

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Bimonthly" means occurring every two months.

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

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

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

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

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

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

"Biweekly" means occurring every two weeks.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Clean Water Act and regulations" means the Clean Water Act (CWA) and applicable regulations promulgated thereunder. In the case of an approved State program (NJPDDES), it includes State program requirements.

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

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

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

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

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

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

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

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

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

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

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

"Composite sample" means a sample composed of several discrete samples combined in a known proportion. For

NJPDES wastewater monitoring, a composite sample is a sample composed of several discrete samples collected at equal time intervals, or proportionally to the flow rate of the discharge.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Co-permittee" means, for purposes of N.J.A.C. 7:14A-11.5 only, a permittee to a NJPDES permit that is only responsible for permit conditions relating to the discharge for which it is operating entity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Department” means the New Jersey Department of Environmental Protection.

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

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

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

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

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

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

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

“Director” means the Director of the Department’s Division of Water Quality, its predecessor or successor, or an authorized representative.

“Discharge” means an intentional or unintentional action or omission resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying, or dumping of a pollutant into the waters of the State, onto land or into wells from which the pollutant might flow or drain into such waters, or into waters or onto lands outside the jurisdiction of the State which pollutant enters the waters of the State, and shall include the release of any pollutant into a municipal

treatment works. A leak into a secondary containment system which does not involve a release into the waters or lands of this State is not a “discharge” for purposes of applying the rules under this chapter to violations of the Underground Storage of Hazardous Substances Act, N.J.S.A. 58:11-49 et seq. and the rules promulgated pursuant thereto, N.J.A.C. 7:14B.

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

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

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

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

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

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

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

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

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

sludge management plans prepared by a sludge generator directed by the Department to plan in the event of District failure to plan.

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

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

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

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

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

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

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

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

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

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

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

“Effluent concentrations consistently achievable through proper operations and maintenance” means:

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

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

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

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

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

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

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

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

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

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

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

"Existing uses" means the following:

1. As related to the Ground Water Quality Standards, means those uses of ground water actually attained, whether or not they are included in the Ground Water Quality Standards, N.J.A.C. 7:9-6; and

2. For surface waters, those uses actually attained in the waterbody on or after November 28, 1975, whether or not they are included in the Surface Water Quality Standards, N.J.A.C. 7:9B.

"Facility" or "activity" means any hazardous waste management facility, injection well, NJPDES point source or treatment works treating domestic sewage, or State approved dredge or fill activity, pursuant to Section 404 of the Federal Act, or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the RCRA, UIC, NJPDES, or 404 programs.

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

1. The BOD₅ and TSS effluent concentrations consistently achievable through proper operation and maintenance of the treatment works exceed the minimum level of the effluent quality set forth in N.J.A.C. 7:14A-12;

2. A trickling filter or waste stabilization pond is used as the principal process; and

3. The treatment works provide significant biological treatment of municipal wastewater.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Hazardous pollutant” means:

1. Any toxic pollutant;
2. Any hazardous substance as defined by the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10-23.11; or
3. Any substance regulated as a pesticide under the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§ 136 et seq.; or
4. Any substance the use or manufacture of which is prohibited under the Federal Toxic Substances Control Act, 15 U.S.C. §§ 2601 et seq.; or
5. Any substance identified as a known carcinogen by the International Agency for Research on Cancer; or
6. Any hazardous waste designated pursuant to the New Jersey Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. or the Federal Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

septic tank and discharge the liquid effluent to a disposal field.

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

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

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

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

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

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

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

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

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

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

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

"Interference" means:

1. Inhibiting or disrupting the operation of a DTW or its treatment processes so as to contribute to, or cause a violation of any condition of a State or Federal permit;
2. Discharging industrial process wastewater which, in combination with existing domestic flows, is of such quantity and/or quality as to exceed the treatment process design capacity; or
3. Preventing the use or disposal of sludge produced by the DTW in accordance with Section 405 of the Federal Act, the Federal Resource Conservation and Recovery Act (42 U.S.C. §§ 3251 et seq.), the Federal Clean Air Act (42 U.S.C. §§ 7401 et seq.), the Federal Toxic Substances Control Act (15 U.S.C. §§ 2601 et seq.), the Marine Protection, Research and Sanctuaries Act (33 U.S.C. §§ 1401 et seq. and 16 U.S.C. §§ 1431 et seq.), Sections 2, 4 and 6 of the State Act, and any regulations, criteria, or guidelines developed pursuant thereto, including, but not limited to, N.J.A.C. 7:14A-20, and the Statewide Sludge Management Plan.

