

POLLUTANT DISCHARGE ELIMINATION SYSTEM

(d) The Department shall require on a case-by-case basis any animal feeding operation 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 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;

2. Pollutants are discharged into waters of the State through a manmade ditch, flushing system, or other similar manmade device; or

3. 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.

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 (i), (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 Environmental Protection
Bureau of Revenue
PO Box 402
Trenton, New Jersey 08625

5. If the permittee/applicant fails to submit payment to the Department 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. The minimum fee is a base cost added to the calculated individual fee. The minimum fees are set forth in (h) below.

(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 for the permit categories listed in (h) below is calculated by multiplying the total hours allocated by the Department for permit issuance, inspection and data management for a typical permit in each category by the Department's total personnel cost and rounding to the nearest \$50.00 increment.

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.).

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.

(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) Volatile organic compounds, acid extractable compounds, base-neutral organic compounds, pesticides and PCB's will be deleted from the Total Pollutant Load, if reported as non-detectable in all samples for the monitoring period. For all other pollutants, and volatile organic compounds, acid extractable compounds, base-neutral organic compounds, pesticides, and PCB's 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 multiplied by the amount (in million gallons per day) of effluent discharged. The Department shall use an average influent temperature of 5.57 degrees centigrade during the period November to April and 18.87 degrees centigrade 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), Carboneous 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 ground water, 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 Ground Water regulated by an individual NJPDES permit is derived by applying the formula:

$$\text{Environmental Impact} = (\text{Risk} \times \text{Quantity} \times \text{Ground Water Rating Factor}) \text{ where:}$$

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 ground water, 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
5	Non-hazardous industrial process waste
15	Metal plating waste, hazardous industrial process waste, landfill leachate, or ground water, 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.

iii. Ground Water Rating Factor is the sum of the Ground Water Monitoring Status Factor, the Aquifer Factor, Ground Water Use Factor and Permeability Rating divided by 10 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 Factor 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 factor 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 ground water contamination shall be assigned a permeability factor of 10. Where permeability is not provided to the Department by the permittee, the Department shall assume a permeability factor of 10^{-2} . 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:

$$\text{Environmental Impact} = (W1 + W2) \times (\text{Closure Status Factor} + \text{Ground Water Rating Factor}) \text{ where:}$$

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:

$$\text{Environmental Impact} = (\text{Total Pollutant Load})$$

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) Volatile organic compounds, acid extractable compounds, base-neutral organic compounds, pesticides and PCB's will be deleted from the Total Pollutant Load, if reported as non-detectable in all samples for the monitoring period. For all other pollutants, and for volatile organic compounds, acid extractable compounds, base-neutral organic compounds, pesticides, and PCB's 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) Except as provided by (k) below, minimum fees are as set forth below.

1. The minimum fees for domestic treatment works (DTWs) shall be assessed as follows:

i. Minor DTWs issued an individual NJPDES Discharge to Surface Water permit shall be assessed a minimum fee of \$2,400;

ii. Major DTWs issued an individual NJPDES Discharge to Surface Water permit shall be assessed a minimum fee of \$6,400;

iii. Combined sewer overflows (CSOs) authorized to discharge to surface water under a general permit will be assessed a minimum fee of \$5,400;

iv. DTWs constructed under the authority of N.J.A.C. 7:14A and issued an individual NJPDES Discharge to Ground Water permit shall be assessed a minimum of fee of \$3,950;

v. DTWs constructed under the authority of the Realty Improvement, Sewerage and Facilities Act, N.J.S.A. 58:11-23 et seq. ("Chapter 199") and subsequently issued an individual NJPDES Discharge to Ground Water permit shall be assessed a minimum fee of \$1,600;

vi. DTWs authorized to discharge to ground water under a general permit, including a Class V injection well permit pursuant to N.J.A.C. 7:14A-8.5, shall be assessed a minimum fee of \$500.

2. The minimum fees for industrial treatment works (ITWs) shall be assessed as follows:

i. ITWs authorized to discharge to surface water under a general permit shall be assessed a minimum fee of \$1,300;

ii. Minor ITWs issued an individual NJPDES Discharge to Surface Water permit shall be assessed a minimum fee of \$2,400;

iii. Major ITWs issued an individual NJPDES Discharge to Surface Water permit shall be assessed a minimum fee of \$5,700;

iv. ITWs issued a Significant Indirect User (SIU) permit shall be assessed a minimum fee of \$3,600;

v. ITWs issued an individual permit for the discharge of stormwater runoff shall be assessed a minimum fee of \$2,350;

vi. ITWs constructed pursuant to N.J.A.C. 7:14A and issued an individual NJPDES Discharge to Ground Water permit shall be assessed a minimum fee of \$3,950;

vii. ITWs not constructed pursuant to N.J.A.C. 7:14A but subsequently issued an individual NJPDES Discharge to Ground Water permit shall be assessed a minimum fee of \$1,600; and

viii. ITWs issued a general permit for discharge to ground water, including a Class V injection well general permit pursuant to N.J.A.C. 7:14A-8.5, shall be assessed a minimum fee of \$500.00.

