition:

1. Where the Department determines that a discharge may adversely impact a waterbody with a higher use classification or antidegradation designation downstream of the discharge location, water quality based effluent limitations shall be developed and included in the discharge permit to ensure that the water quality standards applicable to the higher classification or antidegradation designation of the downstream waterbody shall be attained and maintained; and

2. Where the Department determines that a discharge may cause, contribute, or have the reasonable potential to cause an excursion above the surface water quality standards of another state, water quality based effluent limitations shall be developed and included in the discharge permit to ensure that the water quality standards for the affected waters of the other state shall be attained and maintained.

(b) DSW permits issued for direct discharges of industrial wastewater shall include technology based effluent limitations and standards promulgated under Section 301 of the Federal Act (33 U.S.C. § 1311), new source performance standards promulgated under Section 306 of the Federal Act (33 U.S.C. § 1316), or case-by-case effluent limitations determined under Section 402(a)(1) of the Federal Act (33 U.S.C. § 1342(a)(1)), or N.J.A.C. 7:14A-13.4, or a combination, in accordance with N.J.A.C. 7:14A-13.4.

1. Technology based treatment requirements under section 301(b) of the Federal Act represent the minimum level of control that shall be imposed in a permit. Where such technology based limitations are more stringent than other applicable limitations listed at N.J.A.C. 7:14A-13.2, the technology based limitations shall be included in the permit.

2. Technology based treatment requirements may be imposed through one of the following methods:

i. Application of USEPA promulgated effluent limitations developed under section 304 of the Federal Act (33 U.S.C. § 1314) to dischargers by category or subcategory. A permittee may seek fundamentally different factors variances from these effluent limitations under N.J.A.C. 7:14A-11.7(b)1.

ii. On a case-by-case basis under section 402(a)(1) of the Federal Act, to the extent that USEPA promulgated effluent limitations are inapplicable. The Department shall apply the appropriate factors listed in N.J.A.C. 7:14A-13.4 and shall consider:

(1) The appropriate technology for the category or class of point sources of which the applicant is a member, based on available information; and

(2) Any unique factors relating to the applicant.

iii. Through a combination of the methods in (b)2i and ii above. Where promulgated effluent limitations or guidelines apply only to certain aspects of the discharger's operation, or to certain pollutants, other aspects or activities are subject to regulation on a case-by-case basis in order to carry out the provisions of the Federal or State Act.

iv. Limitations developed under (b)2ii above may be expressed, where appropriate, in terms of toxicity (that is, LC₅₀ or IC₂₅), provided the fact sheet demonstrates that the limits reflect the appropriate requirements.

3. Technology based limitations for new sources may be imposed through one of the following methods:

i. Application of USEPA promulgated new source standards developed under section 304 of the Federal Act to dischargers by category or subcategory.

ii. On a case-by-case basis to the extent that USEPA promulgated effluent limitations are inapplicable or are not available, the Department shall apply the appropriate factors listed in N.J.A.C. 7:14A-13.4 and shall consider:

(1) The appropriate technology for the category or class of point sources of which the applicant is a member, based on available information; and

(2) Any unique factors relating to the applicant.

(c) DSW permits shall include State effluent standards at N.J.A.C. 7:14A-12 as follows:

1. Secondary treatment standards at N.J.A.C. 7:14A-12.2 are the minimum treatment standards applicable to DTWs for BOD₅, total suspended solids, and pH;

2. State effluent standards at N.J.A.C. 7:14A-12.5 for disinfection, N.J.A.C. 7:14A-12.6 for foam, N.J.A.C.

7:14A-12.8 for oil and grease, and N.J.A.C. 7:14A-12.7 phosphorus are the minimum treatment standards;

3. State BOD₅ effluent standards at N.J.A.C. 7:14A-12.4 shall be incorporated into DSW permits for discharges into the named waterbodies where the Department has not adopted a TMDL for the waterbody;

4. The Department shall include effluent limitations for site remediation activities equal to the remediation effluent standards listed in N.J.A.C. 7:14A-12 Appendix B for any pollutant or pollutant parameter which either results from any remedial action or is present on-site at a concentration greater than the applicable Surface Water Quality Standards, unless it has been demonstrated to the Department's satisfaction that the pollutant, upon discharge, will not cause, have the reasonable potential to cause, or contribute to an excursion above any applicable Surface Water Quality Standards. The Department may include limitations for additional pollutants or pollutant parameters provided the statement of basis or the permit fact sheet includes a specific rationale for the requirement.

