

CHAPTER 14A

POLLUTANT DISCHARGE ELIMINATION SYSTEM

Authority

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., 58:11-64 et seq., 13:1D-1 et seq., 13:1E-1 et seq., 58:12A-1 et seq., 13:1B-3 et seq. and 26:2C-1 et seq.

Source and Effective Date

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).

Executive Order No. 66(1978) Expiration Date

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).

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Appendix F, Values for Determination of NJPDES Permit Toxic Effluent Limitations, was repealed by R.1993 d.59, effective February 1, 1993.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Subchapter 12, Requirements for a Treatment Works Approval, was repealed by R.1994 d.278, effective June 6, 1994.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 readopted as R.1997 d.107, effective February 5, 1997. See: Source and Effective Date. 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).

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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**SUBCHAPTER 1. ABBREVIATIONS, ACRONYMS, AND DEFINITIONS**

**7:14A-1.1 Abbreviations and acronyms**

(a) As used in this chapter, the following abbreviations and acronyms shall have the following meaning:

- "ACR" means acute to chronic ratio.
- "AM" means additional measure.
- "BAT" means best available technology.
- "BCT" means best conventional technology.
- "BOD" means biochemical oxygen demand.
- "BPJ" means best professional judgment.
- "BPT" means best practical control technology.
- "BMP" means best management practices.
- "BR" means baseline report.
- "C1" means Category One waters.
- "C2" means Category Two waters.
- "CBOD" means carbonaceous biochemical oxygen demand.

- “CI” means confidence interval.
- “CCC” means the criteria continuous concentration.
- “CERCLA” means Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.
- “CFR” means the Code of Federal Regulations.
- “CMC” means the criteria maximum concentration.
- “COD” means chemical oxygen demand.
- “CPO” means chlorine produced oxidants.
- “CSO” means combined sewer overflow
- “CV” means coefficient of variation.
- “CWA” means the Federal Act or the Clean Water Act.
- “CWEA” means the Clean Water Enforcement Act, P.L. 1990, c.28; N.J.S.A. 58:10A-1 et seq.
- “DAC” means Discharge Allocation Certificate.
- “DEP” means the New Jersey Department of Environmental Protection.
- “DGW” means Discharge to Ground Water.
- “DLA” means delegated local agency.
- “DMR” means Discharge Monitoring Report.
- “DOC” means dissolved organic carbon.
- “DRBC” means the Delaware River Basin Commission.
- “DSW” means Discharge to Surface Water.
- “DTW” means domestic treatment works.
- “ECRA” means Environmental Cleanup Responsibility Act.
- “EC50” means the median effective concentration resulting in at least 50 percent mortality to the test species.
- “EDP” means effective date of permit.
- “ERP” means enforcement response plan.
- “FSOD” means first stage oxygen demand.
- “FW” means freshwater
- “GIS” means Geographic Information System.
- “GPD” means gallons per day.
- “GWQS” means the Ground Water Quality Standards as defined in N.J.A.C. 7:9-6.
- “IC” means the inhibition concentration.
- “IPP” means industrial pretreatment program.
- “ISRA” means Industrial Site Recovery Act.
- “ITW” means industrial treatment works.
- “IWMF” means industrial waste management facility.
- “kg/day” means kilograms per day.
- “LA” means load allocation.
- “LC50” means the median lethal concentration resulting in at least 50 percent mortality to the test species.
- “LLAMA” means Letter of Land Application Management Approval.
- “LTA” means long term average effluent concentration.
- “MA1CD10” means the minimum average one day flow with a statistical recurrence interval of ten years.
- “MA30CD5” means the minimum average 30 consecutive day flow with a statistical recurrence interval of five years.
- “MA7CD10” means the minimum average seven consecutive day flow with a statistical recurrence interval of 10 years.
- “MCL” means maximum contaminant level
- “MDL” means method detection level.
- “MF” means membrane filter technique.
- “MGD” means million gallons per day.
- “mg/L” means milligrams per liter.
- “ml/L” means milliliters per liter.
- “MOA” means Memorandum of Agreement.
- “MOU” means Memorandum of Understanding.
- “MPN” means most probable number.
- “MRF” means Monitoring Report Form.
- “MS4” means municipal separate storm sewer system.
- “MSWLF” means a municipal solid waste landfill as defined in 40 CFR part 258.2.
- “NBOD” means nitrogenous biochemical oxygen demand.

**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 (33 U.S.C. § 1314(e)) for the control of toxic pollutants and hazardous substances from ancillary industrial activities;

ii. Authorized under Section 402(p) of the Federal Act (33 U.S.C. § 1342(p)) or under the State Act for the control of stormwater discharges;

iii. Numeric effluent limitations are infeasible; or

iv. 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 reserach 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".

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

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

Rewrote (b)1i; inserted new (b)1ii; recodified existing (b)1ii and (b)1iii as (b)1iii and (b)1iv.

#### 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.