3. The minimum fees for facilities which land apply, handle or distribute residuals shall be assessed as follows:

i. Facilities issued a permit for land application, handling, or distribution of residuals shall be assessed a minimum fee of \$6,700;

ii. Permit exemptions 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. The Department will not consider a request for a permit exemption complete unless the request is accompanied by the fee;

iii. 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;

iv. Facilities issued an individual permit for land application, handling, or distribution of food processing residuals shall be assessed a minimum fee of \$2,550; and

v. Facilities authorized to land apply residuals pursuant to a general permit shall be assessed a minimum fee of \$500.00.

4. The minimum fee for sanitary landfills shall be assessed as follows:

i. Landfills that are operating or terminated after January 1, 1982 without an approved closure plan shall be assessed a minimum fee of \$2,500;

ii. Terminated Landfills properly closed with a Department approved closure plan, or closed prior to January 1, 1982 shall be assessed a minimum fee of \$500.00;

iii. Operating sanitary landfills issued an individual NJPDES Discharge to Ground Water permit shall be assessed a minimum fee of \$3,950.

5. The minimum fee for an emergency permit issued pursuant to N.J.A.C. 7:14A-6.14 shall be determined based on (h)1 through 4 above.

(i) For NJPDES Permit No. NJ0088315 (N.J.A.C. 7:14A-11, Appendix A, incorporated herein by reference), the annual fee collected under (a) above shall be \$500.00. A request for authorization under that permit shall not be complete unless this fee is included in that request, or unless this permit has been reissued and this fee has already been paid for the billing year in which the RFA is submitted.

(j) For NJPDES Permit No. NJ0088323 (N.J.A.C. 7:14A-11, Appendix B, incorporated herein by reference), there is no annual or minimum fee. Instead, a fee of \$200.00 shall be paid by check or money order, payable to "Treasurer, State of New Jersey," and submitted to the soil conservation district along with each request for authorization submitted under that permit. 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 committee shall not certify any request for authorization that is not accompanied by this fee.

(k) The fee for discharges to ground water required for conducting remediation, as defined by N.J.A.C. 7:26E, of contaminated sites is calculated by using the following formula:

1. Fee = A + B, where:

A = (Number of coded hours x Hourly Salary Rate) x Salary Additive x Fringe Benefit Rate x Indirect Cost Rate.

B = any contractual costs or sampling costs of the Department directly attributable to a specific permittee.

i. Number of coded hours represents the sum of hours each employee has coded to the site-specific project activity code (PAC) for the case. Actual hours for all staff members including, without limitation, managers, geologists, technical coordinators, samplers, inspectors, supervisors, section chiefs, using the specific PAC, will be included in the formula calculations.

ii. The hourly salary rate is each employee's annual salary divided by the number of working hours in a year.

iii. The NJDEP salary additive rate represents the prorated percentage of charges attributable to employees' reimbursable "down time." This time includes vacation time, administrative leave, sick leave, holiday time, and other approved "absent with pay" allowances. The calculation for the salary additive is the sum of the reimbursable leave salary divided by the net Department regular salary for a given fiscal year. The direct salary charges (number of coded hours x hourly salary rate) are multiplied by the calculated percentage and the result is added to the direct salaries to determine the total reimbursable salary costs for a particular case.

iv. The fringe benefit represents the Department's charges for the following benefits: pension, health benefits including prescription drug and dental care program, workers compensation, temporary disability insurance, unused sick leave and FICA. The fringe benefit rate is developed by the Department of Treasury's Office of Management and Budget (OMB). OMB negotiates the rate with the United States Department of Health and Human Services on an annual basis. The rate is used by all State agencies for estimating and computing actual charges for fringe benefit costs related to Federal, dedicated and non-State funded programs.

v. The indirect cost rate represents the rate which has been developed for the recovery of indirect costs in the Site Remediation Program. This rate is developed by the Department on annual basis in accordance with the New Jersey Department of Treasury OMB Circular Letter 86-17 and the Federal OMB Circular A-87, "Cost Principals for State and Local Governments." Indirect costs are defined as those costs which are incurred for a common or joint purpose benefiting

more than one cost objective and not readily assignable to the cost objective specifically benefited without effort disproportionate to the results achieved.

(1) The components of the indirect cost rate include operating and overhead expenses that cannot be coded as direct salary charges for a particular case, such as the salary and non-salary costs incurred by the Division of Publicly Funded Site Remediation and the Division of Responsible Party Site Remediation. In addition, the indirect rate includes the Site Remediation Program's proportionate share of the costs associated with the Offices of the Commissioner, Assistant Commissioner for Site Remediation, Division Directors and Assistant Directors, the Division of Financial and General Services and the Division of Personnel.

(2) The indirect rate includes operating costs such as office and data processing equipment, and telephones as well as building rent and the Department's share of the statewide costs as determined by the Department of Treasury in the Statewide Cost Allocation Plan. The Statewide Cost Allocation Plan pertains to central services costs of the State Department on a fixed basis and included as part of the costs of the State Department during a given fiscal year ending June 30. The total of these indirect costs is divided by the total direct hours of the Site Remediation Program to determine the indirect cost rate.

vi. Sampling costs and contractor expenses represent non-salary direct, site specific costs. These costs are billed directly as an add on to the formula.

2. The Department shall develop on an annual basis and publish notice of the salary additive rate, fringe benefit rate, and the indirect cost rate for the fiscal year in the New Jersey Register. These rates are developed on an annual basis after the close of the fiscal year.