5. State effluent standards for the toxic effluent standards at N.J.A.C. 7:14A-12 Appendix C will be included in a discharge permit for a new source, a new discharge, or an expanded direct discharge in accordance with (c)5i through v below only if the permittee requests such limitations in accordance with N.J.A.C. 7:14A-4.4. A request shall specifically list each pollutant or pollutant parameter for which a limitation based on N.J.A.C. 7:14A-12 Appendix C is requested. The applicant shall not be required to submit a water quality study for any pollutant or pollutant parameter for which the Department determines that limitations based on N.J.A.C. 7:14A-12 Appendix C, when imposed on the discharge, are anticipated to ensure that the surface water quality standards, including antidegradation requirements, will be attained.

i. Limitations based on N.J.A.C. 7:14A-12 Appendix C shall not be used to relax a more stringent existing effluent limitation or standard, including limitations to be applied to the expansion of an existing discharge.

ii. Limitations based on N.J.A.C. 7:14A-12 Appendix C shall be used on a site-specific basis and consideration of the factors listed at (c)5ii(1) through (3) below only for discharges to waterbodies with the following classifications and antidegradation designations as defined in the Surface Water Quality Standards: FW2-NT (Category 2); FW2-TM (Category 2); SE1 (Category 2); SE2 (Category 2); SE3 (Category 2); or SC (Category 2). In no case shall N.J.A.C. 7:14A-12 Appendix C limitations be included in a discharge permit for a discharge to waters classified as FW1; FW2-TP; PL; any Category 1 water; any water with existing active shellfish harvesting activities, any intermittent stream, or immediately upstream or directly into any impoundment.

(1) Limitations based on N.J.A.C. 7:14A-12 Appendix C shall be used for discharges to FW2-TM (Category 2) waters only when the Department determines that all Surface Water Quality Standards, including antidegradation requirements, will be attained;

(2) Limitations based on N.J.A.C. 7:14A-12 Appendix C shall be used for new sources or expanded direct discharges discharging to a waterbody only after consideration by the Department of the basis for any effluent limitations in place for existing discharges to the waterbody; and

(3) Limitations based on N.J.A.C. 7:14A-12 Appendix C shall be used for new sources or expanded direct discharges discharging to a waterbody only after consideration by the Department of the potential effects of the discharge on downstream high quality waters or rare or endangered species habitat, the effective dilution at the point of discharge, or any other appropriate site specific factors.

iii. Limitations based on N.J.A.C. 7:14A-12 Appendix C shall not be used where the Department determines that insufficient assimilative capacity is available in the receiving waterbody to allow the proposed discharge and to ensure that the Surface Water Quality Standards will be attained.

iv. When limitations based on N.J.A.C. 7:14A-12 Appendix C are requested by an applicant, the Department shall evaluate existing data to determine, if possible, whether the receiving waterbody is currently attaining the Surface Water Quality Standards. Where the waterbody is not currently attaining the SWQS, for the pollutants for which the N.J.A.C. 7:14A-12 Appendix C effluent limitations are requested, such, effluent limitations shall not be used.

v. Effluent limitations developed in accordance with N.J.A.C. 7:14A-13.4 or 13.6 which are more stringent than the limitations based on N.J.A.C. 7:14A-12 Appendix C shall be imposed when such limitations are developed. Limitations based on N.J.A.C. 7:14A-12 Appendix C which have been imposed on each discharge shall be evaluated as a part of the TMDL process for each pollutant or pollutant parameter.