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

"Interstate agency" means an agency of two or more states established by or under an agreement or compact approved by the Congress, or any other agency of two or more states having substantial powers or duties pertaining to the control of pollution as determined and approved by the Administrator under the appropriate Act and regulations.

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

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

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

"Landfill" see sanitary landfill.

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

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

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

"Large municipal separate storm sewer system" means all municipal separate storm sewers that are either:

1. Located in an incorporated place with a population of 250,000 or more as determined by the latest Decennial Census by the Bureau of Census. See 40 CFR Part 122, Appendix F (As of May 5, 1997, Newark is listed); or

2. Located in the counties listed in 40 CFR Part 122, Appendix H (As of May 5, 1997, no New Jersey counties are listed), except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties; or

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

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

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

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

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

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

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

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

"Level of pollutant control actually achieved" means:

1. For conventional and nonconventional pollutants, the effluent concentration consistently achieved through proper operation and maintenance as defined in this section with a 30-day and seven-day average effluent limitation.
2. For toxic pollutants, the effluent limitations based on existing effluent quality as defined at N.J.A.C. 7:14A-13.8 with a 30 day average and a daily maximum effluent limitation.

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

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

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

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

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

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

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

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

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

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

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

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

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

"Major facility" means:

1. For industrial facilities, any facility which scores 80 or more points on the NPDES permit rating work sheet

using the USEPA rating criteria. A facility with less than the required score of 80 may still be classified as a Major facility by the Regional Administrator or the Department. In those situations, the Department shall state the reasons for doing so; and

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

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

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

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

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

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

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

“Maximum value” means the highest value measured during the monitoring period.

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

“Medium municipal separate storm sewer system” means all municipal separate storm sewers that are either:

1. Located in an incorporated place with a population of 100,000 or more but less than 250,000, as determined by the latest Decennial Census by the Bureau of Census (40 CFR Part 122, Appendix G) (As of May 5, 1997, only Elizabeth, Jersey City, and Paterson are listed); or

2. Located in the counties listed in 40 CFR 122.26 Appendix I, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties (As of May 5, 1997, no New Jersey counties are listed); or

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

i. Physical interconnections between the municipal separate storm sewers;

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

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

iv. The nature of the receiving waters; or

v. Other relevant factors; or

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

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

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

“Minimum value” means the lowest data value measured during the monitoring period.

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

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

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

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

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

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

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

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

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

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

“Municipality” means a city, town, borough, county, parish, district, association or other public body created by or under State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or a designated and approved management agency under Section 208 of the Federal Act.

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

1. Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or

other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States;

2. Designed or used for collecting or conveying storm water;
3. Which is not a combined sewer; and
4. Which is not part of a POTW.

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

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

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

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

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

“New discharger” means any building, structure, facility, or installation:

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

This definition includes an indirect user which commences discharging into waters of the State after August 13, 1979. It also includes any existing mobile point source (other than an offshore or coastal oil and gas exploratory drilling rig) such as a seafood processing rig, seafood processing vessel, or aggregate plant, that begins discharging at a site for

which it does not have a permit; and any offshore or coastal mobile oil and gas exploratory drilling rig or coastal mobile oil and gas development drilling rig that commences the discharge of pollutants after August 13, 1979, at a site for which it is not covered by an individual or general permit and which is located in an area determined by the Department in the issuance of the final permit to be an area of biological concern. In determining whether an area is an area of biological concern, the Department shall consider the factors specified in 40 CFR 125.122(a)(1) through (1).

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

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

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

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

1. After promulgation of standards of performance under Section 306 of the Federal Act which are applicable to such source;

2. After proposal of standards of performance in accordance with Section 306 of the Federal Act, which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within 120 days of their proposal; or

3. After the publication of the Pretreatment Standards under Section 307(c) of the Act which will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:

- i. The building, structure, facility or installation is constructed at a site at which no other source is located;

- ii. The building, structure, facility or installation totally replaces the process or production equipment that cause the discharge of pollutants at an existing source; or

- iii. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Non-hazardous waste” means a solid waste which is not a hazardous waste.