3. The Department will charge fixed and non-refundable fees for the following categories of activities:

i. The fee for an emergency permit is \$700.00 and is due and payable upon issuance.

ii. The fee for a permit application is \$350.00 and is due and payable with the application.

4. The Department will bill permittees at regular intervals throughout the life of the permit based upon the formula in (k)1 above. The permittee shall submit the fee to the Department within 30 calendar days after receipt from the Department of a summary of the Department's oversight costs for the period being charged. The Department shall include the following information in the summary: description of work performed, staff member(s) performing work, number of hours worked by the staff member(s) and the staff members' hourly salary rate.

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

* Unlisted
** Not Itemized

Table II
FORMATION RATINGS

System	Formation	Potential	Points
Quarternary Pleistocene	Glacial drift	Poor Mod to Very Good Moderate to Good Moderate to Minor Moderate to Minor	2 10 8 6 6
	Mercer, Middlesex		
	Other Counties		
	Cape May		
	Pennsauken		
Tertiary	Bridgeton		
	Pleistocene	Poor	2
	Pleistocene	Very Good	10
	Miocene	Good to Moderate	8

<u>System</u>	<u>Formation</u>	<u>Potential</u>	<u>Points</u>	
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	Skunnemunk	Poor	2
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	

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".

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
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. Facilities proposing a new discharge of stormwater associated with industrial activity shall submit an application 180 days before that facility intends to commence industrial activity which may result in a discharge of stormwater associated with that industrial activity. Construction activities discharging stormwater 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 applications at least 90 days before the date on which construction is to commence.

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:

2. The number of acres used for confinement feeding; and

3. The design basis for the runoff diversion and control system, if one exists, including the number of acres of contributing drainage, the storage capacity, and the design safety factor.

(b) For new or existing concentrated aquatic animal production facilities, in addition to the application requirements contained in N.J.A.C. 7:14A-4.2 and 4.3, applications shall include the following information:

1. The maximum daily and average monthly flow from each outfall;

2. The number of ponds, raceways, and similar structures;

3. The name of the receiving water and the source of intake water;

4. For each species of aquatic animals, the total yearly and maximum harvestable weight; and

5. The calendar month of maximum feeding and the total mass of food fed during that month.

7:14A-4.9 Signatory requirements for permit applications and reports

(a) All permit applications, requests for authorization, reports required by permits other than DMRs, and other information requested by the Department, shall be signed by a person described in (a)1 through 4 below. DMRs shall be signed in accordance with the DMR reporting requirements of N.J.A.C. 7:14A-6.9.

1. For a corporation, by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

i. A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

ii. The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

2. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or

3. For a municipality, State, Federal, or other public agency, by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:

i. The chief executive officer of the agency; or

ii. A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator); or

4. By a duly authorized representative as described in (b) below.

(b) A person is a duly authorized representative only if:

1. The authorization is made in writing by a person described in (a)1 through 3 above;

2. The authorization specifies either an individual or a position whose occupant has responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position whose occupant has overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and

3. The written authorization is submitted to the Department.

(c) If an authorization under (b) above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of (b) above must be submitted to the Department prior to or together with any reports, information, or applications signed by an authorized representative.

(d) Any person signing a document under (a) above shall make the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for purposely, knowingly, recklessly, or negligently submitting false information.”

7:14A-4.10 Technical requirements for NJPDES-DSW applications (Reserved)

APPENDIX A

PERMIT APPLICATION TESTING REQUIREMENTS/POLLUTANT LISTINGS

Table I

Testing Requirements for Organic Toxic Pollutants by Industrial Category

Industrial Category Adhesives and Sealants	<u>Volatile</u>	<u>Acid</u>	GC/MS Fraction 1 <u>Base/Neutral</u>	<u>Pesticide</u>
--	-----------------	-------------	---	------------------

Industrial Category	Volatile	GC/MS Fraction ¹		Pesticide
		Acid	Base/Neutral	
Aluminum Forming	*	*	*	*
Auto and Other Laundries	*	*	*	*
Battery Manufacturing	*	*	*	*
Coal Mining	*	*	*	*
Coil Coating	*	*	*	*
Copper Forming	*	*	*	*
Electric and Electronic Components	*	*	*	*
Electroplating	*	*	*	*
Explosives Manufacturing	*	*	*	*
Foundries	*	*	*	*
Gum and Wood Chemicals	*	*	*	*
Inorganic Chemicals Manufacturing	*	*	*	*
Iron and Steel Manufacturing	*	*	*	*
Leather Tanning and Finishing	*	*	*	*
Mechanical Products Manufacturing	*	*	*	*
Nonferrous Metals Manufacturing	*	*	*	*
Ore Mining	*	*	*	*
Organics Chemicals Manufacturing	*	*	*	*
Paint and Ink Formulation	*	*	*	*
Pesticides	*	*	*	*
Petroleum Refining	*	*	*	*
Pharmaceutical Preparations	*	*	*	*
Photographic Equipment and Supplies	*	*	*	*
Plastic and Synthetic Materials Manufacturing	*	*	*	*
Plastic Processing	*	*	*	*
Porcelain Enameling	*	*	*	*
Printing and Publishing	*	*	*	*
Pulp and Paper Mills	*	*	*	*
Rubber Processing	*	*	*	*
Soap and Detergent Manufacturing	*	*	*	*
Steam Electric Power Plants	*	*	*	*
Textile Mills	*	*	*	*
Timber Product Processing	*	*	*	*

Note 1: The Environmental Protection Agency has suspended the requirements of 122.21(g)(7)(ii)(A) and Table I of Appendix D as they apply to certain industrial categories. The suspensions are as follows:

(a) At 46 FR 2046, January 8, 1981, the Environmental Protection Agency suspended until further notice 122.21(g)(7)(ii)(A) as it applies to coal mines.

(b) At 46 FR 22585, April 20, 1981, the Environmental Protection Agency suspended until further notice 122.21(g)(7)(ii)(A) and the corresponding portions of Item V-C of the NPDES application Form 2 as they apply to:

1. Testing and reporting for all four organic fractions in the Greige Mills Subcategory of the Textile Mills industry (Subpart C—Low water use processing of 40 C.F.R. part 410), and testing and reporting for the pesticide fraction in all other subcategories of this industrial category.

2. Testing and reporting for the volatile, base/neutral and pesticide fractions in the Base and Precious Metals Subcategory of the Ore Mining and Dressing industry (subpart B of 40 C.F.R. part 440), and testing and reporting for all four fractions in all other subcategories of this industrial category.

3. Testing and reporting of all four GC/MS fractions in the Porcelain Enameling industry.

(c) At 46 FR 35090, July 1, 1981, the Environmental Protection Agency suspended until further notice 122.21(g)(7)(ii)(A) and the corresponding portions of Item V-C of the NPDES application Form 2c as they apply to:

1. Testing and reporting for the pesticide fraction in the Tall Oil Rosin Subcategory (subpart D) and Rosin-Based Derivatives Subcategory (subpart F) of the Gum and Wood Chemicals industry (40 CFR part 454), and testing and reporting for the pesticide and base/neutral fractions in all other subcategories of this industrial category.

2. Testing and reporting for the pesticide fraction in the Leather Tanning and Finishing, Paint and Ink Formulation, and Photographic Supplies industrial categories.

3. Testing and reporting for the acid, base/neutral and pesticide fractions in the Petroleum Refining industrial category.

4. Testing and reporting for the pesticide fraction in the Papergrade Sulfite subcategories (subparts J and U) of the Pulp and Paper industry (40 C.F.R. part 430); testing and reporting for the base/neutral and pesticide fractions in the following subcategories: Deink (subpart Q), Dissolving Kraft (subpart F), and Paperboard from Waste Paper (subpart E); testing and reporting for the volatile, base/neutral and pesticide fractions in the following subcategories: BCT Bleached Kraft (subpart H), Semi-Chemical (subparts B and C), and Nonintegrated-Fine Papers (subpart R); and testing and reporting for the acids, base/neutral, and pesticide fractions in the following subcategories: Fine Bleached Kraft (subpart I), Dissolving Sulfite Pulp (subpart K), Groundwood-Fine Papers (subpart O), Market Bleached Kraft (subpart G), Tissue from Wastepaper (subpart T), and Nonintegrated-Tissue Papers (subpart S).

5. Testing and reporting for the base/neutral fraction in the Once-Through Cooling Water, Fly Ash and Bottom Ash Transport Water process wastestreams of the Steam Electric Power Plant industrial category.

This revision continues these suspensions.

For the duration of the suspensions, therefore, Table I effectively reads:

**PERMIT APPLICATION TESTING
REQUIREMENTS/POLLUTANT
LISTINGS**

Table I

Testing Requirements for Organic Toxic
Pollutants by Industrial Category

Industrial Category	Volatile	GC/MS Fraction ¹		Pesticide
		Acid	Base/Neutral	
Adhesives and sealants	*	*	*	*
Aluminum forming	*	*	*	*

Industrial Category	Volatile	GC/MS Fraction ¹		Pesticide
		Acid	Base/Neutral	
Auto and other laundries	*	*	*	*
Battery manufacturing	*	*	*	*
Coal mining	*	*	*	*
Coil coating	*	*	*	*
Copper forming	*	*	*	*
Electric and electronic components	*	*	*	*
Electroplating	*	*	*	*
Explosives manufacturing	*	*	*	*
Foundries	*	*	*	*
Gum and wood	*	*	*	*
(all subparts except D and F)	*	*	*	*
Subpart D—tall oil resin	*	*	*	*
Subpart F—rosin-based derivatives	*	*	*	*
Inorganic chemicals manufacturing	*	*	*	*
Iron and steel manufacturing	*	*	*	*
Leather tanning and finishing	*	*	*	*
Mechanical products manufacturing	*	*	*	*
Nonferrous metals manufacturing	*	*	*	*
Ore mining (applies to the base and precious metals/Subpart B)	*	*	*	*
Organics chemicals manufacturing	*	*	*	*
Paint and ink formulation	*	*	*	*
Pesticides	*	*	*	*
Petroleum refining	*	*	*	*
Pharmaceutical preparations	*	*	*	*
Photographic equipment and supplies	*	*	*	*
Plastic and synthetic materials manufacturing	*	*	*	*
Plastic processing	*	*	*	*
Porcelain enameling	*	*	*	*
Printing and publishing	*	*	*	*
Pulp and paperboard mills—see footnote 3	*	*	*	*
Rubber processing	*	*	*	*
Soap and detergent manufacturing	*	*	*	*
Steam electric power plants	*	*	*	*
Textile mills (Subpart C—Greige Mills are exempt from this table)	*	*	*	*
Timber products processing	*	*	*	*

1. The pollutants in each fraction are listed in Item V-C of the USEPA Form *C.

*Testing required

3. Pump and Paperboard Mills:

Subpart³

GC/MS Fraction¹

	Volatile	Acid	Base/Neutral	Pesticide
A	*	1	*	1
B	*	1	*	*
C	*	1	*	*
D	*	1	*	*
E	1	1	*	1
F	1	1	*	*
G	1	1	*	*
H	1	1	*	*
I	1	1	*	*
J	1	1	1	*
K	1	1	*	*
L	1	1	*	*
M	1	1	*	*
N	1	1	*	*
O	1	1	*	*
P	1	1	*	*
Q	1	1	*	1
R	*	1	*	*
S	1	1	*	1
T	1	1	*	1
U	1	1	1	*

1. Must test.

*Do not test unless 'reason to believe' it is discharged.

3: Subparts are defined in 40 C.F.R. Part 430.

Table II

Organic Toxic Pollutants in Each of Four Fractions
in Analysis by Gas Chromatography/Mass
Spectroscopy (GC/MS)
Volatiles

Acrolein

Acrylonitrile
Benzene
Bromoform
Carbon Tetrachloride
Chlorobenzene
Chlorodibromomethane
Chloroethane
2-Chloroethylvinyl Ether
Chloroform
Dichlorobromomethane
1,1-Dichloroethane
1,2-Dichloroethane
1,1-Dichloroethylene
1,2-Dichloropropane
1,3-Dichloropropylene
Ethylbenzene
Methyl Bromide
Methyl Chloride
Methylene Chloride
1,1,2,2-Tetrachloroethane
Tetrachloroethylene
Toluene
1,2-trans-Dichloroethylene
1,1,1-Trichloroethane
1,1,2-Trichloroethane
Trichloroethylene
Vinyl Chloride

1,4-Dichlorobenzene
3,3'-Dichlorobenzidine
Diethyl Phthalate
Dimethyl Phthalate
Di-N-Butyl Phthalate
2,4-Dinitrotoluene
2,6-Dinitrotoluene
Di-B-Octyl Phthalate
1,2-Diphenylhydrazine(as
Azobenzene) Fluoranthene
Fluorene
Hexachlorobenzene
Hexachlorobutadiene
Hexachlorocyclopentadiene
Hexachloroethane
Indeno (1,2,3-cd) Pyrene
Isophorone
Naphthalene
Nitrobenzene
N-Nitrosodimethylamine
N-Nitrosodi-N-Propylamine
N-Nitrosodiphenylamine
Phenanthrene
Pyrene
1,2,4-Trichlorobenzene

Acid Compounds

2-Chlorophenol
2,4-Dichlorophenol
2,4-Dimethylphenol
4,6-Dinitro-O-Cresol
2,4-Dinitrophenol
2-Nitrophenol
4-Nitrophenol
P-Chloro-M-Cresol
Pentachlorophenol
Phenol
2,4,6-Trichlorophenol

Base/Neutral

Acenaphthylene
Acenaphthene
Anthracene
Benzidine
Benzo(a)Anthracene
Benzo(a)Pyrene
3,4-Benzofluoranthene
Benzo(ghi)Perylene
Benzo(k)Fluoranthene
Bis (2-Chloroethoxy) Methane
Bis (2-Chloroethyl) Ether
Bis (2-Chloroisopropyl) Ether
Bis (2-Ethylhexyl) Phthalate
4-Bromophenyl Phenyl Ether
Butyl Benzyl Phthalate
2-Chloronaphthalene
4-Chlorophenyl Phenyl Ether
Chrysene
Dibenzo (a,h) Anthracene
1,2-Dichlorobenzene
1,3-Dichlorobenzene

Pesticides

Aldrin
Alpha-BHC
Beta-BHC
Gamma-BHC (Lindane)
Delta-BHC
Chlordane
4,4'-DDT
4,4'-DDE
4,4'-DDD
Dieldrin
Alpha-Endosulfan
Beta-Endosulfan
Endosulfan Sulfate
Endrin
Endrin Aldehyde
Heptachlor
Heptachlor Epoxide
PCB-1242
PCB-1254
PCB-1221
PCB-1232
PCB-1248
PCB-1260
PCB-1016
Toxaphene

Table III

**Other Toxic Pollutants (Metals and
Cyanide) and Total Phenols**

Antimony, Total
Arsenic, Total
Beryllium, Total
Cadmium, Total
Chromium, Total
Copper, Total
Lead, Total

Mercury, Total
 Nickel, Total
 Selenium, Total
 Silver, Total
 Thallium, Total
 Zinc, Total
 Cyanide, Total
 Phenols, Total

Table IV

Conventional and Nonconventional Pollutants Required
 to be Tested if Expected to be Present

Bromide
 Chlorine, Total Residual
 Color
 Fecal Coliform
 Fluoride
 Nitrate-Nitrite
 Nitrogen, Total Organic
 Oil and Grease
 Phosphorus, Total
 Radioactivity
 Sulfate
 Sulfide
 Sulfite
 Surfactants
 Aluminum, Total
 Barium, Total
 Boron, Total
 Cobalt, Total
 Iron, Total
 Magnesium, Total
 Molybdenum, Total
 Manganese, Total
 Tin, Total
 Titanium, Total

Table V

Toxic Pollutants and Hazardous Substances Required
 to be Identified by Existing Dischargers if
 Expected to be present

Toxic Pollutants

Asbestos

Hazardous Substances

Acetaldehyde
 Allyl alcohol
 Allyl chloride
 Amyl acetate
 Aniline
 Benzonitrile
 Benzyl chloride
 Butyl acetate
 Butylamine
 Captan
 Carbaryl
 Carbofuran
 Carbon disulfide
 Chlorpyrifos
 Coumaphos

Cresol
 Crotonaldehyde
 Cyclohexane
 2,4-D (2,4-diichlorophenoxy acetic acid)
 Diazinon
 Dicamba
 Dichlobenil
 Dichlone
 2,2-Dichloropropionic acid
 Dichlorvos
 Diethyl amine
 Dimethyl amine
 Dintrobenzene
 Diquat
 Disulfoton
 Diuron
 Epichlorohydrin
 Ethion
 Ethylene diamine
 Ethylene dibromide
 Formaldehyde
 Furfural
 Guthion
 Isoprene
 Isopropanolamine
 Dodecylbenzenesulfonate
 Kelthane
 Kepone
 Malathion
 Mercaptodimethur
 Methoxychlor
 Methyl mercaptan
 Methyl methacrylate
 Methyl parathion
 Mevinphos
 Mexacarbate
 Monoethyl amine
 Monomethyl amine
 Naled
 Napthenic acid
 Nitrotoluene
 Parathion
 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"

**SUBCHAPTER 5. TECHNICAL REQUIREMENTS
FOR AMBIENT STUDIES FOR DSW
PERMITS (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

14. A permittee shall furnish to the Department, within a reasonable timeframe specified by the Department, any information which the Department may request to determine whether cause exists for issuing, modifying, revoking and reissuing, or revoking a discharge permit, or to determine compliance with a NJPDES permit. The permittee shall also furnish to the Department, upon request, copies of records required to be kept by the permit.

(b) When applicable, NJPDES-DSW permits shall include the following conditions:

1. Implementation of best management practices to control or abate the discharge of pollutants, when:

i. Authorized under Section 304(e) of the Federal Act for the control of toxic pollutants and hazardous substances from ancillary activities (40 CFR Part 125, Subpart K);

ii. Numeric effluent limitations are infeasible; or

iii. The practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the State and Federal Acts;

2. For existing manufacturing, commercial, mining, and silvicultural discharges and research facilities, a notification level different from the notification level of N.J.A.C. 7:14A-11.3(a)1, upon a petition from the permittee or on the Department's initiative. A notification level established pursuant to this paragraph will not exceed the level which can be achieved by the technology-based treatment requirements appropriate to the permittee under 40 CFR 125.3(c); and

3. Any conditions imposed in grants or loans made to DTWs by the Administrator under Sections 201 and 204 of the Federal Act or by the Department which are reasonably necessary for the achievement of any conditions of the permit.

Administrative correction.

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

In (a)9, changed "May 5, 1997" to "May 5, 1998".

Case Notes

Defendant, owner of smelting and metal recycling facility, failed to establish bypass defense to action for violation of permit due to discharge of untreated water following heavy rainfall; owner's failure to notify DEP within 24 hours of violation precluded it from asserting upset defense. *Public Interest Research Group v. U.S. Metals Refining Co.*, 681 F.Supp. 237 (D.N.J.1987).

Before warrantless inspection of pervasively regulated business will be deemed reasonable, there must be constitutionally adequate substitute for warrant. *State v. Bonaccorso*, 227 N.J.Super. 159, 545 A.2d 853 (L.1988).

Department of Environmental Protection inspectors' warrantless inspections were reasonable. *State v. Bonaccorso*, 227 N.J.Super. 159, 545 A.2d 853 (L.1988).

Entry by Department of Environmental Protection inspectors was reasonable and fell within open fields exception to warrant requirement. *State v. Bonaccorso*, 227 N.J.Super. 159, 545 A.2d 853 (L.1988).

Requirement that entry be reasonable in terms of its time, place and manner was implicit in statute empowering Department of Environmental Protection to enter any premises in which discharge source was or might be located. *State v. Bonaccorso*, 227 N.J.Super. 159, 545 A.2d 853 (L.1988).

Landfill operator violated permit and Water Pollution Control Act by failing properly to take samples and submit monitoring reports and by failing to timely submit permit renewal application. *Department of Environmental Protection v. James H. James, Inc.*, 93 N.J.A.R.2d (EPE) 13.

Failure by landfill owner to install off-site ground water monitoring wells; defenses of estoppel and impossibility. *Division of Water Resources v. Southern Ocean Landfill, Inc.* 92 N.J.A.R.2d (EPE) 91.

7:14A-6.3 Establishing permit conditions

(a) In addition to conditions required in all permits for all programs pursuant to N.J.A.C. 7:14A-6.2, the Department shall establish conditions in permits for the individual programs, as required on a case-by-case basis.

(c) All monitoring shall be performed in accordance with the monitoring requirements contained in N.J.A.C. 7:14A-6.5 and monitoring results submitted to the Department on forms as specified by and available from the Department.

7:14A-14.2 Monitoring frequency requirements for direct surface water discharges

(a) A monitoring schedule for parameters included in a DSW permit shall be established as provided in Tables 14-1 through 14.4 below. Tables 14-2 and 14-4 establish monitoring frequencies for parameters in DSW permits that are either monitored and limited, or monitored only. Tables 14-1 and 14-3 establish monitoring frequencies in DSW permits that are monitored and limited.

Table 14-1

Toxic Metals and Organic Compounds and Whole Effluent Toxicity Monitoring Frequency Requirements Applicable to Industrial Facilities

Parameter	All Major Facilities	All Minor Facilities
Toxic Metals(2) and Cyanide	1/Month ((G) for cyanide) ((C) for toxic metals)(1)	1/Month ((G) for cyanide) ((C) for toxic metals)(1)
Toxic Organic Compounds(3)	1/Month ((G) for volatile organic compounds) ((C) for all other compounds)(1)	1/Quarter ((G) for volatile organic compounds) ((C) for all other compounds)(1)
Whole Effluent Toxicity	1/Quarter	1/Quarter

Footnotes:

C = Composite sample.

G = Grab sample.

- (1) For composite sampling, the applicable composite time period will be specified in the permit.
- (2) A full listing of all toxic metals can be found in N.J.A.C. 7:14A-4, Appendix A, Table III.
- (3) A full listing of all toxic organic compounds can be found in N.J.A.C. 7:14A-4, Appendix A, Table II.

Table 14-2

Conventional and Non-Conventional Parameters Monitoring Frequency Requirements Applicable to Industrial Facilities

Parameter	All Major Facilities	All Minor Facilities
COD, DOC, TOC, BOD, CBOD, NBOD, Dissolved Oxygen, TSS, TDS, FSOD, Settleable Solids	1/Month (G)(1)	1/Month (G)(1)
Phosphorus, Nitrogen (all forms),	2/Month	1/Month (G)(1,2)

Table 14-4

Conventional and Nonconventional Parameters Monitoring Frequency Requirements Applicable to Domestic Treatment Works

Parameter	Effluent Flow (MGD)							
	<0.05	0.05 - 0.1	>0.1 - 0.5	>0.5 - 1.0	>1.0 - 5.0	>5.0 - 10	>10 - 15	> 15.00
BOD, CBOD, NBOD, FSOD, TOC, COD, TSS, TDS, Phosphorus, Nitrogen (all forms), Alkalinity, Hardness, Color, and any other parameter that can be composite sampled	1/month (G)	2/month (G) 4 hr (C)	2/month (G) 6 hr (C)	3/month (G) 6 hr (C)	1/week (G) 24 hr (C)	2/week (G) 24 hr (C)	3/week (G) 24 hr (C)	1/day (G) 24 hr (C)
Dissolved Oxygen	1/month (G)	2/month (G)	2/month (G)	3/month (G)	1/week (G)	2/week (G)	3/week (G)	1/day (G)
pH, CPO, Settleable solids,	1/day	1/day	1/day	1/day	2/day	3/day	3/day	6/day

Parameter	All Major Facilities	All Minor Facilities
Oil and Grease and/or Petroleum Hydrocarbons, Alkalinity, Hardness	(C or G)(1,2)	
pH, Temperature	2/Month (G)	1/Month (G)
CPO: (if used or added)	1/Week (G)	1/Month (G)
(if not used or added)	1/Month (G)	1/Quarter (G)
Bacterial Indicators	1/Month (G)	1/Month (G)

Footnotes:

C = Composite sample.

G = Grab sample.

- (1) Grab samples shall be collected for the parameters listed below except that composite samples shall be collected when the frequency of monitoring is greater than 1/month. When composite samples are required, the composite time period will be specified in the permit.
 - i. Chemical oxygen demand (COD);
 - ii. Biochemical oxygen demand (BOD), including CBOD, NBOD, and FSOD;
 - iii. Total or dissolved organic carbon (TOC or DOC);
 - iv. Solids, including total suspended solids (TSS) and total dissolved solids (TDS);
 - v. All nutrients, including ammonia-N, total kjeldhal nitrogen, nitrite, nitrate, and phosphorus fractions; and
 - vi. Alkalinity or hardness.
- (2) Grab samples shall be collected for the following parameters:
 - i. Temperature;
 - ii. pH;
 - iii. Chlorine produced oxidants (CPO);
 - iv. Dissolved oxygen;
 - v. Settleable solids;
 - vi. Oil and grease and/or petroleum hydrocarbons; and
 - vii. Bacterial indicators, including fecal coliform, total coliform, streptococci, or enterococci.

Table 14-3

Toxic Metals and Organic Compounds and Whole Effluent Toxicity Monitoring Frequency Requirements Applicable to Domestic Treatment Works

Parameter	All Major Facilities	All Minor Facilities
Toxic Metals(1) and Cyanide	1/Month ((G) for cyanide) (24 hr (C) for Toxic Metals)	1/Month(3)
Toxic Organic Compounds(2)	1/Month ((G) for volatile organic compounds) (24 hr (C) for all other compounds)(3)	1/Quarter ((G) for volatile organic compounds)
Whole Effluent Toxicity	1/Quarter	1/Quarter

Footnotes:

C = Composite sample.

G = Grab sample.

- (1) A full listing of all toxic metals can be found in N.J.A.C. 7:14A-4, Appendix A, Table III.
- (2) A full listing of all organic toxic compounds can be found in N.J.A.C. 7:14A-4, Appendix A, Table II.
- (3) For cyanide sampling, grab samples shall be taken. The required sample type(based on flow in MGD) for toxic metals and all toxic organic compounds, except volatile organic compounds, for minor facilities is:
 - i. Grab sample for a flow less than 0.05 MGD;
 - ii. Four-hour composite sample for a flow of 0.05 up to and including 0.1 MGD;
 - iii. Six-hour composite sample for a flow greater than 0.1 up to and including 1.0 MGD.

Parameter	Effluent Flow (MGD)							
	<0.05	0.05 - 0.1	>0.1 - 0.5	>0.5 - 1.0	>1.0 - 5.0	>5.0 - 10	>10 - 15	> 15.00
Temperature	(G)	(G)	(G)	(G)	(G)	(G)	(G)	(G)
Bacterial Indicator (limit imposed)	1/month (G)	1/month (G)	2/month (G)	2/month (G)	4/month (G)	8/month (G)	8/month (G)	1/day (G)
Bacterial Indicator (no limit imposed)	1/month (G)	1/month (G)	1 month (G)	1 month (G)	1 month (G)	1 month (G)	1 month (G)	1 month (G)
Oil and Grease (any petroleum based component)	1/month (G)	1/month (G)	2/month (G)	2/month (G)	1/week (G)	2/week (G)	2/week (G)	2/week (G)
Oil and Grease (no petroleum based component)	1/quarter (G)	1/quarter (G)	1/quarter (G)	1/quarter (G)	1/month (G)	1/month (G)	2/month (G)	2/month (G)

Footnotes: C = Composite sample. G = Grab sample.

(b) The monitoring frequency for any parameter or group of parameters will be increased for a specific discharger if the Department determines that increased monitoring frequency is appropriate based on factors such as effluent variability, non-compliance history, or other site specific factors. The Department shall describe the reasons for the increased monitoring in the draft permit fact sheet.

(c) The monitoring frequency for any parameter or group of parameters will be decreased when:

1. An existing discharge permit specifies less frequent monitoring than is specified in this section, the reduced monitoring frequency will be continued in the renewed permit provided the discharger has demonstrated consistent compliance with the specified parameters;
2. A permit specifies conditions for monitoring frequency reduction and the permittee complies with all conditions; or
3. A permittee requests a reduction in compliance monitoring frequency during the time that the permittee is engaged in a watershed TMDL study in cooperation with the Department and/or other dischargers and the Department considers the change warranted. The monitoring frequency reduction will be effected as a major modification of the discharge permit in accordance with N.J.A.C. 7:14A-16.4(b)20. This provision does not affect the Department's authority to require ambient monitoring as part of the permit application or as a permit condition.

(d) Notwithstanding any reduction in monitoring frequency established pursuant to (c) above, whenever a Discharge Monitoring Report shows that an effluent limitation has been exceeded, the applicable monitoring frequency shall be adjusted as follows:

1. A permittee shall adjust monitoring to monthly for serious violations in accordance with N.J.A.C. 7:14A-6.5(d).
2. For violations which are not serious violations the permittee shall, upon written notice from the Department, resume the monitoring frequency established immediately preceding the frequency reduction and reporting schedule unless the permittee can demonstrate to the satisfaction of the Department that the exceedence was caused by an upset, bypass or laboratory error as provided for in N.J.A.C. 7:14A-6.11.

(e) General permits and individual stormwater discharge permits are exempt from the requirements of this section unless the fact sheet for the draft general or stormwater discharge permit contains a summary of the basis for imposing monitoring in accordance with N.J.A.C. 7:14A-15.8(c)4.

Administrative correction.
See: 29 N.J.R. 3822(a).
Amended N.J.A.C. references.

7:14A-14.3 Monitoring frequency requirements for NJPDES-SIU permits

(a) This section establishes monitoring requirements for SIU permits issued by the Department. Monitoring frequency for each parameter shall be determined based on the following factors:

1. The permittee's compliance history;
2. The impact of the discharge on the receiving local agency's treatment process, discharge and/or sludge quality or potential for endangerment to public health or to the local agency employee's health or safety;
3. The volume (or mass) of the discharge(s);
4. Production variations (variability of the discharge); and
5. Any Federal or local requirements regarding significant indirect users.

(b) Monitoring frequency shall be reduced if a permittee submits a written request to the Department demonstrating that compliance for the affected parameter(s) has been achieved for a minimum period of one year. Monitoring frequency shall be reduced as follows:

1. From weekly to monthly;
2. From twice monthly to monthly;
3. From monthly to quarterly; or
4. From quarterly to semi-annually.

(c) Notwithstanding (b) above, in accordance with 40 CFR 403.12(g), whenever a permittee becomes aware of a permit violation, the permittee shall resample within one month unless the monitoring schedule established in the permit requires sampling sooner, in which case the permittee shall resample in accordance with such monitoring schedule. Upon written notice from the Department, the permittee shall resume the former, more frequent monitor-

ing and reporting schedule unless the permittee demonstrates that the exceedence was caused by an upset, bypass or laboratory error as provided for in N.J.A.C. 7:14A-6.11.

Case Notes

Permittee strictly liable under water pollution control law for failure to comply with reporting requirements of pollutant discharge permit. NJDEPE v. Dri-Print Foils, Inc., 96 N.J.A.R.2d (EPE) 52.