(d) DSW permits shall include effluent limitations based on a WQM Plan adopted in accordance with N.J.A.C. 7:15 unless limitations based on (a), (b), (c)1, or (c)2 above are more stringent.

(e) DSW permits shall include effluent limitations based on existing effluent quality when the Department determines that an effluent limitation is appropriate for the pollutant or pollutant parameter of interest and a limitation has not been established in accordance with (a) through (d) above.

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 (b), added U.S.C. references.

Administrative change.
See: 38 N.J.R. 1445(a).
Amended by R.2009 d.7, effective January 5, 2009.
See: 40 N.J.R. 1478(a), 41 N.J.R. 142(a).

In the introductory paragraph of (c), deleted "and N.J.A.C. 7:14A-5.3" preceding "as"; in (c)1, substituted the second occurrence of "standards" for "standard"; and in (c)2, updated the fourth N.J.A.C. reference, deleted "for whole effluent toxicity" preceding "phosphorus" and substituted "standards" for "standard" following "treatment".

Case Notes

Initial Decision (2005 N.J. AGEN LEXIS 939) adopted, which concluded that an anti-degradation analysis would not provide justification for less stringent effluent limitations for ammonia in a municipal sewerage authority's wastewater discharge renewal permit, because the existing limitations were technology-based, and, under N.J.A.C. 7:14A-13.3(b)1, technology-based limits must be used when they are stricter than water quality based limits. *Washington Twp. Municipal Utilities Authority v. N.J. Dep't of Env'tl. Prot.*, OAL Dkt. No. EWR 11860-03, 2006 N.J. AGEN LEXIS 118, Final Decision (January 18, 2006).

7:14A-13.4 Establishment of technology based limitations

(a) The discharge permit shall include technology based effluent limitations to control all toxic pollutants which the Department determines are or may be discharged at a level greater than the level which can be achieved by the technology-based requirements appropriate to the permittee under N.J.A.C. 7:14A-13.3(b)2.

(b) The Department may determine that surrogate limitations established in accordance with N.J.A.C. 7:14A-13.10 will provide controls for one or more of the pollutants identified under (a) above.

(c) In setting case-by-case technology based limitations, the following factors shall be considered:

1. For best practicable control technology (BPT) requirements:
 - i. The total cost of application of technology in relation to the effluent reduction benefits to be achieved;
 - ii. The age of the equipment and facilities involved;
 - iii. The process employed;
 - iv. The engineering aspects of the application of various types of control techniques;
 - v. Process changes; and
 - vi. Non-water quality environmental impacts, including energy requirements.
2. For best conventional pollutant control technology (BCT) requirements:
 - i. The reasonableness of the relationship between the costs of attaining a reduction in the pollutant(s) and the benefits derived from the pollutant reduction;
 - ii. Cost and level of treatment comparisons between DTWs and a class or category of industrial sources;

- iii. The age of the equipment and facilities involved;
- iv. The process employed;
- v. The engineering aspects of the application of various types of control techniques;
- vi. Process changes; and
- vii. Non-water quality environmental impacts, including energy requirements.

3. For best available technology (BAT) requirements for toxic pollutants and non-conventional pollutants:

- i. The age of the equipment and facilities involved;
- ii. The process employed;
- iii. The engineering aspects of the application of various types of control techniques;
- iv. Process changes; and
- v. Non-water quality environmental impacts, including energy requirements.

(d) The Department shall set a permit limit for a conventional pollutant at a level more stringent than the best conventional pollutant control technology, or a limit for a nonconventional pollutant which shall not be subject to modification under Section 301(c) or (g) of the Federal Act, where either (d)1 or 2 below apply. The permit fact sheet required by N.J.A.C. 7:14A-15.8 shall set forth the basis for the limitation, including a finding that compliance with the limitation will result in the BAT level of control of the toxic or hazardous pollutant discharges identified, and a finding that it would be economically or technically infeasible to directly limit the toxic or hazardous pollutant(s).

1. Effluent limitations guidelines specify the pollutant as a surrogate for a toxic or hazardous pollutant; or
2. The limitation reflects the BAT level of control of the discharge of one or more toxic or hazardous pollutants which are present in a waste stream, and a specific BAT limitation upon the toxic or hazardous pollutant(s) is not feasible for economic or technical reasons. The permit shall identify which toxic or hazardous pollutants are intended to be controlled by the use of the limitation.

(e) The Department shall set a permit limit for a conventional pollutant at a level more stringent than best conventional pollutant control technology when:

1. Effluent limitations guidelines specify the pollutant as an indicator for a hazardous substance; or
2. The limitation reflects best available technology level of control of the discharge of one or more hazardous substances which are present in a waste stream, and a specific best available technology limitation upon the hazardous substance(s) is not feasible for economic or technical

reasons. The permit shall identify which hazardous substances are intended to be controlled by the use of the limitation. The statement of basis under N.J.A.C. 7:14A-15.7 or the permit fact sheet required by N.J.A.C. 7:14A-15.8 and 40 CFR Part 124.56 shall set forth the basis for the limitation, including a finding that compliance with the limitation will result in the best available technology level of control of the hazardous substances identified in the discharge, and a finding that it would be economically or technically infeasible to directly limit the hazardous substance(s).

(f) The Department shall not set a more stringent limit under (d) or (e) above if the method of treatment required to comply with the limit differs from that which would be required if the toxic pollutants or hazardous substances controlled by the limitation were limited directly.

(g) Toxic pollutants identified under (d) above shall be subject to the provisions of N.J.A.C. 7:14A-11.2 concerning establishing permit conditions.

(h) (Reserved)

(i) Technology based treatment requirements shall be applied prior to or at the point of discharge.

(j) Technology based treatment requirements cannot be satisfied through the use of non-treatment techniques such as flow augmentation and instream mechanical aerators. However, these techniques may be considered as an acceptable method of achieving ambient water quality standards on a case-by-case basis when:

1. The technology based treatment requirements applicable to the discharge are not sufficient to meet the ambient water quality standards;
2. The discharger waives any opportunity to request a variance under section 301(c), (g), or (h) of the Federal Act; and
3. The discharger demonstrates that such a technique is the preferred environmental and economic method to achieve the ambient water quality standards after consideration of alternatives such as advanced waste treatment, recycle and reuse, land disposal, changes in operating methods, and other available options.

(k) Except as provided below, technology based effluent limitations imposed in permits shall not be adjusted for pollutants in the intake water.

1. Upon request of the discharger, technology based effluent limitations or standards shall be adjusted to reflect credit for pollutants in the discharger's intake water if:

- i. The applicable effluent standards specifically provide that they may be applied on a net basis; or

treatment works is nonetheless required to conform with any applicable requirements of this subchapter and N.J.A.C. 7:14A-23, Technical Requirements for Treatment Works Approvals.

(h) The Department shall determine within 20 working days of the issuance of a final NJPDES permit or NJPDES permit modification, whether the discharger shall be required to obtain approval in accordance with the subchapter.

(i) No person shall permit, approve or otherwise allow the construction, installation, modification or operation of any facility or activity that violates the terms, conditions and requirements of this subchapter.

Amended by R.1997 d.107, effective May 5, 1997.
See: 28 N.J.R. 380(a), 28 N.J.R. 2779(a), 28 N.J.R. 3494(a), 28 N.J.R. 3858(a), 28 N.J.R. 4697(a), 28 N.J.R. 5028(a), 29 N.J.R. 1704(a).
Deleted (j).

7:14A-22.3 Activities for which a treatment works approval is required

(a) Except as provided in N.J.A.C. 7:14A-22.4, no person shall engage in any of the following activities except in conformance with a valid treatment works approval from the Department:

1. Building, installing, modifying, or operating any treatment works including, but not limited to, sewer extensions, sewer interceptors, domestic and industrial wastewater treatment systems, holding tanks, equalization tanks and wastewater treatment and recycling systems.

2. Building, installing, modifying or operating any sewer line, pumping station or force main which serves more than two buildings or will convey 8,000 gallons per day or more of flow to a treatment works.

i. Increasing the projected flow in an existing sewer line by 8,000 gallons per day or more shall require a treatment works approval permit, irrespective of whether or not additional sewer line construction is involved;

3. Building, installing, operating or modifying any residuals treatment units, including, but not limited to, facilities for composting, heat drying, thickening, digestion, air drying, thermal reduction, dewatering and storage of sludge;

4. Building, installing, operating or modifying any domestic or industrial treatment works that discharges directly to the surface water or groundwater of the State; or

5. Building, installing, operating or modifying any individual subsurface sewage disposal system if required pursuant to N.J.A.C. 7:9A-3.9;

6. Building, installing, operating or modifying any industrial treatment works located in any area of the State where the Department is the control authority (non-delegated area) for an industrial pre-treatment program pursuant to 40 CFR 403 and N.J.A.C. 7:14A-19; or

7. Building, installing, operating or modifying any process unit, storage unit or conveyance facilities that treat and/or convey RWBR. Projects utilizing RWBR shall be authorized under a NJPDES discharge permit.

(b) Industrial treatment works approval applications submitted pursuant to (a)4 and 5 above will generally be processed within 30 days of receipt of a complete application in accordance with N.J.A.C. 7:14A-22.6.

(c) Projects for which flow is the determining factor for the requirement of a treatment works approval pursuant to this section, the projected flow criteria specified in N.J.A.C. 7:14A-23.3 shall be used.

Amended by R.1997 d.107, effective May 5, 1997.
See: 28 N.J.R. 380(a), 28 N.J.R. 2779(a), 28 N.J.R. 3494(a), 28 N.J.R. 3858(a), 28 N.J.R. 4697(a), 28 N.J.R. 5028(a), 29 N.J.R. 1704(a).
Amended by R.2009 d.7, effective January 5, 2009.
See: 40 N.J.R. 1478(a), 41 N.J.R. 142(a).

In (a)4, substituted “; or” for “, with the exception of individual subsurface disposal systems exempted pursuant to N.J.A.C. 7:14A-22.4(a)3.”; added new (a)5 and (a)7; recodified former (a)5 as (a)6; and in (a)6, substituted “; or” for a period at the end.

Case Notes

Determination by the Department of Environmental Protection (DEP) in a Highlands Application Determination that a major highlands development project was not exempt from the requirements of the Highlands Water Protection and Planning Act, and its implementing regulations, and that the project was inconsistent with the Statewide Water Quality Management Planning rules, was upheld on a summary determination because the developer's project, as submitted to the DEP in August 2006, did not qualify for an exemption. To qualify for an exemption, the project needed either the water main extension permit or the treatment works approval on or before March 29, 2004. The fact that the permits might not have been required in 1989 when the township first adopted a resolution for preliminary major site plan approval of the project had no bearing on the current requirements. *Liberty Square, Major Site Plan, Brian Trematore, Individually v. New Jersey Dep't. of Env'tl. Prot.—Bureau of Watershed Regulation, OAL Dkt. No. ELUHE 07553-2007N, 2008 N.J. AGEN LEXIS 1520, Final Administrative Action (October 17, 2008).*

Absence of allegation of continuing or continued threat of rack-eteering activity did not bar claim under state statute. *Maxim Sewerage Corp. v. Monmouth Ridings, 273 N.J.Super. 84, 640 A.2d 1216 (L.1993).*

Amendments were sufficient to state claims for common-law fraud and state RICO violations. *Maxim Sewerage Corp. v. Monmouth Ridings, 273 N.J.Super. 84, 640 A.2d 1216 (L.1993).*

Amendment failed to state federal RICO claim; “enterprise” requirement. *Maxim Sewerage Corp. v. Monmouth Ridings, 273 N.J.Super. 84, 640 A.2d 1216 (L.1993).*

7:14A-22.4 Activities for which a treatment works approval is not required

(a) A treatment works approval from the Department is not required for the following activities:

1. Building, installing, modifying or operating any sewer lateral (whether forced or by gravity), which will convey less than 8,000 gallons per day of projected flow;

2. Building, installing, modifying or operating any wastewater pumping equipment which utilizes a lateral force main connection, whether publicly or privately owned, to serve a facility whose projected flow is less than 8,000 gallons per day;

3. Except as provided at N.J.A.C. 7:14A-22.3(a)5, building, installing, operating or modifying an individual subsurface sewage disposal system where the aggregate projected flow of the facility, using the criteria established in N.J.A.C. 7:9A, is less than or equal to 2,000 gallons per day of sanitary sewage. Treatment works for such facilities are regulated pursuant to N.J.A.C. 7:9A, Standards for Individual Subsurface Sewage Disposal Systems;

4. For existing facilities, and regardless of current flow, aggregate increases in the projected flow of less than 8,000 gallons per day over a five year period resulting from internal plumbing modifications, building additions, renovations or changes in use of a facility, providing that the project does not involve construction of a sewer extension or other treatment works which requires a permit pursuant to N.J.A.C. 7:14A-22.3.

i. In sewer ban areas, this exception shall not be construed to exempt the need for a sewer ban exemption prior to construction, if required pursuant to this subchapter;

ii. This exception does not apply to projects served by individual subsurface disposal systems or small treatment plants (less than 150,000 gpd) that discharge to groundwater;

5. Rehabilitation or the replacement of existing sewer lines providing that the diameter and location of the sewer line will remain unchanged and providing that the slope is either unchanged or changed only as necessary to bring an existing below-slope sewer into conformance with minimum (or greater) Department design standards.

6. The replacement of worn, damaged, defective or inoperable wastewater pumps, sewage treatment units or components of residuals treatment and storage units providing that the capacity and location of the pumps or treatment units to be replaced will not change and the replacement treatment unit or wastewater pump station will be utilized to perform the same function as the former unit;

i. Existing pumping stations whose capacity is increased through a change in impeller size only, with no other modifications, do not require a treatment works approval.

7. Minor modifications of treatment works including, but not limited to, chemical addition for the purpose of improving performance and/or odor control (provided no treatment unit construction is to be undertaken), and modifications to treatment units for repair, maintenance or monitoring providing that the treatment process is not altered;

8. Residuals spreading and injection equipment to be utilized to disperse residuals at NJPDES permitted and exempted operations for land application of residuals;

9. The following mobile (not stationary) residuals storage installations:

- i. Frac tanks except when fixed into position;
- ii. Tanker trailers; and
- iii. Roll-off containers;

10. Mobile street sweepers and payloaders utilized to collect and move residuals at NJPDES permitted and exempted residual operations;

11. Provisions for emergency storage of residuals provided said storage is less than 180 days in duration and in accordance with Part 4-VIII of the Statewide Sludge Management Plan;

12. Building, installing, operating or modifying handling equipment or storage units for marketable residual products; or

13. Building, installing, operating or modifying a treatment works for a groundwater recovery and reinjection system which is performed under the authority of the Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C.

(b) In addition to (a) above, a treatment works approval or general industrial treatment works approval will not be required for the following facilities:

1. Building, installing, operating or modifying any industrial treatment works discharging into a publicly owned treatment works and located in an area of the State for which the Department is not the control authority (delegated area) for the industrial pre-treatment program pursuant to 40 CFR 403 and N.J.A.C. 7:14A-19;

i. Projects involving the construction of a sewer extension require a treatment works approval for the conveyance aspects only and are subject to the conditions of N.J.A.C. 7:14A-22.8;

ii. Projects involving additional flow through an existing sewer line of 8,000 gpd or more require a treatment works approval for the conveyance aspects only and may be considered under the provisions of N.J.A.C. 7:14A-22.6;

2. Building, installing, operating or modifying an American Petroleum Institute approved gravity oil/water separator, a retention or detention basin, sand traps or sediment traps that are installed routinely in facilities such as car washes, truck wash bays and other similar discharges, when these systems are authorized under a general NJPDES permit, have been determined not to require a NJPDES permit, or are exempted from obtaining a