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

“Nonpoint source” means:

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

3. Any activity, factor, or condition, other than a point source, that contributes or may contribute to water pollution.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Pond” see the definition for lake.

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

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

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

“Pretreatment program significant noncompliance” or “PPSNC” means non-compliance by a source of indirect

discharge which requires notification pursuant to 40 CFR 403.8(f)(2)(vii).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Reservoir” see the definition for lake.

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

“Residual land application site” means the site used for land application of residual.

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

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

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

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

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

“Revocation of a permit” means the process of terminating of a permit.

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

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

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

“Run-off” means, for purposes of N.J.A.C. 7:14A-10 only, any stormwater, leachate, or other liquid that drains overland from any part of a facility.

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

“Run-off coefficient” means the fraction of total rainfall that will appear at a conveyance as runoff.

“Run-on” means, for purposes of N.J.A.C. 7:14A-10 only, any stormwater, leachate, or other liquid that drains overland onto any part of a facility.

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

“Sanitary landfill” means a solid waste facility, as defined in N.J.A.C. 7:26, at which solid waste is deposited on or into the land as fill for the purpose of permanent disposal or storage for a period of time exceeding six months, except

that it shall not include any waste facility approved for disposal of hazardous waste pursuant to N.J.A.C. 7:26.

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

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

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

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

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

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

“Secretary” means the Secretary of the Army, acting through the Chief of Engineers.

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

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

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

1. Designed or used for collecting or conveying stormwater;

2. Which is not part of a combined sewer system; and
3. Which is not part of a publicly owned treatment works (POTW).

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

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

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

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

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

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

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

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

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

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

- i. For any violation of an LC_{50} or a NOEC limit when, upon subtracting the toxicity test result from the whole effluent toxicity limit, the difference is as follows:

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

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

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

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

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

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

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

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

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

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

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

“Sewage authority” see sewerage entity.

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

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

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

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

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

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

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

“Sheen” means an iridescent appearance on the surface of water.

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

“Shellfish waters” means waters classified as Approved, Seasonally Approved, Special Restricted, Seasonally Special Restricted or Condemned that support or possess the potential to support shellfish which are within the Coastal Area Facility Review Act (CAFRA) zone as delineated in 1973, (excluding: 1—The Cohansey River upstream of Brown’s Run; 2—The Maurice River upstream of Route 548; 3—The Great Egg Harbor River upstream of Powell Creek; 4—The Tuckahoe River upstream of Route 50; 5—The Mullica River upstream of the Garden State Parkway) plus the adjacent areas between Route 35 (from its juncture with the CAFRA zone just north of Red Bank to its juncture with the CAFRA zone just south of Keyport) and the

CAFRA zone and the area from the C.A.F.R.A. zone on the south northwesterly along Route 35 to the northern shore of the Raritan River, then easterly along the northern shore of the Raritan River to the southeast point of Perth Amboy, then due east to the New Jersey jurisdictional limit, and seaward along the jurisdictional limit to the Atlantic Ocean.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. A serious violation for the same pollutant, at the same discharge point source, in any two months of any consecutive six month period;

2. Exceedance of an effluent limitation expressed as a monthly average, for the same pollutant, at the same discharge point source, by any amount in any four months of any consecutive six month period;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"State" means the State of New Jersey.

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

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

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

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

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

"Stormwater" means stormwater runoff, snow melt runoff, and surface runoff and drainage.

"Stormwater discharge associated with industrial activity" means:

1. A discharge to surface water, from a point source or a nonpoint source, of stormwater which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NJPDES program under N.J.A.C. 7:14A-2.5. For the categories of industries identified in subparagraphs 1i through 1x below, the term includes, but is not limited to, stormwater discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined in 40 CFR part 401); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to stormwater. For the categories of industries identified in subparagraph 1xi below, the term includes only stormwater discharges from all the areas (except access roads and rail lines) that are listed in the previous sentence where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery are exposed to stormwater. For the purposes of this paragraph, material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with stormwater drained from the above described areas. Industrial facilities (including industrial facilities that are Federally, State, or municipally owned or operated that meet the description of the facilities listed in subparagraphs 1i through 1xi below) include those facilities designated under the provisions of N.J.A.C. 7:14A-11.5(a)1v. The following categories of facilities are considered to be engaging in "industrial activity" for purposes of this paragraph:

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

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

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

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

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

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

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

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

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

x. Construction activity including clearing, grading and excavation activities except: operations that result in the disturbance of less than five acres of total land area which are not part of a larger common plan of development or sale; and

xi. Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, 4221-25, (and which are not otherwise included within subparagraphs 1ii through 1x above); and

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

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

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

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

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

"Surface disposal site" means an area of land where sewage sludge is placed or was left in place for final disposal. For the purposes of this chapter, "place sewage sludge" or "sewage sludge placed" shall refer to the surface

disposal of sewage sludge. This definition does not include an area of land used for the land application of residual.

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

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

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

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

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

"Suspended Solids" see "total suspended solids".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Toxicity test" see "bioassay".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Underground injection” means a well injection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Zone of saturation” means saturated zone.

Administrative correction.

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

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

Case Notes

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

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

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

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

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

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

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

SUBCHAPTER 2. GENERAL PROGRAM REQUIREMENTS

7:14A-2.1 Purpose and scope

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

(b) The intent of these rules is to:

1. Restore, enhance, and maintain the chemical, physical, and biological integrity of the waters of the State;
2. Protect public health and safety;

3. Protect potable water supplies;

4. Safeguard fish and aquatic life and scenic and ecological values;

5. Enhance the domestic, municipal, recreational, industrial, agricultural and other uses of water; and

6. Prevent, control, and abate water pollution.

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

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

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

Case Notes

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

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

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

7:14A-2.2 Liberal construction and severability

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

(b) If any subchapter, section, subsection, provision, clause, or portion of this chapter or the application thereof to any person is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the subchapter, section, subsection, clause, portion, or application directly involved in the controversy in which such judgment shall have been rendered and it shall not affect or impair the remainder of this chapter or the application thereof to other persons.

7:14A-2.3 Incorporation by reference

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

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

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

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

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

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

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

1. Discharge of pollutants to surface and ground waters;
2. A discharge from an indirect user;
3. The land application of municipal wastewaters and/or industrial wastewaters, including, but not limited to, spray irrigation, overland flow, and infiltration-percolation lagoons;

4. The discharge from facilities under the jurisdiction of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.;

5. The storage of any liquid or solid pollutant, in a manner designed to keep it from entering the waters of the State;

6. The discharge of pollutants into wells;

7. Discharges from concentrated animal feeding operations as specified in N.J.A.C. 7:14A-2.13;

8. Discharges from concentrated aquatic animal production facilities as specified in N.J.A.C. 7:14A-2.14;

9. Discharges from aquaculture projects;

10. Discharges from silvicultural point sources;

11. Discharges of stormwater to surface waters, including discharges through storm sewers, as set forth in N.J.A.C. 7:14A-11.5;

12. Discharges from site remediation projects;

13. The treatment, storage or disposal of hazardous waste which is not regulated by the Hazardous Waste Management Regulations, N.J.A.C. 7:26; and

14. Those treatment works treating domestic sewage, or residual use or disposal practices, pursuant to Section 405(d) of the Federal Act and Sections 4 and 6 of the State Act, including, but not limited to, the land application of residual.

(c) The Department shall determine, on a case-by-case basis, that facilities which are otherwise eligible for general permits and which do not generally require individual permits may be required to obtain an individual permit because of their contributions to water pollution. Whenever the Department determines that an individual permit is required under this section, the Department shall notify the discharger in writing of the reasons for such a determination and shall include an application form with such notice. The discharger shall apply under N.J.A.C. 7:14A-4 for a permit within 60 days of receipt of such notice, except for a discharger of stormwater associated with industrial activity under N.J.A.C. 7:14A-11.5(g)1i, who shall apply within 180 days. In such a case, comment regarding the appropriateness of the initial determination to require an individual permit may be submitted during the public comment period under N.J.A.C. 7:14A-15.11 and in any subsequent hearing.

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

7:14A-2.5 Exemptions

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

1. Any direct discharge of sewage from vessels, effluent from properly functioning marine engines, laundry, shower, and galley sink wastes, or any other discharge inciden-

tal to the normal operation of a vessel. This exemption does not apply to the following: