

CHAPTER 14A

POLLUTANT DISCHARGE ELIMINATION SYSTEM

Authority

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

Source and Effective Date

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

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 14A, Pollutant Discharge Elimination System, expires on December 2, 2008. See: 40 N.J.R. 1478(a).

Chapter Historical Note

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

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

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

Appendix F, Values for Determination of NJPDES Permit Toxic Effluent Limitations, was repealed by R.1993 d.59, effective February 1, 1993.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

Subchapter 12, Requirements for a Treatment Works Approval, was repealed by R.1994 d.278, effective June 6, 1994.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

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

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

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

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

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

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

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

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

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

Research Note

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

Law Review And Journal Commentaries

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

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SUBCHAPTER 1. ABBREVIATIONS, ACRONYMS, AND DEFINITIONS

7:14A-1.1 Abbreviations and acronyms

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

“ACR” means acute to chronic ratio.

“AM” means additional measure.

“BAT” means best available technology.

- “BCT” means best conventional technology.
- “BOD” means biochemical oxygen demand.
- “BPJ” means best professional judgment.
- “BPT” means best practical control technology.
- “BMP” means best management practices.
- “BR” means baseline report.
- “C1” means Category One waters.
- “C2” means Category Two waters.
- “CBOD” means carbonaceous biochemical oxygen demand.
- “CI” means confidence interval.
- “CCC” means the criteria continuous concentration.
- “CERCLA” means Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.
- “CFR” means the Code of Federal Regulations.
- “CMC” means the criteria maximum concentration.
- “COD” means chemical oxygen demand.
- “CPO” means chlorine produced oxidants.
- “CSO” means combined sewer overflow.
- “CV” means coefficient of variation.
- “CWA” means the Federal Act or the Clean Water Act.
- “CWEA” means the Clean Water Enforcement Act, P.L. 1990, c.28; N.J.S.A. 58:10A-1 et seq.
- “DAC” means Discharge Allocation Certificate.
- “DEP” means the New Jersey Department of Environmental Protection.
- “DGW” means Discharge to Ground Water.
- “DLA” means delegated local agency.
- “DMR” means Discharge Monitoring Report.
- “DOC” means dissolved organic carbon.
- “DRBC” means the Delaware River Basin Commission.
- “DSW” means Discharge to Surface Water.
- “DTW” means domestic treatment works.
- “ECRA” means Environmental Cleanup Responsibility Act.
- “EC50” means the median effective concentration resulting in at least 50 percent mortality to the test species.
- “EDP” means effective date of permit.
- “ERP” means enforcement response plan.
- “FSOD” means first stage oxygen demand.
- “FW” means freshwater.
- “GIS” means Geographic Information System.
- “GPD” means gallons per day.
- “GWQS” means the Ground Water Quality Standards as defined in N.J.A.C. 7:9-6.
- “IC” means the inhibition concentration.
- “IPP” means industrial pretreatment program.
- “ISRA” means Industrial Site Recovery Act.
- “ITW” means industrial treatment works.
- “IWMF” means industrial waste management facility.
- “kg/day” means kilograms per day.
- “LA” means load allocation.
- “LC50” means the median lethal concentration resulting in at least 50 percent mortality to the test species.
- “LLAMA” means Letter of Land Application Management Approval.
- “LTA” means long term average effluent concentration.
- “MA1CD10” means the minimum average one day flow with a statistical recurrence interval of ten years.
- “MA30CD5” means the minimum average 30 consecutive day flow with a statistical recurrence interval of five years.
- “MA7CD10” means the minimum average seven consecutive day flow with a statistical recurrence interval of 10 years.
- “MCL” means maximum contaminant level.
- “MDL” means method detection level.
- “MF” means membrane filter technique.
- “MGD” means million gallons per day.
- “mg/L” means milligrams per liter.
- “ml/L” means milliliters per liter.
- “MOA” means Memorandum of Agreement.
- “MOU” means Memorandum of Understanding.
- “MPN” means most probable number.
- “MRF” means Monitoring Report Form.
- “MS4” means municipal separate storm sewer system.
- “MSWLF” means a municipal solid waste landfill as defined in 40 CFR part 258.2.
- “NBOD” means nitrogenous biochemical oxygen demand.

“NCCW” means non-contact cooling water.

“N.J.A.C.” means New Jersey Administrative Code.

“NJPDES” means the New Jersey Pollutant Discharge Elimination System.

“N.J.S.A.” means New Jersey Statutes Annotated.

“NOAEC” means no observed adverse effect concentration.

“NOEC” means no observable effect concentration.

“NPDES” means the National Pollutant Discharge Elimination System.

“NT” means non-trout waters.

“OEP” means the Office of Environmental Planning.

“OM” means optional measure.

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

“POTW” means publicly owned treatment works.

“PPSNC” means pretreatment program significant non-compliance.

“PQL” means practical quantification level.

“PVSC” means Passaic Valley Sewerage Commissioners.

“RCRA” means Resource Conservation and Recovery Act.

“RFA” means Request For Authorization under a general NJPDES permit.

“SBR” means Statewide Basic Requirement.

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

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

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

“SESCP” means soil erosion and sediment control plan.

“SIC” means Standard Industrial Classification.

“SIU” means significant indirect user.

“SNC” means significant non-compliance.

“SOD” means sediment oxygen demand.

“SSMP” means Statewide Sludge Management Plan.

“TDS” means total dissolved solids.

“TKN” means total Kjeldahl nitrogen.

“TM” means trout maintenance.

“TMDL” means total maximum daily load.

“TOC” means total organic carbon.

“TP” means trout production.

“TSD” means the USEPA Technical Support Document (See USEPA TSD).

“TSS” means total suspended solids.

“TTO” means total toxic organics.

“TUA” means toxic units acute.

“TUC” means toxic units chronic.

“TWA” means Treatment Works Approval.

“TWTDS” means treatment works treating domestic sewage.

“UIC” means Underground Injection Control program.

“ug/L” means micrograms per liter.

“USEPA” or “EPA” means the United States Environmental Protection Agency.

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

“USDA” means the United States Department of Agriculture.

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

“USDW” means underground source of drinking water.

“USGS” means United States Geological Survey.

“USNRC” means the United States Nuclear Regulatory Commission.

“UST” means underground storage tank.

“VOC” means volatile organic compounds.

“WET” means whole effluent toxicity.

“WLA” means wasteload allocation.

“WQBEL” means water quality based effluent limitation.

“WQM plan” means Water Quality Management plan.

“WSC” means Written Statement of Consent.

Amended by R.2004 d.47, effective February 2, 2004.
 See: 35 N.J.R. 169(a), 1331(a), 36 N.J.R. 813(a).
 Added “AM”, “MS4”, “OM”, “SBR”.
 Administrative change.
 See: 38 N.J.R. 1445(a).

7:14A-1.2 Definitions

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

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

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

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

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

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

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

“Adequate conveyance capacity” means:

1. In the downstream sewers, the peak dry weather flow does not exceed 80 percent of the depth of the pipe and the peak wet weather flow does not result in overflows or discharges from any unpermitted discharge location; and
2. In downstream pumping stations with two pumps, peak dry weather flow shall be handled by one pump, and in pumping stations with more than two pumps, peak dry weather flow shall be handled with the largest pump out of service, and the peak wet weather flow does not result in any overflow or discharge from any unpermitted discharge location.

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

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

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

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

“Affected sewerage entity” means any public or private sewerage authority, municipal utilities authority, joint meet-

ing, State agency, county, municipality, or other entity which owns or operates any sewage treatment plant or sewage collection system, into which a treatment works will discharge; or which has jurisdiction to treat or convey sewage or other wastewater in the service area in which the proposed treatment works are to be located.

“Agricultural land,” for the purpose of N.J.A.C. 7:14A-20, means land on which a food crop, a feed crop, or a fiber crop is grown. This includes range land and land used as pasture.

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

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

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

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

“Amalgam separator” is a device to remove amalgam and its metal constituents from dental facility wastewater.

“Amalgam waste” means and includes:

1. Non-contact amalgam (amalgam scrap that has not been in contact with patient);
2. Contact amalgam (including, but not limited to, extracted teeth containing amalgam);
3. Amalgam sludge captured by chairside traps, vacuum pump filters, screens, and other amalgam trapping devices;
4. Used capsules containing amalgam; and
5. Leaking or unusable amalgam capsules.

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

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

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

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

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

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

“Construction” means any placement, assembly or installation of facilities, equipment or treatment works, or modification of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities, equipment or treatment works, or entering into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or

contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering and design studies do not constitute a contractual obligation for the purposes of this definition.

“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.

“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.

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

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

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

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

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

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

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

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

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

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

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

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

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

“Daily” means every calendar day including weekends and holidays.

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

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

“Day” means an operating day or 24-hour period.

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

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

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

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

“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, stormwater or process wastewater that may be present.

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

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

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

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

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

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

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

“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. 7:9C; 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. 7:9C which set forth a designated use or uses for the ground waters of the State, use classifications, water quality criteria for the State's waters based upon such uses, and the Department's policies concerning these uses, classifications and criteria.

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

“Hazardous pollutant” means:

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

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

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

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

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

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

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

“Hypolimnion” means the lower region of a stratified waterbody that extends from the thermocline to the bottom of the waterbody, and is isolated from circulation with the upper

waters, thereby receiving little or no oxygen from the atmosphere.

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

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

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

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

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

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

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

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

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

“Indirect user” means an entity with an indirect discharge.

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

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

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

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

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

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

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

“Industrial water supply” means water used for processing or cooling.

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

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

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

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

“Interference” means:

1. Inhibiting or disrupting the operation of a DTW or its treatment processes so as to contribute to, or cause a violation of any condition of a State or Federal permit;

2. Discharging industrial process wastewater which, in combination with existing domestic flows, is of such quantity and/or quality as to exceed the treatment process design capacity; or

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

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

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

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

“ISO 11143” is the International Organization for Standardization’s standard for amalgam separators, and incorporated herein by reference, and specifically means ISO 11143:1999. The standard is available from the ISO at <http://www.iso.org>.

“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

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

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

4. The Department may, upon petition, designate as a medium municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a 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 (33 U.S.C. § 1288), except as provided at N.J.A.C. 7:14A-25.1(b).

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

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

2. Designed and used for collecting or conveying stormwater;

3. Which is not a combined sewer;
4. Which is not part of a POTW; and
5. Which is not either of the following:
 - i. A separate storm sewer(s) that is at an industrial facility, and that collects or conveys stormwater discharges associated with industrial activity that occurs at that facility; or
 - ii. A separate storm sewer(s) that is at a construction site, and that collects or conveys stormwater discharges associated with small construction activity that occurs at that site.

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

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

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

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

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

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

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

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

This definition includes an indirect user which commences discharging into waters of the State after August 13, 1979. It

also includes any existing mobile point source (other than an offshore or coastal oil and gas exploratory drilling rig) such as a seafood processing rig, seafood processing vessel, or aggregate plant, that begins discharging at a site for which it does not have a permit; and any offshore or coastal mobile oil and gas exploratory drilling rig or coastal mobile oil and gas development drilling rig that commences the discharge of pollutants after August 13, 1979, at a site for which it is not covered by an individual or general permit and which is located in an area determined by the Department in the issuance of the final permit to be an area of biological concern. In determining whether an area is an area of biological concern, the Department shall consider the factors specified in 40 CFR 125.122(a)(1) through (10).

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 “NJPDES” 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 IC_{25} 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 algaecides, 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).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Designed or used for collecting or conveying stormwater;
2. Which is not part of a combined sewer system; and
3. Which is not part of a publicly owned treatment works (POTW).

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

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

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

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

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

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

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

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

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

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

i. For any violation of an 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:

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

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

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

"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 Cohansy River upstream of Brown's Run; 2—The Maurice River upstream of Route 548; 3—The Great Egg Harbor River upstream of Powell Creek; 4—The Tuckahoe River upstream of Route 50; 5—The Mullica River upstream of the Garden State Parkway) plus the adjacent areas between Route 35 (from its juncture with the CAFRA zone just north of Red Bank to its juncture with the CAFRA zone just south of Keyport) and the CAFRA zone and the area from the C.A.F.R.A. zone on the south northwesterly along Route 35 to the northern shore of the Raritan River, then easterly along the northern shore of the Raritan River to the southeast point of Perth Amboy, then due east to the New Jersey jurisdictional limit, and seaward along the jurisdictional limit to the Atlantic Ocean.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Upon finding that any user in the State has no reasonable potential for adversely affecting the local agency's operation or for violating any Federal, State, or local pretreatment standard or requirement, the control authority may at any time, on its own initiative or in response to a petition received from a user or a local agency, and in accordance with 40 CFR 403.8(f)(6), determine that any user specified in paragraphs 1 or 2 above, unless the user is subject to Categorical Pretreatment

Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N, is not a significant indirect user.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Facilities receiving domestic wastewater with an effluent design flow or effluent permitted flow less than 0.5 MGD with no significant industrial or commercial component;

2. Elementary schools and churches with no off-site contributors;

3. Commercial dischargers, high schools, and technical schools with an effluent design flow or effluent permitted flow less than 0.1 MGD; or

4. Industrial facilities that meet the definition of a small business at N.J.A.C. 7:14A-4.3(c) and discharges less than 10,000 gallons per day, conditional upon approval by the Department.

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

1. Owned or operated by municipalities described under N.J.A.C. 7:14A-25.1(b);

2. Owned or operated by county, State, interstate, or Federal agencies, and located at public complexes as described under N.J.A.C. 7:14A-25.2(a)2;

3. Owned or operated by county, State, interstate, or Federal agencies, and located at highways and other thoroughfares as described under N.J.A.C. 7:14A-25.2(a)3; or

4. Owned or operated by county, State, interstate, Federal, or other agencies, and receive special designation under N.J.A.C. 7:14A-25.2(a)4.

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

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

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

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

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

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

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

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

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

“State” means the State of New Jersey.

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

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

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

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

“Storage pad” means a large, gently sloping surface, constructed of an impervious material (usually concrete),

surrounded by a curb, with a drainage system for collection of leachate, designed to hold dewatered residuals.

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

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

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

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

- i. Facilities subject to stormwater effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR subchapter N (except facilities with toxic pollutant

effluent standards which are exempted under subparagraph 1xi below);

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

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

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

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

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

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

viii. Transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221-25), 43, 44, 45, and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations,

airport deicing operations, or which are otherwise identified under subparagraphs 1i through 1vii above or subparagraphs 1ix through 1xi below are associated with industrial activity;

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

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

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

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

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

1. Construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common

plan will ultimately disturb equal to or greater than one and less than five acres. Small construction activity does not include:

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

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

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

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

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

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

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

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

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

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

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

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

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

“Suspended Solids” see “total suspended solids”.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Toxicity test” see “bioassay”.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Underground injection” means a well injection.

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

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

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

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

“Uppermost aquifer” means the geologic formation nearest the natural ground surface that is an aquifer, as well as, lower

aquifers that are hydraulically interconnected with this aquifer within the facility’s property boundary.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Wetlands” means those areas that are inundated or saturated by surface or ground water at a frequency and duration

sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions commonly known as hydrophytic vegetation. The Department shall evaluate the parameters of hydrology, soils, and vegetation to determine the presence and extent of wetlands.

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

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

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

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

“Zone of saturation” means saturated zone.

Administrative correction.

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

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

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

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

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

Administrative corrections.

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

Administrative correction.

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

Administrative corrections and changes.

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

Administrative correction.

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

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

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

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

Case Notes

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

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

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

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

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

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

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

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

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

SUBCHAPTER 2. GENERAL PROGRAM REQUIREMENTS

7:14A-2.1 Purpose and scope

(a) This chapter establishes the regulatory framework under the authority of N.J.S.A. 58:10A-1 et seq., 58:11A-1 et

seq., 58:11-49 et seq., 58:10-23.11 et seq., 58:11-18.10 et seq., 13:1D-1 et seq., 13:1E-1 et seq., 58:4A-5, 58:4A-4.1, 58:12A-1 et seq., 42 U.S.C. §§ 300F et seq., and 33 U.S.C. §§ 1251 et seq., within which the Department regulates the discharge of pollutants to the surface and ground waters of the State.

(b) The intent of these rules is to:

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

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

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

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

Case Notes

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

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

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

7:14A-2.2 Liberal construction and severability

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

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

7:14A-2.3 Incorporation by reference

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

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

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

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

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

Case Notes

In an action brought by a citizen's group against a corporation alleging violations of the Federal Water Pollution Control Act, 33 U.S.C. § 1365, under a permit issued pursuant to N.J.S.A. 14B-11 and N.J.A.C. 7:14A-2.3, all allegations not included in the statutory notice to the corporation prior to commencing the suit were dismissed on summary judgment. *Public Interest Research Group v. Hercules, Inc.*, 830 F.Supp. 1525, 1993 U.S. Dist. LEXIS 9486, 36 Env't Rep. Cas. (BNA) 1833, 24 Env't. L. Rep. 20270 (D.N.J. 1993), affirmed in part and reversed in part

by 50 F.3d 1239, 1995 U.S. App. LEXIS 6619, 40 Env't Rep. Cas. (BNA) 1385, 25 Env't. L. Rep. 20684 (3d Cir. N.J. 1995).

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

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

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

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

(c) The Department shall determine, on a case-by-case basis, that facilities which are otherwise eligible for general permits and which do not generally require individual permits may be required to obtain an individual permit because of

their contributions to water pollution. Whenever the Department determines that an individual permit is required under this section, the Department shall notify the discharger in writing of the reasons for such a determination and shall include an application form with such notice. The discharger shall apply under N.J.A.C. 7:14A-4 for a permit within 60 days of receipt of such notice, except for a discharger of stormwater under N.J.A.C. 7:14A-24.2, who shall apply within 180 days unless the Department approves a later date. In such a case, comment regarding the appropriateness of the initial determination to require an individual permit may be submitted during the public comment period under N.J.A.C. 7:14A-15.11 and in any subsequent hearing.

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

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

Rewrote (b)11 and (c).
Administrative correction.
See: 38 N.J.R. 1445(a).

7:14A-2.5 Exemptions

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

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

- i. Rubbish, trash, garbage, or other such materials discharged overboard; or
- ii. Other discharges when the vessel is operating in a capacity other than as a means of transportation such as when used as an energy or mining facility, a storage

facility or a seafood processing facility, a residence, or when secured to a storage facility or a seafood processing facility, or when secured to the bed of the ocean, contiguous zone, or waters of the United States for the purpose of mineral or oil exploration or development;

2. Discharges of dredged or fill material into waters of the United States which are regulated under Section 404 of the Federal Act;

3. Any discharge in compliance with the instructions of an On-Scene Coordinator pursuant to 40 CFR 300 (The National Oil and Hazardous Substances Pollution Plan) or 33 CFR 153.10(e) (Pollution by Oil and Hazardous Substances), and the State Spill Compensation and Control Act, N.J.S.A. 58:10-23.11;

4. Any introduction of pollutants from nonpoint source agricultural and silvicultural activities, including runoff from orchards, cultivated crops, pastures, range lands, and forest lands. This paragraph does not exempt the point source discharges from concentrated animal feeding operations as defined at N.J.A.C. 7:14A-1.2, from concentrated aquatic animal production facilities as defined at N.J.A.C. 7:14A-1.2, from silvicultural point sources as defined at N.J.A.C. 7:14A-1.2, or to aquaculture projects as defined at N.J.A.C. 7:14A-1.2;

5. Return flows from irrigated agriculture;

6. Indirect users which do not meet the SIU definition in N.J.A.C. 7:14A-1.2;

7. Indirect users which meet the SIU definition in N.J.A.C. 7:14A-1.2 and discharge to a delegated local agency. IPP permits issued by delegated local agencies to indirect users under this chapter are NJPDES permits. An exemption under this section does not limit the authority of a delegated local agency to require a IPP permit;

7:14A-2.9 Enforcement action

(a) Any permit noncompliance constitutes a violation of the State and Federal Acts or other authority of this chapter and is grounds for enforcement action, permit suspension, revocation, revocation and reissuance, modification, or for denial of a permit renewal application.

(b) The need to halt or reduce activity is not a defense for permit noncompliance in accordance with the following:

1. It shall not be a defense in an enforcement action for a permittee that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

2. Upon the reduced capacity, loss, or failure of the treatment facility, a permittee shall, to the extent necessary to maintain compliance with its permit, control production or all discharges or both until the facility is restored or an alternative method of treatment is provided.

(c) For all discharges to surface water, except toxic effluent standards and prohibitions imposed under Section 307 of the Federal Act or Section 4 or 7 of the State Act and "standards for sewage sludge use or disposal" under Section 405(d) of the Federal Act, compliance with a permit during its term constitutes compliance, for purposes of enforcement, with Subtitle C of RCRA, with Sections 301, 302, 306, 307, 318, 403, and 405 of the CWA.

(d) Compliance with a permit condition which implements a particular "standard for sewage sludge use or disposal" shall be an affirmative defense in any enforcement action brought for a violation of that "standard for sewage sludge use or disposal" pursuant to Sections 309 and 405 of the CWA.

7:14A-2.10 Subpoenas

The Department may issue subpoenas requiring attendance and testimony under oath of witnesses before, or the production of documents or information, in whatever form stored or recorded, to him or her or to a representative designated by the Commissioner. Service of a subpoena shall be by certified mail or personal service. A person receiving a request for information pursuant to a subpoena shall comply with the provisions in N.J.A.C. 7:14A-2.11(d).

7:14A-2.11 Duty to provide information

(a) When the Department has reason to believe that a person has, or may have, information relevant to a discharge or potential discharge of a pollutant, that person shall, upon receipt of written notice from the Department, provide information regarding the discharge or potential discharge to the Department. Such persons include, but are not limited to, any persons having generated, treated, transported, stored, or disposed of the pollutant, or any persons having arranged for the transportation, storage, treatment or

disposal of such pollutant. The following information shall be provided to the Department:

1. The nature, extent, source, and location of the discharge, or potential discharge;
2. Identification of the nature, type, quantity, source, and location of the pollutant or pollutants;
3. The identity of, and other relevant information concerning, the generator or transporter of the pollutant, or any other person subject to liability for the discharge or potential discharge; and
4. The ability of any person liable, or potentially liable, for the discharge, or potential discharge, to pay for, or perform, the cleanup and removal, including the availability of appropriate insurance coverage.

(b) (Reserved)

(c) Information requested by the Department shall be provided in the form and manner prescribed by the Department, which may include documents or information in whatever form stored or recorded. Any failure to submit information requested by the Department listed in (a) above shall constitute a violation of this chapter.

(d) A person receiving a request for information made pursuant to (a) above, or pursuant to a subpoena issued pursuant to N.J.A.C. 7:14A-2.10, shall:

1. Be required to conduct a diligent search of all documents in his or her possession, custody, or control, and to make reasonable inquiries of present and past employees who may have knowledge or documents relevant thereto;
2. Have a continuing obligation to supplement the information if additional relevant information is discovered, or if it is determined that the information previously provided was false, inaccurate, or misleading; and
3. Grant the Department access, at reasonable times, to any vessel, facility, property, or location to inspect and copy all relevant documents or, at the Department's request, copy and furnish to the Department all such documents.

(e) A person shall allow an authorized representative of the Department, upon the presentation of credentials, to:

1. Enter upon a person's premises, for purposes of inspection, sampling, copying or photographing where:
 - i. A discharge source or regulated facility or activity is or might be located; or
 - ii. In which monitoring equipment or records required by a permit are kept;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of a NJPDES permit;

3. Inspect, at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under a NJPDES permit; and

4. Sample or monitor, at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Federal or State Acts, any substances or parameters at any location.

(f) Where a permittee becomes aware that any relevant facts have not been submitted in a permit application, or request for authorization, or that incorrect information has been submitted in a permit application, request for authorization, or in any report to the Department, the permittee shall promptly submit such facts or information within 10 days of the time the permittee becomes aware of the correct information.

(g) A person providing information pursuant to this section or N.J.A.C. 7:14A-2.10, may assert a claim of confidentiality pursuant to N.J.A.C. 7:14A-18.3.

7:14A-2.12 Ambient water quality studies

(a) Ambient water quality studies may be required to develop TMDLs in accordance with N.J.A.C. 7:15-7. Where such studies are necessary, the ambient water quality sampling and data analysis and interpretation may be performed by the Department, affected cities or municipalities, permittees, or other interested parties.

(b) Ambient studies consist of water quality and/or biological studies and shall be used to supplement the Department's ongoing sampling programs. Where the data necessary to make a determination of effluent limitations have already been collected and analyzed by the Department, or are anticipated to be collected and analyzed prior to the determination of effluent limitations, duplicative studies shall not be required. Where the data do not exist and/or are incomplete, the Department may require the permittee or the applicant to undertake any and all studies that it determines necessary to determine permit limits and conditions. Such studies may include but are not limited to dilution analysis/mixing zone studies (including stream design flows), dissolved oxygen studies, effluent characterizations, studies to demonstrate compliance with the ocean discharge criteria, antidegradation analysis, in-stream water quality studies to develop water quality based effluent limitations, and biological, nutrient, and toxics impact analysis, along with related quality assurance/quality control project plan requirements in accordance with 40 C.F.R. 30.503.

7:14A-2.13 Specific criteria for concentrated animal feeding operations

(a) Except for indirect discharges, a permit shall be obtained for any discharge from an animal feeding operation if the animal feeding operation meets the criteria for a concentrated animal feeding operation under (b) or (d) below.

(b) An animal feeding operation shall be considered concentrated if either (b)1 or 2 are met:

1. More than the numbers of animals specified in any of the following categories are confined:

- i. 1,000 slaughter and feeder cattle;
- ii. 700 mature dairy cattle (whether milked or dry cows);
- iii. 2,500 swine each weighing over 25 kilograms (approximately 55 pounds);
- iv. 500 horses;
- v. 10,000 sheep or lambs;
- vi. 55,000 turkeys;
- vii. 100,000 laying hens or broilers (if the facility has continuous overflow watering);
- viii. 30,000 laying hens or broilers (if the facility has a liquid manure handling system);
- ix. 5,000 ducks; or
- x. 1,000 animal units; or

2. More than the number and types of animal set forth in (b)2i through x below are confined, and pollutants are discharged into waters of the State, or directly into waters of the State which originate outside of and pass over, across, or through the facility or otherwise come in contact with the animals confined in the operation.

- i. 300 slaughter or feeder cattle;
- ii. 200 mature dairy cattle (either milked or dry cows);
- iii. 750 swine each weighing over 25 kilograms (approximately 55 pounds);
- iv. 150 horses;
- v. 3,000 sheep or lambs;
- vi. 16,500 turkeys;
- vii. 30,000 laying hens or broilers (if the facility has continuous overflow watering);
- viii. 9,000 laying hens or broilers (if the facility has a liquid manure handling system);
- ix. 1,500 ducks; or
- x. 300 animal units.

3. An animal feeding operation shall not be considered a concentrated animal feeding operation as defined above if such animal feeding operation discharges only in the event of a 25 year, 24-hour storm event.

(c) Any animal feeding operation shall, upon the Department's written request, submit the following information:

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

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

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

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

2. The Department determines that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- i. The location and quality of the receiving waters of the State;
- ii. The holding, feeding, and production capacities of the facility;
- iii. The quantity and nature of the pollutants reaching waters of the State; and
- iv. Other relevant factors.

SUBCHAPTER 3. DETERMINATION OF PERMIT FEES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. If the permittee objects to the assessment, the Department shall recalculate a permit fee upon receipt of a request from the permittee in writing within 30 days of

assessment of the fee. The Department shall not recalculate a fee where the permittee has failed to submit information in compliance with its NJPDES permit.

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

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

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

(3) The charges are false or duplicative; or

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

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

(1) An employee's hourly salary rate;

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

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

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

(1) A copy of the bill;

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

(3) A list of specific fee charges contested;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) The current year's fee schedule.

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

(1) A list of permits issued;

(2) A list of facilities inspected;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Rating	Closure Status
1.0	Operating landfill and sites containing wrecked or discarded equipment
0.5	Landfill terminated after January 1, 1982 without a Department approved closure plan

<u>Rating</u>	<u>Closure Status</u>
0.2	Landfill terminated prior to January 1, 1982
0.1	Landfill terminated and properly closed in accordance with a Department approved closure plan

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

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

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

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

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

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

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

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

2. General distribution permit exemptions providing Department approval of a sludge derived product distribu-

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

(i) (Reserved)

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

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

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

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

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

Table I
RISK CATEGORIES

Risk Factor 10 ⁰	10 ¹	10 ²	10 ³	10 ⁴	10 ⁵
SURFACE WATER					
TDS	TSS	Tin	Styrene	Arsenic	Lead
Chloride	Phosphorus	Aluminum	Nickel	Beryllium	Mercury
Sulfate	Phtahalic	Antimony	Copper	Asbestos	Cadmium
Fluoride	Acid	Barium	Silver	Acid fraction compounds	Chromium-hex
Iron	Sulfide	Chromium-trivalent	Cobalt	Base-Neutral Compounds	Pesticides
	Molybdenum	Oil & Grease	Ammonia	Volatile Organics	PCBs
	Bismuth	Surfactants	Cyanide		PBB
	Manganese	N(nitrite, nitrate	Selenium		
	Zinc	Kjeldhal, diss			

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

* Unlisted
** Not Itemized

Table II
FORMATION RATINGS

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

<u>System</u>	<u>Formation</u>	<u>Potential</u>	<u>Points</u>	
Silurian	Esopus	Poor	2	
	Oriskany (includes Glenerie and Port Ewen)	Poor	4	
	Becraft(Minisink)	Poor	2	
	New Scotland	Minor	4	
	Kalkber (Stormville)	Minor	4	
	Coeymans	Minor	4	
	Ordovician	Manlius	Minor	4
		Rondout	Minor	4
		Decker	Minor	4
		Bossardville	Minor	4
		Poxono island	Minor	4
		High Falls	Minor	4
		Longwood	Minor	4
		Shawangunk and Green Pond	Poor	2
Cambrian	Jacksonberg	Minor	4	
	Ontelaunee	Minor	4	
	Epier	Minor	4	
	Rickenback	Moderate	6	
Precambrian	Allentown Upper	Minor	4	
	Allentown Lower	Moderate to Very Good	10	
	Leithsille	Very Good	10	
	Hardystown	Poor	2	
Precambrian	Franklin	Minor to Moderate	6	
	Crystalline Rocks	Minor to Moderate	6	

Table III

Minimum Fees

<u>Permit Fee Category¹</u>	<u>Min Fee Code</u>	<u>Minimum Fee</u>
1. Major DSW Domestic Treatment Works (DTW) – Individual Permit	MMJ	\$11,150
2. Minor DSW Domestic Treatment Works (DTW) – Individual Permit	MMI	\$4,200
3. Combined Sewer Overflow – Individual Permit Component or General Permit	CSO	\$9,450
4. Major Industrial DSW – Individual Permit	IMJ	\$9,950
5. Minor Industrial DSW – Individual Permit	IMI	\$4,200
6. General Permit – Industrial DSW, DGW or both (unless otherwise listed)	IGN	\$2,300
7. Industrial Stormwater – Individual Permit	IST	\$4,100
8. Stormwater – Basic Industrial General Permit (5G2)	SBG	\$800
9. Municipal Stormwater—Tier B General Permit (R10)	STB	\$500
10. Municipal Stormwater—Tier A General Permit (R9)		
(population range 0-1,000)	SA1	\$600
(population range 1,001-5,000)	SA2	\$1,050
(population range 5,001-10,000)	SA3	\$2,000
(population range 10,001-15,000)	SA4	\$3,000
(population range 15,001-20,000)	SA5	\$4,050
(population range 20,001-25,000)	SA6	\$5,250
(population range 25,000+)	SA7	\$9,000
11. Municipal Stormwater—Public Complex General Permit (R11)		
(population range 1,000-2,999)	SP1	\$900
(population range 3,000-5,999)	SP2	\$1,500
(population range 6,000-8,999)	SP3	\$2,600
(population range 9,000+)	SP4	\$3,600
12. Municipal Stormwater – Highway Agency General Permit (R12)		
(mileage range 0-9)	SH1	\$550
(mileage range 10-199)	SH2	\$2,450
(mileage range 200-399)	SH3	\$5,100
(mileage range 400+)	SH4	\$9,800
13. DGW – Initial Individual Permit ²	GWN	\$6,000
14. DGW – Renewed or Continued Individual Permits ²	GWE	\$2,750
15. DGW – General Permit (I1, I2 and LSI)	GGN	\$900
16. DGW – General Permit (T1)	GT1	\$450
17. DGW – Operating Landfill Individual Permit	LND	\$6,900

Permit Fee Category ¹	Min Fee Code	Minimum Fee
18. Residuals Use or Disposal Operations (unless otherwise listed)	RES	\$10,600
19. Residuals—Food Processors/WTPs ³ Individual Permit	RFP	\$4,000
20. Residuals—Category Z Individual Permit ⁴	RTZ	\$2,050
21. Residuals—General Permit (ZG and 4G)	RTG	\$500
22. Residuals—Category 04 Individual Permit ⁵	RPH	\$850
23. Residuals—Land Application General Permit (unless otherwise listed)	RSG	\$800
24. Significant Indirect User (SIU) (Pretreatment)	SIU	\$5,750
25. Landfills operating or terminated after January 1, 1982 without an approved closure plan	6	\$2,500
26. Terminated Landfills properly closed or closed prior to January 1, 1982	6	\$500
27. Emergency Permit issued pursuant to N.J.A.C. 7:14A-6.14	7	

¹For names corresponding to the general permit category see N.J.A.C. 7:14A-6.13(c).

²For a domestic or industrial facility issued an individual NJPDES Discharge to Groundwater permit, the minimum fee is \$6,000 for the first five years of that permit, and \$2,750 if the permit is renewed or administratively continued. All other domestic or industrial facilities issued an individual NJPDES Discharge to Groundwater permit shall be assessed a minimum fee of \$2,750.

³WTPs refer to potable water treatment plants.

⁴Refers to a Residuals Transfer Facilities individual permit.

⁵Refers to a Residuals—Reed Beds individual permit.

⁶This permit is issued and administered by the Division of Solid and Hazardous Waste.

⁷Fee based on category for type of discharge.

Administrative correction.

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

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

Public Notice: NJPDES Annual Fee Report, FY 1997.

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

Public Notice: NJPDES Annual Fee Report, FY 1998.

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

Public Notice: NJPDES Annual Fee Report, FY 1999.

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

Public Notice: NJPDES Annual Fee Report, FY 2000.

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

Public Notice: NJPDES Annual Fee Report, FY 2001.

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

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

See: 33 N.J.R. 3636(a), 34 N.J.R. 595(a).

Rewrote the section.

Administrative correction.

See: 34 N.J.R. 920(b).

Public Notice: NJPDES Annual Fee Report, FY 2002.

See: 34 N.J.R. 1859(b).

Public Notice: NJPDES Annual Fee Report, FY 2003.

See: 35 N.J.R. 2370(a).

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

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

Rewrote (j).

Public Notice: NJPDES Annual Fee Report, FY 2004.

See: 36 N.J.R. 2947(c).

Administrative change.

See: 36 N.J.R. 4131(b).

Public Notice: NJPDES Annual Fee Report, FY2005.

See: 37 N.J.R. 534(a).

Public Notice: Adoption of New Jersey Pollutant Discharge Elimination System (NJPDES); Fiscal Year 2006 Annual Fee Report and Assessment of Fees

See: 38 N.J.R. 1087(a).

Administrative correction.

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

Public Notice: Adoption and Administrative Changes and Corrections: NJPDES Annual Fee Report, 2007.

See: 39 N.J.R. 381(b).

Public Notice: Adoption: NJPDES Annual Fee Report, FY2008.

See: 40 N.J.R. 813(a).

Case Notes

DEP could issue discharge permit to owner of closed landfill, only if Department had substantial evidential basis for believing that landfill actually was discharging pollutants that might flow or drain into State’s

waters. *V. Concrete Co. v. Department of Environmental Protection*, 115 N.J. 1, 556 A.2d 761 (1989).

Fee structure for pollutant discharge elimination system permits issued under Water Pollution Control Act did not have to be determined on a permit-specific cost-related basis; graduated fee schedule proportional to the deleterious impact of the permittee’s discharge was reasonable; use of a bioassay factor in determining toxicity and calculating the NJPDES fees was neither arbitrary nor unreasonable. *GAF Corp. v. New Jersey Dep’t of Environmental Protection*, 214 N.J.Super. 446, 519 A.2d 931 (App.Div.1986).

Fee schedule adopted to recover cost of surface water pollutant discharge permitting system proper as based on aggregate, rather than individual permit, costs: volume-based system for thermal dischargers proper: refunds due industrial users properly limited to credit on behalf of suit parties. *Public Service Electric and Gas Co. v. Dept. of Environmental Protection*, 101 N.J. 95, 501 A.2d 125 (1985).

Former regulation’s method of assessing fees for discharges to surface waters invalid as unrelated to legislative policy and not established in a reasonable manner; Department’s determination as to excess fee assessment credits supported by substantial credible evidence. *Public Service Electric and Gas Co. v. Dept. of Environmental Protection*, 193 N.J.Super. 676, 475 A.2d 665 (App.Div.1984), affirmed 101 N.J. 95, 501 A.2d 125 (1985).

SUBCHAPTER 4. PERMIT APPLICATION REQUIREMENTS

7:14A-4.1 Purpose and scope

This subchapter sets forth the minimum NJPDES permit application requirements, which apply to all applicants for NJPDES permits, unless otherwise specified.

7:14A-4.2 Application requirements

(a) Any person who is engaged in an activity or proposes to commence an activity that requires an individual NJPDES permit pursuant to N.J.A.C. 7:14A-2 shall submit a complete application to the Department in accordance with this sub-

chapter. Any person wishing to be authorized under a general permit shall comply with the application requirements in the applicable general permit.

(b) Once an applicant has complied with N.J.A.C. 7:14A-4.3(a)13, requiring submittal of the application to the local agency or sewerage entity and municipality, the applicant shall submit two copies of all NJPDES permit applications to:

New Jersey Department of Environmental
Protection
Bureau of Permit Management
Division of Water Quality
PO Box 029
Trenton, NJ 08625-0029
Attn: Administrative Review Unit

(c) It is the duty of any person who is or will be an operating entity for any part of a facility which includes a discharge or activity regulated pursuant to this chapter to obtain a NJPDES permit. When a facility or activity is owned by one or more persons, but is currently operated by another person, it is the operating entity's duty to obtain a NJPDES permit. However, the property owner (record owner of fee title interest) shall sign the "Property Owner's Certification" in the NJPDES-1 Form for all DGW permits.

(d) Whenever pursuant to (c) above, more than one person is required to obtain an individual NJPDES permit for one or more discharges or activities at a specific site, the Department may issue a single permit and may list all of these persons as permittees. Such a permit may identify permit conditions that apply to one or more of those permittees.

(e) The schedule for submission of applications (or requests for authorization under a general permit) is as follows:

1. Any person proposing a new facility or activity, which requires a NJPDES permit pursuant to N.J.A.C. 7:14A-2.4 and is not exempt pursuant to N.J.A.C. 7:14A-2.5, shall submit an application at least 180 days before the date on which the activity is proposed to commence, unless an alternative date has been established by the Department. The schedule for submitting an application for certain stormwater discharges is set forth in N.J.A.C. 7:14A-24.4 and 25.4.

2. For general permits, alternate dates for submitting requests for authorization may be specified under the terms of the applicable general permits.

3. Any person planning to continue discharging after the expiration date of an existing NJPDES permit shall file an application for renewal or a request for authorization under a general permit at least 180 calendar days prior to the expiration of the existing permit, unless:

- i. Otherwise required under (e)4 below;
- ii. The existing permit is a general permit that provides for automatic renewal of authorization when

that general permit is renewed (see N.J.A.C. 7:14A-6.13(d)9), or that provides for retroactive renewal of authorization after a new request for authorization is submitted or granted under the renewed general permit; or

iii. The existing permit is an individual permit where:

(1) The permittee has been notified by the Department prior to submitting a renewal application pursuant to N.J.A.C. 7:14A-2.7 that the permit qualifies for expedited permit renewal under N.J.A.C. 7:14A-16.3(h), and elects to participate; or

(2) The permittee has a stormwater only permit and is approved by the Department for expedited permit renewal.

4. (Reserved)

5. Any existing facility or activity which is required to obtain an individual NJPDES-SIU permit pursuant to N.J.A.C. 7:14A-2.4(b)2 and does not have an individual NJPDES-SIU permit shall apply within 180 days of the effective date of this chapter, or of a determination of the Department, that the discharge requires an individual NJPDES-SIU permit.

6. All existing facilities or activities which require an individual NJPDES-SIU permit due to promulgation of new Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subpart N, will be notified of the application date by the Department following submittal of the Baseline Report, as required pursuant to 40 CFR 403.12(b). See also N.J.A.C. 7:14A-21.3(b).

(f) The Department shall not issue a draft permit for an individual NJPDES permit before receiving a complete permit application, in accordance with N.J.A.C. 7:14A-15.4.

Administrative correction.

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

Amended N.J.A.C. references.

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

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

Rewrote (e)1.

7:14A-4.3 Application information requirements

(a) All applicants for an individual NJPDES permit shall provide the following information to the Department using the application form(s) provided by the Department (except as specified in N.J.A.C. 7:14A-24.7, 25.9 and 25.10 for stormwater discharges):

1. The activities conducted by the applicant which require it to obtain a NJPDES permit including a brief description of the nature of the business, project, facility, or activity;

2. The name, mailing address, and location of the facility for which the application is submitted;

3. Up to four SIC codes which best reflect the principal products or services provided by the facility;

4. The expiration date of the existing permit or proposed start up date for a new source or for a new discharge or activity;

5. Identification of the general type of waste discharged, or expected to be discharged upon commencement of operations, including sanitary wastes, or non-contact cooling water. This information shall include any cooling water additives that are used or expected to be used upon commencement of operations, along with their composition;

6. Identification of facility ownership, and status as Federal, State, private, public or other entity, the name, address, and telephone number of all:

- i. Operating entities of the treatment works;
- ii. Owners of the land or property; and
- iii. Licensed operators of the treatment works;

7. The name, address, and telephone number of any DTW being utilized (if applicable);

8. The name of the applicant's parent corporation;

9. A listing of all permits or construction approvals received or applied for by the applicant or its parent corporation at the site under any of the following programs:

- i. Hazardous Waste Management program under RCRA;
- ii. NJPDES permits or Treatment Works Approvals under the State or Federal Acts;
- iii. UIC program under N.J.A.C. 7:14A-8;
- iv. Prevention of Significant Deterioration (PSD) program under the Clean Air Act;
- v. Nonattainment program under the Clean Air Act;
- vi. National Emission Standards for Hazardous Pollutants (NESHAPS) preconstruction approval under the Clean Air Act;
- vii. Ocean dumping permits under the Marine Protection Research and Sanctuaries Act;
- viii. Dredge or fill permits under Section 404 of the Federal Act; and
- ix. Other relevant environmental permits, including Federal and State permits, such as stream encroachment or wetlands permits;

10. Identification of administrative orders, administrative consent orders, judicial consent orders, notices of violations, complaints filed, or other corrective or enforcement action(s) required by any governmental agency(ies) with regard to the operation of the applicant at that site concerning water pollution within the previous five years;

11. If the applicant is subject to any present requirements or compliance schedules for construction, upgrading or operation of waste treatment equipment, connection to a DTW, an identification of the abatement requirement, a description of the abatement project, and a listing of the required and projected final compliance dates;

12. Evidence that a WQMP Amendment approval, or favorable consistency determination in accordance with N.J.A.C. 7:15-3.4, has been applied for and received, or, if not applied for and received, reasons why not. Renewals or modifications of existing permitted activities that do not propose significant modification, as determined by the Department, do not require a formal consistency determination review, but shall still not conflict with WQM plans;

13. Evidence of application submission to the local agency or sewerage entity and municipality as follows. Except for stormwater discharges, all applicants for an individual NJPDES permit proposing a new discharge or activity, increase in permitted flow with or without an associated increase in loading for an existing discharge, or change in the location or method of discharge shall, prior to the submission of an application to the Department, submit a copy of the application to the affected local agency or sewerage entity and municipality along with a written notice (certified mail return receipt requested or by other means which allow verification of the fact and date of receipt) that the local agency or sewerage entity and municipality must submit to the Department written comments regarding or objections to the proposed discharge or activity within 30 days of receipt of said notice. Any written comments regarding or objections to the proposed discharge or activity submitted to the Department by an affected local agency, or sewerage entity, or municipality shall be considered by the Department in determining whether to issue a draft permit in accordance with N.J.A.C. 7:14A-15.6. The applicant may file a permit application, provided that copies of the signed and dated notices to the respective local agency or sewerage entity and municipality, and dated certified mail return receipts or other verification of delivery receipt are submitted with the application. Under this circumstance, the Department would consider an application administratively complete, provided all other application requirements have been submitted;

14. Signature of certifying official as required in N.J.A.C. 7:14A-4.9;

15. A topographic map (U.S. Geological Survey Topographic Map, 7.5 minute Quadrangle Series) extending one mile beyond the property boundaries of the source,

depicting the facility and each of its intake and discharge structures; each of its residual treatment, storage, or disposal facilities; each well where fluids from the facility are injected underground; and those wells, springs, other surface water bodies and drinking water wells listed in public records or otherwise known to the applicant in the map area;

16. The latitude and longitude to the nearest second of the location of each discharge or activity and the name of the receiving waters or formations, including the USE-PA reach number for NJPDES-DSW permit applications. This information shall be submitted in a manner or format consistent with N.J.A.C. 7:1D, Appendix A, incorporated herein by reference. Where the information has previously been submitted in a GIS compatible format or has been entered into the GIS database, a duplicate submittal in GIS compatible format is not required. Sludge-only facilities do not need to provide the name(s) of the receiving waters or formations;

17. A line drawing of the water flow through the facility with a water balance, showing operations contributing wastewater to the effluent and treatment units. Similar processes, operations, or production areas may be indicated as a single unit, labeled to correspond to the more detailed identification under (a)5 above. The water balance shall show approximate average flows at the intake and discharge points and between units, including treatment units. If a water balance cannot be determined, the applicant may provide a pictorial description instead, which indicates the nature and amount of any sources of water and any collection and/or treatment measures;

18. A description of the treatment the wastewater receives or will receive, including the means for ultimate disposal of any solid or fluid wastes other than by discharge. Each applicant for a new individual NJPDES permit must report the existence of any technical evaluation concerning their wastewater treatment, along with the name and location of similar plants of which they have knowledge;

19. A listing of any toxic pollutant specified in Appendix A, incorporated by reference herein, which the applicant currently uses or manufactures as an intermediate or final product or byproduct. The Department will waive or modify this requirement if an applicant demonstrates that it would be unduly burdensome to identify each toxic pollutant and the Department has adequate information to issue the permit;

20. For NJPDES-DSW permit applications, an identification of any biological toxicity tests, which the applicant knows or has reason to believe have been made within the last three years on any of the applicant's discharges or activities or on a receiving water in relation to a discharge or activity. The biological toxicity tests shall have been conducted in accordance with the laboratory certification regulations for biological testing, N.J.A.C. 7:18. The

applicant shall include copies of the laboratory reports for such biological toxicity tests, if the test results were not previously submitted to the Department;

21. Average flows for the facility or proposed facility. For all facilities or proposed facilities, a narrative identification of each type of process, operation, or production area which contributes wastewater to the effluent for each outfall, including process wastewater, cooling water, and stormwater runoff; the average flow which each process contributes. Processes, operations or production area(s) may be described in general terms (for example, "dye-making reactor," distillation tower"). For DTWs, this identification shall include the identity of each user of the treatment works, as specified in Section 402(b)8 of the Federal Act. The average flow of sources composed of stormwater may be estimated. The method of estimation and the basis for the total estimated rainfall must be described. If the discharge is partly due to stormwater, for each outfall, the application must either quantify the contributing drainage area and the runoff coefficient(s) applicable, or provide the other data used to estimate the average flow of stormwater. In addition:

i. For DTWs, design flow of the facility or proposed facility shall be reported;

ii. All DGWs shall report the peak daily flow in addition to the average flow; and

iii. If any of the discharges described above are intermittent or seasonal, a description of the frequency, duration, and flow rate of each discharge occurrence (except for stormwater runoff, and accidental spillage or leaks);

22. To the extent practicable, the location of all sites at which solid or liquid waste is stored at the facility for which the NJPDES application is being made and the ultimate disposal sites of solid or liquid waste generated by any facility with a discharge;

23. Information in compliance with the Sludge Quality Assurance Regulations, N.J.A.C. 7:14C;

24. A description of the applicant's residual use and disposal practices including, where applicable:

i. The location of all sites at which residual is stored at the facility for which the NJPDES application is being made and the name and location of the residual use and disposal practices for residual generated by the facility;

ii. The location of any sites where the applicant transfers or plans to transfer residuals for treatment and/or disposal;

iii. Annual residuals production volume (dry metric tons per year);

iv. A written statement from the applicant indicating whether a residual use or disposal practice is consistent with an approved District Sludge Management Plan or District Solid Waste Management Plan, as applicable; and

v. Any additional information required to be submitted by a treatment works treating domestic sewage or a sludge-only facility in accordance with 40 CFR 122.21, as amended or supplemented;

25. All DTWs with an approved industrial pretreatment program shall complete a written technical evaluation of the need to revise local limits developed under 40 CFR 403.5(c)(1). This technical evaluation shall meet the criteria specified in N.J.A.C. 7:14A-19.7(e); and

26. Any other optional information the permittee wishes to have considered.

(b) A person whose facility is the cause of, or whose activity results in, more than one discharge at a single site, shall separately describe each discharge or activity in the application.

(c) An applicant which qualifies as a small business under one of the following criteria is exempt from the requirements set forth in N.J.A.C. 7:14A-4.4(b)4 and 5 to submit quantitative data for the pollutants listed in Table II of Appendix A (the organic toxic pollutants), incorporated herein by reference:

1. For coal mines, a probable total annual production of less than 100,000 tons per year; or

2. For all other applicants, gross total annual sales averaging less than \$100,000 per year (in second quarter 1980 dollars).

(d) If a certified laboratory or consulting firm performed an analysis required by N.J.A.C. 7:14A-4.4, the applicant shall provide the identity of each certified laboratory or firm and the analysis performed.

(e) In addition to the information reported on the application form, applicants shall provide to the Department, upon request, such other information as the Department may reasonably require, or that the applicant wishes to have considered, to assess the activity or discharge(s) of the facility and to determine whether to issue an NJPDES permit in accordance with this chapter. This additional information may include additional quantitative data and bioassays to assess the relative toxicity of the discharge(s) to aquatic life, requirements to determine the cause of any toxicity, or other such information concerning existing or proposed pollution control programs, such as the technical application requirements listed in N.J.A.C. 7:14A-4.5 through 4.8. In accordance with N.J.A.C. 7:14A-15.4, a technically incomplete application may be inactivated (and the issuance of the draft permit therefore delayed) until the information requested under this subsection is supplied to the Department.

Administrative correction.

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

In (a)13, inserted "or other verification of delivery receipt".

Amended by R.1999 d.164, effective May 17, 1999.

See: 31 N.J.R. 200(a), 31 N.J.R. 1320(a).

In (a)23, changed N.J.A.C. reference.

Administrative change.

See: 32 N.J.R. 1796(a).

Amended by R.2004 d.47, effective February 20, 2004.

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

In (a), amended N.J.A.C. references; in (a)13, inserted "stormwater discharges" for "discharges of stormwater from separate storm sewers".

7:14A-4.4 Additional application requirements for discharges to surface water

(a) An applicant for an individual NJPDES permit for a process wastewater discharge is required to provide with the application a reasonable estimate or measure of the applicant's actual maximum and average actual production. For new sources or new discharges or activities, the applicant shall provide estimates expressed in terms of production (or other measure of operation). The reported estimate or measure of production must reflect the actual production of the facility as required in N.J.A.C. 7:14A-13.13(a)1ii. If production is likely to vary, alternative estimates may be submitted in consultation with the Department. Production estimates shall be made in accordance with the following (except as specified in N.J.A.C. 7:14A-24.7, 25.9 and 25.10 for stormwater discharges):

1. An effluent guideline promulgated under Section 304 of the Federal Act, reported in the units used in the applicable effluent guideline;
2. A new source performance standard promulgated under Section 306 of the Federal Act, reported in the units used in the applicable new source performance standard; or
3. A toxic and pretreatment standard promulgated under Section 307 of the Federal Act reported in the units used in the standard.

(b) All applicants for an individual NJPDES permit shall provide as part of their application, information on the discharge of pollutants in accordance with this subsection (except information on stormwater discharges, which is to be provided as specified in N.J.A.C. 7:14A-24.7, 24.8, 25.9 and 25.10).

1. Where the Department has determined two or more outfalls to have substantially identical effluents, the Department will allow the applicant to report that the quantitative data from testing one outfall also applies to the other substantially identical outfall or outfalls.

2. When quantitative data for a pollutant are required, the applicant shall collect a sample of effluent and analyze it for the pollutant in accordance with analytical methods approved under 40 C.F.R. Part 136 or N.J.A.C. 7:18.

i. When no approved analytical method is available, the applicant may propose to use a suitable method. The applicant shall provide a description of the proposed methodology to the Department for approval for the specific pollutant prior to initiation of sampling;

ii. Grab samples shall be used for pH, temperature, cyanide, total phenols, residual chlorine, chlorine produced oxidants, oil and grease, petroleum hydrocarbons, all volatile organics, bacterial indicators, and flash point. For all other pollutants, 24-hour composite samples must be used. However, a minimum of one grab sample may be taken for effluents from holding ponds or other impoundments with a retention period greater than 24 hours. The Department will waive composite sampling for any outfall for which the applicant demonstrates that the use of an automatic sampler is infeasible and that a specific minimum number of samples will be a representative sample of the effluent being discharged; and

iii. Where no certification program in accordance with N.J.A.C. 7:18 is available for a specific parameter, the permittee shall utilize a laboratory certified for a similar parameter or analytical procedure.

3. An effluent characterization shall be submitted as follows:

i. Every applicant for an individual NJPDES permit shall report quantitative data that contains daily maximum and monthly average values, for every outfall, for the following pollutants:

- (1) Biochemical oxygen demand (BOD₅);
- (2) Chemical oxygen demand ;
- (3) Total organic carbon;
- (4) Total suspended solids;
- (5) Ammonia (as N);
- (6) Temperature (both winter and summer); and
- (7) pH.

ii. Every applicant for an individual NJPDES permit shall collect and submit the quantitative data for the analyses listed in (b)3ii(1) and (2) below for every outfall, unless the Department determines that the submission is not necessary to evaluate the effluent characteristics.

(1) Results from a minimum of at least once acute and one chronic whole effluent toxicity test performed on the same sample; and

(2) Results from a minimum of at least one analysis of the toxic pollutants listed in Appendix A Table II, except for applicants with processes in one or more primary industrial category that are required to obtain quantitative data under (b) below.

iii. The Department will waive the reporting requirements for discharges of a particular industrial category for one or more of the pollutants in (i) above if the applicant demonstrates that such a waiver is appropriate because adequate information to support issuance of a permit can be obtained with less stringent or different requirements.

iv. The quantitative data, regardless of when collected, shall remain representative of current operations and include maximum daily value, average daily value, and the number of measurements taken.

v. For new sources or new discharges, when the applicant is unable to provide sampling data, the applicant must include estimates for the new sources or new discharges of pollutants or parameters listed in (b)3i above with the addition of fecal coliform (if believed present or if sanitary waste is or will be discharged), chlorine produced oxidants (if chlorine is used in the treatment process), oil and grease, and flow, along with the source of each estimate.

vi. For all sampling data required under this section, all levels must be reported or estimated as concentration and as total mass, except for flow, pH, acute and chronic whole effluent toxicity, and temperature. The applicant must complete and submit the influent and effluent characteristics found as Item IV of USEPA Form 2E or Items V and VI of USEPA Form 2C (forms provided by the Department) by providing quantitative data on the appropriate USEPA form only for the pollutants listed that the applicant knows or has reason to believe are present no later than two years after commencement of discharge. However, the applicant need not complete those portions of Item IV of Form 2E or Item V of Form 2C requiring tests which the applicant has already performed and reported under the discharge monitoring requirements of an existing NJPDES permit. For POTWs (and DTWs), the applicant shall complete and submit the influent and effluent characteristics required under this section using USEPA Standard Form A (Section II, items 14, 15 and 17).

4. Each applicant with processes in one or more primary industrial category contributing to a discharge shall report quantitative data for the following pollutants in each outfall containing process wastewater:

i. The organic toxic pollutants in the fractions designated in Table I of Appendix A (i.e. volatile, acid, base/neutral, or pesticide) for the applicant's industrial category or categories unless the applicant qualifies as a small business under N.J.A.C. 7:14A-4.3(c). Table II of N.J.A.C. 7:14A-4 Appendix A lists the organic toxic pollutants in each fraction. The fractions result from the sample preparation required by the analytical procedure which uses gas chromatography/ mass spectrometry. A determination that an applicant falls within a particular industrial category for the purposes of selecting fractions for testing is not conclusive as to the applicant's inclusion in that category for any other purposes; and

ii. The pollutants listed in Table III of Appendix A (the toxic metals, cyanide, and total phenols).

5. The applicant shall report the presence of pollutants that it knows or has reason to believe are present as follows:

i. An applicant shall indicate whether it knows or has reason to believe that any of the pollutants in Table IV of Appendix A (certain conventional and nonconventional pollutants) is discharged from each outfall. If an applicable effluent limitations guideline either directly limits the pollutant or, by its express terms, indirectly limits the pollutant through limitations on an indicator, the applicant shall report quantitative data. For every pollutant discharged which is not so limited in an effluent limitations guideline, the applicant shall either report quantitative data or briefly describe the reasons the pollutant is expected to be discharged;

ii. An applicant shall indicate whether it knows or has reason to believe that any of the pollutants listed in Table II or Table III of Appendix A (the toxic pollutants and total phenols) for which quantitative data are not otherwise required under (b)3 above, is discharged from each outfall. For every pollutant expected to be discharged in a concentration of 10 $\mu\text{g/L}$ or greater the applicant shall report quantitative data. Each applicant shall report daily maximum, daily average, and the source of information for each pollutant it knows or has reason to believe to be present or if the application is limited by an effluent limitations guideline or new source performance standard either directly or indirectly through limitations or an indicator pollutant: all pollutants in Table IV of Appendix A (certain conventional and nonconventional pollutants). For acrolein, acrylonitrile, 2,4-dinitrophenol, and 4,6-dinitro-o-cresol (2-methyl-4,6 dinitrophenol), where any of these pollutants are expected to be discharged in concentrations of 100 $\mu\text{g/L}$ or greater, the applicant shall either submit quantitative data or briefly describe the reasons the pollutants are expected to be discharged. An applicant qualifying as a small business under N.J.A.C. 7:14A-4.3(c) is not required to analyze for pollutants listed in Table II of Appendix A (the organic toxic pollutants); and

iii. For new discharges, each applicant must report estimated daily maximum, daily average and source of information for the following pollutants if it knows or has reason to believe that they will be present in the discharge from any outfall:

(1) The pollutants listed in Table III of Appendix A (the toxic metals, total cyanide, and total phenols); and

(2) The organic toxic pollutants in Table II of Appendix A (except bis (2-chloromethyl) ether, dichlorofluoromethane and trichlorofluoromethane). This requirement is waived for applicants who qualify as small businesses under N.J.A.C. 7:14A-4.3(c).

6. An applicant shall indicate whether it knows or has reason to believe that any of the pollutants in Table V of Appendix A (certain hazardous substances and asbestos) are discharged from each outfall. For every pollutant expected to be discharged, the applicant shall briefly describe the reasons the pollutant is expected to be discharged, and report any quantitative data it has for any pollutant. For new sources and new dischargers, no quantitative estimates are required at time of application submittal, unless they are already available. However, no later than two years after commencement of discharge from a proposed facility, the applicant for a permit for a new source or new discharge shall submit the quantitative data; and

7. An applicant shall report qualitative data, generated using a screening procedure not calibrated with analytical standards, for 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) if it:

i. Uses or manufactures 2,4,5-trichlorophenoxy acetic acid (2,4,5,-T)(CAS #93-76-5); 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5,-TP)(CAS #93-72-1); 2-(2,4,5-trichlorophenoxy) ethyl, 2,2-dichloropropionate (Erbon)(CAS #136-25-4); O,O-dimethyl O-(2,4,5-trichlorophenyl) phosphorothioate (Ronnel)(CAS #299-84-3); 2,4,5-trichlorophenol (TCP)(CAS #95-95-4); or hexachlorophene (HCP)(CAS #70-30-4); or

ii. Knows or has reason to believe that TCDD is, may be, or will be present in an effluent.

Amended by R.2004 d.47, effective February 2, 2004.
See: 35 N.J.R. 169(a), 35 N.J.R. 1331(a) 36 N.J.R. 813(a).
In (a) and (b), changed N.J.A.C. references; rewrote (b)5.

7:14A-4.5 Specific technical application requirements for direct discharges to surface water

(a) N.J.A.C. 7:14A-12 Appendix C includes the effluent standards for new sources, including new or expanded discharges or activities. The effluent standards for new dischargers are effluent limitations developed using water quality assumptions applicable to a pollutant that is known to be in the applicant's effluent. An applicant may request ef-

fluent limitations based on the effluent standards for a new discharge in lieu of conducting site specific water quality studies. Applicants for individual NJPDES permits for new sources or new discharges directly discharging to surface water, shall submit one of the following:

1. A complete application in accordance with the requirements of N.J.A.C. 7:14A-4.2 and 4.3, including a request to include one or more of the effluent standards listed in N.J.A.C. 7:14A-12 Appendix C as the effluent limitation(s) for each pollutant present in the applicant's discharge or activity. The applicant shall specify the specific pollutants where imposition of the effluent standards as effluent limitations are requested. By requesting the imposition of effluent standards listed in N.J.A.C. 7:14A-12 Appendix C as effluent limitations, an applicant shall be deemed to have waived its rights to contest the N.J.A.C. 7:14A-12 Appendix C effluent standards for each effluent limitation requested. The Department may determine that imposition of the effluent standards as effluent limitations are appropriate for specific pollutants and in that case shall exempt the applicant from completing detailed water quality studies for those pollutants; or

2. A complete application without a request for use of the effluent standards. Where the applicant does not request the effluent standards as provided at (a)1 above, the applicant shall submit all water quality studies which the Department determines are appropriate for the specific discharge.

(b) Applicants with an individual NJPDES permit for existing discharges or activities shall submit a complete renewal application in accordance with N.J.A.C. 7:14A-2.7. Where additional water quality information is necessary, the Department shall require water quality studies as provided in N.J.A.C. 7:14A-2.12(a).

7:14A-4.6 Additional application requirements for significant indirect users

(a) In addition to the requirements of N.J.A.C. 7:14A-4.3, the application for an individual NJPDES-SIU permit shall include the information required under:

1. N.J.A.C. 7:14A-4.4(a)1 and 3; and
2. N.J.A.C. 7:14A-4.4(b)1,2,3i(1-2),3i(4-7),3iii, and 4 through 7.

(b) In addition to the requirements listed in N.J.A.C. 7:14A-4.4, applicants for an individual SIU permit shall submit the following:

1. A list of potential discharges, with a description of the expected levels and the reasons for any discharges of pollutants which the applicant knows or has reason to believe will exceed two times the value required to be reported in accordance with N.J.A.C. 7:14A-4.4(b)1, 2, 3i(1) and (2), 3i(4) through (7), 4 through 7, for a period of five years commencing with the date of the application;

2. For new, expanded, or changed (in nature of pollutants discharged) SIU discharges only, consent from the affected local agency and owner of the applicable wastewater conveyance system(s), certifying that the discharge is acceptable. This consent shall be in the form of a letter or Form WQM-003 (available from the Department). This is the same form required by N.J.A.C. 7:14A-22.6; and

3. An indication of the ultimate discharge point of all building floor drains, including the path through the facility collection system.

7:14A-4.7 Additional application requirements for Discharges to Ground Water

In addition to the requirements of N.J.A.C. 7:14A-4.2 and 4.3, an applicant for a NJPDES-DGW permit shall

submit the information required in N.J.A.C. 7:14A-7, 8, 9 and 10.

7:14A-4.8 Additional application requirements for specific DSW discharges

(a) For new or existing concentrated animal feeding operations, in addition to the application information requirements contained in N.J.A.C. 7:14A-4.2 and 4.3, an application shall include the following information:

1. The type and number of animals in open confinement and housed under roof;

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

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

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

1. The maximum daily and average monthly flow from each outfall;
2. The number of ponds, raceways, and similar structures;
3. The name of the receiving water and the source of intake water;
4. For each species of aquatic animals, the total yearly and maximum harvestable weight; and
5. The calendar month of maximum feeding and the total mass of food fed during that month.

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

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

1. For a corporation, by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
 - i. A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - ii. The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
2. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or
3. For a municipality, State, Federal, or other public agency, by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:
 - i. The chief executive officer of the agency; or
 - ii. A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator); or

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

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

1. The authorization is made in writing by a person described in (a)1 through 3 above;
2. The authorization specifies either an individual or a position whose occupant has responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position whose occupant has overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and
3. The written authorization is submitted to the Department.

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

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

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

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

APPENDIX A

PERMIT APPLICATION TESTING REQUIREMENTS/POLLUTANT LISTINGS

**Table I
Testing Requirements for Organic Toxic Pollutants by Industrial Category**

Industrial Category	GC/MS Fraction			Pesticide
	Volatiles	Acid	Base/Neutral	
Adhesives and Sealants				

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

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

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

(b) At 46 FR 32585, April 20, 1981, the Environmental Protection Agency suspended until further notice 122.21(g)(7)(ii)(A) and the corresponding portions of Item V-C of the NPDES application Form 2 as they apply to:

1. Testing and reporting for all four organic fractions in the Greige Mills Subcategory of the Textile Mills industry (Subpart C—Low water use processing of 40 C.F.R. part 410), and testing and reporting for the pesticide fraction in all other subcategories of this industrial category.
2. Testing and reporting for the volatile, base/neutral and pesticide fractions in the Base and Precious Metals Subcategory of the Ore Mining and Dressing industry (subpart B of 40 C.F.R. part 440), and testing and reporting for all four fractions in all other subcategories of this industrial category.
3. Testing and reporting of all four GC/MS fractions in the Porcelain Enameling industry.

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

1. Testing and reporting for the pesticide fraction in the Tall Oil Rosin Subcategory (subpart D) and Rosin-Based Derivatives Subcategory (subpart F) of the Gum and Wood Chemicals industry (40 CFR part 454), and testing and reporting for the pesticide and base/neutral fractions in all other subcategories of this industrial category.
2. Testing and reporting for the pesticide fraction in the Leather Tanning and Finishing, Paint and Ink Formulation, and Photographic Supplies industrial categories.
3. Testing and reporting for the acid, base/neutral and pesticide fractions in the Petroleum Refining industrial category.
4. Testing and reporting for the pesticide fraction in the Papergrade Sulfite subcategories (subparts J and U) of the Pulp and Paper industry (40 C.F.R. part 430); testing and reporting for the base/neutral and pesticide fractions in the following subcategories: Deink (subpart Q), Dissolving Kraft (subpart F), and Paperboard from Waste Paper (subpart E); testing and reporting for the volatile, base/neutral and pesticide fractions in the following subcategories: BCT Bleached Kraft (subpart H), Semi-Chemical (subparts B and C), and Nonintegrated-Fine Papers (subpart R); and testing and reporting for the acid, base/neutral, and pesticide fractions in the following subcategories: Fine Bleached Kraft (subpart I), Dissolving Sulfite Pulp (subpart K), Groundwood-Fine Papers (subpart O), Market Bleached Kraft (subpart G), Tissue from Wastepaper (subpart T), and Nonintegrated-Tissue Papers (subpart S).
5. Testing and reporting for the base/neutral fraction in the Once-Through Cooling Water, Fly Ash and Bottom Ash Transport Water process wastestreams of the Steam Electric Power Plant industrial category.

This revision continues these suspensions. For the duration of the suspensions, therefore, Table I effectively reads:

PERMIT APPLICATION TESTING REQUIREMENTS/POLLUTANT LISTINGS

Table I

Testing Requirements for Organic Toxic Pollutants by Industrial Category

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

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

1. The pollutants in each fraction are listed in Item V-C of the USEPA Form *C. *Testing required
3. Pump and Paperboard Mills:

Subpart 3	GC/MS Fraction 1			
	Volatile	Acid	Base/Neutral	Pesticide
A	.	1	.	.
B	.	1	.	.
C	.	1	.	.
D	.	1	.	.
E	1	1	.	1
F	1	1	.	1
G	1	1	.	1
H	1	1	.	1
I	1	1	.	1
J	1	1	1	1
K	1	1	.	1
L	1	1	.	1
M	1	1	.	1
N	1	1	.	1
O	1	1	.	1
P	1	1	.	1
Q	1	1	.	1
R	1	1	.	1
S	1	1	.	1
T	1	1	.	1
U	1	1	1	1

1. Must test.
- *Do not test unless 'reason to believe' it is discharged.
3. Subparts are defined in 40 C.F.R. Part 430.

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

- Acrolein
- Acrylonitrile
- Benzene
- Bromoform
- Carbon Tetrachloride

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

Acid Compounds

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

Base/Neutral

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

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

Pesticides

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

Table III
 Other Toxic Pollutants (Metals and
 Cyanide) and Total Phenols

Antimony, Total
 Arsenic, Total
 Beryllium, Total
 Cadmium, Total
 Chromium, Total
 Copper, Total
 Lead, Total
 Mercury, Total
 Nickel, Total
 Selenium, Total
 Silver, Total
 Thallium, Total
 Zinc, Total

Cyanide, Total
Phenols, Total

Table IV

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

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

Table V

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

Toxic Pollutants

Asbestos

Hazardous Substances

Acetaldehyde
Allyl alcohol
Allyl chloride
Amyl acetate
Aniline
Benzonitrile
Benzyl chloride
Butyl acetate
Butylamine
Captan
Carbaryl
Carbofuran
Carbon disulfide
Chlorpyrifos
Coumaphos
Cresol
Crotonaldehyde
Cyclohexane
2,4-D (2,4-diichlorophenoxy acetic acid)
Diazinon
Dicamba

Dichlobenil
Dichlone
2,2-Dichloropropionic acid
Dichlorvos
Diethyl amine
Dimethyl amine
Dinitrobenzene
Diquat
Disulfoton
Diuron
Epichlorohydrin
Ethion
Ethylene diamine
Ethylene dibromide
Formaldehyde
Furfural
Guthion
Isoprene
Isopropanolamine dodecylbenzenesulfonate
Kelthane
Kepone
Malathion
Mercaptodimethur
Methoxychlor
Methyl mercaptan
Methyl methacrylate
Methyl parathion
Mevinphos
Mexacarbate
Monoethyl amine
Monomethyl amine
Naled
Napthenic acid
Nitrotoluene
Parathion
Phenolsulfanate
Phosgene
Propargite
Propylene oxide
Pyrethrins
Quinoline
Resorcinol
Strontium
Strychnine
Styrene
2,4,5-T (2,4,5-Trichlorophenoxy acetic acid)
TDE (Tetrachlorodiphenylethane)
2,4,5-TP[2-(2,4,5-Trichlorophenoxy) propanoic acid]
Trichlorofan
Triethanolamine dodecylbenzenesulfonate
Triethylamine
Trimethylamine
Uranium
Vanadium
Vinyl acetate
Xylene
Xylenol
Zirconium

Administrative correction.

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

In Table II, deleted "Trichlorofluoromethane" and inserted "Trichloroethylene"

Administrative corrections.

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

SUBCHAPTER 5. WASTEWATER DISCHARGE REQUIREMENTS

7:14A-5.1 Scope of rules

(a) Unless otherwise provided by rule or statute, this subchapter shall constitute the rules of the Department of Environmental Protection with respect to the protection and enhancement of surface waters of the State pursuant to the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq. and the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq.

(b) This subchapter shall apply to effluent limitations and other requirements applicable to discharges into the surface waters of the State.

Petition for Rulemaking.

See: 23 N.J.R. 222(a).

Amended by R.1997 d.107, effective May 5, 1997.

See: 28 N.J.R. 380(a), 28 N.J.R. 2779(a), 28 N.J.R. 3494(a), 28 N.J.R. 3858(a), 28 N.J.R. 4697(a), 28 N.J.R. 5028(a), 29 N.J.R. 1704(a).

In (a), deleted “, disinfection, and minimum treatment requirements” following “surface waters of the State” and made a nonsubstantive change.

Administrative correction.

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

In (a), substituted “this subchapter” for “the following”.

Recodified from N.J.A.C. 7:9-5.1 by administrative change.

See: 37 N.J.R. 3648(a).

Case Notes

Responsibilities of the Department of Environmental Protection in review of mausoleum construction plans; concurrent State and municipal jurisdiction over mausoleum construction. Cedar Park Cemetery v. Hayes, 132 N.J.Super. 572, 334 A.2d 386 (Law Div.1975).

Former regulation set forth the objective of the Water Resources Division to integrate and promote modern sanitary sewerage throughout the State. Cedar Park Cemetery v. Hayes, 132 N.J.Super. 572, 334 A.2d 386 (Law Div.1975).

7:14A-5.2 Definitions

The terms “discharge,” “discharger,” “LC₅₀,” “EC₅₀” and “lake, pond or reservoir” as used in this subchapter are defined in N.J.A.C. 7:14A-1.

Repeal and New Rule, R.1997 d.107, effective May 5, 1997.

See: 28 N.J.R. 380(a), 28 N.J.R. 2779(a), 28 N.J.R. 3494(a), 28 N.J.R. 3858(a), 28 N.J.R. 4697(a), 28 N.J.R. 5028(a), 29 N.J.R. 1704(a).

Section was “Definitions”.

Recodified from N.J.A.C. 7:9-5.3 by administrative change.

See: 37 N.J.R. 3648(a).

Deleted “the New Jersey Pollutant Discharge Elimination System rules at” following “defined in”.

7:14A-5.3 Effluent standards

(a) The effluent standard for toxic discharges is that, at a minimum, no effluent shall be more toxic than an LC₅₀, or an EC₅₀ (based on daphnid immobilization) of 50 percent (by volume), as determined by acute definitive bioassay(s) conducted in conformance with N.J.A.C. 7:18, using the

approved representative species considered to be the most sensitive to the discharge, as designated by the Department.

(b) The effluent standard for phosphorus discharged to a freshwater lake, pond, or reservoir, or tributaries to these waterbodies is that, at a minimum, no effluent shall contain more than 1.0 mg/l total phosphorus (as P), as a monthly average, unless the discharger(s) to such a waterbody can demonstrate that a less stringent requirement will not result in a violation of the Surface Water Quality Standards (N.J.A.C. 7:9B) or that the control of point sources alone, in the absence of effective nonpoint source controls, will not result in a significant reduction of phosphorus loadings to the waterbody.

Administrative Correction: Sentence omitted from (b).

See: 23 N.J.R. 2166(a).

Amended by R.1997 d.107, effective May 5, 1997.

See: 28 N.J.R. 380(a), 28 N.J.R. 2779(a), 28 N.J.R. 3494(a), 28 N.J.R. 3858(a), 28 N.J.R. 4697(a), 28 N.J.R. 5028(a), 29 N.J.R. 1704(a).

In (a), amended N.J.A.C. reference; in (b), amended N.J.A.C. reference, substituted “shall not result” for “will not result”, and added the last sentence.

Administrative correction.

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

Recodified from N.J.A.C. 7:9-5.7 by administrative change.

See: 37 N.J.R. 3648(a).

SUBCHAPTER 6. CONDITIONS APPLICABLE TO ALL NJPDES PERMITS

7:14A-6.1 Purpose and scope

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

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

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

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

1. A permittee shall comply with all the conditions of the NJPDES permit;

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

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

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

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

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

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

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

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

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

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

i. The outfall tag shall be:

(1) Legible;

(2) Located as near to the end of the outfall pipe as possible;

(3) Made of a durable material such as metal; and

(4) Maintained on a regular basis, such as cleaned and inspected to ensure that the tag is properly attached.

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

(1) The name of the facility where the discharge originates;

(2) The NJPDES permit number;

(3) The NJDEP Hotline phone number; and

(4) The Discharge Serial Number for that particular outfall;

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

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

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

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

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

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

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

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

(b) All NJPDES permits shall include any applicable Federal or State statutory or regulatory requirements which take effect prior to final permit issuance. N.J.A.C. 7:14A-15.14, Reopening of the public comment period, provides a means for reopening NJPDES permit proceedings at the discretion of the Department where new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. An applicable requirement is also any requirement which takes effect prior to the modification or revocation and reissuance of a permit, to the extent allowed in N.J.A.C. 7:14A-16.4.

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

Cross References

Procedures and conditions applicable to NJPDES-DSW permits, see N.J.A.C. 7:14A-11.

Case Notes

Applying two different permits to same effluent was hazardous waste violation warranting civil penalty. Camden County Municipal Utilities v. Department of Environmental Protection, 95 N.J.A.R.2d (EPE) 44.

7:14A-6.4 Schedules of compliance

(a) The Department shall, when appropriate, specify in the permit a schedule of compliance, including interim deadlines for progress or reports of progress towards compliance with the State and Federal Acts and all other applicable authority for this chapter.

1. The first NJPDES permit issued to a new source or a new discharger shall contain a schedule of compliance only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised after commencement of construction but less than three years before commencement of the relevant discharge. For dischargers with a discharge that has been suspended for an extended period during which the submittal of DMRs has also been suspended, a schedule of compliance shall be included as part of the permit or conditions for recommencement only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised less than three years before recommencement of the discharge.

2. Except as provided in (b)1ii below, if a permit establishes a schedule of compliance which exceeds one year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.

i. The time between interim dates shall not exceed one year except that in the case of a schedule for compliance with standards for sewage sludge use or disposal, the time between interim dates shall not exceed six months.

ii. If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than one year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

3. No later than 14 days following each interim date or final date of compliance, the permittee shall provide written notice to the Department of its compliance or noncompliance with interim or final requirements, or submit progress reports if (a)2ii above is applicable.

(b) A permittee may cease conducting regulated activities rather than continue to operate and meet permit requirements as follows:

1. If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued:

i. The permit may be modified pursuant to N.J.A.C. 7:14A-16.4, to contain a new or additional schedule leading to timely cessation of activities; or

ii. The permittee shall cease conducting permitted activities before noncompliance with any interim or final compliance requirement already specified in the permit.

2. If the decision to cease conducting regulated activities is made before issuance of a permit whose term shall include the expiration date, the permit shall contain a schedule leading to expiration which shall ensure compliance no later than any applicable statutory deadline.

3. If the permittee is undecided as to whether it will cease conducting regulated activities, the Department shall either issue or modify a permit to contain two schedules:

i. One schedule shall lead to timely compliance with all applicable requirements, no later than the statutory deadline;

ii. The second schedule shall lead to cessation of regulated activities by a date which shall ensure timely compliance with all applicable requirements;

iii. Both schedules shall contain an identical interim deadline requiring a final decision as to whether the permittee will cease conducting regulated activities. A decision by the permittee to continue conducting regulated activities shall be made by a date which ensures sufficient time to comply in a timely manner with all applicable requirements;

iv. Each permit containing two schedules shall include a requirement that the permittee, after making a final decision under (b)3iii above, shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and shall follow the schedule leading to expiration if the decision is to cease conducting regulated activities.

4. The permittee's decision to cease conducting regulated activities shall be evidenced by a firm public commitment satisfactory to the Department, such as a resolution of the board of directors of a corporation.

(c) A POTW required to develop a pretreatment program shall have a pretreatment program compliance schedule based on the dates established in a written notification from the Department. This compliance schedule shall be incorporated into the NJPDES permit at the time of issuance, reissuance or modification of the permit. The compliance schedule shall require the development and submission of a pretreatment program developed in accordance with N.J.A.C. 7:14A-19 as soon as possible, but in no case later than one year after the receipt of written notification from the Department.

(d) Any schedules of compliance under this section shall require compliance as soon as possible, but no later than any applicable statutory deadline.

(e) The permittee shall meet schedules for compliance with the terms of the permit and interim deadlines for progress or reports of progress towards compliance. Reports of compliance or noncompliance with, or any progress reports on, the interim and final requirements contained in any compliance schedule of a permit shall be submitted no later than 14 days following each scheduled date, and may be submitted with the DMRs in accordance with N.J.A.C. 7:14A-6.8(a).

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

7:14A-6.5 Monitoring

(a) Monitoring requirements are as follows:

1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

2. The permittee shall perform all analyses in accordance with the analytical test procedures specified in 40 C.F.R. 136 or, in the case of residual use or disposal, in 40 C.F.R. 136 unless otherwise specified in 40 C.F.R. 503, or unless other test procedures have been specified in the permit. Where no approved test procedure is available, the permittee shall indicate a suitable analytical procedure and shall provide the Department with literature references or a detailed description of the procedure. The Department shall determine the appropriate procedure and require that procedure in the NJPDES permit. The laboratory performing the analyses shall be certified by the Department for the analysis of those specific parameters in accordance with N.J.A.C. 7:18. Information concerning laboratory approval and/or certification may be obtained from:

New Jersey Department of Environmental
Protection
Office of Quality Assurance
PO Box 424
Trenton, New Jersey 08625-0424
(609) 292-3950

(b) All permittees shall:

1. Properly install, use, and maintain monitoring equipment and use proper monitoring methods (including biological monitoring methods when appropriate);

2. Properly monitor the discharge in accordance with the monitoring type, interval, and frequency as specified in the permit;

i. Certain discharges of non-contact cooling water shall be exempt from monitoring, unless specifically required by the Department, where the applicant's activities do not affect the following constituents: COD, BOD, TSS, pH, and/or settleable solids.

ii. Bacterial monitoring shall not be required for facilities which do not receive wastewater containing pathogenic organisms, including fecal coliform or enterococci organisms, unless otherwise required by the Department. Discharge permits shall contain a monitoring-only requirement for enterococci organisms, unless the Department determines that it is appropriate to require enterococci effluent limitations and publishes a public notice in the New Jersey Register with supporting reasons to this effect;

3. Comply with the reporting requirements specified in the permit; and

4. Monitor in accordance with the edition of the Department's "Field Sampling Procedures Manual" applicable at the time of sampling or an alternate method approved by the Department.

(c) If the Department has reason to believe that the accuracy and/or precision of one or more analyses is inadequate to provide a reasonable estimate of effluent quality, the Department shall, upon written notification, require any facility that analyzes its effluent samples at a laboratory it directly or indirectly owns, operates or manages to annually have one of its permit-required periodic sampling analyses performed by a certified laboratory which is not owned, operated or managed by the permittee. This shall be broadly construed to include all the sample analyses that are to be performed during the course of routine hourly, daily, monthly, quarterly, semi-annual, or annual sampling.

(d) Requirements for automatically adjusting effluent monitoring frequency are as follows:

1. Any permittee shall automatically adjust its effluent monitoring and reporting frequency to monthly when the permittee:

i. Reports effluent values that would make the permittee a serious violator for one or more parameters for which the permittee is required to report less frequently than monthly. Monthly reporting is only required for parameters with serious violations. (However, NJPDES-SIU permittees shall resample within 30 days of becoming aware of any violation if required by 40 C.F.R. Part 403); or

ii. Fails to submit a completed Discharge Monitoring Report (DMR).

2. The monthly reporting required by (d)1 above shall begin the first month after the submission of the DMR or the month in which the permittee was required to submit the completed DMR or the Baseline Report (BR) to the Department which results in the permittee becoming a serious violator. If the Department grants an affirmative defense pursuant to N.J.A.C. 7:14-8.3(i) for an effluent violation, the violation shall not be considered a serious violation and shall not be subject to monthly reporting under (d)1 above.

3. Any permittee required to adjust its monitoring and reporting pursuant to (d)1 above shall continue this monthly schedule until the permittee has submitted six consecutive monthly Discharge Monitoring Reports which show compliance with the particular serious violation parameter at the particular discharge point, at which time the permittee may resume the original schedule in its permit.

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

7:14A-6.6 Recordkeeping

(a) A person shall retain records of all monitoring information including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by a NJPDES permit, records of all data used to complete the application for a NJPDES permit, and records of monitoring information required by the permit related to the permittee's residual use and/or disposal practices for a period of at least five years, or longer as required by N.J.A.C. 7:14A-20, from the date of the sample, measurement, report, application, or record. The Department may at any time, extend this period through a written notice, and require that a person retain all records listed above for a period longer than five years for, at a minimum, any of the following reasons:

1. Enforcement action;
2. Litigation; and
3. Water quality studies.

(b) Records of monitoring information shall include:

1. The date, exact place, and time of sampling or measurements;
2. The individual(s) who performed the sampling or measurements;
3. The date(s) analyses were performed;
4. The individual(s) who performed the analyses;
5. The analytical techniques or methods used; and
6. The results of such analyses.

7:14A-6.7 Notice requirements for facility alterations and additions

(a) All permittees shall give written notice to the Department of any planned physical alterations or additions to the permitted facility which meet the criteria in (b) below, or as soon as possible.

(b) Notice is required only when:

1. The alteration or addition to a permitted facility meets one of the criteria for determining whether a facility is a new source as defined in N.J.A.C. 7:14A-1.2;
2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged;
3. The alteration or addition is expected to result in a significant change in the permittee's residual use or disposal practices, and such alterations, additions, or changes may justify the application of permit conditions that are different from or absent in the existing permit. This includes notification of additional use or disposal sites not reported during the permit application process; or
4. The planned alterations or changes in the permitted facility or activity may result in noncompliance with permit requirements.

(c) Fulfillment of these notice requirements does not relieve the applicant of the responsibility to obtain any applicable approvals or permits.

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

7:14A-6.8 Reporting monitoring results

(a) The permittee shall report monitoring results on the Discharge Monitoring Reports (DMR) and/or the Baseline Reports (BR) or other monitoring report forms required by the permit or the Department at the intervals specified in the permit.

(b) All permittees with effluent limits expressed as daily maxima or minima without a monthly average for a particular parameter shall report, in addition to all other applicable reporting requirements, the average value obtained during the reporting month. However, for pH and WET, the reporting requirements of the permit shall govern.

(c) Any permittee required to adjust its effluent monitoring to monthly under N.J.A.C. 7:14A-6.5(d) shall also automatically adjust its reporting frequency to monthly.

(d) Upon written notice from the Department, monitoring results may be submitted to the Department electronically, provided the data is submitted in accordance with the standards for information exchange detailed in the Department's Manual for Information Management, "Guidance Document for Electronic Reporting of Environmental Data," August 1995 (see data dictionary and file format), as may be amended and supplemented. However, the permittee shall continue to submit signed transmittal forms.

(e) All monitoring requirements of the permit are minimum requirements. However, if a permittee monitors any pollutant more frequently than required by the permit in accordance with the permit requirements for sample type, location, and analysis and using test procedures approved under 40 C.F.R. 136 or, in the case of residual use or disposal, approved under 40 C.F.R. 136, unless otherwise specified in 40 C.F.R. 503 or as specified in the permit, the results of this monitoring shall be included in the calculation and reported on the form specified by the Department.

(f) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in the permit by the Department.

(g) When subject to limitations based on a measure of production, the permittee shall submit with the report the level of production that actually occurred during the reporting month and the limitations, standards, or prohibitions applicable to that level of production.

(h) The permittee shall report all instances of noncompliance not reported under N.J.A.C. 7:14A-6.10 at the time DMRs are submitted. The reports shall contain the information required in the written submission listed in N.J.A.C. 7:14A-6.10(e) if not already submitted to the Department.

(i) All SIUs, DSW major industrial facilities, DGWs, and DSW local agencies, other than those discharging only stormwater or non-contact cooling water, required to submit DMRs to the Department shall submit the required reporting forms to the Department on a monthly basis when sampling is required on a monthly basis for one or more parameters. Reporting is required on a monthly basis for all those parameters that are required to be monitored during that particular month.

7:14A-6.9 Signatory requirements for DMR and BR

(a) All DMRs and the BRs shall be signed by the highest ranking official having day-to-day managerial and operational responsibilities for the discharging facility, whose responsibilities usually include authorizing capital expenditures and/or hiring personnel.

1. For private entities this will usually be a person identified in N.J.A.C. 7:14A-4.9(a)1; and

2. For public entities it will usually be a plant manager or plant operator, an executive director of a public authority, or a ranking elected official.

(b) The following certification shall be made by the above described official and shall accompany the report:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and/or imprisonment."

(c) The above described official may authorize another responsible high ranking official to sign the DMR in his or her absence. Authorizations for other individuals to sign in accordance with this subsection shall be made in accordance with N.J.A.C. 7:14A-4.9(b).

(d) The highest ranking official shall be liable in all instances for the accuracy of all of the information provided in the report. However, the highest ranking official may file within seven days of his or her return, amendments to the report to which he or she was not a signatory. The filing of amendments to a monitoring report in accordance with this subsection shall not be considered a late filing of a report for the purposes of N.J.A.C. 7:14A-6.8, or for the purposes of determining a significant noncomplier.

7:14A-6.10 Noncompliance reporting

(a) All permittees shall report to the Department (and receiving DTW, if applicable) any noncompliance including, but not limited to:

1. Any exceedance of effluent limitation that:

- i. Causes injury to persons;
- ii. Poses a threat to human health;
- iii. Causes damage to the environment;
- iv. Poses a threat to the environment; or
- v. Violates a daily maximum effluent limitation for a toxic pollutant listed in N.J.A.C. 7:14A-4 Appendix A;

2. Any discharge of any toxic or hazardous pollutant listed in N.J.A.C. 7:14A-4 Appendix A, which is not covered under a permit;

3. Any upset or an unanticipated bypass not otherwise covered in (a)1 or 2 above; or

4. Any anticipated bypass.

(b) Any permittee discharging pollutants under the conditions identified in (a) above shall comply with the reporting requirements in this section. Any permittee with a discharge not otherwise covered in (a) above shall comply with the reporting requirements relating to that type of discharge as listed below.

(c) For the situations listed in (a)1i through iv and 2, above, the permittee shall communicate the information in (c)1 through 3 below by telephone to the DEP Hotline at 1-877-927-6337 or 1-877-WARN-DEP (and to the receiving DTW, if applicable) within two hours of the commencement of the discharge or of the permittee's becoming aware of the discharge. Any revision to this information for situations listed in (a)1i through iv and 2 above shall be reported to the DEP Hotline within 24 hours after the permittee's becoming aware of the need to revise the information.

1. A description of the discharge, including the time of the discharge, the location of discharge, the volume of the discharge, the concentration of pollutants discharged, and the receiving water of the discharge;
2. Steps being taken to determine the cause of the permit noncompliance; and
3. Steps being taken to reduce, remediate, and eliminate the noncomplying discharge and any damage to the environment, and the anticipated time frame to initiate and complete the steps to be taken.

(d) For the situations listed in (a)1v and 3 above, the permittee shall communicate the following information by telephone to the DEP Hotline at 1-877-927-6337 or 1-877-WARN-DEP within 24 hours after the commencement of the discharge or of the permittee's becoming aware of the discharge:

1. A description of the discharge, including the time of the discharge, the location of discharge, the volume of the discharge, the concentration of pollutants discharged, and the receiving water of the discharge;
2. Steps being taken to determine the cause of the permit noncompliance;
3. Steps being taken to reduce, remediate, and eliminate the noncomplying discharge and any damage to the environment, and the anticipated time frame to initiate and complete the steps to be taken;
4. The duration of the discharge, including the dates and times of the commencement and, for an unanticipated bypass, the dates and times of the end or anticipated end of the discharge, and if the discharge has not been corrected, the anticipated time when the permittee will correct the situation and return the discharge to compliance;
5. The cause of the noncompliance;
6. Steps being taken to reduce, eliminate, and prevent reoccurrence of the noncomplying discharge;

7. An estimate of the threat to human health or the environment posed by the discharge; and

8. The measures the permittee has taken or is taking to remediate the problem and any damage or injury to human health or the environment, and to avoid a repetition of the problem.

(e) For the situations identified in (a)1 through 3 above, a written submission containing the information listed in (d) above shall be submitted to the Department, if the permittee had not previously submitted the information. The written information shall be sent to the person identified in (h) below.

1. The permittee shall ensure that the written submission required pursuant to this subsection is submitted to the Department within five days of the commencement of the discharge or of the permittee becoming aware of the discharge.
2. If the permittee becomes aware that it has failed to submit any relevant facts or submitted incorrect information required in (c) or (d) above, the permittee shall immediately submit such facts or information to the Department.

(f) For the situations identified in (a)3 above, the permittee shall ensure the person identified in (h) below receives the information listed at (f)4 below as part of the written submission required pursuant to (e) above, if not previously submitted, as follows:

1. For an unanticipated bypass, the information listed at (f)4i through ii and iv through ix below.
2. For an upset, the information listed at (f)4i and iii through vi below as applicable, is submitted to the Department, within the five-day period.
3. If the permittee becomes aware that it has failed to submit any relevant facts or has submitted incorrect information pursuant to (d) above, the permittee shall immediately submit such facts or information to the Department.
4. The following information shall be submitted as required under this subsection:
 - i. All properly signed, contemporaneous operating logs, or other relevant evidence, on the circumstances of the noncompliance;
 - ii. For an unanticipated bypass, the reasons that the unanticipated bypass occurred, including the circumstances leading to the unanticipated bypass;
 - iii. For an upset, the reasons that the upset occurred, including the cause of the upset and the identity of the person causing the upset, as necessary, except that, in the case of a treatment works, the local agency may certify that despite a good faith effort it was unable to identify the cause of the upset or the person causing the upset;

iv. Evidence that the permittee was properly operating the facility at the time;

v. Evidence that the permittee submitted notice of the unanticipated bypass as required pursuant to (a)3 above, or, in the case of an upset resulting from the performance by the permittee of maintenance operations, the permittee provided prior notice and received prior written approval from the Department, including the name, title, address and telephone number of the individual who satisfied this requirement, the date and specific time the individual notified the Department for the permittee, the specific method that the individual used to notify the Department, and the name and title of the individual within the Department to whom the permittee gave such notice;

vi. Evidence that the permittee complied with all remedial measures the Department required;

vii. For an unanticipated bypass, the permittee's rationale for and all supporting documentation that the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage, including the name, title, address and telephone number of the individual that made the determination for the permittee, the data and information upon which that individual made the determination and any other information the Department requests;

viii. For an unanticipated bypass, evidence that there was no feasible alternative to the unanticipated bypass, including but not limited to the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of downtime; and

ix. For an unanticipated bypass, evidence that the unanticipated bypass did not occur during normal periods of equipment downtime or preventive maintenance when back-up equipment should have been installed to avoid the unanticipated bypass.

(g) For the situations identified in (a)4 above, the permittee shall submit the information below to the person identified in (h) below at least 10 days, if possible, prior to the date of the anticipated bypass.

1. The exact dates and times of the anticipated commencement and the end of the anticipated bypass;

2. The permittee's rationale as to why the anticipated bypass is necessary;

3. A statement certifying that the permittee will properly operate the facility at the time of the anticipated bypass;

4. A statement certifying that the anticipated bypass is unavoidable to prevent loss of life, personal injury, or severe property damage, including the name, title, address and telephone number of the individual that made this determination for the permittee, the data and information upon which that individual made the determination, and any other information the Department requests;

5. A statement certifying that there is no feasible alternative to the anticipated bypass, including but not limited to the use of auxiliary treatment facilities retention of untreated wastes, or maintenance during normal periods of equipment downtime; and

6. A statement certifying that the anticipated bypass will not occur during normal periods of equipment downtime or preventive maintenance when backup equipment can be installed to avoid the anticipated bypass.

(h) The permittee shall submit all written notifications and/or reports required pursuant to this section to:

Administrator of Water Compliance and
Enforcement Element
New Jersey Department of Environmental
Protection
401 East State Street, 4th Floor East
PO Box 422
Trenton, New Jersey 08625-0422

(i) For a serious violation, as defined in N.J.A.C. 7:14A-1.2, a person shall, within 30 days of the violation, submit a written report to the person listed in (h) above or the appropriate control authority. The report shall include the following:

1. All the information required in (d) above, if not already submitted; and

2. A written statement that:

i. Indicates the person understands the civil and administrative penalties required to be assessed for serious violations; and

ii. Explains the nature of the serious violation.

(j) The permittee shall report all instances of noncompliance not reported under this section at the time DMRs are regularly submitted. The reports shall contain the information required pursuant to (d) above.

Amended by R.1999 d.163, effective May 17, 1999.

See: 31 N.J.R. 508(b), 31 N.J.R. 636(a), 31 N.J.R. 1314(b).

In (a), added 4; in (e), (f) and (i), substituted references to (h) for references to (g); in (e), substituted a reference to (a)1 through 3 for a reference to (a); inserted a new (g); recodified former (g) through (i) as (h) through (j); and rewrote the new (h).

Administrative change.

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

7:14A-6.11 Affirmative defenses

Permittees may request an affirmative defense for effluent violations resulting from an upset, bypass, or laboratory error in accordance with the procedures at N.J.A.C. 7:14-8.3(i).

7:14A-6.12 Operation, maintenance, and emergency conditions

(a) A permittee shall, at all times, maintain in good working order and operate the treatment works and facilities which are installed or used by the permittee to achieve compliance with the terms and conditions of the discharge permit. Proper operation and maintenance, includes, at a minimum:

1. Effective performance based upon treatment levels for which the treatment works was designed;
2. Adequate funding;
3. Effective management;
4. Adequate operator staffing and training;
5. Regularly scheduled inspection and maintenance programs; and
6. Adequate laboratory and process controls including appropriate quality assurance procedures as described in 40 CFR Part 136 and applicable State laws and rules.

(b) Any permittee who operates a treatment works shall satisfy the licensing requirements of the "Water Supply and Wastewater Operators Licensing Act," N.J.S.A. 58:11-64 et seq., and promulgated pursuant thereto. This subsection requires the operation of back-up or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the NJPDES permit or where required by applicable law or regulation.

(c) All permittees shall submit written verification to the Department that an operation and maintenance manual for the treatment works, including related appurtenances and collection system, has been or will be completed by the effective date or a compliance date included in a new or renewed NJPDES permit issued subsequent to May 5, 1997. A permittee does not need to submit the operation and maintenance manual to the Department, unless specifically directed to do so. When the Department directs a permittee to submit the operation and maintenance manual, the Department shall state the reasons for requiring the submittal in a letter requesting the submittal. In the case of a NJPDES permit for stormwater discharges or separate storm sewers which expressly exempts permittees from this provision, the exemption shall apply only to the discharge authorized by the permit. Any affected permittee shall comply with the following operation and maintenance manual requirements:

1. The operation and maintenance manual shall be made available for inspection upon request by an authorized representative of the Department.
2. The operation and maintenance manual shall be amended within 30 days after a change in the treatment works design, construction, operations or maintenance which substantially changes the treatment works operations and maintenance procedures.
3. An operation and maintenance manual shall describe, at a minimum, the following:
 - i. Operator and staff responsibilities;
 - ii. Staff guidance for emergency situations;
 - iii. Identification of NJPDES permit requirements and the obligation to meet these requirements;

- iv. Operating procedures including a detailed description of each major treatment unit/process with relationship to related units, safe operating procedure for normal operation, including common operating problems, safe operating procedures for operating during emergency conditions, and any fail-safe features;
- v. A program of regularly scheduled inspection and maintenance;
- vi. An emergency plan in accordance with (d) below;
- vii. A plan for monitoring system process controls;
- viii. A list of names and telephone numbers of facility personnel to be contacted in the event of emergency;
- ix. A sampling and/or water quality monitoring plan, if applicable to the facility;
- x. A schedule of meter readings, tests, and chemical use, if applicable to the facility; and
- xi. An inventory of equipment and supplies necessary to operate and maintain the system.

(d) An emergency plan shall be included as part of the operation and maintenance manual, except for those operations issued permits under N.J.A.C. 7:14A-20.

1. When a person has prepared an emergency plan required by regulations other than this chapter, such plans or plan and any amendments necessary to meet the requirements of this section will satisfy the requirements of this section provided the plan is labeled to identify the requirements listed in this section.

2. An emergency plan shall be amended whenever:
 - i. There is a modification, including expansion, of the treatment works; or
 - ii. Any other conditions related to the plan have changed.

3. The emergency plan shall be designed to ensure effective operation of the treatment works under emergency conditions, and shall consist, at a minimum, of the following elements:

- i. A vulnerability analysis which shall estimate the degree to which the treatment works would be adversely affected by each type of emergency situation which could reasonably be expected to occur, including but not limited to those emergencies caused by natural disaster, civil disorder, strike, sabotage, faulty maintenance, negligent operation or accident;

(1) The vulnerability analysis shall include, but is not limited to, an estimate of the effects of such an emergency upon the following:

- (A) Power supply;

- (B) Communication;
- (C) Equipment;
- (D) Supplies;
- (E) Personnel;
- (F) Security; and
- (G) Emergency procedures to be followed.

ii. An evaluation of the possible adverse effects on public health and the environment due to such an emergency; and

iii. An emergency operation plan for ensuring, to the maximum extent possible, uninterrupted treatment works operation and a manual of procedures for the implementation of such plan, including procedures for the notification of any appropriate regulatory agency, affected water supply purveyors, and any other municipal authority or agency. The plan and manual shall address each of the emergency situations described in the vulnerability analysis.

4. The Department shall not individually review and approve an emergency plan as part of the permit issuance process. The Department's decision not to review and approve an emergency plan shall not exempt a person from liability for violations arising from an emergency situation. A person shall take all necessary actions to mitigate the damage to the waters of the State arising from an emergency situation. Such actions shall not be limited by the emergency operating plan and the operation and maintenance manual.

5. Failure to have on file any part of the operation and maintenance manual in compliance with (c) above and failure to implement the emergency plan pursuant to this subsection shall each constitute a violation of this chapter.

6. In emergency situations, a permittee shall implement the requirements of the emergency plan to the fullest extent possible. In addition, any conditions of the emergency plan that the permittee can implement prior to an emergency situation to reduce the potential for an emergency situation, shall be implemented.

(e) A municipality or sewerage authority who is not a permittee (for example, does not have a direct surface or groundwater discharge) but who owns and operates a treatment works used only for the collection or transportation of domestic sewage is not required to prepare an operations and maintenance manual. However, the municipality or sewerage authority shall be responsible for the proper operation and maintenance of that treatment works. The criteria for proper operations and maintenance and an emergency plan pursuant to (a) and (d) above, may be used as a guideline and implemented as applicable.

Amended by R.2008 d.381, effective December 15, 2008.
See: 40 N.J.R. 3785(a), 40 N.J.R. 6961(a).

In (c)2, substituted "within 30 days after" for "whenever there is"; in (c)3v, deleted "and" from the end; in (c)3vi, substituted a semicolon for a period at the end; and added (c)3vii through (c)3xi.

7:14A-6.13 General permits

(a) The Department shall issue a general permit to authorize a category of surface water, ground water, or indirect discharges, residual use or disposal practices, or facilities within a geographic area, described in (b) below, except those otherwise eligible for authorization but which are authorized pursuant to individual permits or other general permits. The area shall correspond to existing geographic or political boundaries, such as:

1. Designated planning areas under Sections 208 and 303 of the Federal Act and Section 5 of the "New Jersey Water Quality Planning Act", N.J.S.A. 58:11A-1 et seq.;
2. Sewer districts or sewerage agencies;
3. City, county, or State political boundaries;
4. State highway systems;
5. Standard metropolitan statistical areas as defined by the Office of Management and Budget;
6. Urbanized areas as designated by the Bureau of Census according to criteria in 39 FR 15202 (May 1, 1974); or
7. Any other appropriate division or combination of boundaries.

(b) A general permit may be written to regulate within the area described in (a) above, either:

1. Stormwater discharges;
2. Non-contact cooling water discharges;
3. Combined sewer overflows; or
4. A category of discharges other than those listed in (b)1 through 3 above, if they all:
 - i. Involve the same or substantially similar types of operations;
 - ii. Discharge the same type of wastes or engage in similar residual use or disposal practices;
 - iii. Require the same or similar effluent limitations, operating conditions, or standards for residual use or disposal;
 - iv. Require the same or similar monitoring; and
 - v. In the opinion of the Department, are more appropriately controlled under a general permit than under individual permits.

(c) General permits may be issued, modified, revoked and reissued, suspended, or revoked in accordance with applicable requirements of N.J.A.C. 7:14A-15, 16 and 17. The

Department shall publish in the New Jersey Register a notice of administrative change revising the list of general permits in the table below to reflect any of these general permit actions. The list in this table is for informational purposes only. The Department advises prospective applicants to obtain a copy of

the most recent general permit list from the Department's Division of Water Quality at PO Box 029, Trenton, New Jersey 08625, or from the Division's website (<http://www.state.nj.us/dep/dwq>). A copy of any general permit on the list may be obtained from the same address.

NJPDES Permit No.	Category	Name of General Permit	Discharge Type ¹	Year Issued
NJ0108308	I1	Stormwater Basins at Sanitary Landfills	DGW	2001
NJ0108642	I2	Filter Backwash Water from Potable Water Treatment Plants	DGW	2003
NJ0130281	T1	Existing Sanitary Septic Systems	DGW	2003
NJ0142051	LSI	Lined Surface Impoundment	DGW	2004
NJ0138631	R8	Concentrated Animal Feeding Operation (CAFO)	DGW/DSW	2003
NJ0107671	SM	Scrap Metal Stormwater	DGW/DSW	2005
NJ0088315	5G2	Basic Industrial Stormwater	DGW/DSW	2002
NJ0141852	R9	Tier A Municipal Stormwater	DGW/DSW	2004
NJ0141861	R10	Tier B Municipal Stormwater	DGW/DSW	2004
NJ0141879	R11	Public Complex Stormwater	DGW/DSW	2004
NJ0141887	R12	Highway Agency Stormwater	DGW/DSW	2004
NJ0141950	R13	Mining and Quarrying Stormwater	DGW/DSW	2005
NJ0088323	5G3	Construction Activity Stormwater	DSW	2002, modified in 2004
NJ0108456	CPM	Concrete Products Manufacturing Stormwater	DGW/DSW	2003
NJ0134791	R5	Newark Airport Complex Stormwater	DSW	2005
NJ0132721	R4	Hot Mix Asphalt Producers Stormwater	DGW/DSW	2004
NJ0070203	CG	Non-contact Cooling Water	DSW	2006
NJ0102709	B4B	Groundwater Petroleum Product Clean-up	DSW	2003
NJ0142581	ABR	Wastewater Beneficial Reuse	DSW	2006
NJ0155438	BGR	Groundwater Remediation Cleanup	DSW	2005
NJ0105023	CSO	Combined Sewer Overflow	DSW	2004
NJ0128589	B6	Swimming Pool Discharges	DSW	1998
NJ0132933	BG	Hydrostatic Test Water	DSW	2005
NJ0134511	B7	Construction Dewatering	DSW	2005
NJ0105767	EG	Land Application Food Processing Residuals	RES	2003
NJ0132519	ZG	Residuals Transfer Facilities	RES	2004
NJ0132501	4G	Residuals—Reed Beds	RES	2002

¹ Acronyms identifying "Discharge Type" have the following meanings:

- DGW Discharge to Groundwater
- DSW Discharge to Surface Water
- RES Residual Use or Disposal

(d) An authorization under a general permit shall be obtained as follows:

1. Except as provided in (d)7 and 8 below, persons seeking authorization under a general permit shall submit to the Department a written request for authorization. A person who fails to submit a request for authorization in accordance with the terms of the permit is not authorized to discharge under the terms of the general permit unless:

- i. The general permit, in accordance with (d)7 below, contains a provision that a request for authorization is not required; or
- ii. The Department notifies a person that the discharge is authorized by a general permit in accordance with (d)8 below.

2. The contents of the request for authorization shall be specified in the general permit and shall require the sub-

mission of information necessary for adequate program implementation, including, at a minimum, the legal name and address of the owner and operating entity, the facility name and address, type of facility or discharges, the receiving surface or ground water(s) or DTW, and the certification required under (d)3 below. Unless the general permit specifies otherwise, the request for authorization shall include all of the forms, information, signatures, and certification(s) that this chapter requires to be included in an application for a NJPDES permit. The request for authorization shall also include any other certification specified in the general permit.

3. In addition to the information required under (d)2 above, the request for authorization shall include, when specified in the general permit, a certification that arrangements have been made for publication, in a daily or weekly newspaper within the area affected by the facility, of a notice which states that a request for authorization

under a general permit has been submitted pursuant to N.J.A.C. 7:14A-6.13(d). This notice shall also identify the general permit under which authorization is sought, the legal name and address of the owner and operating entity or, the facility name and address, type of facility or discharges, and the receiving surface or ground water(s) or DTW. Each general permit shall set forth the form of notice appropriate to that general permit.

4. General permits shall specify the deadlines for submitting requests for authorization and the date(s) when a person is authorized to discharge under the permit.

5. General permits shall specify whether a person that has submitted a complete and timely request for authorization in accordance with the general permit, and that is eligible for authorization under the permit, is authorized to discharge in accordance with the permit either upon:

- i. Receipt of the request for authorization by the Department, after a waiting period specified in the general permit, where applicable;
- ii. On a date specified in the general permit; or
- iii. Upon the person's receipt of notification of authorization by the Department.

6. Authorization may be suspended, revoked, or denied in accordance with (j) through (m) below. The Department shall publish in the DEP Bulletin, or other similar DEP publication, a quarterly report of each authorization issued under a general permit.

7. Discharges from DTWs, combined sewer overflows, municipal separate storm sewer systems, primary industrial facilities, and stormwater discharges associated with industrial activity shall submit a request for authorization to the Department. Other discharges may, at the discretion of the Department, be authorized under a general permit without submission of a request for authorization where the Department finds that a request for authorization requirement is inappropriate. The Department shall provide in the public notice of the general permit the reasons for not requiring a request for authorization. In making such a finding, the Department shall consider:

- i. The type of discharges;
- ii. The expected nature of the discharges;
- iii. The potential for toxic and conventional pollutants in the discharges;
- iv. The expected volume of the discharges;
- v. Other means of identifying discharges authorized by the permit; and
- vi. The estimated number of discharges to be authorized by the permit.

8. The Department may notify a person that the discharge is authorized by a general permit, even if the person

has not submitted a request for authorization. A person so notified may nonetheless request an individual permit under (i) below.

9. A general permit may provide for automatic renewal of authorization when that general permit is reissued, provided the discharge authorized under the general permit continues to be eligible. If such a general permit requires a request for authorization under (d)1 above, the most recently submitted request for authorization is also a timely and complete request for authorization under the reissued permit (for any permittee who had authorization under the permit immediately prior to the effective date of the reissued permit), and the Department shall issue a notice of renewed authorization to the permittee.

i. If the permittee is aware that any information in that most recently submitted request for authorization is no longer true, accurate, and/or complete, the permittee shall provide the correct information to the Department within 90 days after that effective date, if the permittee has not done so already.

ii. A permittee whose authorization is renewed under this paragraph may request to be excluded from the reissued general permit in accordance with (g) below, and may also request a stay of the application to that permittee of any conditions of the reissued permit in accordance with N.J.A.C. 7:14A-17.6.

(e) The Department may require any permittee authorized by a general permit to apply for and obtain an individual NJPDES permit or seek and obtain authorization under another general permit. Also, any person may, in accordance with the procedures set forth at (l) below, petition the Department to take action under this subsection. An individual NJPDES permit or another general permit may be required when:

1. There is evidence that the permittee may be a significant contributor of pollutants. In making this determination, the Department may consider the location of the discharge, facility, or activity, the size of the discharge or activity, the quantity and nature of pollutants, the quality of the receiving waters, and other relevant factors;
2. The permittee is not in compliance with the conditions of the general permit;
3. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants;
4. Effluent limitation guidelines are promulgated for the activity authorized by the general permit;
5. A Water Quality Management Plan containing different requirements applicable to the permittee is adopted;
6. Circumstances have changed since the time of authorization or the request for authorization such that the discharge is no longer appropriately controlled under the

general permit, or either a temporary or permanent reduction or elimination of the authorized activity is necessary;

7. The Department acquires new information indicating that the permittee otherwise is not eligible for the general permit according to terms specified in the general permit; or

8. New standards for residual use or disposal are promulgated for the residual use and disposal practice covered by the general permit.

(f) To require any permittee authorized by a general permit to apply for an individual NJPDES permit or seek authorization under another general permit as provided in (e) above, the Department shall notify the permittee in writing, as follows:

1. The notice shall include:

i. A brief statement of the reasons for the determination that an individual permit or authorization under a different general permit is necessary;

ii. An application form or the applicable request for authorization form;

iii. A statement setting a time for the permittee to file the application or the applicable request for authorization; and

iv. A statement that on the effective date of the individual NJPDES permit or on the date of the permittee's authorization under another general permit, the individual permittee's authorization under the general permit shall automatically terminate.

2. The Department may grant additional time for application for an individual permit or request for authorization, upon request by the permittee. If a permittee fails to submit in a timely manner an application form or request for authorization form required by the Department under this subsection, the permittee's authorization under the general permit will be automatically revoked at the end of the day specified for submitting the application form or request for authorization form.

(g) Any permittee authorized by a general permit may request to be excluded from authorization under the general permit by applying for an individual NJPDES permit or for another general permit. The permittee shall submit an application under N.J.A.C. 7:14A-4.1, or a request for authorization for the other general permit (if required under (d) above), with reasons supporting the request. A request for an individual permit shall be processed under N.J.A.C. 7:14A-15, 16, and 17. A request for another general permit shall be processed under this section and the terms of the other general permit. The request shall be granted by the issuing of any individual permit, or by the issuing of authorization under the other general permit, if the reasons cited by the permittee are determined to be adequate to support the request.

(h) When a permittee authorized by a general NJPDES permit is issued an individual NJPDES permit for the authorized discharge, or obtains authorization for that discharge under another general permit, the permittee's authorization under the general permit is automatically revoked on the effective date of the individual permit or on the date of the permittee's authorization under another general permit, whichever the case may be. When an individual NJPDES permit is denied to a permittee authorized by a general permit, or the permittee is denied authorization under another general permit, the permittee's authorization under the general permit is automatically revoked on the date of such denial, unless otherwise specified by the Department.

(i) If a permittee's discharge is excluded from a general permit solely because that discharge already is authorized by an individual permit or authorization under another general permit, the permittee may request that the individual permit or authorization be revoked or modified, as appropriate, and that the discharge be authorized by a general permit identified in that request. The permittee shall submit a request for revocation or modification, with reasons supporting the request, to the Department. The permittee shall submit any request for revocation or modification of an individual permit under N.J.A.C. 7:14A-16, and that request shall be processed under N.J.A.C. 7:14A-15, 16 and 17. If the Department revokes or modifies the individual permit or authorization, and if authorization under a general permit is issued, after the permittee submits any request for authorization required under (d) above, the permittee shall be authorized under the general permit. In reviewing such requests, the Department may consider:

1. The location of the discharge;
2. The size of the discharge or activity;
3. The quantity and nature of pollutants reaching the surface or ground waters of the State;
4. The quality of the receiving waters;
5. Antibacksliding requirements in N.J.A.C. 7:14A-13.19, if applicable; and
6. Any other factors the Department considers relevant to determining whether the discharge is best regulated under one permit or the other.

(j) The Department may suspend or revoke a permittee's authorization under a general permit for causes specified in N.J.A.C. 7:14A-16.6. Such suspension or revocation of authorization is a type of permit suspension or revocation under N.J.A.C. 7:14A-16.6. A requirement pursuant to (f) above that a permittee apply for an individual permit or seek authorization under another general permit is not a revocation within the meaning of N.J.A.C. 7:14A-16.6, even if the permittee's authorization is eventually revoked in favor of an individual permit or another general permit, or is automatically revoked under (f)2

above, as a result of the permittee's failure to submit in a timely manner an application form or request for authorization form.

(k) If the Department directs the permittee to apply for an individual permit or seek authorization under another general permit, the permittee may ask the Department to reconsider its decision by sending a letter to the Commissioner within 30 days of the issuance of the initial decision. The letter shall be sent to:

Office of Legal Affairs
Department of Environmental Protection
401 East State Street
P.O. Box 402
Trenton, NJ 08625-0402

Both the envelope and the letter shall clearly indicate that it is a "REQUEST FOR RECONSIDERATION OF GENERAL PERMIT DETERMINATION." The Commissioner may act on the request with 60 days; if the Commissioner fails to take any action the request shall be deemed denied. In no event shall an order from the Department directing a permittee to apply for an individual permit or seek authorization under another general permit (or a denial of a request to reconsider that order) be deemed final agency action.

(l) The following requirements apply to petitions filed under (e) above:

1. Any petition shall state clearly and concisely:
 - i. The name, address, and telephone number of the petitioner;
 - ii. The petitioner's interest in the petition (including any organizational affiliations and any economic interest);
 - iii. The name and address of the permittee whose authorization could be affected by the petition;
 - iv. The number of the permit under which that permittee is authorized; and
 - v. The reasons why the petition should be granted (including any citations to any relevant legal authority).
2. The petitioner shall serve the petition on both the Department and the permittees whose authorization could be affected by the petition.
3. The permittees whose authorization could be affected shall have 30 days from the date the petition was served to respond to the petition. Any response shall be served on both the Department and the petitioner. The Department thereafter may in its discretion seek further information relevant to the petition.
4. The Department shall determine whether to grant the petition based upon materials submitted in accordance with this subsection and based upon the criteria set forth in (e)

above. The Department shall notify both the petitioner and the permittees whose authorization is affected by the petition of the Department's determination.

5. Either party may ask the Department to reconsider its decision regarding a petition by sending a letter to the Commissioner within 30 days of the issuance of the initial decision. The letter shall be sent to the Department's Office of Legal Affairs, at the address listed above, and both the envelope and the letter shall clearly indicate that it is a "REQUEST FOR RECONSIDERATION OF PETITION DETERMINATION." The Commissioner may act on the request within 60 days; if the Commissioner fails to take any action the request shall be deemed denied. It shall be considered final agency action where the ultimate outcome of the agency proceedings is that the petition is denied by the Commissioner.

(m) The following requirements apply to denial of requests for authorization:

1. The Department shall deny a request for authorization if it determines that the subject discharge is not eligible for the general permit for which the person has requested authorization.
2. The Department may deny a request for authorization if it determines that the discharge is not appropriately regulated under the relevant general permit because of:
 - i. Its location;
 - ii. The size of the discharge or activity;
 - iii. The quantity and nature of pollutants reaching the waters of the State;
 - iv. The quality of the receiving waters; or
 - v. Other relevant factors.
3. If the Department denies a request for authorization, it shall notify the person of that denial in writing. A person whose request for authorization has been denied may ask the Department to reconsider its decision by sending a letter to the Commissioner within 30 days of the issuance of the initial denial. The letter shall be sent to the Department's Office of Legal Affairs, at the address listed above, and both the envelope and the letter shall clearly indicate that it is a "REQUEST FOR RECONSIDERATION OF GENERAL PERMIT DETERMINATION." The Commissioner may act on the request within 60 days; if the Commissioner fails to take any action the request shall be deemed denied. In no event shall a denial of a request for authorization, or a request to reconsider that denial, be deemed final agency action.

(n) An authorization may be transferred to a new permittee in accordance with the requirements for an automatic transfer at N.J.A.C. 7:14A-16.2(d).

(o) With the consent of the permittee, the Department shall revoke an authorization to discharge under a general permit without following the procedures set forth in N.J.A.C. 7:14A-15.6, if the discharge has ceased.

Amended by R.2002 d.34, effective January 22, 2002.
See: 33 N.J.R. 3636(a), 34 N.J.R. 595(a).

Rewrote (c).
Petition for Rulemaking.
See: 35 N.J.R. 2954(a), 4136(b).

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

In (c), rewrote table; in (d)7, added "municipal separate storm sewer systems,".

Administrative change.
See: 36 N.J.R. 4131(b).
Administrative change.
See: 38 N.J.R. 5153(a).

7:14A-6.14 Emergency permits

(a) Under the specified circumstances listed in (b) below, the Department may issue an emergency permit, except for a DSW, to allow the discharge of pollutants, where such discharge is unpermitted or the discharge consists of pollutants not covered by an effective permit.

SUBCHAPTER 7. REQUIREMENTS FOR DISCHARGES TO GROUND WATER (DGW)

7:14A-7.1 Purpose

This subchapter establishes NJPDES permit requirements for persons who discharge pollutants to ground waters of the State. The purpose of the NJPDES discharge to ground water permit is to restore, enhance, and maintain the ground water quality of the State, in accordance with N.J.S.A. 58:10A-1 et seq. and the Ground Water Quality Standards (GWQS) in N.J.A.C. 7:9C.

Administrative correction.
See: 37 N.J.R. 4245(a).

7:14A-7.2 Requirement to discharge in compliance with a valid NJPDES permit

(a) Persons responsible for discharges to ground water shall comply with all applicable NJPDES regulations.

(b) Except as otherwise provided in N.J.A.C. 7:14A-7.4 and 7.5, no person shall discharge to ground water prior to obtaining a discharge to ground water permit.

(c) All discharges to ground water permits existing on May 5, 1997 shall continue in full force and effect until renewed or terminated in accordance with the provisions of this chapter.

7:14A-7.3 Scope and applicability

(a) Persons responsible for discharges to ground water shall comply with all the requirements of this subchapter, except those persons listed under (c), (d), and (e) below, and in N.J.A.C. 7:14A-7.4.

(b) Persons responsible for the activities, pollution sources, or regulated units listed at (b)1 through 7 below shall comply with the requirements of this subchapter. Persons responsible for discharges not listed below are not exempt from the requirement to obtain a discharge to ground water permit. The list is intended only to be illustrative and is not exhaustive:

1. Surface impoundments;
2. Spray irrigation;
3. Overland flow;
4. Infiltration/percolation lagoons;
5. Residuals surface impoundments;
6. Injection wells; and
7. Land disposal of dredged spoil.

(c) Persons responsible for discharges to ground water from sanitary landfills as provided for in N.J.A.C. 7:26 shall conduct ground water monitoring in accordance with N.J.A.C. 7:14A-9.

(d) Persons responsible for discharges to ground water from hazardous waste facilities as defined in N.J.A.C. 7:26G, shall conduct ground water monitoring in accordance with N.J.A.C. 7:14A-10.

(e) Persons responsible for discharges to ground water associated with land application of residual shall comply with N.J.A.C. 7:14A-20.

Administrative correction.
See: 29 N.J.R. 3822(a).
Amended N.J.A.C. references.
Administrative correction.
See: 38 N.J.R. 5153(a).

7:14A-7.4 Exemptions

(a) Persons responsible for the following discharges are exempt from the requirement to obtain a discharge to ground-water permit:

1. Discharges from single family residential subsurface sewage disposal systems that are designed, constructed, installed and operated in compliance with the Realty Improvement Sewerage and Facilities Act, N.J.S.A. 58:11-23 et seq., and Standards for Individual Subsurface Sewage Disposal Systems, N.J.A.C. 7:9A;

2. Return flows from irrigated agriculture;

3. Discharges that occurred prior to May 5, 1997, except existing permitted discharges identified in N.J.A.C. 7:14A-7.2(c);

4. Any discharge not to exceed 60 calendar days and in compliance with the instructions of a Department on-scene coordinator or remedial project manager pursuant to 40 CFR 300 (the National Oil and Hazardous Substances Contingency Plan) or 33 CFR 153.10(e) (Pollution by Oil and Hazardous Substances), and the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11; and

5. The following stormwater discharges, if such discharges are not through underground injection regulated under N.J.A.C. 7:14A-8, and do not require a permit under N.J.A.C. 7:14A-24.2(a)9:

i. Stormwater discharges from municipal separate storm sewers that are not identified under N.J.A.C. 7:14A-25.2(a) or (b);

ii. Stormwater discharges from residential areas (including residential streets, parking lots, easements, and open space), or from commercial areas (other than areas of high pollutant loading), unless N.J.A.C. 7:14A-25.2(a) or (b) requires the operating entity to apply for a NJPDES permit for the discharge. For purposes of this subparagraph and N.J.A.C. 7:14A-8.5(b) 9 and 24.2(c)3, high pollutant loading areas are commercial areas where solvents and/or petroleum products are loaded/unloaded, stored, or applied; commercial areas where pesticides are loaded and/or unloaded or stored; commercial areas where hazardous materials are expected to be present in

greater than "reportable quantities" as defined by the USEPA at 40 C.F.R. 302.4; commercial areas where recharge would be inconsistent with a Department approved remedial action work plan or landfill closure plan; and commercial areas where the risk for spills of toxic material is high, such as gas stations and vehicle maintenance facilities; and

iii. Stormwater discharges from animal feeding operations that do not require NJPDES permits under N.J.A.C. 7:14A-2.5(d) or 2.13.

Amended by R.2004 d.47, effective February 2, 2004.
See: 35 N.J.R. 169(a), 35 N.J.R. 1331(a), 36 N.J.R. 813(a).
In (a), added 5.

7:14A-7.5 Authorization of discharges to ground water by permit-by-rule

(a) Any person responsible for any of the following discharges to ground water is deemed to have a permit-by-rule:

1. Discharges to ground water from underground injection activities that are eligible for a permit-by-rule under N.J.A.C. 7:14A-8.5;
2. Discharges to ground water from activities associated with the flushing or cleaning of potable water mains and fire water systems, including hydrants and sprinklers;
3. Discharges to ground water from activities associated with the development of potable water wells;
4. Discharges to ground water from activities associated with the installation, development and sampling of monitoring wells in accordance with a NJPDES permit or, for activities not included in a NJPDES permit, in accordance with the Technical Requirements for Site Remediation, including, but not limited to, the requirements of N.J.A.C. 7:26E-3.7(c)2 and 6.4(d)3; and
5. Discharges to ground water from wells, other than discharges that occur during the course of a remediation pursuant to (b)3 below, that occur during aquifer tests for the purpose of obtaining hydrogeologic data, provided that such discharges do not exceed 30 calendar days in duration.

(b) Any person responsible for the discharges to ground water listed in (b)3i through vii below is deemed to have a permit-by-rule if the discharge occurs when:

1. A contaminated site, as defined in N.J.A.C. 7:26C-1.3, is being remediated pursuant to the rules at N.J.A.C. 7:14B implementing the Underground Storage of Hazardous Substances Act (N.J.S.A. 13:1K-6 et seq.), the requirements of the Industrial Site Recovery Act (N.J.S.A. 13:1K-6 et seq.), the requirements of the Spill Compensation and Control Act (N.J.S.A. 58:10-23.11), or the Procedures for Department Oversight of the Remediation of Contaminated Sites at N.J.A.C. 7:26C; and

2. The person is in receipt of written approval of the discharge from the Department;

3. The following ground water discharges are authorized by a permit-by-rule under this subsection:

- i. Discharges to ground water, not to exceed 180 calendar days, from pilot treatment plants to obtain engineering design data;
- ii. Discharges to ground water related to biotreatability studies where the discharge will not exceed 180 calendar days;
- iii. Discharges to ground water, not to exceed 30 calendar days, from wells to test aquifers for the purpose of obtaining engineering and hydrogeologic design data;
- iv. Discharges to ground water, not to exceed 180 calendar days, from any other facility or equipment associated with engineering studies, remedial action selection, or design studies and associated monitoring;
- v. Discharges to ground water to remediate contamination from discharges of heating oil as defined at N.J.A.C. 7:14A-1.2, at a residential building of four units or less;
- vi. Discharges to ground water, not to exceed 180 calendar days, related to dewatering at a contaminated site or regulated underground storage tank facility; and
- vii. Discharges to ground water, other than those listed in (b)3i through vi above, that occur during the course of a site remediation that is being conducted in accordance with the Technical Requirements for Site Remediation, N.J.A.C. 7:26E, including the requirements of N.J.A.C. 7:26E-6.1 and 6.3(c).

(c) The Department shall invalidate any permit-by-rule under this section and require any person responsible for the discharge for which the permit-by-rule had been approved to apply for and obtain an individual discharge to ground water permit if:

1. The discharge is likely to contravene the ground water quality standards at N.J.A.C. 7:9C;
2. The discharge may result in violation of the Surface Water Quality Standards at N.J.A.C. 7:9B.

Amended by R.2005 d.222, effective July 5, 2005.

See: 37 N.J.R. 405(a), 37 N.J.R. 2499(a).

In (a), rewrote 4 and 5; rewrote (b).

Administrative correction.

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

7:14A-7.6 Ground Water Protection Program (GWPP)

(a) Each discharge to ground water permit, except those identified in N.J.A.C. 7:14A-7.3(c), (d) and (e), and those permitted by rule pursuant to N.J.A.C. 7:14A-7.5, shall include an approved Ground Water Protection Program to ensure that the discharge does not contravene the ground

(e) When conducting an attenuation monitoring program, the permittee shall determine whether the discharge complies with the ground water constituent standards for the classification area established pursuant to N.J.A.C. 7:9-6.

1. In determining whether the discharge complies with the ground water constituent standards for the classification area, the permittee shall compare the ground water quality of each parameter or constituent at each compliance point monitoring well designated pursuant to the permit to the background water quality value of that constituent, according to the statistical procedures and performance standards specified under this section.

2. Within the period of time specified in the NJPDES discharge to ground water permit, and after completing sampling and analysis, the permittee shall determine whether there has been a statistically significant contravention of the ground water quality standards.

Administrative correction.
See: 37 N.J.R. 4245(a).

7:14A-7.8 Required response to contravention of ground water quality standards

(a) To address any contravention of the ground water quality standards that occurs while a discharge to ground water permit is in effect, each permit shall specify the following measures for the permittee to undertake as appropriate:

1. That the permittee shall notify the Department as provided in the permit, including the nature and extent of the contravention, followed by confirmation in writing, by certified mail within a time frame set forth in the permit, after the Department receives information obtained according to N.J.A.C. 7:14A-7.6(b)4;

2. That the permittee shall install additional wells at additional locations to determine the extent of the ground water contamination attributable to the regulated discharge;

3. That the permittee shall provide additional pretreatment of the discharge to improve its quality by decreasing pollutant concentration;

4. That the permittee shall expand disposal areas onto additional land areas to reduce or minimize the impact of the discharge;

5. That the permittee shall take any other action necessary to comply with the ground water quality standards;

6. That the permittee shall reduce or cease the discharge; and

7. That the permittee shall implement the responses within the time frame required by the permit.

(b) In addition to the requirements of (a) above, any person responsible for a discharge that contravenes the Ground

Water Quality Standards as specified in the discharge to ground water permit may be subject to the requirements of N.J.A.C. 7:26C.

7:14A-7.9 General requirements for applications for discharge to groundwater permit

(a) In addition to the information required pursuant to N.J.A.C. 7:14A-4.3, an applicant for a NJPDES Discharge to Groundwater permit shall submit information to the Department as follows:

1. All dischargers shall submit the information required pursuant to (d) below, except as provided in N.J.A.C. 7:14A-25.9(d)1 for certain stormwater discharges, or when, after consultation with the Department during pre-application conferences, it is determined that the information is not necessary to develop permit conditions for the facility.

(b) Submission of information as required under this section shall not exempt the applicant from compliance with any other permit application requirements which apply to the discharge to ground water site, to any treatment system of which the discharge to ground water site is a component, or to any other existing or proposed discharges at the facility.

(c) Pre-application conferences with the Department concerning the information required pursuant to (d) below are recommended.

(d) The following information shall be submitted in the application for the Discharge to Ground Water permit pursuant to (a) above:

1. Project related information as follows:

- i. A description of the facility;
- ii. The nature of the establishment; and
- iii. The total floor area of all structures on site and their maximum occupancy where necessary to determine the daily volume of discharge;

2. Pollutant characteristics as follows:

- i. The origin and daily volume of discharge;
- ii. The degree of pretreatment of the discharge;
- iii. Characteristics of the quality of the discharge.

(1) Unless otherwise approved by the Department, all analyses or estimates shall include the following parameters at a minimum:

- (A) Ammonia nitrogen (NH₃-N);
- (B) Nitrate nitrogen (NO₃-N);
- (C) Total Kjeldahl nitrogen (TKN);
- (D) Biochemical oxygen demand (BOD);

- (E) Chemical oxygen demand (COD);
- (F) Total dissolved solids (TDS);
- (G) Suspended solids (SS);
- (H) pH;
- (I) Calcium (Ca);
- (J) Magnesium (Mg);
- (K) Sodium (Na);
- (L) Phosphorus (P);
- (M) Fecal coliform bacteria;
- (N) Grease and oil;
- (O) Metals;
- (P) Base/neutral compounds;
- (Q) Acid extractable compounds;
- (R) Volatile organics; and
- (S) Pesticides.

(2) Dependent on the nature of the facility as described in accordance with (d)1 above, base/neutral compounds, acid extractable compounds, volatile organics and pesticides shall be analyzed for as required pursuant to N.J.A.C. 7:14A-4 Appendix A; and

iv. The compatibility of the wastewater with onsite soil conditions and vegetation (if any) shall be substantiated by the applicant;

3. Site related information as follows:

i. The present tax lot and block, municipality and county in which the facility is located or is proposed to be located;

ii. A general plan to scale showing at a minimum the location of the discharge to ground water with respect to the following within one half mile of the boundaries of discharge to ground water site:

- (1) Property boundaries;
- (2) Roadways;
- (3) Existing and proposed land use of discharge to ground water site and surrounding areas;
- (4) Adjacent property ownership and all dwellings and buildings of human use or occupancy;
- (5) Surface waters, including, but not limited to, perennial and intermittent streams, lakes, ponds and reservoirs; and
- (6) Mines (surface and subsurface) and quarries;

iii. Topographic (two foot contour intervals), geologic and soils (USDA) maps of the discharge to ground water site and surrounding area sufficient to define conditions and evaluate probable impacts of the discharge to ground water.

iv. A plot plan to scale showing:

- (1) The discharge to ground water area;
- (2) Property boundaries;
- (3) Roadways;
- (4) Pre-treatment facilities;
- (5) Storage facilities;
- (6) All conveyance and distribution piping;
- (7) Any sinkholes, gullies or soil erosional features (natural or man-made) within the discharge to ground water site which divert drainage from or through the facility property;
- (8) Existing monitor and piezometer wells;
- (9) Water supply wells including the depth of the screened interval and yield;
- (10) A wellhead protection area certified by the Department;
- (11) Soil borings, test pits and hydraulic conductivity tests;
- (12) All wetlands and buffer zones; and
- (13) All areas subject to flooding within the five-, 10- and 25-year storm events; and

v. A well inventory of the area within one half mile of the boundaries of the discharge to ground water indicating the depth of all existing domestic, municipal and industrial supplies. Yields of all wells exceeding 100,000 gallons per day or 70 gallons per minute shall be indicated on a location map or key map;

4. Soils and geologic evaluation as follows:

i. A sufficient number of borings shall be made of the disposal site to characterize and verify the subsurface conditions beneath the site with respect to the types of material, uniformity, depth to bedrock, and ground water elevations. When, in the judgment of the Department, the number of borings is not sufficient to adequately describe the geologic formations and ground water flow patterns below the disposal site, in regard to potential contaminant migration paths, supplemental borings or geophysical methods will be required;

ii. Data obtained from borings shall be collected by standard undisturbed soil sampling techniques for engineering properties, and split spoon sampling or standard penetration tests for classification. Samples

standard temperature and pressure for the purpose of storage.

Case Notes

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

7:14A-8.2 Classification of injection wells

(a) Injection wells are classified as Class I, II, III, IV or V, as follows:

1. Class I wells are:

i. Wells used by generators of hazardous wastes or owners or operators of hazardous waste management facilities, or by any other person, to inject hazardous waste beneath the lowermost formation containing an underground source of drinking water; and

ii. Other industrial or municipal disposal wells which inject fluids beneath the lowermost formation containing an underground source of drinking water.

2. Class II wells inject fluids:

i. Which are brought to the surface in connection with conventional oil or natural gas production;

ii. For enhanced recovery of oil or natural gas; or

iii. For storage of hydrocarbons which are liquid at standard temperature and pressure.

3. Class III injection wells are used in processes to extract minerals or energy, including:

i. Mining of sulfur by the Frasch process;

ii. Solution mining of minerals, including sodium chloride, potash, phosphate, copper, uranium and any other minerals which can be mined by this process;

iii. In-situ combustion of fossil fuel, with the term "fossil fuel" including coal, tar sands, oil shale and any other fossil fuel which can be mined by this process; and

iv. Wells used in the recovery of geothermal energy to produce electric power, but not including wells used in heating or aquaculture, which fall under Class V.

4. Class IV injection wells are used by generators of hazardous wastes or of radioactive wastes, by owners or operators of hazardous waste management facilities, by owners or operators of radioactive waste disposal sites, or by any other person to dispose of hazardous wastes or radioactive wastes into or above a formation which, within two miles of the well bore, contains an underground source of drinking water (USDW).

5. Class V injection wells are injection wells not included in Class I, II, III or IV. Examples of Class V wells include:

i. Air conditioning return flow wells used to return the water used for heating or cooling in a heat pump;

ii. Cooling water return flow wells used to inject water previously used for cooling;

iii. Drainage wells used to drain storm runoff into a subsurface formation, except as regulated under Class IV;

iv. Recharge wells used to replenish the water in an aquifer;

v. Salt water intrusion barrier wells used to inject water into a fresh water aquifer to prevent the intrusion of salt water into the fresh water;

vi. Sand backfill wells used to inject a mixture of water and sand, mill tailings or other solids into mined-out portions of subsurface mines;

vii. All septic systems or other subsurface sewage disposal systems other than those excluded under N.J.A.C. 7:14A-8.1(b)2ii;

viii. Subsidence control wells (not used for the purpose of oil or natural gas production) used to inject fluids into a non-oil or gas producing zone to reduce or eliminate subsidence associated with the overdraft of fresh water; and

ix. Geothermal wells and ground water heat pumps used in heating and aquaculture.

7:14A-8.3 Prohibition of unauthorized injection

Any underground injection is prohibited, except pursuant to a permit-by-rule under N.J.A.C. 7:14A-8.5, or pursuant to a UIC permit under N.J.A.C. 7:14A-8.8. The construction of any well required to have a permit (including, where applicable, a well permit) under this subchapter is prohibited, except pursuant to such permit-by-rule or UIC permit.

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

7:14A-8.4 Prohibition of movement of fluid into underground sources of drinking water

(a) No UIC permit or approval under a permit-by-rule shall be issued or provided under this subchapter in the following circumstances:

1. Where a Class I, II or III well may cause or allow movement of any contaminant into underground sources of drinking water;

2. Where a Class IV or V well may cause or allow movement of fluid containing any contaminant into underground sources of drinking water, and the presence of that contaminant may adversely affect the health of persons; or

3. Where a Class V well is:

i. A large-capacity cesspool (design flow greater than 2,000 gallons per day). All large-capacity cesspools authorized by this subchapter shall be closed by April 5, 2005. Large-capacity cesspools shall be closed in accordance with N.J.A.C. 7:14A-8.16(d)2. The owner or operator shall notify the Department of intent to close at least 30 days prior to closure; or

ii. Except as provided at (a)3ii(1) below, a motor vehicle waste disposal well. A motor vehicle waste disposal well is an injection well that receives or has received fluids from motor vehicle repair or maintenance activities, such as an auto body repair shop, automotive repair shop, car dealership, specialty repair shop (for example, transmission and/or muffler repair shop), or any facility that does any motor vehicle repair work.

(1) Motor vehicle waste disposal wells constructed prior to April 5, 2000 shall be authorized under a permit in accordance with N.J.A.C. 7:14A-8.8, closed in accordance with N.J.A.C. 7:14A-8.16(d)2, or converted to another type of Class V well in accordance with N.J.A.C. 7:14A-8.16(g).

(2) Motor vehicle waste disposal wells that continue to operate in accordance with a permit shall meet Ground Water Quality Standards, N.J.A.C. 7:9C, at the last accessible sampling point prior to waste fluids being released into the subsurface environment. The owner or operator shall notify the Department of intent to close at least 30 days prior to closure.

(b) For Class I, II and III wells, and any Class IV well allowed under N.J.A.C. 7:14A-8.7(b), if any monitoring indicates the movement of injection or formation fluids into underground sources of drinking water, the Department shall prescribe such additional requirements for construction, corrective action, operation, monitoring, or reporting (including closure of the injection well) as are necessary to control or prevent such movement. These additional requirements shall

be imposed by modifying the permit in accordance with N.J.A.C. 7:14A-2.12, or the permit shall be terminated under N.J.A.C. 7:14A-2.13 if cause exists, or appropriate enforcement action shall be taken if the permit has been violated.

(c) For Class V wells, if at any time the Department learns that a Class V well may cause a violation of the State primary drinking water rules under N.J.A.C. 7:10, or any Ground-water Quality Standards under N.J.A.C. 7:9C, the Department shall:

1. Require the owner or operator of the injection well to obtain a UIC permit pursuant to N.J.A.C. 7:14A-8.8; and

2. Order the owner or operator of the injection well to take such actions (including, where required, closure of the injection well) as may be necessary to prevent the violation and/or take enforcement action.

(d) Whenever the Department finds that a Class V well may otherwise be adversely affecting the health of persons, the Department may prescribe such actions as may be necessary to prevent the adverse effect, including any action authorized under (c) above.

(e) Notwithstanding any other provision of this section, the Department shall take emergency action upon receipt of information that a contaminant is present in or is likely to enter an underground source of drinking water that presents an imminent and substantial endangerment to the health of persons.

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

In (a), rewrote introductory paragraph and added new 3; rewrote (c)1. Administrative correction.
See: 37 N.J.R. 4245(a).

7:14A-8.5 Authorization of injection into Class V wells by permit-by-rule

(a) Any owner or operator of a Class V underground injection well who has submitted the inventory information, pursuant to (c) below, prior to May 5, 1997 shall be deemed to have a permit-by-rule.

(b) An owner or operator of any of the Class V injection wells described in (b)1 through 11 below is deemed to have a permit-by-rule under this subsection if the owner or operator complies with the applicable requirements specified in this subsection.

1. Subsurface sewage disposal systems, other than those excluded under N.J.A.C. 7:14A-8.1(b)2, that are designed, constructed, installed and operated in compliance with the Realty Improvement Sewerage and Facilities Act, N.J.S.A. 58:11-23 et seq., and the Department's Standards for Individual Subsurface Sewage Disposal Systems, N.J.A.C. 7:9A, where applicable;

2. Injection wells used as a component of closed loop heat pump systems constructed according to any well

permit condition(s)/standards adopted pursuant to N.J.S.A. 58:4A-4.1 et seq. All closed loop systems shall contain only fluids that are allowable under conditions of such well permit, and are leak proof such that the only discharge is heat content;

3. Injection wells used as components of an open loop heat pump system constructed in accordance with all applicable well construction requirements of N.J.A.C. 7:9D. Any such injection well shall discharge water into the same aquifer from which the water was drawn and with a quality that is the same as the ambient ground water, except for heat content;

4. Air conditioning or cooling water return flow injection wells that are constructed in accordance with all applicable well construction requirements of N.J.A.C. 7:9D that discharge water into the same aquifer from which the water was drawn and with a quality that is the same as the ambient ground water, except for heat content;

5. Underground injection of swimming pool filter backwash water and water softener backwash water into seepage pits, when the activity is conducted in accordance with N.J.A.C. 7:14A-8.18;

6. Underground injection wells associated with the feasibility or engineering design studies necessary to obtain or comply with a water supply allocation permit pursuant to N.J.A.C. 7:19 or NJPDES permit pursuant to this chapter;

7. Underground injection of stormwater runoff from the roofs of buildings, so long as the roofs are devoid of pollutant sources and devices (for example, motors, tanks, drums) that contain pollutants;

8. Underground injection of stormwater discharges from municipal separate storm sewers that are not identified under N.J.A.C. 7:14A-25.2(a) or (b);

9. Underground injection of stormwater discharges from residential areas (including residential streets, parking lots, easements, and open space), or from commercial areas other than areas of high pollutant loading as described under N.J.A.C. 7:14A-7.4(b)5ii, unless N.J.A.C. 7:14A-25.2(a) or (b) requires the operating entity to apply for a NJPDES permit for the discharge;

10. Underground injection of stormwater discharges from animal feeding operations that do not require a NJPDES permit under N.J.A.C. 7:14A-2.13; and

11. Underground injection wells used during the remediation of a contaminated site where the person conducting the remediation meets the conditions set forth at N.J.A.C. 7:14A-7.5(b).

(c) The owner or operator of a Class V injection well shall submit inventory information to the Department at the address indicated in (i) below within 90 days of a notification by the Department. Notification shall be a public notice in a local newspaper or in the New Jersey Register, or a written request. The inventory information shall consist, at a minimum, of the following information:

1. The well drilling permit number, where applicable;
2. The facility name and location;
3. The name and address of the legal contact;
4. The ownership of the facility;
5. The nature and type of injection well(s);
6. The operating status of injection well(s); and
7. The type, quantity and quality of discharge.

(d) The Department will notify pursuant to (e) below any owner or operator of any Class V injection well authorized by rule pursuant to this section to apply for and obtain a UIC permit pursuant to N.J.A.C. 7:14A-8.8, if:

1. The injection well is no longer a Class V well;
2. The protection of underground sources of drinking water (USDW) requires that the injection shall be subject

to requirements such as corrective action, monitoring and reporting, or operation not required by the permit-by-rule;

3. The injection well is likely to adversely affect the existing or potential use of the aquifer; or

4. The discharge is presumed to contravene the Ground Water Quality Standards in N.J.A.C. 7:9C.

(e) The Department shall notify in writing the owner or operator of a Class V injection well required pursuant to (d) above to apply for and obtain a UIC permit pursuant to N.J.A.C. 7:14A-8.8. The notice shall include a brief statement of the reasons for the decision, instructions on how to apply for the UIC permit, a statement setting a time by which the owner or operator must apply for the permit, and a statement that upon the effective date of the UIC permit authorization the permit-by-rule under which the activity had been approved shall no longer apply.

(f) Any owner or operator of a Class V injection well approved under a permit-by-rule pursuant to this section may request to be excluded from the authorization by applying for a UIC permit pursuant to N.J.A.C. 7:14A-8.8. The owner or operator shall provide reasons supporting the request to the Department. The Department shall not issue a permit for an injection well which is in violation of any other applicable statutes or regulations.

(g) Any approval for a Class V injection well under a permit-by-rule pursuant to this section shall expire upon the effective date of a UIC permit authorization issued pursuant to N.J.A.C. 7:14A-8.8 for such injection well.

(h) The owner or operator of a Class V injection well approved under a permit-by-rule pursuant to this section is prohibited from injecting into the well:

1. Upon the effective date of denial of an application;
2. Upon failure to submit inventory or other information in a timely manner pursuant to this section;
3. Upon failure to comply with the provisions of an enforcement action; and
4. Upon notification by the Department to cease injection.

(i) Inventory information required pursuant to (c) above shall be submitted to:

Department of Environmental Protection
Underground Injection Control Coordinator
PO Box 029
Trenton, New Jersey 08625-0029

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

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

In (b), in introductory paragraph substituted "10" for "7"; added (b)8 through (b)10; in (d) added N.J.A.C. reference; rewrote (e) through (g); in (h), deleted old 3 and recodified existing 4 and 5 as 3 and 4.

Amended by R.2005 d.222, effective July 5, 2005.

See: 37 N.J.R. 405(a), 37 N.J.R. 2499(a).

Rewrote (a); in (b), substituted "11" for "10" preceding "below is deemed" in the introductory paragraph and added 11.
 Administrative correction.
 See: 37 N.J.R. 4245(a).
 Administrative correction and change.
 See: 38 N.J.R. 1445(a).

7:14A-8.6 Identification of underground sources of drinking water

The Department may identify (by narrative description, illustrations, maps, or other means) and shall protect as an underground source of drinking water, all aquifers or parts of aquifers which meet the definition of an "underground source of drinking water" in N.J.A.C. 7:14A-1.2. Even if an aquifer has not been specifically identified by the Department as such, it is an underground source of drinking water if it meets the definition in N.J.A.C. 7:14A-1.2.

7:14A-8.7 Prohibition and elimination of underground injection of hazardous and radioactive wastes

(a) Except as provided at (b) below, any underground injection of hazardous wastes or radioactive wastes is prohibited. This specifically prohibits the operation of Class IV injection wells, and prohibits hazardous and radioactive wastes from being injected into Class I injection wells.

(b) The Department may, at its discretion, authorize the construction and/or operation of a Class IV or Class I well to inject ground water that has been treated and is being reinjected into the same formation from which it was drawn. The Department's implementation of this injection activity shall be pursuant to provisions for cleanup of releases under CERCLA, or RCRA, as described in 40 C.F.R. 144.13(c), or when conducted under Department oversight pursuant to the Underground Storage Tanks rules at N.J.A.C. 7:14B, the Industrial Site Recovery Act (N.J.S.A. 13:1K 6 et seq., as amended), or the Procedures for Department Oversight of the Remediation of Contaminated Sites at N.J.A.C. 7:26C. These injection activities shall generally be conducted to alleviate a situation posing a substantial danger to public health or safety or when necessitated by public health or environmental considerations (for example, when injection wells are used as a component of a ground water remediation program).

(c) Abandonment and closure of any injection well that is injecting, or has ever injected, hazardous wastes (including Class IV and Class I injection wells) shall be performed in compliance with all applicable Department regulations for remediation of contaminated sites including the Procedures for Department Oversight of the Remediation of Contaminated Sites (N.J.A.C. 7:26C).

7:14A-8.8 Authorization by permit

(a) Any underground injection well not authorized by a permit-by-rule in accordance with N.J.A.C. 7:14A-8.5 requires a UIC permit in accordance with this section.

(b) The owner or operator shall apply for a UIC permit in accordance with N.J.A.C. 7:14A-4. An application for a well-drilling permit, if applicable, shall be submitted concurrently in accordance with N.J.S.A. 58:4A-4.1.

(c) The information required by the Department for a UIC permit application for a Class I, II, III or V injection well is listed in N.J.A.C. 7:14A-8.17.

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

7:14A-8.9 Additional conditions applicable to Class I, II, III and V UIC permits

(a) The following conditions, in addition to those set forth in N.J.A.C. 7:14A-2.5, apply to all UIC permits for Class I, II, III and V injection wells, and shall be incorporated into these UIC permits either expressly or by reference. If incorporated by reference, a specific citation to this subchapter shall be given in the permit.

1. The permittee does not need to comply with certain provisions of N.J.A.C. 7:14A-6.10 when such noncompliance is authorized by a temporary emergency permit under N.J.A.C. 7:14A-6.14.

2. The permittee shall maintain records concerning the nature and composition of injected fluids in accordance with the requirements of N.J.A.C. 7:14A-6.6.

3. In addition to N.J.A.C. 7:14A-6.7, Notice requirements for facility alterations and additions, a new injection well shall not commence injection until construction is complete, the permittee has submitted the well report as required under N.J.S.A. 58:4A-4.1, where applicable, or has submitted notice of completion of construction to the Department; and

i. The Department has inspected or otherwise reviewed the new injection well and determined that it is in compliance with the conditions of the permit; or

ii. The permittee has not received notice from the Department of its intent to inspect or otherwise review the new injection well within 20 days of the date of the well report or the notice of completion of construction submitted to the Department pursuant to (a)3 above, in which case prior inspection or review is waived and the permittee may commence injection.

4. The following shall be included as information which shall be reported within two hours under N.J.A.C. 7:14A-6.10:

i. Any monitoring or other information which indicates that any contaminant may cause an endangerment to a potable supply well; and

ii. Any noncompliance with a permit condition or malfunction of the injection system which may cause fluid migration into a potable supply well.

3. If the area of review is determined by a mathematical model pursuant to (a)1 above, the permissible radius resulting from such calculation may be less than two miles. Where the radius calculated is significantly less than two miles, however, the Department reserves the right to require the applicant to submit additional information as needed to assess the possible impact of the proposed injection.

(b) In determining the adequacy of corrective action proposed by the applicant under N.J.A.C. 7:14A-8.11 and in determining the additional steps needed to prevent fluid movement into underground sources of drinking water, the Department shall consider the following criteria and factors:

1. The nature and volume of the injected fluids;
2. The nature and native fluids or by-products of injection;
3. The potentially affected population;
4. Geology;
5. Hydrology;
6. The history of the injection operation;
7. Completion and plugging records;
8. The abandonment procedures in effect at the time the well was abandoned; and
9. The hydraulic connections with underground sources of drinking water.

(c) Requirements for mechanical integrity are as follows

1. An injection well has mechanical integrity if:
 - i. There is no significant leak in the casing, tubing or packer; and
 - ii. There is no fluid movement into an underground source of drinking water through vertical channels adjacent to the injection well bore.
2. One of the following tests shall be used to determine the presence of significant leaks under (c)1i above:
 - i. Monitoring of annulus pressure between the casing and the injection tubing; or
 - ii. Pressure test with liquid or gas.
3. One of the following methods shall be used to determine the presence of fluid movement under (c)1ii above:
 - i. For Class II injection wells only, well records demonstrating the presence of adequate cement to prevent such migration; or
 - ii. The results of a temperature or noise log.

4. The Department shall allow the use of a test to demonstrate mechanical integrity other than those listed in (c)2 and 3ii above with the written approval of the EPA. The Department shall allow the use of any other alternate method approved by the EPA and published in the Federal Register unless the use of such method is restricted at the time of approval by the EPA.

5. In conducting and evaluating the tests for mechanical integrity described in this subsection, the owner or operator of the injection well and the Department shall apply methods and standards generally accepted in the industry. When the owner or operator reports the results of mechanical integrity tests to the Department, he or she shall include a description of the test(s) and the method(s) used. In making its evaluation, the Department shall review monitoring and other test data submitted since the previous evaluations.

(d) Requirements for plugging and abandoning Class I, II, III, IV and V wells are as follows:

1. Prior to abandoning any Class I, II, III, IV and V well, the well shall be plugged with cement or with other EPA-approved material in a manner which will not allow the movement of fluids either into or between underground sources of drinking water. The abandoned well is to be, at a minimum, filled and sealed in conformance with the requirements of N.J.S.A. 58:4A-4.1 et seq., and N.J.A.C. 7:9D, or in conformance with the requirements of N.J.A.C. 7:9A-12.8, if applicable, or in conformance with the requirements established in a NJPDES permit.

2. Placement of the cement plugs shall be accomplished by one of the following:

- i. The balance method;
- ii. The dump bailer method;
- iii. The two-plug method; or
- iv. Any other method acceptable to the Department and the EPA that is at least as protective of the ground water as the methods listed in (d)2i through iii.

3. The abandoned well shall be in a state of static equilibrium with the mud weight equalized top to bottom, either by circulating the mud in the well at least once or by a comparable method prescribed by the Department, prior to the placement of the cement plug(s).

4. The plugging and abandonment plan required under N.J.A.C. 7:14A-8.9(a) 6 and 8.10(a) 5 shall, in the case of a Class III well field, also demonstrate that no movement of contaminants from the mined zone into an underground source of drinking water will occur. The Department shall prescribe aquifer cleanup and monitoring where necessary and feasible to ensure that no migration of contaminants from the mined zone into an underground source of drinking water will occur.

5. The Department shall require a permittee to monitor and submit reports for a period of time after the well has been plugged and abandoned.

Administrative correction and change.
See: 38 N.J.R. 1445(a).

7:14A-8.13 Specific operating criteria and construction standards applicable to Class I wells

(a) This section establishes the operating criteria and construction standards for Class I wells disposing of municipal and/or industrial wastes (other than hazardous wastes or radioactive wastes), where the injection stream quality meets limits established in an individual UIC permit based on primary drinking water standards or applicable ground water quality standards, including anti-degradation or non-degradation policies.

(b) Construction requirements for Class I wells are as follows:

1. Class I wells shall, at a minimum, be constructed in accordance with the requirements and specifications set forth in N.J.A.C. 7:9D. More stringent requirements will be imposed, based on an evaluation of the nature of the injection fluid and/or of geological conditions, or where the Department otherwise determines that it is appropriate.

2. All Class I wells shall be cased and cemented to prevent the movement of fluids into or between underground sources of drinking water. The casing and cement used in the construction of each newly drilled well shall be designed for the life expectancy of the well. In determining and specifying casing and cementing requirements, the following factors shall be considered:

- i. Depth to injection zone;
- ii. Injection pressure, external pressure, internal pressure, and axial loading;
- iii. Hole size;
- iv. Size and grade of all casing strings (wall thickness, diameter, nominal weight, length, joint specifications, and construction material);
- v. Corrosiveness of injected fluid, formation fluids, and temperatures;
- vi. Lithology of injection and confining intervals; and
- vii. Type and grade of cement.

3. All Class I injection wells shall inject fluids through tubing with a packer set immediately above the injection zone, or tubing with an approved fluid seal as an alternative. The tubing, packer, and fluid seal shall be designed for the expected service.

i. To obtain approval of the use of an alternative to a packer, the operator of the injection well shall submit a

written request to the Department, which shall set forth the proposed alternative and all technical data supporting its use. The Department shall approve the request if the alternative method will reliably provide a comparable level of protection to underground sources of drinking water. The Department may approve an alternative method solely for an individual well or for general use.

ii. In determining and specifying requirements for tubing, packer, or alternatives the following factors shall be considered:

- (1) The depth of setting;
- (2) The characteristics of injection fluid (chemical content, corrosiveness, and density);
- (3) The injection pressure;
- (4) The annular pressure;
- (5) The rate, temperature and volume of injected fluids; and
- (6) The size of casing.

4. Appropriate logs and other tests shall be conducted during the drilling and construction of new Class I wells. A descriptive report interpreting the results of such logs and tests shall be prepared by a qualified log analyst and submitted to the Department. At a minimum, such logs and tests shall include:

i. Deviation checks on all holes constructed by first drilling a pilot hole, and then enlarging the pilot hole by reaming or another method. Such checks shall be at sufficiently frequent intervals to ensure that vertical avenues for fluid migration in the form of diverging holes are not created during drilling; and

ii. Such other logs and tests as may be needed after taking into account the availability of similar data in the area of the drilling site, the construction plan, and the need for additional information, that may arise from time to time as the construction of the well progresses. For surface casings and for intermediate and long strings of casings, the following logs shall be used:

(1) For surface casing intended to protect underground sources of drinking water:

(A) Resistivity, spontaneous potential, gamma ray, and caliper logs before the casing is installed; and

(B) A cement bond, temperature, or density log after the casing is set and cemented.

(2) For intermediate and long strings of casing intended to facilitate injection:

(A) Resistivity, spontaneous potential, porosity, and gamma ray logs before the casing is installed;

(B) Fracture finder logs; and

7:14A-8.15 Specific operating criteria and construction standards applicable to Class III wells

(a) This section establishes operating criteria and construction standards for Class III wells.

(b) Construction requirements for Class III wells are as follows:

1. Class III wells shall, at a minimum, be constructed in accordance with the requirements and specifications set forth in N.J.A.C. 7:9D. More stringent requirements shall be imposed, based on an evaluation of the nature of the injection fluid and/or of geological conditions, or where the Department otherwise determines that it is appropriate, based on considering potential impacts on ground water quality.

2. All new Class III wells shall be cased and cemented to prevent the migration of fluids into or between underground sources of drinking water. The casing and cement used in the construction of each newly drilled well shall be designed for the life expectancy of the well. In determining and specifying casing and cementing requirements, the following factors shall be considered:

- i. Depth to the injection zone;
- ii. Injection pressure, external pressure, internal pressure, and axial loading;
- iii. Hole size;
- iv. Size and grade of all casing strings (wall thickness, diameter, nominal weight, length, joint specifications, and construction material);
- v. Corrosiveness of injected fluid, formation fluids and temperatures;
- vi. Lithology of injection and confining zones; and
- vii. Type and grade of cement.

3. Appropriate logs and other tests shall be conducted during the drilling and construction of new Class III wells. A descriptive report interpreting the results of such logs and tests shall be prepared by a qualified log analyst and submitted to the Department. The logs and tests appropriate to each type of Class III well shall be determined based on the intended function, depth, construction and other characteristics of the well, availability of similar data in the area of the drilling site and the need for additional information that may arise from time to time as the construction of the well progresses. At a minimum, such logs and tests shall include deviation checks conducted on all holes where pilot holes and reaming are used, at sufficiently frequent intervals to ensure that vertical avenues for fluid migration in the form of diverging holes are not created during drilling.

4. Where the injection zone is a water-bearing formation, the following information concerning the

injection zone shall be determined or calculated for new Class III wells:

- i. Fluid pressure;
- ii. Temperature;
- iii. Fracture pressure;
- iv. Other physical and chemical characteristics of the injection zone;
- v. Physical and chemical characteristics of the formation fluids; and
- vi. Compatibility of injected fluids with formation fluids.

5. Where the injection zone is not a waterbearing formation, the information in (b)4 above shall be determined or calculated and submitted to the Department.

6. Where injection is into a formation which contains water with less than 10,000 mg/l total dissolved solids (TDS), monitoring wells shall be completed into the injection zone and into any underground sources of drinking water above the injection zone which could be affected by the mining operation. These wells shall be located so as to detect any excursion of injection fluids, process by-products, or formation fluids outside the mining area or zone. If the operation may be affected by subsidence or catastrophic collapse, the monitoring wells shall be located so that they will not be physically affected.

7. Where injection is into a formation which does not contain water with less than 10,000 mg/l TDS, monitoring requirements may be less stringent.

8. Where the injection wells penetrate an underground source of drinking water (USDW) in an area subject to subsidence or catastrophic collapse monitoring wells shall be installed into the USDW in sufficient numbers to detect any movement of injected fluids, process by-products or formation fluids into the USDW. The monitoring wells shall be located outside the physical influence of the subsidence or catastrophic collapse.

9. In determining the number, location, construction and frequency of monitoring of the monitoring wells, the following criteria shall be considered:

- i. The population relying on the USDW affected or potentially affected by the injection operation;
- ii. The proximity of the injection operation to points of withdrawal of drinking water;
- iii. The local geology and hydrology;
- iv. The operating pressures and whether a negative pressure gradient is being maintained;
- v. The nature and volume of the injected fluid, the formation water, and the process by-products; and

vi. The injection well density.

(c) Operating, monitoring, and reporting requirements for Class III wells are as follows:

1. Operating requirements shall, at a minimum, specify that:

i. Injection pressure at the wellhead shall not exceed a maximum which shall be calculated so as to ensure that the pressure in the injection zone during the injection does not initiate new fractures or propagate existing fractures in the injection zone, initiate fractures in the confining zone, or cause the migration of injection or formation fluids into an underground source of drinking water; and

ii. Injection between the outermost casing protecting underground sources of drinking water and the well bore is prohibited.

2. Where appropriate, Class III wells may be monitored on a field or project basis rather than an individual well basis by manifold monitoring. Manifold monitoring may be used in cases of facilities consisting of more than one injection well, operating with a common manifold. Separate monitoring systems for each well are not required, provided the owner or operator demonstrates that manifold monitoring is comparable to individual well monitoring. Monitoring requirements shall, at a minimum, include:

i. Analyses of the injected fluids with sufficient frequency to yield data representative of the fluids' characteristics;

ii. Installation and use of continuous recording devices to monitor the injection pressure, flow rate and volume;

iii. A demonstration of mechanical integrity pursuant to N.J.A.C. 7:14A-8.12(c) at least once every five years during the life of the well;

iv. Weekly monitoring of fluid level and the parameters chosen to measure water quality in the injection zone; and

v. Quarterly monitoring of wells adjacent to the injection site to detect any migration from the injection zone into a USDW.

(d) Reporting requirements shall, at a minimum, include:

1. Quarterly reports to the Department on monitoring required;

2. Results of mechanical integrity, and any other periodic test required by the Department, reported with the first regular report after completion of the test; and

3. Monitoring may be reported on a project or field basis rather than on an individual well basis where manifold monitoring is used.

Administrative correction and change.

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

7:14A-8.16 Specific operating criteria and construction standards applicable to Class V injection wells

(a) This section establishes the operating criteria and construction standards for Class V wells.

(b) Class V wells shall, at a minimum, be constructed in accordance with the requirements and specifications set forth in N.J.A.C. 7:9 or 7:9A.

1. Well drilling permit requirements:

i. Where applicable, any owner or operator of a new Class V well shall obtain a well drilling permit before the commencement of any construction, in accordance with the Subsurface and Percolating Waters Act, particularly N.J.S.A. 58:4A-4.1. Information and applications for a well permit may be obtained from:

NJDEP
Water Supply Administration
Bureau of Water Allocation
PO Box 426
Trenton, New Jersey 08625-0426

2. Where applicable, individual subsurface sewage disposal systems, septic systems, or disposal beds shall be constructed in accordance with N.J.A.C. 7:9A.

3. The following information shall be submitted to the Department with the application for an individual UIC permit for a Class V well:

i. Detailed plans for construction of the injection well, including materials used and geologic or soil characteristics;

ii. Detailed description and analyses of fluids to be injected; and

iii. Description of the method of injection.

(c) Operating requirements for Class V wells are as follows:

1. Injection wells constructed in accordance with N.J.S.A. 58:4A-4.1 shall be maintained in accordance with N.J.A.C. 7:9D or any other pertinent regulations, or in accordance with requirements of the UIC permit.

2. Septic systems, disposal beds, or other subsurface sewage disposal systems shall be maintained in accordance with N.J.A.C. 7:9A or in accordance with the requirements of the UIC permit.

(d) Plugging and abandonment requirements for Class V wells are as follows:

1. Class V wells shall be plugged and abandoned in accordance with the requirements of N.J.S.A. 58:4A-4.1 et

seq. and N.J.A.C. 7:9D, where applicable. Cessation of injection operations constitutes abandonment in accordance with the requirements of N.J.S.A. 58:4A-4.1. The improper maintenance of a well may constitute abandonment of that well in accordance with N.J.S.A. 58:4A-4.1. The plugging and abandonment of injection wells constructed or operated in accordance with N.J.A.C. 7:9A are, at a minimum, to be abandoned in accordance with N.J.A.C. 7:9A-12.8.

2. Large-capacity cesspools as identified in N.J.A.C. 7:14A-8.4(a)3i and motor vehicle waste disposal wells as identified in N.J.A.C. 7:14A-8.4(a)3ii shall be closed in a manner that does not cause a violation of the State primary drinking water regulations under N.J.A.C. 7:10, or any Ground Water Quality Standards under N.J.A.C. 7:9C. At a minimum:

i. Large-capacity cesspools and motor vehicle waste disposal wells shall be emptied of wastes. Any soil, gravel, or other loose material within two feet from the bottom and sides which were exposed to waste shall be removed (except for large-capacity cesspools that have not received industrial wastes). Following such emptying and removal, the cavity shall be filled with clean gravel, stones, or soil material;

ii. All influent and effluent lines shall be excavated, removed or sealed such that no leaching of contaminants can occur; and

iii. All wastes or other materials emptied or removed under (d)2i above shall be managed in accordance with this chapter and the State Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and its implementing rules at N.J.A.C. 7:26, 7:26A and 7:26G.

3. Other Class V wells shall be plugged and abandoned in accordance with the terms of a UIC permit. These permit conditions shall include the following conditions:

i. All septic systems, seepage pits, dry wells and cesspools shall be emptied of wastes and removed or filled with gravel, stones, or soil material, in a manner which is acceptable to the administrative authority as defined in N.J.A.C. 7:9A-1;

ii. All influent and effluent lines shall be excavated, removed or sealed such that no leaching of contaminants can occur; and

iii. When components or residuals (for example, gravel filter material, fill material, soil) from an abandoned individual subsurface sewage disposal system are removed from the ground, such components or residuals shall be managed as follows:

(1) Any off site disposal of components and residuals from an abandoned system shall be managed in accordance with the State Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.) and its implementing rules at N.J.A.C. 7:26, 7:26A and 7:26G; and

(2) Onsite management of components and residuals from abandoned systems shall be in a manner which is acceptable to the administrative authority as defined in N.J.A.C. 7:9A-1.

(e) The UIC permit-by-rule authorization for any Class V well which fails to comply with the requirements of this section automatically terminates.

(f) Injection wells that exert a total pressure that exceeds the pressure exerted by the fluid under the influence of gravity at its height above the point of discharge plus the atmospheric pressure, shall be required to follow the standards described for Class I wells.

(g) Requirements for converting a Class V motor vehicle waste disposal well to another type of Class V well are as follows:

1. An application for an individual UIC permit shall be submitted, and shall include:

i. The information required under N.J.A.C. 7:14A-8.17;

ii. A description of how the requirements in (g)2 and 3 below will be met; and

iii. A description of how all motor vehicle waste will be managed in accordance with this chapter and the State Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and its implementing rules at N.J.A.C. 7:26, 7:26A and 7:26G.

2. All motor vehicle waste is segregated from the intended discharge by physical barriers and is not allowed to enter the well. The use of a semi-permanent plug as the means to segregate waste is not sufficient to convert a motor vehicle waste disposal well to another type of Class V well;

3. The motor vehicle waste disposal well is emptied of wastes. Any soil, gravel, or other loose material within two feet from the bottom and sides which were exposed to waste is removed. All wastes or other materials emptied or removed are managed in accordance with this chapter and the State Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and its implementing rules at N.J.A.C. 7:26, 7:26A and 7:26G;

4. The Department finds that injection of motor vehicle waste into the well following conversion is unlikely based on the facility's compliance history and records showing proper waste disposal; and

5. The Department approves such conversion in writing.

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

In (b)1i, updated address; in (c) deleted "individual" throughout; in (d), inserted new 2, recodified existing 2 to 3; added (g).
Administrative correction.
See: 37 N.J.R. 4245(a).

Administrative correction and change.
See: 38 N.J.R. 1445(a).

7:14A-8.17 Additional requirements for applications for individual UIC permits

(a) In addition to the information required to be submitted pursuant to N.J.A.C. 7:14A-4 and 8.8, and after consultation with the Department, an applicant for an individual NJPDES UIC permit for a Class I, II, III or V well shall submit those items in (a)1 through 5 below as required by the Department.

1. For a permit for an existing Class I, II, III and V well to operate or the construction or conversion of a new Class I, II, III and V well:

i. A map showing the injection well(s) for which a permit is sought and the applicable area of review, determined as per N.J.A.C. 7:14A-8.12(a). Within the area of review, the map shall show the number, or name, and location of all producing wells, injection wells, abandoned wells, dry holes, or wells, surface bodies of water, springs, mines (surface and subsurface), quarries, water wells and other pertinent surface features including residences and roads. All wells, reservoirs, and other bodies of water used for public water supply that are within a five mile radius of the injection well shall be indicated. The map shall also show geologic faults, if known or suspected;

ii. A tabulation of data on all wells within the area of review which penetrate into the proposed injection zone. Such data shall include a description of each well's type, geological and geophysical logs, construction, date drilled, location, depth, record of plugging and/or completion, and any additional information the Department may require;

iii. Geologic name(s), maps, and cross sections indicating the general vertical and lateral limits of all underground sources of drinking water within the area of review, their position relative to the injection formation and the direction of water movement, where known, in each underground source of drinking water which may be affected by the proposed injection;

iv. Maps and cross sections detailing the geological structure of the local area;

v. Generalized maps and cross section illustrating the regional geologic setting;

vi. Proposed operating data as follows:

(1) Average and maximum daily rate and volume of the fluid to be injected;

(2) Average and maximum injection pressure; and

(3) Source and analysis of the chemical, physical, radiological and biological characteristics of injection fluids;

vii. Proposed formation testing program to obtain an analysis of the chemical, physical, and radiological characteristics of and other information on the receiving formation;

viii. Proposed stimulation program;

ix. Proposed injection procedure;

x. Engineering drawings of the surface and subsurface construction details of the system;

xi. Any expected changes in pressure, native fluid displacement, direction of movement of injection fluid;

xii. Contingency plans to address all shut-ins or well failures so as to prevent migration of fluids into any underground source of drinking water;

xiii. Plans (including maps) for meeting the monitoring requirements for Class I, II and III wells as specified in this section;

xiv. For wells within the area of review which penetrate the injection zone but are not properly completed or plugged, the corrective action proposed to be taken under N.J.A.C. 7:14A-8.11; and

xv. Construction procedures including a cementing and casing program, logging procedures, deviation checks, and a drilling, testing, and coring program.

2. For the approval of operation of a Class I, II, III and V well:

i. All available logging and testing program data on the well(s);

ii. A demonstration of mechanical integrity pursuant to N.J.A.C. 7:14A-8.12(c);

iii. The actual operating data;

iv. The results of the formation testing program;

v. The actual injection procedure;

vi. The compatibility of injected waste with fluids in the injection zone and minerals in both the injection zone and the confining zone; and

vii. The status of corrective or preventive action on defective wells in the area of review.

3. For the approval of the plugging and abandonment of a Class I, II, III and V well or of a plan for same:

i. The type and number of plugs to be used;

ii. The placement of each plug including the elevation of the top and bottom;

iii. The type and grade and quantity of cement to be used;

iv. The method for placement of the plugs; and

v. The procedures to be used to meet the requirements of N.J.A.C. 7:14A-8.12(d)3.

4. For Class I, II and III wells, the corrective or preventive action proposed to be taken under N.J.A.C. 7:14A-8.11.

5. For Class V wells which are subsurface disposal systems, other than those regulated under the Standards for Individual Subsurface Sewage Disposal Systems, N.J.A.C. 7:9A, the information set forth at N.J.A.C. 7:14A-7.13.

7:14A-8.18 Specific operating criteria and construction standards applicable to permit by rule authorizations for underground injection into seepage pits

(a) This section sets forth the operating criteria and construction standards for underground injection into seepage pits under a permit-by-rule pursuant to N.J.A.C. 7:14A-8.5(b)5.

(b) Design requirements are as follows:

1. When required to protect against accumulation of fine particles that would impair the proper functioning of the seepage pit, a multiple compartment septic tank shall be designed and constructed in accordance with N.J.A.C. 7:9A-8.2.

2. The percolating area shall be the total outside surface area of the seepage pit lining below the inlet and exclusive of any soil horizons with a percolation rate slower than 40 minutes per inch. The bottom of the seepage pit shall not be counted as part of the percolating area. The minimum percolating area shall be determined from the following table based upon the maximum daily volume of discharge and a weighted average of the percolation or permeability rates of all soil layers exposed in the sidewalls. In no case, however, shall the percolating area be less than 110 square feet.

Minimum Area Required for Seepage Pits, Based on One Gallon Liquid Per Day, and Based on the Percolation Rate of the Soil

Average Percolation Rate (Min/inch)	Minimum Area Per Gallon Per Day (Square feet)
10 or less	0.48
11 to 20	0.72
21 to 30	0.96
31 to 40	1.20
over 40	not acceptable

(c) Construction requirements are as follows:

1. Seepage pits shall be constructed within an excavation affording adequate working space and shall be constructed of stone, brick, cinder, precast concrete or concrete block, or similar material laid dry with open joints where permeable strata have been penetrated, except that if the seepage pit is not of circular construction or if the surrounding ground is subject to cave-in, all horizontal joints shall be mortared so as to prevent structural failure. The following requirements shall be met:

- i. All joints above the inlet, in all cases, shall be made watertight;
- ii. Before placement of backfill, all sidewall areas shall be scarified; and
- iii. The bottom of the seepage pit shall be filled with coarse gravel to a depth of one foot unless the bottom is in a sand or gravel formation.

2. Seepage pits shall be backfilled according to the following procedure:

- i. The space between the excavation and the seepage pit wall shall be backfilled with at least three inches of coarse gravel or filter material meeting New Jersey Department of Transportation's standards for coarse aggregate sizes 3, 4 and 24.
- ii. Where cinder or concrete blocks are laid with core openings exposed, the space between the excavation and seepage pit wall shall be backfilled with at least six inches of two and one-half inch crushed stone or gravel.
- iii. Backfill above the inlet shall be of earth similar to that found at the site which is free from large stones, tree stumps, broken masonry or waste construction material. and shall be thoroughly compacted by hand or mechanical tamping methods. The use of heavy machinery for this purpose is prohibited.

3. Covers shall be constructed of reinforced concrete, shall be a minimum of three inches in thickness, watertight, and shall be designed and constructed so as not to be damaged by any load which is likely to be placed upon them.

4. At least one access opening with a removable, watertight cover and a minimum dimension of 24 inches shall be provided. Access openings shall meet the following requirements:

- i. Access shall be adequate to permit pumping out of the pit as well as inspection and maintenance of the inlet;
- ii. When the cover of the seepage pit is deeper than 12 inches below finished grade, the access opening shall be extended to within 12 inches of finished grade by means of a concrete riser with cast-iron manhole cover;
- iii. When the access opening is below finished grade, a permanent marker at finished grade shall be provided to indicate its location; and
- iv. When the access opening is at or above finished grade, the cover shall be bolted, locked or otherwise secured to prevent access by children.

(d) Requirements for the submission of certifications are as follows:

1. Any facility qualifying for this permit by rule shall submit an as-built certification from a New Jersey licensed professional engineer which certifies that the system was designed and constructed in accordance with the requirements of this section. The certification and a NJPDES-1 form shall be submitted within 30 days of the completion of construction to:

NJDEP
 Division of Water Quality
 Bureau of Nonpoint Pollution Control
 PO Box 029
 Trenton, New Jersey 08625-0029

Amended by R.2004 d.47, effective February 2, 2004.
 See: 35 N.J.R. 169(a), 35 N.J.R. 1331(a), 36 N.J.R. 813(a).
 In (d), updated address.

APPENDIX A

EQUATION FOR AREA OF REVIEW

Modified Theis Equation for determining the "area of review" based on the assumption outlined in N.J.A.C. 7:14A-8.12

$$r = \frac{(2.25 \cdot K \cdot H \cdot t)^{0.5}}{s \cdot 10 \cdot X}$$

Where

$$X = \frac{4 \cdot \pi \cdot K \cdot H \cdot h_w - h_{b0} \cdot X \cdot S_p \cdot G_b}{2 \cdot 3 \cdot Q}$$

- r = Radius of endangering influence from injection well (length)
- K = Hydraulic conductivity of the injection zone (length time)
- H = Thickness of the injection zone (length)
- t = Time of injection (time)
- S = Storage coefficient (dimensionless)
- Q = Injection rate (volume/time)
- h_{b0} = Observed original hydrostatic head of injection zone (length) measured from the base of the lowest underground source of drinking water
- h_w = Hydrostatic head of underground source of drinking water (length) measured from the base of the lowest underground source of drinking water
- S_pG_b = Specific gravity of fluid in the injection zone (dimensionless)
- π = 3.142 (dimensionless)

**SUBCHAPTER 9. GROUND WATER
MONITORING REQUIREMENTS FOR
SANITARY LANDFILLS**

7:14A-9.1 Scope and purpose

(a) This subchapter establishes the requirements for conducting ground water monitoring at sanitary landfills, including design of the ground water monitoring system, sampling, parameters and frequency of analyses, evaluation of data, recordkeeping and reporting.

(b) It is essential that the monitoring program provide adequate data over a sufficient period of time to accurately represent conditions and variations of background ground water quality and the hydrologic characteristic of the sanitary landfill. It is essential that the monitoring program be sufficient to ensure protection of ground water resources.

7:14A-9.2 Applicability

(a) The requirements in this subchapter apply to all sanitary landfills, except as provided at (c), (d) and (e) below.

(b) All sanitary landfills shall obtain a NJPDES DGW permit to conduct ground water monitoring as specified in this subchapter.

(c) Ground water monitoring pursuant to N.J.A.C. 7:14A-9.3 through 9.8 will be suspended for a municipal solid waste landfill (MSWLF) if the owner or operator can demonstrate that there is no potential for migration of any hazardous constituents from the MSWLF to the uppermost aquifer during the active life of the unit and the post-closure care period. This demonstration shall be certified by a qualified ground water scientist and approved by the Department and shall be based upon:

1. Site specific field collected measurements, sampling and analysis of physical, chemical, and biological processes affecting the contaminant fate and transport; and
2. Contaminant fate and transport predictions that maximize contaminant migration and consider impacts on human health and environment.

(d) For a sanitary landfill that is not a MSWLF under 40 CFR Parts 257 and 258, the Department may waive the requirement to sample for the complete list of Appendix A parameters when in detection mode, and for the complete list of the 40 C.F.R. 258 Appendix II parameters when in assessment or corrective monitoring mode. When the Department grants such a waiver, based upon the known characteristics of the waste and leachate quality, the contamination potential of the site, or historical permit conditions, the Department shall provide an alternate list of parameters to be monitored that are consistent with those factors. All sanitary landfills remain subject to all other requirements of N.J.A.C. 7:14A-9.3 through 9.8.

(e) The Department shall exempt a sanitary landfill from the requirement to obtain or maintain a NJPDES permit to conduct ground water monitoring as required by this subchapter when a ground water monitoring program equivalent to the provisions of this subchapter or 40 C.F.R. 258, whichever is more stringent, is being conducted pursuant to the requirements of the Industrial Site Recovery Act (N.J.S.A. 13:1K-6 et seq., as amended), the Spill Compensation and Control Act (N.J.S.A. 58:10-23.11), or the Procedures for Department Oversight of the Remediation of Contaminated Sites at N.J.A.C. 7:26C.

(f) For the purposes of this subchapter, a "qualified ground water scientist" is a scientist or engineer who has received a baccalaureate or post-graduate degree in the natural sciences or engineering and has sufficient training and experience in ground water hydrology as may be demonstrated by state registration, professional certifications, or completion of accredited university programs that enable the individual to make sound professional judgments regarding ground water monitoring, containment fate transport, and corrective action.

7:14A-9.3 Ground water monitoring system performance standards

(a) A ground water monitoring system shall consist of a sufficient number of wells, installed at appropriate locations and depths, to yield ground water samples from the uppermost aquifer that:

1. Represent the quality of background ground water that has not been affected by leakage. A determination of background ground water quality may include sampling of wells that are not hydraulically upgradient of the solid waste facility area where:

- i. Hydrogeologic conditions do not allow the owner or operator to determine what wells are hydraulically upgradient; or
- ii. Sampling at other wells will provide an indication of background ground water quality that is as representative or more representative than that provided by the upgradient wells; and

2. Represent the quality of ground water passing the relevant point of compliance specified by the Department under N.J.A.C. 7:14A-9.6. The downgradient monitoring system shall be installed at the relevant point of compliance specified by the Department that ensures detection of ground water contamination in the uppermost aquifer. When physical obstacles preclude installation of ground water monitoring wells at the relevant point of compliance, the down-gradient monitoring system may be installed at the closest practicable distance hydraulically down-gradient from the relevant point of compliance specified by the Department that ensures detection of ground water contamination in the uppermost aquifer.

ter 18688, published April 19, 1994) incorporated herein at Appendix C.

7:14A-11.13 NJPDES/DSW PCB pollutant minimization plans for major facilities discharging to PCB impaired waterbodies

(a) The following conditions apply to any major facility that discharges to a PCB-impaired waterbody segment.

1. PCB-impaired waterbody segments are those listed on Sublist 5 of the New Jersey List of Water Quality Limited Waters (also known as the 303(d) List or as the Impaired Waterbodies List), as being impaired or threatened for one or more designated uses due to PCBs. The reference in this paragraph to the List of Water Quality Limited Waters includes all amendments, supplements, and updates thereto. The current list of Water Quality Limited Waters is included in the New Jersey Integrated Water Quality Monitoring and Assessment Report, which can be found on the Department's web site at <http://www.state.nj.us/dep/wmm/sgwqt/wat/integratedlist/2004report.html>.

2. Major facility is defined at N.J.A.C. 7:14A-1.2.

(b) Facilities subject to an adopted TMDL that establishes requirements for PCBs shall be subject to that TMDL. The adopted TMDL shall supercede the requirements of this section.

(c) Monitoring requirements shall be in accordance with N.J.A.C. 7:14A-14.4 and include the following:

1. The permittee shall analyze its effluent for the 209 PCB congeners.

2. Sanitary wastewater treatment plants and publicly owned treatment works shall perform three dry weather and three wet weather samples on the facility's main outfall by 24 months after the effective date of the modification or renewal of the facilities' permits under (e) below. Industrial facilities with discharges consisting of process wastewater, as defined at N.J.A.C. 7:14A-1.2, shall perform three dry weather samples by 24 months after the effective date of the modification or renewal of the facilities' permits under (e) below. Industrial facilities with commingled process wastewater and stormwater discharges shall perform three dry weather and three wet weather samples by 24 months after the effective date of the modification or renewal of the facilities' permits under (e) below.

i. Dry weather sampling shall be conducted when less than 0.1 inches of rainfall has occurred within the previous 72 hours.

ii. Wet weather sampling shall be performed within 72 hours after the onset of a precipitation event in which at least 0.1 inches of rainfall has occurred.

3. Discharges consisting of non-contact cooling water only shall not be subject to this section.

4. All samples shall be collected at least 30 days after the previous sampling event.

5. All sampling shall be performed during periods which are representative of normal facility operations.

6. All testing shall be performed using Method 1668A, Revision A: Chlorinated Biphenyl Congeners in Water, Soil, Sediment, and Tissue by HRGC/HRMS. EPA-821-R-00-002, December 1999, as supplemented or amended, and incorporated by reference herein.

(d) After submission of the PCB monitoring required under (c) above and under the facility's permit, the Department will determine whether each permittee must complete a PCB Pollutant Minimization Plan (PMP), and will notify each permittee of this decision in writing.

1. If the Department determines that a permittee is required to complete a PMP, the permittee shall prepare and submit the PMP by the date specified in the permit or as otherwise directed by the Department.

2. The PMP shall be developed to achieve maximum practical reduction in accordance with the PMP Technical Manual, which can be found on the Department's web site at www.state.nj.us/dep/dwq/techmans.

3. The permittee shall implement the PMP within 30 days after written notification from the Department that the PMP is complete.

(e) The Department will modify the permits of the major facilities identified in (a) above in accordance with the procedures at N.J.A.C. 7:14A-16. For any permit that is expired as of January 16, 2007, the requirements set forth in this section and N.J.A.C. 7:14A-14.4 will be incorporated into the permit at the next renewal of the permit.

New Rule, R.2007 d.22, effective January 16, 2007.
See: 37 N.J.R. 4723(a), 39 N.J.R. 187(a).

APPENDIX A

(RESERVED)

Administrative correction.
See: 29 N.J.R. 3822(a).
Amended N.J.A.C. and internal references.
Administrative change.
See: 30 N.J.R. 340(a).
Repealed by R.2002 d.34, effective January 22, 2002.
See: 33 N.J.R. 3636(a), 34 N.J.R. 595(a).

APPENDIX B

(RESERVED)

Administrative correction.
See: 29 N.J.R. 3822(a).
Amended N.J.A.C. and internal references.
Repealed by R.2002 d.34, effective January 22, 2002.
See: 33 N.J.R. 3636(a), 34 N.J.R. 595(a).

APPENDIX C

FEDERAL POLICY ON COMBINED SEWER
OVERFLOWS

Appendix C incorporates the Federal policy on combined sewer overflows published in the Federal Register on April 19, 1994.

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4732-7]

Combined Sewer Overflow (CSO) Control Policy

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final policy.

SUMMARY: EPA has issued a national policy statement entitled "Combined Sewer Overflow (CSO) Control Policy." This policy establishes a consistent national approach for controlling discharges from CSOs to the Nation's waters through the National Pollutant Discharge Elimination System (NPDES) permit program.

FOR FURTHER INFORMATION CONTACT: Jeffrey Lape, Office of Wastewater Enforcement and Compliance, MC-4201, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 260-7361.

SUPPLEMENTARY INFORMATION: The main purposes of the CSO Control Policy are to elaborate on the Environmental Protection Agency's (EPA's) National CSO Control Strategy published on September 8, 1989, at 54 FR 37370, and to expedite compliance with the requirements of the Clean Water Act (CWA). While implementation of the 1989 Strategy has resulted in progress toward controlling CSOs, significant public health and water quality risks remain.

This Policy provides guidance to permittees with CSOs, NPDES authorities and State water quality standards authorities on coordinating the planning, selection, and implementation of CSO controls that meet the requirements of the CWA and allow for public involvement during the decision-making process.

Contained in the Policy are provisions for developing appropriate, site-specific NPDES permit requirements for all combined sewer systems (CSS) that overflow as a result of wet weather events. For example, the Policy lays out two alternative approaches—the "demonstration" and the "presumption" approaches—that provide communities with targets for CSO controls that achieve compliance with the Act, particularly protection of water quality and designated uses. The Policy also includes enforcement initiatives to require the immediate elimination of overflows that occur during dry weather and to ensure that the remaining CWA requirements are complied with as soon as practicable.

The permitting provisions of the Policy were developed as a result of extensive input received from key stakeholders during a negotiated policy dialogue. The CSO stakeholders included representatives from States, environmental groups, municipal organizations and others. The negotiated dialogue was conducted during the Summer of 1992 by the Office of Water and the Office of Water's Management Advisory Group. The enforcement initiatives, including one which is underway to address CSOs during dry weather, were developed by EPA's Office of Water and Office of Enforcement.

EPA issued a Notice of Availability on the draft CSO Control Policy on January 19, 1993, (58 FR 4994) and requested comments on the draft Policy by March 22, 1993. Approximately forty-one sets of written comments were submitted by a variety of interest groups including cities and municipal groups, environmental groups, States, professional organizations and others. All comments were considered as EPA prepared the Final Policy. The public comments were largely supportive of the draft Policy. EPA received broad endorsement of and support for the key principles and provisions from most commenters. Thus, this final Policy does not include significant changes to the major provisions of the draft Policy, but rather, it includes clarification and better explanation of the elements of the Policy to address several of the questions that were raised in the comments. Persons wishing to obtain copies of the public comments or EPA's summary analysis of the comments may write or call the EPA contact person.

Watershed Type	Receiving Water Classification	BOD ₅ Maximum (Monthly/Weekly Avg.)	Discharge
Atlantic Coastal Plain	FW2, SE1 SC	15/22.5 mg/L 30/45 mg/l	All Domestic combined with industrial
Delaware River Basin	Tributaries classified as FW2, SE1, SE2 Main stem, all zones	25/37.5 mg/L As set forth in the Water Quality Standards for the Delaware River Basin; Resolution 67-7 of the DRBC; April 26, 1967 and subsequent revisions	All All
Hackensack River Basin	FW2, SE1, SE2, SE3	30/45 mg/L	All
Passaic River Basin (including Newark Bay)	FW2 SE2, SE3	25/37.5 mg/L 30/45 mg/L	All All
Wallkill River Basin	FW2	15/22.5 mg/L	All

(c) In applying the minimum treatment requirements contained in (b) above, the following substitutions may be made:

1. For industrial treatment works, TOC or COD may be substituted for BOD₅ when a long-term BOD₅:COD or BOD₅:TOC correlation has been demonstrated. In the absence of data to establish a long term correlation, the BOD₅:COD ratio shall be assumed to be 1:2 and the BOD₅:TOC ratio shall be assumed to be 1:1. If subsequent data are submitted which indicate that a different BOD₅:COD or BOD₅:TOC ratio would be more appropriate, a written request shall be submitted to the Department; and

2. For industrial or domestic treatment works, CBOD₅ may be substituted for BOD₅ as follows:

i. With prior approval of each regulatory agency with jurisdiction over the discharge, when applicable, if the effluent standard for BOD₅ is 30/45 mg/L, a CBOD₅ effluent standard of 25/40 mg/L, as allowed for in N.J.A.C. 7:14A-12.2(c)1 and 2, may be substituted; or

ii. With prior approval of each regulatory agency with jurisdiction over the discharge, when applicable, if the effluent standard for BOD₅ is other than 30/45 mg/L, CBOD₅ may be substituted for BOD₅ when a long term BOD₅:CBOD₅ correlation has been demonstrated. When a request for a substitution of CBOD₅ for BOD₅ is made, the applicant shall submit data demonstrating the appropriate BOD₅:CBOD₅ correlation. The correlation demonstration shall consist of a minimum of 12 BOD₅ and CBOD₅ analyses of split samples obtained at a frequency of twice per month, subject to the following restrictions:

(1) For limitations applicable year round, or for limitations applicable during warm weather (for example, May through October), the samples shall be obtained during the months of May through October.

(2) For limitations applicable during cold weather (for example, November through April), the samples shall be obtained during the months of November through April.

(3) The monthly and weekly BOD₅ effluent limitations shall be recalculated as CBOD₅ monthly and weekly effluent limitations using the approved correlation factor.

(d) Direct discharges to surface water from industrial treatment works shall be exempt from the minimum BOD₅ effluent standards in (b) above, when:

i. Statistically valid data indicate that the maximum projected BOD₅ concentration is consistently below the applicable effluent standard; or

ii. The Department determines that, based on wastewater generating activities, no potential exists for the discharge to add BOD₅, COD or TOC.

Administrative correction.
See: 29 N.J.R. 3822(a).
Administrative change.
See: 34 N.J.R. 1902(a).

7:14A-12.5 Disinfection

(a) All wastewater that could contain pathogenic organisms such as fecal coliform and/or enterococci organisms shall be subject to continuous year round disinfection prior to discharge into surface waters.

(b) The State effluent standard for fecal coliform organisms is as follows:

1. The monthly geometric mean shall not exceed 200 colonies/100 mL; and
2. The weekly geometric mean shall not exceed 400 colonies/100 mL.

7:14A-12.6 Foam

(a) DSW dischargers are prohibited from discharging foam or causing foaming of the receiving water that:

1. Forms objectionable deposits on the receiving water;
2. Forms floating masses producing a nuisance;
3. Produces objectionable color or odor; or
4. Interferes with a designated use of the waterbody.

(b) Foaming of the receiving waterbody caused by natural conditions shall not be considered a violation of the standard in (a) above.

(c) For discharges with submerged outfalls, the Department may take into consideration the location, depth and the dispersion characteristics of the discharge in deciding whether or not to include the provisions of (a) above in the permit.

7:14A-12.7 Phosphorus effluent standards (Reserved)

7:14A-12.8 Oil and grease effluent standards

(a) The requirements of this section, N.J.A.C. 7:14A-12.9 and 12.10 apply to direct discharges of oil and grease to surface water, and indirect discharges of petroleum based oil and grease to a domestic treatment works, except as specifically exempted in N.J.A.C. 7:14A-12.10. Indirect users shall comply with any local agency standards for nonpetroleum based oil and grease.

(b) (Reserved)

(c) Direct dischargers to surface waters shall limit the oil and grease effluent content so that such effluent does not:

1. Exhibit a visible sheen;
2. Exceed an average monthly discharge limitation of 10 mg/L; and
3. Exceed a concentration of 15 mg/L in any single sample.

(d) Indirect users discharging petroleum based oil and grease shall meet the following petroleum hydrocarbon effluent standards except where the control authority has determined that more stringent effluent limitations apply:

1. The average monthly discharge limitation shall not exceed 100 mg/L; and
2. The concentration in any single sample shall not exceed 150 mg/L.

(e) (Reserved)

(f) If a direct discharger only discharges petroleum based oil and grease, the Department may specify in the permit that compliance with the oil and grease effluent standards in (c) above may be monitored using the petroleum hydrocarbons analytical method.

7:14A-12.9 (Reserved)

7:14A-12.10 Petroleum hydrocarbon exemptions

(a) Indirect users shall be exempted from the petroleum hydrocarbon standards specified at N.J.A.C. 7:14A-12.8(d), provided the following requirements are met:

1. The DTW into which the indirect user discharges submits a request for the exemption indicating it meets all of the following criteria:

- i. The discharge from the domestic treatment works has met a 10 mg/L average and 15 mg/L maximum limitation for oil and grease for each of the reporting periods during the preceding 12 months, as determined by the Department;
- ii. The sludge disposal option currently utilized or planned by the domestic treatment works considers petroleum hydrocarbons a beneficial constituent; and
- iii. The DTW shows that the costs for oil and grease removal at its plant are in proportion to the other operation and maintenance costs of the plant.

2. The Department shall have 90 days to review the request for the exemption and make a tentative decision to approve or deny the request. If additional information from the applicant is required, the 90 day period may be extended. The Department shall public notice the tentative decision.

7:14A-12.11 Toxic effluent standards

(a) (Reserved)

(b) (Reserved)

(c) (Reserved)

(d) For discharges to surface water from site remediation projects, the chemical specific toxic pollutant effluent standards are set forth in N.J.A.C. 7:14A-12 Appendix B, incorporated herein by reference.

(e) For new sources, new discharges or expanded direct discharges to surface water, the chemical specific toxic pollutant effluent standards are set forth in N.J.A.C. 7:14A-12 Appendix C, incorporated herein by reference.

APPENDIX A (RESERVED)

APPENDIX B

EFFLUENT STANDARDS FOR SITE REMEDIATION PROJECTS

Parameter	Effluent Standards			
	FW-2 Waters		SC, SE Waters	
	monthly average	daily maximum	monthly average	daily maximum
Volatile Compounds				
Acrolein		100		100
Acrylonitrile		50		50
Benzene		7	37	136
Bromoform		8.6	29	58
Carbon Tetrachloride		6		8.8

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

SUBCHAPTER 13. EFFLUENT LIMITATIONS FOR DSW PERMITS

7:14A-13.1 Purpose and scope

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

7:14A-13.2 Types of effluent limitations

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

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

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

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

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

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

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

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

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

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

4. Limitations based on State effluent standards in accordance with N.J.A.C. 7:14A-12 and N.J.A.C. 7:14A-5.3. Applicability criteria are at N.J.A.C. 7:14A-13.3(c); and

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

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

7:14A-13.3 Applicability of effluent limitations

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

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

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

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

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

the technology based limitations shall be included in the permit.

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

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

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

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

(2) Any unique factors relating to the applicant.

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

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

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

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

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

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

(2) Any unique factors relating to the applicant.

(c) DSW permits shall include State effluent standards at N.J.A.C. 7:14A-12 and N.J.A.C. 7:14A-5.3 as follows:

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

2. State effluent standards at N.J.A.C. 7:14A-12.5 for disinfection, N.J.A.C. 7:14A-12.6 for foam, N.J.A.C. 7:14A-12.8 for oil and grease, and N.J.A.C. 7:14A-5.3 for whole effluent toxicity and phosphorus are the minimum treatment standard;

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

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

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

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

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

FW2-TP; PL; any Category 1 water; any water with existing active shellfish harvesting activities, any intermittent stream, or immediately upstream or directly into any impoundment

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

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

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

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

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

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

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

(e) DSW permits shall include effluent limitations based on existing effluent quality when the Department determines

that an effluent limitation is appropriate for the pollutant or pollutant parameter of interest and a limitation has not been established in accordance with (a) through (d) above.

Amended by R.2004 d.47, effective February 2, 2004.
See: 35 N.J.R. 169(a), 35 N.J.R. 1331(a), 36 N.J.R. 813(a).
In (b), added U.S.C. references.
Administrative change.
See: 38 N.J.R. 1445(a).

7:14A-13.4 Establishment of technology based limitations

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

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

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

1. For best practicable control technology (BPT) requirements:

- i. The total cost of application of technology in relation to the effluent reduction benefits to be achieved;
- ii. The age of the equipment and facilities involved;
- iii. The process employed;
- iv. The engineering aspects of the application of various types of control techniques;
- v. Process changes; and
- vi. Non-water quality environmental impacts, including energy requirements.

2. For best conventional pollutant control technology (BCT) requirements:

- i. The reasonableness of the relationship between the costs of attaining a reduction in the pollutant(s) and the benefits derived from the pollutant reduction;
- ii. Cost and level of treatment comparisons between DTWs and a class or category of industrial sources;
- iii. The age of the equipment and facilities involved;
- iv. The process employed;
- v. The engineering aspects of the application of various types of control techniques;
- vi. Process changes; and

vii. Non-water quality environmental impacts, including energy requirements.

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

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

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

1. Effluent limitations guidelines specify the pollutant as a surrogate for a toxic or hazardous pollutant; or

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

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

1. Effluent limitations guidelines specify the pollutant as an indicator for a hazardous substance; or

2. The limitation reflects best available technology level of control of the discharge of one or more hazardous substances which are present in a waste stream, and a specific best available technology limitation upon the hazardous substance(s) is not feasible for economic or technical reasons. The permit shall identify which hazardous substances are intended to be controlled by the use of the limitation. The statement of basis under N.J.A.C. 7:14A-15.7 or the permit fact sheet required by N.J.A.C. 7:14A-15.8 and 40 CFR Part 124.56 shall set forth the basis for the limitation, including a finding that compliance with the limitation will result in the best available technology level of control of the hazardous substances identified in the discharge, and a finding that it would be economically or technically infeasible to directly limit the hazardous substance(s).

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

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

(h) (Reserved)

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

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

1. The technology based treatment requirements applicable to the discharge are not sufficient to meet the ambient water quality standards;

2. The discharger waives any opportunity to request a variance under section 301(c), (g), or (h) of the Federal Act; and

3. The discharger demonstrates that such a technique is the preferred environmental and economic method to achieve the ambient water quality standards after consideration of alternatives such as advanced waste treatment, recycle and reuse, land disposal, changes in operating methods, and other available options.

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

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

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

ii. The discharger demonstrates that the control system it proposes or uses to meet applicable technology based limitations and standards would, if properly installed and operated, meet the effluent limitations and standards in the absence of pollutants in the intake water;

2. The permit includes conditions requiring:

i. The permittee to conduct additional monitoring (for example, for flow and concentration of pollutants) as necessary to determine continued eligibility for and compliance with any such adjustments; and

ii. The permittee to notify the Department if eligibility for an adjustment under this section may no longer be applicable. In that case, the permit shall be modified accordingly under N.J.A.C. 7:14A-16.4(b)8;

3. Credit for generic pollutants such as biochemical oxygen demand (BOD) or total suspended solids (TSS) shall not be granted unless the permittee demonstrates that the constituents of the generic measure in the effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere;

4. Credit shall be granted only to the extent necessary to meet the applicable limitation or standard, up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine continued eligibility for credits and compliance with permit limits;

5. Credit shall be granted only if the discharger demonstrates that the intake water is drawn from the same body of water into which the discharge is made. For the purposes of this provision, same body of water means any hydrologically connected waterbody provided chemical

characteristics are essentially identical. Chemical characteristics may be evaluated on a parameter by parameter basis; and

6. The discharge of raw water clarifier sludge generated from the treatment of intake water shall not be adjusted for pollutants in the intake water.

(l) The development of technology based effluent limitations shall incorporate alternative effluent limitations or standards where warranted by fundamentally different factors under N.J.A.C. 7:14A-11.7(b)1.

(m) Technology based effluent limitations shall be established under this section for solids, sludges, filter backwash, and other pollutants removed in the course of treatment or control of wastewaters in the same manner as for other pollutants.

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

7:14A-13.6 Calculation of water quality based limitations

(a) When the Department determines pursuant to N.J.A.C. 7:14A-13.5 that a discharge causes, has the reasonable potential to cause, or contributes to an excursion above a Surface Water Quality Standard, a water quality based effluent limitation for each pollutant or pollutant parameter including WET, shall be determined in accordance with the USEPA TSD, as amended and/or supplemented, unless the permittee demonstrates that none of the methods in the TSD are applicable and that an alternative method will result in a water quality based effluent limitation that ensures compliance with the Surface Water Quality Standards.

7:14A-13.7 Determination of water quality based effluent limitations based on narrative criteria

(a) Where the Department has not established a numerical water quality criterion for a specific chemical pollutant but has determined that such a pollutant is present in an effluent at a concentration that causes, has the reasonable potential to cause, or contributes to an excursion or potential excursion above a narrative criterion in the Surface Water Quality Standards, the Department shall:

1. Establish effluent limitations using a calculated numeric criterion utilizing the best available scientific information and developed in accordance with N.J.A.C. 7:9B-1.6(c)4iii; or

2. Establish effluent limitations on a surrogate parameter (for example, whole effluent toxicity) for the pollutant of interest, in accordance with N.J.A.C. 7:14A-13.10, provided:

i. The permit identifies which pollutants are intended to be controlled by the use of the effluent limitation;

ii. The fact sheet sets forth the basis for the limit, including a finding that compliance with the effluent limit on the surrogate parameter will result in controls on the pollutant of concern which are sufficient to attain and maintain applicable Surface Water Quality Standards;

iii. The permit requires the effluent and ambient monitoring necessary to show that during the term of the permit the limit on the surrogate parameter continues to attain and maintain applicable Surface Water Quality Standards; and

iv. The permit shall be reopened and limitations on the base parameters included therein if the limits on the surrogate parameter no longer attain and maintain applicable Surface Water Quality Standards.

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

7:14A-13.8 Calculation of effluent limitations using existing effluent quality

(a) Effluent limitations based on existing effluent quality shall be calculated according to the following procedure:

1. The maximum projected effluent concentration shall be calculated in accordance with the statistical method contained in the USEPA TSD, as amended and/or supplemented, unless the permittee demonstrates that the method in the TSD is not applicable and that an alternative statistical method more accurately estimates the maximum projected effluent concentrations.

i. The following conditions apply:

(1) If at least 10 data points are available, a site specific coefficient of variation shall be determined.

(2) If fewer than 10 data points are available, the permit shall require monitoring and include a reopener clause to include existing effluent quality limitations based on 10 or more data points.

(3) The 95 percent confidence interval and the 95 percent probability basis shall be used.

ii. Effluent data generated during a documented facility upset, or other unusual event which has been identified and appropriately remedied by the permittee, may be eliminated when determining effluent limitations based on existing effluent quality;

2. The maximum daily limitation shall be set equal to the maximum projected effluent concentration; and

3. The average monthly limitation shall be calculated from the maximum daily limitation according to the procedure described in N.J.A.C. 7:14A-13.6, using the sampling frequency required in the discharge permit. If the required sampling frequency is once per month or less, an average monthly limitation may be eliminated for that pollutant or pollutant parameter.

(b) Where an interim effluent limitation is required in accordance with N.J.A.C. 7:14A-13.11 for the time period prior to the effective date of a final effluent limitation, limitations reflecting existing effluent quality shall be calculated in accordance with (a) above.

7:14A-13.9 Seasonal effluent limitations

(a) Seasonal water quality based effluent limitations for continuous discharges may be developed in accordance with the following:

1. The permittee shall submit the necessary water quality studies that address any effects or potential effects on nutrient cycling and potential or actual adverse biological impacts in other waterbody segments related to nutrients.

2. The seasonal limitations shall be developed from a seasonal TMDL or a seasonal site specific allocation for

the specific pollutant(s) or pollutant parameter(s) which addresses critical conditions applicable to each season for which an effluent limitation is requested.

3. Seasonal water quality based effluent limitations shall be developed only for the following parameters and groups of parameters and only insofar as the warm weather limitations cannot be achieved due to decreases in biological treatment efficiency during cold weather:

i. Parameters affecting dissolved oxygen dynamics in the receiving stream;

ii. Nutrients, including phosphorus and nitrogen; and

iii. Ammonia-N, to protect against toxic effects in the receiving water.

4. Except as specified at (a)5 below, seasonal water quality based effluent limitations shall be developed for two seasons in each year.

5. Seasonal WLAs or site specific allocations may be developed for shorter periods of time including more than two seasons, when the United States Geological Survey provides a reliable estimate of applicable stream design flows from a gauging station located in the vicinity of the discharge location.

7:14A-13.10 Surrogate effluent limitations

(a) Surrogate limitations may be included in a discharge permit in accordance with the following:

1. The permittee shall submit a written request to the Department which includes the specific parameter(s) to be used as a surrogate and specifically lists the base parameter(s) for which the surrogate parameter is requested;

2. The request shall include a detailed report demonstrating that the requested surrogate parameter is a reliable, precise and accurate surrogate. This report shall include, at a minimum, effluent data demonstrating the relationship, including the value(s) of the surrogate parameter(s) corresponding to the limitation(s) for the base parameter(s), between the proposed surrogate(s) and the parameters for which the surrogate is requested;

3. Where the Department approves the use of a surrogate, the fact sheet for the draft permit shall set forth the basis for the limit, including a finding that compliance with the effluent limit for the surrogate parameter shall result in controls on the pollutant of interest which are sufficient to attain the applicable effluent limitations. The permit shall identify which pollutants are intended to be controlled by the use of the surrogate limitation;

4. If the permit includes a limitation for the surrogate parameter(s) with a basis separate from the use of the parameter as a surrogate, the surrogate limitation(s) may be included in addition to any limitation for the surrogate parameter based on technology, water quality concerns, or effluent standards;

5. Where an effluent limitation is being imposed on a delegated local agency in accordance with N.J.S.A. 58:10A-7b(3) for categorical or other pollutants, the permittee may request the use of surrogate parameters in accordance with the following additional requirements:

i. Where a delegated local agency has requested that whole effluent toxicity be considered as the surrogate parameter for a limitation calculated for a toxic pollutant, the Department may presume that, subsequent to the effective date of the whole effluent toxicity limitation, compliance with the water quality based whole effluent toxicity limitation satisfies the report submittal requirements specified in (a)2 above;

ii. Upon its determination that the requested surrogate parameter is an appropriate and reliable surrogate, the Department shall include in the discharge permit effluent limitations for both the surrogate parameter(s) and the base parameter(s). Compliance with the base parameter(s) shall be determined based on compliance with the surrogate parameter; and

iii. The permit shall require that, if the surrogate parameter is exceeded, the effluent limitations covered by the surrogate shall become effective upon notification by the Department, unless the permittee demonstrates that the base parameters were not exceeded at the time that the surrogate parameter was exceeded. The permit may also include procedures for re-establishment of the use of a surrogate parameter;

6. The permit shall require the monitoring necessary to demonstrate that during the term of the permit the limit on the surrogate parameter continues to attain and maintain applicable effluent limitations. The permit shall require monitoring of the surrogate parameter and may also require monitoring of the base parameter(s) covered by the surrogate parameter;

7. The permit shall be reopened and modified to include limitations on the base parameter(s) if the Department determines that the surrogate parameter(s) no longer ensure attainment of the applicable effluent limitations for the base parameter(s); and

8. The Department, upon its own initiative, may include a limitation for a surrogate parameter irrespective of a request by the affected permittee provided the fact sheet sets forth the basis for the limit, including a finding that compliance with the effluent limit on the surrogate parameter will result in controls on the pollutant of concern that are sufficient to attain the applicable effluent limitations and the permit conditions in (a)5 and 6 above are satisfied.

1. Limitations on industrial treatment works for conventional, non-conventional, and toxic pollutants shall, unless impracticable, be stated as maximum daily and average monthly discharge limitations;

2. Limitations for conventional and non-conventional pollutants discharged from a DTW shall, unless impracticable, be stated as average weekly and average monthly discharge limitations. Limitations on toxic pollutants discharged from a DTW shall, unless impracticable, be stated as maximum daily and average monthly discharge limitations;

3. Limitations on any pollutant or pollutant parameter where the monitoring frequency is once per month or less may be stated as a maximum daily limitation. Average monthly limitations may also be included on a site specific basis if the Department determines that such limitations are necessary to adequately regulate the discharge of pollutants from the facility;

4. For whole effluent toxicity where the effluent monitoring frequency is once per month or less, the maximum daily effluent limitation shall be stated as the No Observed Adverse Effect Concentration or minimum LC₅₀ (for acute whole effluent toxicity) or minimum IC₂₅ (for chronic whole effluent toxicity) and as a maximum acute or chronic toxic units. Average monthly limitations may also be included on a site specific basis if the Department determines that such limitations are necessary to adequately regulate the discharge of pollutants from the facility;

5. For limitations other than water quality based limitations which may be imposed on DTWs, where the average weekly limitation is calculated from the average monthly limitation, or the reverse, the Department may use a factor of 1.5 to calculate the average weekly limitation from the average monthly limitation or, alternatively, may, at the request of the applicant, use the statistical procedures at N.J.A.C. 7:14A-13.6 to determine the appropriate average weekly limitation; and

6. For intermittent flows, the maximum limitation shall be applicable during periods of actual discharge.

7:14A-13.16 Point of compliance for effluent limitations

(a) The point of compliance for each outfall shall be established as follows:

1. Permit effluent limitations, standards, prohibitions, and monitoring requirements shall be established for each outfall or discharge point of the permitted facility, except as provided under N.J.A.C. 7:14A-6.2(b) (BMPs where limitations are infeasible), (a)2 below (limitations on internal waste streams), (a)6 below (alternate monitoring point for whole effluent toxicity), and (a)7 below (discharges into storm sewers);

2. Effluent limitations or standards for discharges of pollutants may be imposed on internal waste streams before mixing with other waste streams or cooling water streams when:

i. Permit effluent limitations for the final effluent are impracticable or infeasible to calculate; or

ii. Monitoring of the final mixed effluent or point of discharge is impracticable or infeasible;

3. Internal monitoring points shall be established in cases where two or more different types of wastewater (for example, process waste, domestic waste, stormwater, non-contact cooling water) mix prior to entering the receiving water, unless such monitoring points are deemed to be unnecessary by the Department;

4. When the point of compliance is an internal waste stream, the monitoring required by N.J.A.C. 7:14A-14.2 shall be applied to the internal waste stream;

5. When the point of compliance is an internal waste stream, the fact sheet under N.J.A.C. 7:14A-15.8 shall set forth the circumstances which make such limitations necessary, such as that the final discharge point is inaccessible, the wastes at the point of discharge are so diluted as to make monitoring impractical, the interferences among pollutants at the point of discharge would make detection or analysis impracticable, or two or more waste streams are mixed prior to discharge;

6. For whole effluent toxicity, an alternate point of compliance may be established prior to chlorination if either of the following applies:

i. The whole effluent toxicity limitation is based on N.J.A.C. 7:14A-5.3; or

ii. The permit includes water quality based limitations for chlorine produced oxidants and the following conditions are met:

(1) The discharge is in compliance with the water quality based effluent limitations for chlorine produced oxidants at the point of discharge or such limitations have been determined to be unnecessary;

(2) A dechlorination treatment step is not required to attain the water quality based limitations for chlorine produced oxidants;

(3) Establishment of a monitoring point after chlorination at the point of discharge is impracticable or infeasible;

(4) Samples collected after chlorination are not able to attain the water quality based effluent limitation for whole effluent toxicity; and

(5) The permittee demonstrates to the Department's satisfaction that the failure to attain the water quality based limitation in samples collected post-chlorination is due to the presence of chlorine produced oxidants in the effluent sample;

7. For discharges into stormwater conveyances, the point of compliance shall be established prior to the discharge into the stormwater conveyance, unless the Department determines on a site specific basis that an alternate point of compliance is appropriate.

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

7:14A-13.17 Toxicity reduction evaluations

(a) Toxicity reduction requirements shall be included in discharge permits which include a whole effluent toxicity limitations as follows:

1. When a minimum of two tests out of six consecutive whole effluent toxicity tests demonstrate that the effluent does not comply with the effluent limitation, the permittee shall initiate toxicity reduction implementation requirements.

2. Where an exceedance of the permit limit is directly caused by a documented facility upset, or other unusual event which has been identified and appropriately remedied by the permittee, test data collected during the period of upset may be eliminated when determining the necessity of initiating the following toxicity reduction implementation requirements.

3. Toxicity reduction requirements apply to limitations that are in effect or become effective during the term of the permit.

4. The permittee shall conduct a tiered investigation as specified below:

i. Within 30 days of the close of the monitoring period which contained the second violation specified in (a)1 above, the permittee shall initiate the toxicity characterization phase of monitoring consisting of increased monitoring frequency for a total of 12 additional tests, as follows:

(1) For major facilities, monthly effluent monitoring; and

(2) For minor facilities, semi-monthly effluent monitoring.

ii. Upon the third exceedance of the toxicity limit for a major facility or upon the fourth exceedance of the toxicity limit for a minor facility of the tests conducted during the characterization phase, a preliminary toxicity identification shall be conducted, which includes (a)4ii(1) through (5) below as applicable to a specific facility. This preliminary toxicity identification shall be completed within 15 months of completing the toxicity characterization phase:

(1) Treatment plant performance evaluation;

(2) Pretreatment program information;

(3) Evaluation of levels of ammonia-N and chlorine produced oxidants and their effect on the toxicity of the discharge;

(4) Evaluation of chemical use and processes at the facility; and

(5) Evaluation of incidental facility procedures (such as washing of floors and chemical spill disposal) which may contribute to effluent toxicity.

5. Where the data collected during the Toxicity characterization phase indicate consistent compliance with the whole effluent toxicity limit for four (4) consecutive tests, the toxicity reduction implementation requirements are deemed complete and the permittee may return to the monitoring frequency for WET specified in the discharge permit.

6. Where a preliminary toxicity identification has not resulted in compliance with the final effluent limitation, the permittee shall initiate a comprehensive toxicity investigation phase within six months of the completion of the preliminary investigation.

7. Within three months of the demonstration that a comprehensive toxicity investigation is necessary, the permittee shall submit a project study plan. The project study plan shall identify the party or parties responsible for the conduct of the comprehensive evaluation, establish a schedule for completion of the study, and identify and describe the technical approach which the study will utilize. The schedule for completion of the toxicity reduction evaluation is subject to Departmental approval.

i. Quarterly progress reports shall be submitted during the term of the toxicity reduction implementation requirements. The reports shall include a summary of data collected and actions taken during the applicable quarter. A copy of the transmittal letter for each quarterly report shall be forwarded to the applicable regional Enforcement Bureau; and

ii. A final report shall be submitted which identifies the specific actions taken by the permittee to achieve compliance, describes and identifies the pollutants or groups of pollutants contributing to or causing the whole effluent toxicity exceedances, and describes the final corrective actions taken to achieve compliance and the outcome of the study.

8. The permittee may elect to complete an instream verification study prior to the initiation of the comprehensive toxicity identification/ reduction phase specified in (a)6 above. If the permittee selects this option, a project work plan approved by the Department shall be submitted in lieu of the project work plan specified in (a)7 above. This option shall be limited to permittees with discharges to non-tidal, freshwater receiving waters where a regulatory mixing zone of a defined size and shape has been established for the discharge. The study shall be

completed and submitted to the Department for evaluation within two years of selecting this alternative.

i. Where the results of an instream verification study definitively demonstrate that there are no existing or potential adverse impacts from the discharge, the Department shall determine that the permittee is exempt from the requirements of (a)6 above.

ii. If the data submitted for this study are deemed insufficient by the Department to make a determination that there are no existing or potential adverse impacts from the discharge, the permittee shall initiate the comprehensive toxicity identification and reduction evaluation requirements of (a)6 above within 90 days of notification by the Department that the instream verification study was insufficient to make a determination.

iii. The instream verification study shall be completed in accordance with the approved project work plan. Evaluation of the instream data may also require completion of a mixing zone study.

7:14A-13.18 Inclusion of action levels for water quality based effluent limitations

(a) Where the Department has developed water quality based effluent limitations utilizing a chemical equilibrium which includes non-limited pollutants or pollutant parameters which control the chemical equilibrium, action levels for the controlling pollutants or pollutant parameters equal to the values used in the chemical equilibrium calculation shall be included in the permit as permit monitoring conditions.

(b) For ammonia-N limitations, action levels shall be determined and included for pH and may be included for temperature, alkalinity or hardness.

(c) For those metals where the applicable criterion is dependent on hardness, an action level shall be included for hardness.

(d) If the discharge is not in conformance with the applicable action level for a period of time not to exceed the duration of the applicable criterion, the permittee shall take the specific actions stipulated in the discharge permit. These actions may require the permittee to:

1. Collect the necessary instream data during the period of the non-conformance to determine if the instream criteria were exceeded during the period of non-conformance; and

2. Prepare and submit with the monthly DMR, a report which details the frequency and duration of any non-conformance with the action levels as set forth in the permit and includes all instream and effluent data collected during periods of non-conformance.

(e) If the action levels set forth in the permit are exceeded more frequently than once in any monthly monitoring period, the action levels shall be re-evaluated and, if necessary, the effluent limitations associated with those action levels shall

be recalculated. The permit shall be reopened and modified to include the updated effluent limitations and the associated action levels. The permit shall be reopened and modified to adjust the action levels and/or the effluent limitations if monitoring data demonstrate that the discharge causes, contributes, or has the reasonable potential to cause or contribute to an exceedance of the surface water quality standards at N.J.A.C. 7:9B.

7:14A-13.19 Antibalancing

(a) Except as provided for under Section 402(o) of the Federal Act (33 U.S.C. § 1342(o)), when a permit is modified, renewed or reissued, all effluent limitations or standards shall be at least as stringent as the final and effective effluent limitations or standards in the previous permit.

7:14A-13.20 Limitations for non-continuous discharges

(a) In addition to applicable requirements specified in N.J.A.C. 7:14A-13.2 through 13.19, discharges which are not continuous shall be specifically described and limited by one or more of the following measures, as appropriate:

1. Frequency (for example, a discharge shall not occur more often than once every three weeks);

2. Total mass (for example, a discharge shall not exceed 100 kilograms of zinc and 200 kilograms of copper per batch discharge);

3. Maximum rate of discharge of pollutants during the discharge event (for example, the discharge shall not exceed two kilograms of zinc per minute);

4. Maximum concentration of pollutants (for example, the concentration shall not exceed one milligram per liter of zinc); and

5. Prohibition or limitation of specified pollutants by mass, concentration, or other appropriate measure (for example, a discharge shall not contain more than 0.1 mg/L of zinc at any time or more than 250 grams of zinc in any batch discharge).

7:14A-13.21 Implementation of water quality based effluent limitations

(a) The implementation procedures in (b) through (e) below shall be utilized by the Department as a process to incorporate water quality based effluent limitations in discharge permits to ensure compliance with the Surface Water Quality Standards.

(b) Whole effluent toxicity shall be incorporated in discharge permits where a water quality based whole effluent toxicity limitation is required in accordance with N.J.A.C. 7:14A-13.5, water quality based whole effluent toxicity limitations shall be determined and incorporated into the discharge permit in accordance with N.J.A.C. 7:14A-13.6.

The permit may include a schedule to achieve compliance with the water quality based limit.

1. Where a water quality based whole effluent toxicity limitation is not required, the discharge permit shall include an acute whole effluent toxicity limitation in accordance with N.J.A.C. 7:14A-5.3.

(c) Limitations for new sources, new discharges, or expanded direct discharges shall be established as follows:

1. Water quality based limitations for chemical specific parameters shall be incorporated into the discharge permit as required by N.J.A.C. 7:14A-13.5. Chemical specific limitations shall become effective on the effective date of the permit.

2. If a permittee/applicant qualifies in accordance with N.J.A.C. 7:14A-13.3 for limitations based on N.J.A.C. 7:14A-12 Appendix C for a specific pollutant, limitations for that pollutant may be incorporated into the discharge permit. The limitations shall become effective on the effective date of the permit. The effluent limitations shall be re-evaluated when a TMDL is adopted for the affected waterbody.

3. Where a water quality based whole effluent toxicity limitation is required in accordance with N.J.A.C. 7:14A-13.6, the water quality based limitation shall be incorporated into the discharge permit. The Department may include a compliance schedule not to exceed three years for water quality based whole effluent toxicity limitations.

4. Where a water quality based whole effluent toxicity limitation is not required, the discharge permit shall include an acute whole effluent toxicity limitation in accordance with N.J.A.C. 7:14A-5.3.

(d) For site remediation discharges, the site remediation effluent standards at N.J.A.C. 7:14A-12 Appendix B shall be incorporated into the discharge permit unless a water quality based effluent limit is determined in accordance with N.J.A.C. 7:14A-13.5 and 13.6 or the discharge qualifies in accordance with N.J.A.C. 7:14A-13.3(c)5 for limitations based on N.J.A.C. 7:14A-12 Appendix C. The limitations shall become effective on the effective date of the permit unless the Department determines that a compliance schedule is appropriate and is included in the permit. The site remediation limitations may be re-evaluated in conjunction with the TMDL process for the affected waterbody.

(e) For existing discharges, water quality based effluent limitations shall be incorporated into discharge permits in accordance with the following schedule:

1. All water quality based effluent limitations that have been previously included in the discharge permit shall be included in the renewal or reissuance of the discharge permit, unless the Department makes a determination that the discharge does not have the reasonable potential to cause or contribute to an excursion above the Surface Water Quality Standards, or that modification of the

limitation is consistent with N.J.A.C. 7:14A-13.16 and 13.19.

2. Whenever appropriate, water quality based effluent limitations for conventional and non-conventional pollutants, including, but not limited to biochemical oxygen demand (BOD) (or any parameter serving as a surrogate for BOD), nitrogen compounds including ammonia-N, chlorine produced oxidants, total dissolved solids, and dissolved oxygen, shall be included in the discharge permit upon renewal or reissuance.

i. When a water quality based limitation is required to control dissolved oxygen dynamics in the receiving stream, the effluent limitations shall control both the carbonaceous and nitrogenous forms of BOD as necessary based on an evaluation of the reasonable potential of the discharge to cause or contribute to an exceedance of the water quality standards.

ii. Whenever possible, carbonaceous BOD (CBOD) shall be controlled through effluent limitations on CBOD₅ or CBOD₂₀. Limitations on both CBOD₅ and CBOD₂₀ may be imposed to ensure consistency with water quality management plans and/or the requirements of other agencies.

iii. Nitrogenous BOD (NBOD) shall be controlled through effluent limitations on NBOD, ammonia-N, total N, or a combination of these measures.

3. When insufficient data are available to determine water quality based limitations for any conventional or non-conventional pollutant at the time of permit renewal or issuance, the permittee may be required to complete a water quality study to determine appropriate water quality based effluent limitations. In certain cases, the permittee may elect to participate in a watershed-based TMDL study, if the time frame for such study is determined to be acceptable by the Department.

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

SUBCHAPTER 14. MONITORING FREQUENCY REQUIREMENTS APPLICABLE TO DSW AND SIU PERMITS

7:14A-14.1 Purpose and scope

(a) This subchapter sets forth the monitoring frequency requirements for parameters included in DSW and SIU permits that are either monitored and limited, or monitored only.

(b) The Department shall specify alternative monitoring requirements in a permit, other than specified in this subchapter, for cause, provided the Department justifies such alternative monitoring requirements in the fact sheet for the draft permit.

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

7:14A-15.11 Public comments and requests for public hearing

(a) During the public comment period established under N.J.A.C. 7:14A-15.10, any person may submit written comments on a draft permit based upon significant and relevant issues and data.

(b) If a public hearing has not already been scheduled, a person may request a public hearing on a draft permit for which public notice has been published pursuant to N.J.A.C. 7:14A-15.10. A request for a public hearing shall be in writing and shall state the nature of the significant and relevant issues proposed to be raised in the hearing and why these issues cannot be adequately expressed other than at a public hearing.

7:14A-15.12 Public hearings

(a) The Department shall hold a public hearing if there is or may be a significant degree of public interest in favor of holding a public hearing. The Department may hold a public hearing if it determines that a hearing is likely to clarify one or more legal and/or factual issues on a draft permit and that oral testimony is essential to adequately express all issues and concerns.

(b) Public hearings shall be conducted in a non-adversarial manner wherein a person shall be afforded an opportunity to submit oral or written statements and data concerning the draft permit.

(c) The Department may set reasonable limits upon the time allowed for oral comments at the public hearing and may also require the submission of written statements.

(d) The Department shall extend the public comment period established pursuant to N.J.A.C. 7:14A-15.10 to the close of any public hearing held pursuant to this section. The Department may also extend the comment period beyond the public hearing by so stating at the hearing.

(e) If a permittee has requested to arrange for a public hearing and the Department determines that a public hearing is warranted based on (a) above, it shall be the sole responsibility of the applicant to secure the use of an adequate facility to hold the public hearing and to obtain any ancillary services associated with the public hearing including, but not limited to, a stenographer and/or tape recording. The location, time and date of the public hearing shall be mutually acceptable to the Department and the applicant.

(f) When a permittee arranges the public hearing, it shall provide the Department with two copies of the public hearing transcript at no charge to the Department.

(g) The Department shall make available for public inspection a written transcript of the public hearing. A copy of the transcript will be sent, on request, for a reasonable fee for copying.

7:14A-15.13 Obligation to raise issues and provide information during the public comment period

Any applicant or permittee or person interested in being considered a party to an action pursuant to N.J.A.C. 7:14A-17.3 who believes that any action under N.J.A.C. 7:14A-15.10(a) is inappropriate shall raise all reasonably ascertainable issues and submit, in writing to the Department by certified mail (return receipt requested), or by other means which provides verification of the date of delivery to the Department all such reasonably ascertainable arguments and factual grounds supporting them, including all supporting materials, by the close of the public comment period. If an applicant or permittee or any person fails to raise any reasonably ascertainable issues within the public comment period, the right to raise or contest any such issues in any subsequent adjudicatory hearing or appeal shall be deemed to have been waived. All supporting materials shall be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or consist of State or Federal statutes and regulations, USEPA documents of general applicability, or other generally available reference materials. Commenters shall make any supporting material incorporated by reference available at the request of the Department.

7:14A-15.14 Reopening of the public comment period

(a) Upon its determination that any data, information or argument submitted during the comment period raises significant legal and/or factual issues that are likely to affect the final decision on the permit, the Department shall take one or more of the following actions:

1. Prepare a new draft permit, appropriately modified, pursuant to N.J.A.C. 7:14A-15.6;
2. Prepare a revised statement of basis under N.J.A.C. 7:14A-15.7, or a revised fact sheet pursuant to N.J.A.C. 7:14A-15.8, and reopen the comment period under (a)3 below; or
3. Reopen or extend the comment period to give a person the opportunity to comment on the data, information or arguments so submitted.

(b) Comments filed during the reopened or extended comment period shall be limited to the relevant legal and/or factual issues that prompted the reopening or extension of the comment period. The public notice under N.J.A.C. 7:14A-15.10 shall define the scope of the reopened or extended comment period.

(c) The Department shall publish public notice of any of the actions specified at (a) above in accordance with N.J.A.C. 7:14A-15.10, except when the comment period is reopened or extended for 15 days or less, in which case, the Department shall provide only the applicant and all persons who commented on the draft permit with oral or written notice of the reopened or extended public comment period.

7:14A-15.15 Final permit decision and issuance and effective date of a permit

(a) The Department shall issue a final permit decision after the close of the public comment period. The Department also shall notify, in writing, the applicant or permittee and each person who submitted written comments or requested notice of the final permit decision. This notification shall include reference to the procedures provided to the applicant or permittee and persons other than the applicant or permittee for contesting the Department's decision on a permit.

(b) A final permit shall not become effective until 30 days from receipt by the permittee of the permit except when:

1. An effective date is not specified in the permit but the permit specifies that the permittee may request the establishment of the effective date at a subsequent time;
2. A later effective date is specified in the permit; or
3. The Department has received no comment from persons other than the permittee on the draft permit and an immediate effective date is requested by the permittee, in writing, and the Department concurs.

(c) After the issuance of a final permit decision:

1. A treatment works approval, if required by N.J.A.C. 7:14A-22.3, shall be obtained.
2. The permittee or any other person considered a party to the action under N.J.A.C. 7:14A-17.3 may request an adjudicatory hearing to contest the final permit decision in accordance with N.J.A.C. 7:14A-17.2.

7:14A-15.16 Response to comments

(a) The Department shall specifically respond to comments concerning draft permits from persons, including comments from affected states, by issuing a response to comments document at the time that a final permit decision is issued. The document shall:

1. State what action the Department has taken on the final permit or permit decision;
2. Specify which provisions, if any, of the draft permit have been changed in the final permit, and the reasons for the change. The Department shall make only those changes which do not destroy the value of the original fact sheet or statement of basis; and

3. Briefly describe and respond to all significant and relevant comments on the draft permit raised during the public comment period, or during any public hearing.

(b) A person may arrange to review the response to comments document by telephoning the Department's Bureau of Central Services and Property Management at (609) 292-0400.

7:14A-15.17 Administrative record for the final permit

(a) The Department shall base final permit decisions made pursuant to N.J.A.C. 7:14A-15.15 on the administrative record, which shall consist of the following:

1. The administrative record for the draft permit under N.J.A.C. 7:14A-15.9;
2. All comments received during the public comment period established under N.J.A.C. 7:14A-15.10 including any extension or reopening under N.J.A.C. 7:14A-15.14;
3. The tape or transcript of any public hearing(s) held under N.J.A.C. 7:14A-15.12;
4. Any written materials submitted at any public hearing held under N.J.A.C. 7:14A-15.12;
5. The response to comments document prepared under N.J.A.C. 7:14A-15.16 and any new material placed in the record under that section;
6. Other documents contained in the supporting file for the permit; and
7. The final permit.

(b) Any of the materials described at (a) above that are readily available in the offices of the Department or are published and generally available need not be physically included in the administrative record provided a specific reference to such materials is made in the fact sheet or statement of basis.

(c) A person may arrange to review the administrative record by telephoning the Department's Bureau of Central Services and Property Management at (609) 292-0400.

APPENDIX A

GUIDE TO THE NJPDES PERMIT PROCESSING REQUIREMENTS

Appendix A is designed to assist a new applicant, or permittee in following the permit procedural requirements set out in this chapter. An applicant should read the full text of the regulations before applying for a permit.

The flow chart outlines a sequence of events directed by arrows and is divided into two sections as follows:

Section 1—Application Procedures

(c) Nothing in this subchapter shall preclude or deny the right of a local agency to independently implement an IPP or adopt any pretreatment requirements or standards which are more stringent than the requirements in 40 CFR Part 403, 40 CFR chapter I, subchapter N, or the requirements in this subchapter.

7:14A-19.2 Industrial pretreatment program development by local agencies

(a) Any local agency, or combination of treatment works operated by the same local agency, which meets the following criteria shall establish an IPP unless the Department exercises its option to implement the IPP:

1. The treatment works total design flow is greater than five million gallons per day (MGD); and
2. The treatment works receives pollutants from indirect users which pass through or interfere with the operation of the treatment works or are otherwise subject to pretreatment standards.

(b) The Department shall require a local agency, or combination of treatment works operated by the same local agency, with a design flow of five MGD or less to establish an IPP if the nature or volume of industrial influent, treatment process upsets, violations of effluent limitations, contamination of municipal sludge, or other circumstances warrant the establishment of an IPP in order to prevent interference with the treatment works or pass through.

(c) Any local agency required to establish an IPP pursuant to (a) or (b) above shall develop and submit to the Department for approval an IPP in accordance with the requirements of 40 CFR Part 403 and the additional requirements of this subchapter. The local agency required to develop an IPP shall have a pretreatment program compliance schedule incorporated into the NJPDES permit at the time of issuance, re-issuance, or modification of the permit. The compliance schedule shall require the development and submission of an IPP which addresses the requirements of this subchapter no later than one year after receipt of written notification from the Department that such an IPP is required.

7:14A-19.3 Industrial pretreatment program requirements for all local agencies

(a) As specified at N.J.A.C. 7:14A-16.3 and 16.4, the Department may reissue or modify a local agency's NJPDES permit to include IPP requirements as set forth in this subchapter.

(b) All local agencies, including those not required by N.J.A.C. 7:14A-19.2(a) and (b) to establish an IPP, shall comply with the following IPP requirements:

1. All local agencies shall submit a copy of the local sewer use ordinance or rules and regulations, including any amendments, to the Bureau of Pretreatment and Residuals

in the Department at 401 East State Street, PO Box 029, Trenton, NJ 08625-0029;

2. All local agencies shall identify and locate indirect users as specified below:

- i. All delegated local agencies shall update their inventory of indirect users at a frequency and diligence adequate to ensure proper identification of indirect users subject to pretreatment standards, appropriate characterization of the nature of their discharges, and correct designation of indirect users as categorical, significant/major, or other regulated. This update shall be completed at a minimum frequency of once per year, and shall be included in the 40 CFR 403 Annual Report required under N.J.A.C. 7:14A-19.6(f).

- ii. Non-delegated local agencies shall submit an annual report, which consists of a listing of all indirect users which meet the significant indirect user definition in N.J.A.C. 7:14A-1.2;

3. All local agencies shall develop local limits or demonstrate that such limits are not necessary in accordance with N.J.A.C. 7:14A-19.7;

4. Of the amount of any penalty assessed and collected pursuant to an action brought by a local agency in accordance with N.J.S.A. 58:10A-10, 10 percent shall be deposited in the Wastewater Treatment Operators' Training Account established in accordance with N.J.S.A. 58:10A-14.5 and used to finance the cost of training operators of municipal treatment works. The remainder shall be used by the local agency solely for enforcement purposes and for upgrading municipal treatment works; and

5. Except as otherwise provided in N.J.S.A. 47:1A-3, any records, reports, or other information obtained by a local agency pursuant to this paragraph or N.J.S.A. 58:11-53, including any correspondence relating thereto, shall be available to the public. However, upon a showing satisfactory to the local agency by any person that the making public of any record, report, or information, or a part thereof, other than effluent data, would divulge methods or processes entitled to protection as trade secrets, the local agency shall consider such record, report, or information, or part thereof, to be confidential and access thereto shall be limited to authorized officers or employees of the Department, local agency, and the Federal government.

(c) All delegated local agencies (DLAs) shall comply with the following IPP requirements:

1. All DLAs shall notify indirect users of the responsibilities required in the DLA's rules and regulations or sewer use ordinance as soon as possible but no later than 30 days from the determination that such indirect users are subject to regulation under the IPP. This notice shall not preclude the DLA from taking any enforcement action against an indirect user;

2. All DLAs shall issue an IPP permit to indirect users, as required by the DLA's NJPDES permit;
3. All DLAs shall perform compliance monitoring and inspections of indirect users, as required by the DLA's NJPDES permit;
4. All DLAs shall review and respond to violations of an IPP permit or the sewer use ordinance/rules and regulations, within 60 days of receipt of the compliance information generated by indirect users or the DLA;
5. All DLAs shall take enforcement actions based upon indirect users' noncompliance in accordance with the approved Enforcement Response Plan (ERP). In the absence of an approved ERP, the enforcement action shall be taken in accordance with the IPP as approved;
6. All DLAs shall develop and maintain a data management system which includes an indirect user inventory, characterization of the nature of indirect user discharges, compliance status, permit status, and enforcement actions. The DLA shall retain for a minimum of five years records of its monitoring activities and results (whether or not such activities are required by the DLA's NJPDES permit) and shall make such records available to EPA and the Department upon request;
7. All DLAs shall sample their treatment works and sludges as specified below:
 - i. Perform, at least once per year, an analysis for those priority pollutants listed in N.J.A.C. 7:14A-4, Appendix A, Tables II and III, of the discharge from, and inflow to, the municipal treatment works; and
 - ii. Perform, at least once per year, a priority pollutant scan on the sludge produced at the municipal treatment works. This analysis must be completed on those parameters listed in the Sludge Quality Assurance Regulations, N.J.A.C. 7:14C. The sludge samples shall be collected to coincide with the influent and effluent monitoring for priority pollutants required in (c)7i above;
8. All DLAs shall comply with the public participation and notification requirements in N.J.A.C. 7:14A-19.10;
9. All DLAs shall notify their significant indirect users (SIUs) in writing, in accordance with 40 CFR 403.8(f)(2)(iii), of the SIUs' obligation to comply with applicable requirements under Subtitles C and D of the Resource Conservation and Recovery Act (RCRA);
10. All DLAs shall secure and maintain sufficient resources and qualified personnel, in accordance with 40 CFR 403.8(f)(3), to carry out the program implementation procedures described in this subchapter;
11. All DLAs shall submit annual reports required by N.J.A.C. 7:14A-19.6(c), (f) and (h); and
12. Of the penalty amount collected through the issuance of a summons pursuant to N.J.S.A. 58:10A-10.4, 10

percent shall be paid to the municipality or municipalities in which the municipal court retains jurisdiction for use for court purposes, with the remainder to be retained by the DLA.

(d) Each local agency shall identify, within its sewer use ordinance or rules and regulations, violations of the requirements of the ordinance or rules and regulations based on the criteria of the Grace Period Law, N.J.S.A. 13:1D-129(b). A time period for correction of minor violations and to achieve compliance shall be established in accordance with N.J.S.A. 13:1D-127.

Administrative correction.

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

Amended N.J.A.C. references.

Amended by R.1999 d.164, effective May 17, 1999.

See: 31 N.J.R. 200(a), 31 N.J.R. 1320(a).

In (c)7ii, changed N.J.A.C. reference.

Amended by R.2007 d.234, effective August 6, 2007.

See: 38 N.J.R. 2919(a), 39 N.J.R. 3298(a).

In (c)11, updated the N.J.A.C. reference; and added (d).

7:14A-19.4 Enforcement response plans

(a) A delegated local agency shall develop and implement an enforcement response plan in accordance with this section. The plan shall contain detailed procedures describing how a delegated local agency shall investigate and respond to instances of indirect user noncompliance. The plan shall, at a minimum:

1. Describe how the delegated local agency shall investigate instances of noncompliance;
2. Describe the types of escalating enforcement responses the delegated local agency shall take in response to all anticipated types of indirect user violations and the time frames within which responses shall take place;
3. Identify (by title) the official(s) responsible for each type of response;
4. Adequately reflect the delegated local agency's primary responsibility to enforce all applicable pretreatment requirements and standards as detailed in 40 CFR 403.8(f)(1) and (f)(2), and the delegated local agency's approved pretreatment program and amendments; and
5. Contain noncompliance and nature of violation criteria and responses as set forth in the plan contained in Appendix A of this subchapter, incorporated hereby by reference, which denotes the minimum requirements.

(b) A delegated local agency may develop an enforcement response plan in tabular format for easy reference, such as the enforcement response plan set forth in Appendix A.

(c) The enforcement response plan shall be included within the rules and regulations or sewer use ordinance of a delegated local agency.

(d) The enforcement response plan shall include or shall incorporate by reference all mandatory penalties, settlement restrictions, uniform penalty policies, grace period provisions, and other requirements applicable to the Department in accordance with N.J.A.C. 7:14-8.1(f), including, without limitation, the civil administrative penalty determination procedure specified in N.J.A.C. 7:14-8.16.

(e) The development of the ERP in accordance with this section shall not preclude a DLA from initiating other available enforcement responses where violations are not specifically identified in the ERP.

(f) All delegated local agencies shall submit to the Department an ERP in accordance with (a) above no later than March 20, 1999.

(g) Notwithstanding the time frame provided by (f) above for submissions, this subchapter as amended effective January 19, 1999 shall apply to any violation occurring on or after January 19, 1999.

Amended by R.1999 d.32, effective January 19, 1999.
See: 30 N.J.R. 1356(a), 31 N.J.R.157(a).

In (a)5, deleted "The delegated agency shall be in violation of this subsection only if it fails to take action in accordance with the minimum requirements in Appendix A" from the end; rewrote (d); in (f), substituted "no later than March 20, 1999" for "by November 1, 1997"; and added (g).

Amended by R.2007 d.234, effective August 6, 2007.
See: 38 N.J.R. 2919(a), 39 N.J.R. 3298(a).

In (d), inserted " grace period provisions,".

7:14A-19.5 Enforcement requirements in an industrial pretreatment program

(a) All delegated local agencies shall, at a minimum, include in their sewer use ordinance or rules and regulations the following enforcement and penalty provisions:

1. The ability to issue an order in accordance with N.J.S.A. 58:10A-10a(1);
2. The ability to bring a civil action, including injunctive relief, in accordance with N.J.S.A. 58:10A-10a(2) and 58:11-55(b);
3. The ability to petition the county prosecutor or Attorney General to bring a criminal action in accordance with N.J.S.A. 58:10A-6.i. and 58:10A-10a(5);
4. The ability to issue a civil administrative penalty in accordance with N.J.S.A 58:10A-10.5;
5. The ability to bring an action for a civil penalty in accordance with N.J.S.A. 58:10A-10a(4);
6. The ability to issue a summons in accordance with N.J.S.A. 58:10A-10.4;
7. The ability to assess a penalty for each violation that causes a violator to be, or continue to be, a significant noncomplier as defined at N.J.A.C. 7:14-8.2;

8. The ability to assess a penalty for each serious violation as defined at N.J.A.C. 7:14-8.2;

9. The ability to assess a penalty in accordance with N.J.A.C. 7:14-8.16;

10. The ability to assess a penalty for submitting inaccurate or false information in accordance with N.J.A.C. 7:14-8.6; and

11. The ability to assess a penalty for failure to properly conduct monitoring or sampling activities or to submit discharge monitoring reports/self-monitoring reports, or other pretreatment monitoring reports in accordance with N.J.A.C. 7:14-8.9(c), (d) and (e).

(b) All delegated local agencies shall include in their sewer use ordinance or rules and regulations procedural and substantive requirements regarding:

1. Notice of a penalty assessment and notice of the opportunity to request an administrative hearing on the assessment of a civil administrative penalty in accordance with N.J.S.A. 58:10A-10.5 and N.J.A.C. 7:14-8.4;

2. Opportunity to file exceptions, objections, and replies to the head of the delegated local agency in accordance with N.J.S.A. 58:10A-10.6;

3. Issuance of a final decision or order in accordance with N.J.S.A. 58:10A-10.6 and 10.7;

4. Appeal of a civil administrative penalty, the payment of interest, the collection of the civil administrative penalty and other procedures in accordance with N.J.S.A. 58:10A-10.8; and

5. Civil administrative penalty settlement restrictions in accordance with N.J.A.C. 7:14-8.3(e).

(c) All delegated local agencies shall, by March 20, 1999, submit to the Department a sewer use ordinance or rules and regulations which include those provisions specified in (a) and (b) above, as well as the provisions of the enforcement response plan required by N.J.A.C. 7:14A-19.4(a) through (e).

(d) Notwithstanding the time frame provided by (c) above for submissions, this subchapter as amended effective January 19, 1999 shall apply to any violation occurring on or after January 19, 1999.

Amended by R.1999 d.32, effective January 19, 1999.
See: 30 N.J.R. 1356(a), 31 N.J.R. 157(a).

In (b), added an N.J.A.C. reference in 1, deleted "the posting of bond or security" following "administrative penalty" at the beginning of 4 and added 5; and added (c) and (d).

7:14A-19.6 Additional requirements for delegated local agencies

(a) Each permitted facility discharging into the municipal treatment works of a delegated local agency, other than a facility discharging only stormwater or non-contact cooling

water, shall be inspected by the delegated local agency at least once a year. The Department may also inspect a facility required to be inspected by a delegated local agency. Exemption of stormwater facilities from the provisions of this subsection shall not apply to any permitted facility discharging or receiving stormwater runoff having come into contact with a hazardous discharge site on the Federal National Priorities List adopted by the EPA pursuant to the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq., or any other hazardous discharge site included by the Department on the master list for hazardous discharge site cleanups adopted pursuant to N.J.S.A. 58:10-23.16. An inspection required under this subsection shall be conducted within six months following a permittee's submission of an application for a permit, permit renewal or issuance of a permit for a new facility, except that if for any reason, a scheduled inspection cannot be made, the inspection shall be rescheduled to be performed within 30 days of the originally scheduled inspection or in the case of a temporary shutdown, of resumed operation. Inspections shall include:

1. A representative sampling of the effluent for each permitted facility, except that in the case of facilities that are not major facilities or significant indirect users, sampling pursuant to this paragraph shall be conducted at least once every three years. Collection of a representative sampling is required to complete an inspection but does not necessarily have to be conducted concurrently with the inspection;

2. An analysis of all collected samples by a laboratory certified by the Department;

3. An evaluation of the maintenance record of the permittee's treatment equipment;

4. An evaluation of the permittee's sampling techniques;

5. A random check of written summaries of test results, prepared by the certified laboratory, providing the test results for the immediately preceding 12-month period, signed by a responsible official of the certified laboratory, certifying the accuracy of the test results. This random check can be completed by reviewing the test results at the permitted facility, and/or through review of test results previously submitted by the permitted facility to the delegated local agency;

6. An inspection of the permittee's sample storage facilities and techniques if the sampling is normally performed by the permittee; and

7. An evaluation, at least once every two years, of each significant indirect user (as defined by the delegated local agency) in order to determine the need for a plan to control slug discharges. For purposes of this paragraph, a slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge. If the delegated local agency

decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

i. A description of discharge practices, including non-routine batch discharges;

ii. A description of stored chemicals;

iii. Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition at N.J.A.C. 7:14A-21.2, with procedures for follow-up written notification within five days; and

iv. If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

(b) In addition to the inspection requirements of (a) above, all delegated local agencies shall inspect any permittee which meets the significant noncomplier definition at N.J.A.C. 7:14A-1.2. The inspection under this subsection shall be conducted within 60 days of receipt of the discharge monitoring report or self-monitoring report that initially results in the permittee's being identified as a significant noncomplier. The inspection shall include a random check of written summaries of test results, prepared by the certified laboratory providing the test results for the immediately preceding 12-month period signed by a responsible official of the certified laboratory, certifying the accuracy of the test results. A copy of each summary shall be maintained by the permittee. The inspection shall be for the purpose of determining compliance and shall only be performed once each calendar year. A delegated local agency is not required to make an inspection hereunder if an inspection has been made pursuant to (a) above within six months of the period within which an inspection is required to be conducted under this subsection.

(c) A delegated local agency shall submit a "Clean Water Enforcement Act" (CWEA) annual report to the Department by February 1 of each year. The CWEA annual report shall include, at a minimum, the information under N.J.S.A. 58:10A-14.2, including all supplements and amendments thereto.

(d) In addition to the information required in the CWEA annual report under (c) above, delegated local agencies shall also include the following information in the CWEA annual report:

1. The number of indirect users which met the significant non-compliance definition during the calendar year and, by the close of the calendar year, had achieved compliance; and

2. The number of indirect users which had met the significant non-compliance criteria during the prior reporting year which have achieved compliance in the reporting period for which the annual report is being prepared.

(e) The information required in (c) and (d) above shall be submitted on forms provided by the Department.

(f) All delegated local agencies shall submit to the Department a "40 CFR Part 403" annual report which describes their pretreatment program activities. This report must contain, at a minimum, the information required under 40 CFR 403.12(i), including all supplements and amendments thereto. This report shall be submitted by the date specified in the delegated local agency's NJPDES permit.

(g) Each delegated local agency shall, by February 2, 2008, submit to the Department a sewer use ordinance or rules and regulations that include those provisions specified in N.J.A.C. 7:14A-19.3(d).

(h) A delegated local agency shall submit a grace period annual report to the Department. The grace period annual report shall include, for each calendar year, the information required under N.J.S.A. 13:1D-132, including, but not limited to:

1. The number of facilities regulated;
2. The number of inspections performed;
3. The number of minor violations identified, and the number of facilities responsible therefore;
4. The number of minor violations corrected during a grace period, and the number of facilities responsible therefore;
5. The number of minor violations not corrected during a grace period, and the number of facilities responsible therefore;
6. The number of enforcement actions assessing a penalty initiated for one or more minor violations not corrected during a grace period;
7. The number of non-minor violations identified, and the number of facilities responsible therefore; and

8. The number of enforcement actions assessing a penalty initiated for one or more non-minor violations.

(i) The information required in (h) above shall be submitted to the Department on or before March 1 of the year immediately following the calendar year to which the information applies. The information required in (h) above shall be submitted on forms provided by the Department.

Administrative correction.

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

Renumbered (d)i and (d)ii as (d)1 and (d)2.

Amended by R.2007 d.234, effective August 6, 2007.

See: 38 N.J.R. 2919(a), 39 N.J.R. 3298(a).

Added (g), (h) and (i).

7:14A-19.7 Development of local limits by local agencies

(a) All local agencies shall perform a headworks analysis in order to develop local limits or demonstrate that local limits are not necessary. The headworks analysis and, if necessary, development of local limits shall:

1. Be conducted in accordance with the Guidance Manual on the Development and Implementation of Local Discharge Limitations under the Pretreatment Program (December 1987, USEPA Office of Water Enforcement), including all supplements and amendments thereto; and
2. Ensure compliance with the following minimum environmental protection criteria:
 - i. The numerical effluent limitations in the local agency's NJPDES permit;
 - ii. The local agency's process inhibition and upset criteria;
 - iii. The local agency's worker health and safety protection criteria;
 - iv. The sludge quality criteria for a chosen method(s) of sludge management; and
 - v. The limitations in the local agency's Air Pollution Control permit, where applicable.

(b) Prior to initiation of any headworks analysis and development of local limits under (a) above, all delegated local agencies shall submit a work plan to the Department, for review and approval with conditions if necessary, which outlines the tasks and time frames in the development of a headworks analysis and local limits. At a minimum, this plan shall include the parameters to be sampled, the sampling locations within the treatment plant and the collection system, and a schematic diagram of the treatment plant showing sampling locations.

(c) When proposing and adopting local limits, all delegated local agencies shall comply with the public notice and hearing requirements of N.J.A.C. 7:14A-19.10(a).

(d) All delegated local agencies shall submit a written technical evaluation of the need to revise local limits whenever:

1. There are any changes in the applicable sludge quality criteria or effluent limitations, or there is a significant change in the nature of indirect user contributions to the local agency's influent; or
2. The local agency's NJPDES permit renewal application is due.

(e) The written technical evaluation required under (d) above shall include the following:

1. A listing of all existing local limits and the limiting factor by which each local limit was established;
2. The date that the existing local limits were established;
3. A description of any changes in Federal or State regulations, environmental protection criteria, plant design, operational criteria, or any significant change in the nature of industrial contributions which may require the reevaluation of local limits through the completion of a headworks analysis;
4. A description of the local agency's compliance history over the previous five years, with respect to compliance with effluent limitations, sludge quality, plant inhibition or upset, and worker health and safety; and
5. A statement from the local agency as to whether or not local limits need to be revised based on the information gathered under (e)1 through 4 above.

(f) The Department shall review the written technical evaluation submitted under (d) above and, if necessary, require the local agency to revise the local limits in accordance with (a) above.

7:14A-19.8 Requirements for issuance of IPP permits by delegated local agencies

(a) All delegated local agencies shall issue an IPP permit to:

1. Any SIU as defined in N.J.A.C. 7:14A-1.2 or as defined in the delegated local agency's sewer use ordinance or rules and regulations; and

2. Any other indirect user when effluent limitations and other conditions are to be imposed on that user, at the discretion of the local agency.

(b) The delegated local agency shall include the following requirements in all IPP permits:

1. All permit requirements established in N.J.S.A. 58:10A-6f; and
2. All permit requirements for IPP/SIU permits established in 40 CFR 403.8(f)(1)(iii)(A) through (E).

(c) Prior to approving any proposed new indirect user IPP permits, proposed renewed indirect user IPP permits, or proposed major modifications to any existing indirect user IPP permit, all delegated local agencies shall comply with the public notice and hearing requirement of N.J.A.C. 7:14A-19.10(e).

(d) All delegated local agencies shall include in their sewer use ordinance or rules and regulations the following permit issuance requirements:

1. Procedural and substantive requirements regarding written applications for IPP permits and indirect user authorizations to discharge. The application form must require the submission of full information as to the quantity, character, and composition of the proposed discharge;

2. Procedural requirements for the issuance, renewal, modification, suspension, revocation of IPP permits or indirect user authorizations. The procedures must include notice, opportunity to comment, and opportunity to request a public hearing on all draft IPP permits. The DLA shall issue a response-to-comments document at the time that a final permit is issued. The response-to-comments document shall:

- i. State the action the DLA has taken on the final permit;
- ii. Specify which provisions, if any, of the draft permit have been changed in the final permit, and the reasons for any such change; and
- iii. Briefly describe and respond to all relevant comments on the draft permit raised during the public comment period, or during the public hearing, if any;

3. The requirement that no IPP permit shall be issued, renewed, or modified by a delegated local agency so as to relax any effluent limitation unless the IPP permittee or applicant has complied with the requirements of N.J.S.A. 58:10A-6k.

7:14A-19.9 Modifications of an industrial pretreatment program

(a) All delegated local agencies shall provide written notice to the Department regarding all substantial and non-substantial IPP modifications, as defined under 40 CFR 403.18.

(b) For non-substantial modifications, the delegated local agencies shall include a statement of the basis for the modification, and a copy of the elements of the IPP to be modified.

(c) For substantial modifications, the delegated local agency shall submit:

1. A statement of basis for the proposed modifications;
2. A statement of legal authority in accordance with 40 CFR 403.9(b)(1);
3. Documentation which will allow the Department to identify those parts of the sewer use ordinance or rules and regulations, NJPDES permit, and/or the original program submission, or amendments thereto, which are being modified; and
4. Any other documentation the Department requests during the review of the proposed modifications.

(d) While awaiting a decision from the Department on a request for a substantial modification the delegated local agency shall:

1. Adopt the proposed modifications with the written condition that the modifications shall not become effective and shall not be implemented until the Department has given written approval of the modifications; or
2. Await Departmental approval prior to adopting the modifications.

(e) The Department shall approve or disapprove any proposed modification(s) based on the requirements of 40 CFR 403.8(f), following the procedures in 40 CFR 403.11(b) through (f).

(f) For industrial pretreatment program modifications, all delegated local agencies shall comply with the public notice and hearing requirement of N.J.A.C. 7:14A-19.10(a).

(g) All approved modifications to an IPP shall be incorporated, where applicable, into the delegated local agency's NJPDES permit as a minor modification in accordance with N.J.A.C. 7:14A-16.5.

7:14A-19.10 Public notice requirements for delegated local agencies

(a) All delegated local agencies shall provide public notice and an opportunity for a public hearing for all requests for substantial modification of an industrial pretreatment program following the procedures under 40 CFR 403.11(b). The delegated local agency shall submit to the Department copies of the public notice, all written comments submitted in response to the public notice and public hearing, if conducted, and responses to comments. The Department shall approve or disapprove the modifications following the procedures noted in N.J.A.C. 7:14A-19.9(e).

(b) All delegated local agencies shall provide public notice identifying those indirect users which met the significant noncompliance criteria under 40 CFR 403.8(f)(2)(vii) at any time during the period covered by the delegated local agency's 40 CFR Part 403 Annual Report submitted to the Department pursuant to N.J.A.C. 7:14A-19.6(f). This public notice shall be published in the official daily newspaper designated by the local agency no later than 60 days after the 40 CFR 403 Annual Report due date.

(c) A delegated local agency shall afford an opportunity to the public to comment on a proposed administrative consent order prior to final adoption if the administrative consent order would establish interim enforcement limits that would relax effluent limitations established in a permit or a prior administrative order. The delegated local agency shall provide public notice of the proposed administrative consent order, announce the length of the comment period, which shall be not less than 30 days, commencing from the date of publication of the notice. A notice shall also include a summary statement describing the nature of the violation necessitating the administrative consent order and its terms and conditions; shall specify how additional information on the administrative consent order may be obtained; and shall identify to whom written comments are to be submitted. At least three days prior to publication of the notice, a written notice containing the same information to be provided in the public notice shall be mailed to the mayor and governing body of the municipality and county in which the violation occurred, and to any other persons who have expressed an interest in the public notice, including any other governmental agencies. The delegated local agency shall consider the written comments received during the comment period prior to final adoption of the administrative consent order. Not later than the date that final action is taken on the proposed order, the delegated local agency shall notify each person or group having submitted written comments on the main provisions of the approved administrative consent order and respond to the comments received therefrom.

(d) The delegated local agency, on its own initiative or at the request of any person submitting written comments pursuant to (c) above, may hold a public hearing on the proposed administrative order or administrative consent order, prior to final adoption if the order would establish interim enforcement limits that would relax for more than 24 months effluent limitations established in a permit or a prior administrative order or administrative consent order. Public notice for the public hearing to be held pursuant to this subsection shall be published not more than 30 and not less than 15 days prior to the holding of the hearing. The hearing shall be held in the municipality in which the violation necessitating the order occurred.

(e) All delegated local agencies shall provide public notice and may hold a public hearing for any proposed new indirect user IPP permits, proposed renewed indirect user IPP permits, proposed revocations of any indirect user IPP permits, or proposed major modifications to any existing indirect user IPP permits.

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

pretreatment program and any subsequent amendments thereto or enforce the conditions of an approved industrial pretreatment program, including the approved enforcement response plan, and any subsequent amendments thereto in accordance with N.J.A.C. 7:14-8.

7:14A-19.11 Enforcement action for failure to implement or enforce an approved industrial pretreatment program

The Department may take enforcement action against a delegated local agency pursuant to N.J.A.C. 7:14-8.17 for failure to implement the conditions of an approved industrial

Amended by R.1999 d.32, effective January 19, 1999.
See: 30 N.J.R. 1356(a), 31 N.J.R. 157(a).
Rewrote the section.

APPENDIX A

ENFORCEMENT RESPONSE PLAN

Unauthorized Discharges

<u>Noncompliance</u>	<u>Nature of the Violation</u>	<u>Enforcement Responses</u>	<u>Time Frame</u>	<u>Personnel</u>	<u>Type of viol. & grace period (if any)</u>
1. Discharge without a permit (Permit required)	No harm to POTW environment	NOV with application form, if needed	60 days		NM
	Harm to POTW/environment (IU meets SNC criteria under 40 CFR Part 403.8(f)(2)(vii))	Take action to halt activity	2 days		NM
	Noncompliance with order to submit application	Seek penalty	6 months		NM
2. Failure to renew	Failure to submit application prior to 180 days of expiration of current permit	NOV	60 days		NM
	Failure to apply continues after notice by the POTW	Seek penalty	6 months		NM
3. Discharge outside scope of application/permit	Failure to notify in advance of new introductions of pollutants or significant change in existing pollutants	NOV with permit application to be modified	60 days		NM
<u>Discharge Limit Violation</u>					
1. Exceedance of local or Federal standard (permit limit)	Individual or monthly non-serious violation	NOV; compliance response/corrective action plan, if needed	60 days from receipt		NM
	Serious violation (individual or monthly)	Seek at least a mandatory minimum penalty in accordance with N.J.A.C. 7:14-8.16	6 months		NM
2. Exceedance of local or Federal standard (permit limit) (continued)	Significant Noncompliance (IU meets SNC criteria under 40 CFR Part 403)	Public notice	Annually, but no later than 60 days after 403 annual report submitted to NJDEP.		NM
	Significant noncompliance (IU meets SNC criteria in NJWPCA, under N.J.S.A. 58:10A-3.w.)	Seek at least a mandatory minimum penalty in accordance with N.J.A.C. 7:14-8.16	6 months		NM

<u>Noncompliance</u>	<u>Nature of the Violation</u>	<u>Enforcement Responses</u>	<u>Time Frame</u>	<u>Personnel</u>	<u>Type of viol. & grace period (if any)</u>
<u>Monitoring and Reporting Violations</u>					
1. Reporting violation	Late, 5 or more days after due date (but complete)	NOV, seek penalty, including at least mandatory minimum penalty for overdue effluent parameter information, if any, in accordance with N.J.A.C. 7:14-8.9 (note: Penalty waived if complete report is received within 10 days of receipt of the NOV)	6 months		NM
	Late 31 days or more after due date (but complete)	Public notice, NOV, and seek penalty, including at least mandatory minimum penalty for overdue effluent parameter information, if any, in accordance with N.J.A.C. 7:14-8.9 (note: Penalty waived if complete report is received within 10 days of receipt of the NOV)	Public notice in accordance with approved program	Penalty within 6 months	NM
	Incomplete for effluent parameter omission	Seek at least a mandatory minimum penalty in accordance with N.J.A.C. 7:14-8.9	6 months		NM
	Incomplete for data omission (IU meets SNC criteria under 40 CFR Part 403)	Public notice	Annually		NM
	Incomplete for effluent parameter omission (IU meets SNC criteria under NJWPCA)	Public notice and seek at least a mandatory minimum penalty in accordance with N.J.A.C. 7:14-8.9 and N.J.A.C. 7:14-8.16(a)	Public notice in accordance with approved program	Penalty within 6 months	NM
	Incomplete for other omissions (IU meets SNC criteria under NJWPCA)	Public notice and seek at least a mandatory minimum penalty in accordance with N.J.A.C. 7:14-8.16	Public notice in accordance with approved program	Penalty within 6 months	NM
	Incomplete for other omissions	NOV	60 days		M - 10 days

<u>Noncompliance</u>	<u>Nature of the Violation</u>	<u>Enforcement Responses</u>	<u>Time Frame</u>	<u>Personnel</u>	<u>Type of viol. & grace period (if any)</u>
	Falsification	Seek penalty or refer to county prosecutor	60 days		NM
2. Failure to adhere to compliance schedules (in control document, permit, AO/ACO, letter of agreement)	Missed milestone by less than 30 days	NOV, seek penalty (note: penalty may be waived if final compliance is met by due date)	6 months		NM
	Missed milestone by more than 30 days (IU meets SNC criteria under 40 CFR Part 403)	NOV, seek penalty, public notice (note: penalty may be waived if final compliance is met by due date)	6 months		NM
3. Failure to notify	Failure to meet final compliance date Failure to report spill or changed discharge	NOV, seek penalty NOV; seek penalty where necessary	6 months NOV w/in 60 days of discovery; penalty no later than 6 months of discovery		NM NM
4. Failure to monitor correctly	Incorrect sample location, incorrect sample type, incorrect sample collection techniques, or incorrect sample analysis	NOV, with proper resampling, including sample analysis	60 days		NM
5. Failure to report additional monitoring	POTW inspection finds additional files	NOV with request to submit additional monitoring data	60 days		NM
<u>Other Permit Violations</u>					
1. Wastestreams are diluted to achieve discharge limits	Dilution	NOV, seek penalty	NOV-60 days; penalty-6 months		NM
2. Continuing failure to halt or prevent a discharge which caused or causes imminent endangerment to human health, welfare, or the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR 403.8(f)(1)(vi)(B)	Refusal to discontinue activity upon notification	Take physical (effective) action or seek court order to halt discharge	2 days max.		NM
3. Failure to maintain in good working order and properly operate, any facilities or systems of control installed to achieve compliance with the terms and conditions of the permit	Violation of operating requirements	NOV	60 days		NM
4. Entry denial	Entry denied or consent withdrawn. Copies of records denied	NOV, seek penalty	6 months		NM
5. Inadequate record keeping	POTW inspector finds files incomplete or missing	NOV	60 days		NM

Administrative correction.

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

In 1, under "Nature of the Violation", inserted "(IU meets SNC criteria under 40 CFR Part 403.8(f)(2)(vii))".

Amended by R.1999 d.32, effective January 19, 1999.

See: 30 N.J.R. 1356(a), 31 N.J.R. 157(a).

Rewrote the Appendix.

Amended by R.2007 d.234, effective August 6, 2007.

See: 38 N.J.R. 2919(a), 39 N.J.R. 3298(a).

Added column "Type of viol. & grace period (if any)".

SUBCHAPTER 20. STANDARDS FOR THE USE OR DISPOSAL OF RESIDUAL

7:14A-20.1 Purpose

(a) This subchapter establishes:

1. Permit application requirements and standards, which consist of general requirements, pollutant limits, management practices, frequency of monitoring requirements, recordkeeping and operational standards, for residual applied to the land or the land to which residual is applied in conformance with 40 CFR Part 503, unless otherwise specifically stated;

2. Permit application requirements and standards for the closure of sewage sludge surface disposal sites;

3. Permit application requirements and standards for residual transfer stations; and

4. Permit application and case-by-case permitting requirements for residual use and disposal practices consistent with 40 CFR Parts 122, 123 and 124.

7:14A-20.2 Applicability

(a) This subchapter applies to:

1. Any person who prepares residual that is applied to the land, any person who applies residual to the land, residual applied to the land, and the land on which residual is applied;

2. The closure of sewage sludge surface disposal sites; and

3. The operating entity of any treatment works treating domestic sewage, including residual transfer stations, or of any residual-only facility, whether or not the treatment works is otherwise required to obtain a NJPDES permit unless all requirements implementing standards for residual use or disposal applicable to the treatment works are included in a permit issued under the authority of the New Jersey Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., or the New Jersey Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq.

(b) The requirements in N.J.A.C. 7:14A-20.7 do not apply when:

1. Bulk material derived from sewage sludge is applied to the land if the sewage sludge from which the bulk material is derived is generated under a NJPDES permit and meets the pollutant concentrations in 40 CFR 503.13(b) 3, the Class A pathogen requirements in 40 CFR 503.32(a), and one of the vector attraction reduction requirements in 40 CFR 503.33(b)1 through 8; or

2. A material derived from sewage sludge is sold or given away in a bag or other container to be applied to the land if the sewage sludge from which the material is derived is generated under a NJPDES permit and meets the pollutant concentrations in 40 CFR 503.13(b)3, the Class A pathogen requirements in 40 CFR 503.32(a), and one of the vector attraction reduction requirements in 40 CFR 503.33(b)1 through 8.

(c) The general requirements in N.J.A.C. 7:14A-20.7(b)1 and the management practices in N.J.A.C. 7:14A-20.7(b)2 do not apply when:

1. Bulk residual is applied to the land, if the bulk residual meets the pollutant concentrations in 40 CFR 503.13(b)(3), the Class A pathogen requirements in 40 CFR 503.32(a), and one of the vector attraction reduction requirements in 40 CFR 503.33(b)(1) through (8). However, the Department may apply any or all of the general requirements in N.J.A.C. 7:14A-20.7(b)1 and the management practices in N.J.A.C. 7:14A-20.7(b) 2 to the bulk residual on a case-by-case basis as described at N.J.A.C. 7:14A-20.5(a)3;

2. Bulk material derived from residual is applied to the land if the derived bulk material meets the pollutant concentrations in 40 CFR 503.13(b)(3), the Class A pathogen requirements in 40 CFR 503.32(a), and one of the vector attraction reduction requirements in 40 CFR 503.33(b)(1) through (8). However, the Department may apply any or all of the general requirements in N.J.A.C. 7:14A-20.7(b)1 and the management practices in N.J.A.C. 7:14A-20.7(b)2 to the bulk material on a case-by-case basis as described at N.J.A.C. 7:14A-20.5(a)3;

3. Residual is sold or given away in a bag or other container for application to the land if the residual sold or given away in a bag or other container for application to the land meets the pollutant concentrations in 40 CFR 503.13(b)(3), the Class A pathogen requirements in 40 CFR 503.32(a), and one of the vector attraction reduction requirements in 40 CFR 503.33(b)(1) through (8);

4. A material derived from residual is sold or given away in a bag or other container for application to the land if the derived material meets the pollutant concentrations in 40 CFR 503.13(b)(3), the Class A pathogen requirements in 40 CFR 503.32(a), and one of the vector attraction reduction requirements in 40 CFR 503.33(b)(1) through (8).

(d) References in this subchapter to 40 CFR Part 122, Part 258, 503.13, 503.15, 503.17(a), 503.32 and 503.33, with the

exception of requirements for domestic septage, incorporate such Federal requirements by reference including future supplements and amendments to these requirements. All other references in this subchapter to 40 CFR Part 503 incorporate such Federal requirements by reference as they existed as of May 5, 1997.

(e) Where the Statewide Sludge Management Plan (SSMP) and this subchapter conflict, the provisions of this subchapter shall control.

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

7:14A-20.3 Relationship to other regulations

(a) This subchapter does not establish:

1. Standards for the firing of residual in an incinerator which receives an air pollution control permit pursuant to N.J.A.C. 7:27;
2. Requirements for the use or disposal of residual determined to be hazardous in accordance with 40 CFR Part 261 and N.J.A.C. 7:26G;
3. Requirements for the use or disposal of residual with a concentration of polychlorinated biphenyls (PCBs) equal to or greater than 50 milligrams per kilogram of total solids (dry weight basis) in accordance with 40 CFR Part 761;
4. Standards for the co-disposal of residual in a municipal solid waste landfill which receives a permit pursuant to 40 CFR Part 258 or N.J.A.C. 7:26; or
5. Standards for the disposal of residual in a sanitary landfill, as defined at N.J.A.C. 7:26, which receives a permit pursuant to N.J.A.C. 7:26.

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

7:14A-20.4 Special definitions

The following words and terms have specific meanings when used in this subchapter: "agricultural land," "final cover," "forest," "liner," "lower explosive limit for methane gas," "pasture," "permitting authority," "pollutant limit," "public contact site," "range land" and "runoff." The applicable definitions are set forth at N.J.A.C. 7:14A-1.2.

7:14A-20.5 Establishing limitations, standards and other permit conditions

(a) The Department shall establish conditions in each NJPDES permit for the use or disposal of residual, as required on a case-by-case basis, to provide for and ensure compliance with all applicable requirements of the Federal and State Acts and the regulations promulgated thereunder, as follows:

1. The Department shall include standards for residual use or disposal in each NJPDES permit unless those standards have been included in a permit issued under the appropriate provisions of the New Jersey Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., or the New Jersey Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq. If any applicable standard for residual use or disposal is promulgated and that standard is more stringent than any limitation on the pollutant or practice in the permit, the Department may initiate proceedings under N.J.A.C. 7:14A-16.4 to modify or revoke and reissue the permit to conform to the standard for residual use or disposal.

2. For any permit issued to a treatment works treating domestic sewage or residual-only facility, the Department shall include a reopener clause to allow the incorporation of any applicable standard for residual use or disposal. The Department shall promptly modify or revoke and reissue any permit containing the reopener clause required by this paragraph if an applicable standard for residual use or disposal is more stringent than any requirements for residual use or disposal in the permit, or controls a pollutant or practice not limited in the permit.

3. On a case-by-case basis, the Department may impose requirements for the use or disposal of residual in addition to or more stringent than the requirements in the subchapter when necessary to protect public health or the environment from any adverse effect of the pollutant in the residual. This authority shall include, but not be limited to, the following:

i. The authority to require compliance with pollutant limits for additional constituents which the Department has evidence exceed the range found in sewage sludge produced in the State as determined by the Sludge Quality Assurance Regulations, N.J.A.C. 7:14C, or which exceed acceptable levels in USEPA's Technical Support Document for Land Application of Sewage Sludge, EPA 822/R-93-001a and 001b, November 1992 or Technical Support Document for Surface Disposal of Sewage Sludge, EPA 822/R-93-002, November 1992, as amended and supplemented;

ii. For bulk residual applied in accordance with N.J.A.C. 7:14A-20.7(h) 1, the authority to require compliance with any or all of the general requirements in N.J.A.C. 7:14A-20.7(b)1 and the management practices in N.J.A.C. 7:14A-20.7(b)2 upon the Department's determination that the general requirements or management practices are needed to protect public health and the environment;

iii. For residual applied in accordance with N.J.A.C. 7:14A-20.7(h), the authority to establish additional steps in the treatment of residual to control the release of air contaminants (including, but not limited to, ammonia) consistent with the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq. This additional step shall include, but not be limited to, the requirement to increase the maturity of marketable residual products by achieving additional temperature reduction and moisture reduction; and

iv. For sites where bulk residual is applied under N.J.A.C. 7:14A-20.7(h), the authority to require a permit or a Letter of Land Application Management Approval to be obtained upon the Department's determination that a permit or Letter of Land Application Management Approval is needed to protect public health and the environment.

(b) The Department shall set forth the basis for permit conditions imposed under (a) above in a fact sheet issued pursuant to N.J.A.C. 7:14A-20.9, or, if the requirements are based on site-specific factors, a Letter of Land Application

Management Approval issued pursuant to N.J.A.C. 7:14A-20.7(h) for the residual land application site.

(c) Innovative or alternative technologies and systems for residual use or disposal shall be regulated on a case-by-case basis in conformance with the requirements for the technology which most closely resembles the innovative or alternative technology system.

(d) The Department may designate any person subject to the standards for residual use or disposal as a "treatment works treating domestic sewage" or "residual-only facility" as defined by N.J.A.C. 7:14A-1.2, where it is found that a permit is necessary to protect public health and the environment from the adverse effects of a residual or to ensure compliance with the technical standards for residual use or disposal. Any person designated as a "treatment works treating domestic sewage" or "residual-only facility" shall submit an application for a permit under N.J.A.C. 7:14A-4 within 180 days of being notified by the Department that a permit is required. The basis for the Department's decision to designate a person as a "treatment works treating domestic sewage" or "residual-only facility" under this paragraph shall be stated in the fact sheet or statement of basis for the permit.

Amended by R.1999 d.164, effective May 17, 1999.
See: 31 N.J.R. 200(a), 31 N.J.R. 1320(a).

In (a)3i, changed N.J.A.C. reference.

7:14A-20.6 Environmental assessment

(a) In addition to the information required by N.J.A.C. 7:14A-4, an applicant for a NJPDES permit for residual use or disposal shall submit an environmental assessment for the location where a residual will be prepared to be applied to the land, the location where a residual was placed on a surface disposal site, or the location of any other treatment works treating domestic sewage (TWTDS) or residual-only facility required to obtain a permit pursuant to this subchapter. The magnitude and detail of the environmental assessment shall be determined by the Department and shall be relative to the nature, scale and location of the proposed TWTDS or residual-only facility. Where the permitted activity shall not require the construction of additional infrastructure the Department shall waive this requirement. At a minimum, the environmental assessment shall conform to the environmental assessment requirements of the Department's applicable NJPDES Permit Technical Manual in effect at the time of submission of the assessment and shall include:

1. A written description of facility operations, including volumes of residual to be handled, methods of handling, facility layout, and use or disposal of any end products;

2. An analysis of the impact that the proposed TWTDS or residual-only facility will have on local transportation patterns, drainage and soil characteristics, surface and ground water quality, endangered or threatened wildlife and vegetation, stormwater and wastewater collection/

treatment capability, water supply capability, ambient acoustical conditions and air quality;

3. A description of how the TWTDS or residual-only facility will conform or conflict with the objectives of any applicable Federal, State, or local land use and/or environmental requirements for areas within two miles of the perimeter of a proposed large facility (residual production equal to or greater than 15,000 metric tons per 365 day period), or within one mile of the perimeter of a proposed small facility (residual production less than 15,000 metric tons per 365 day period); and

4. Where a potential conflict between the TWTDS or residual only-facility and the objectives of land use and/or environmental requirements is identified under (a)3 above, a description of the mitigation efforts to be undertaken to minimize any such conflict.

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

7:14A-20.7 Land application

(a) In addition to the information required in N.J.A.C. 7:14A-4 and 20.6, an applicant for a NJPDES permit to prepare residual for land application shall submit the following:

1. Information on the characteristics of the residual proposed to be applied, to the extent known at the time that the permit application is submitted, including, but not limited to:

- i. The origin and volume of the residual;
- ii. A dated analysis of the residual on a mg/kg dry weight basis (or other unit as specified) for the following constituents:
 - Total solids (percent by weight)
 - pH (standard units)
 - Total Kjeldahl nitrogen
 - Ammonia-nitrogen
 - Nitrate-nitrogen
 - Calcium
 - Potassium
 - Phosphorus
 - Arsenic
 - Cadmium
 - Copper
 - Lead
 - Mercury
 - Molybdenum
 - Nickel

Selenium

Zinc

iii. A copy of all reports required to be submitted under the Sludge Quality Assurance Regulations (SQAR), N.J.A.C. 7:14C, for the previous 12-month period;

iv. Additional quality analyses (including characteristics pursuant to N.J.A.C. 7:26G) as may be deemed necessary by the Department through evaluation of past SQAR reports or other relevant information, such as information on industrial discharges which might contribute constituents not normally evaluated under the SQAR program or which may exceed levels identified in USEPA's Technical Support Document for Land Application of Sewage Sludge, EPA 822/R-93-001a and 001b, November 1992.

2. Where the sources of residual to be land applied are not known at the time of permit application, requests for approval to land apply residual shall be submitted in accordance with N.J.A.C. 7:14A-20.11.

3. For bulk residual which does not satisfy the pollutant concentrations in 40 CFR 503.13(b)(3), the Class A pathogen requirements in 40 CFR 503.32(a), or one of the vector attraction reduction options in 40 CFR 503.33(b)(1) through (8), requests for approval to land apply residual shall be submitted in accordance with the following:

i. For each residual land application site identified at the time of permit application, the applicant shall, in accordance with the applicable NJPDES Permit Technical Manual, supply information necessary to determine if the site is appropriate for land application and a description of how the site is or will be managed, including, but not limited to, the following:

(1) A residual land application site evaluation that includes, at a minimum, a description of easements, distances to surface water, distances to drinking water wells, distances to occupied dwellings, depth to ground water, depth to bedrock, slope, soil drainage class, pH, flooding, site soil texture and parent geologic material, and proposed buffer zones;

(2) A written analysis of operational considerations including, at a minimum, crop type, crop end use, residual application methods, whole residual application rates and seasonal limitations;

(3) An original or clear copy of the appropriate Soil Conservation Service Soil Survey Map showing the residual land application site;

(4) An original or clear copy of a 1:24,000 scale (7.5 minute Quadrangle) United States Geological Survey Topographic Map showing the exact location of the residual land application site and indicating the sheet name from which the map portion was taken; and

(5) An original or clear copy of the county tax map showing the location of the residual land application site and the location of any residual storage installations and indicating the sheet name from which the map portion was taken;

ii. Where proposed residual land application sites are not identified at the time of permit application, the applicant shall submit a notification plan for the Department's approval which at a minimum:

(1) Describes the geographical area covered by the plan; and

(2) Describes the form of advance public notice which, at a minimum, will be supplied to all landowners and occupants adjacent to or abutting a proposed residual land application site. This requirement may be satisfied through public notice in a newspaper of local circulation. Notice shall include, at a minimum, the name and address of the permittee, the name and address of the proposed residual land application site, a description of the activities that are proposed to occur at the residual land application site, and the name and address of the Bureau within the Department to which the permittee must submit an application for a Letter of Land Application Management Approval; and

iii. Following issuance of a permit, when a new land application site is proposed, a permittee shall submit an application to the Department for a Letter of Land Application Management Approval, where required pursuant to (h) below. An additional copy of the complete application for a LLAMA shall be simultaneously submitted to the municipal clerk of the municipality(ies) where the residual land application site is located. The application for a LLAMA shall include information necessary to determine if the proposed residual land application site is appropriate for land application and a description of how the site is or will be managed, including, but not limited to, the following:

(1) Information required pursuant to (a)3i above; and

(2) Information necessary for the Department to determine if the request is in conformance with a notification plan approved by the Department pursuant to (a)3ii above.

4. In order for the Department to approve a permit application for the land application of residuals other than sewage sludge, the applicant shall demonstrate, in addition to the requirements of (a)1 through 3 above, the following:

i. That the land application of the residual will benefit soil physical properties, soil fertility and/or cover vegetation;

ii. An understanding of the impacts of the residual on soil fertility, soil physical properties and plant growth; and

iii. That the land application of a particular residual has a scientific basis and has been successfully tested or demonstrated in a field application or pilot program.

(b) For the land application of residual, the following general requirements and management practices shall apply, unless otherwise specifically stated:

1. In lieu of the general requirements in 40 CFR 503.12:

i. No person shall apply residual to the land except in accordance with the requirements of this subchapter.

ii. No person shall apply bulk residual subject to the cumulative pollutant loading rates in 40 CFR 503.13(b)2 to agricultural land, forest, a public contact site, or a reclamation site if any of the cumulative pollutant loading rates in 40 CFR 503.13(b)2 has been reached.

iii. No person shall apply domestic septage to agricultural land, forest, or a reclamation site except in accordance with (f) below.

iv. The person who prepares bulk residual that is applied to agricultural land, forest, a public contact site, or a reclamation site shall provide the person who applies the bulk residual written notification of information necessary to determine the agronomic rate pursuant to (g) below.

v. The person who applies residual to the land shall obtain information needed to comply with the requirements in this subchapter. In addition, before bulk residual subject to the cumulative pollutant loading rates in 40 CFR 503.13(b)2 is applied to the land, the person who proposes to apply the bulk residual shall comply with the requirements in 40 CFR 503.12(e) and shall also contact the Department to determine whether bulk residual was applied to the site prior to July 20, 1993. The cumulative amount of each pollutant that was applied to the site in the bulk residual and that was required to be tracked by the Department prior to July 20, 1993, shall be used to determine the additional amount of each pollutant which can be applied to the site after July 20, 1993 pursuant to 40 CFR 503.13(a)2i.

vi. When a person who prepares bulk residual provides the bulk residual to a person who applies the bulk residual to the land, the person who prepares the bulk residual shall provide the person who applies the bulk residual notice and necessary information to comply with the requirements of this subchapter.

vii. When a person who prepares residual provides the residual to another person who prepares the residual, the person who provides the residual shall provide the person who receives the residual notice and neces-

sary information to comply with the requirements of this subchapter.

viii. The person who applies bulk residual to the land shall provide the owner or lease holder of the land on which the bulk residual is applied notice and necessary information to comply with the requirements of this subchapter.

ix. Any person who prepares bulk residual in New Jersey that is applied to land in a State other than New Jersey shall provide written notice to the permitting authority for the State in which the bulk residual is proposed to be applied prior to the initial application of bulk residual to the residual land application site by the applier. Any person who prepares bulk residual out-of-State that is to be applied to land in New Jersey shall provide written notice to the Department prior to the initial application of bulk residual to the residual land application site by the applier. The notice shall include:

(1) The location, by either street address or latitude and longitude, of each residual land application site;

(2) The approximate time period during which bulk residual will be applied to each residual land application site;

(3) The name, address, telephone number, and New Jersey or National Pollutant Discharge Elimination System permit number (if applicable) for the person who prepares the bulk residual;

(4) The name, address, telephone number, and New Jersey or National Pollutant Discharge Elimination System permit number (if applicable) for the person who will apply the bulk residual; and

(5) Out-of-State generators which transport residual into the State of New Jersey to be applied to the land shall also comply with the requirements of (l) below.

x. Any person who prepares bulk residual in New Jersey and applies bulk residual subject to the cumulative pollutant loading rates in 40 CFR 503.13(b)(2) to the land outside of the State of New Jersey shall provide written notice to the permitting authority for the State in which the bulk residual will be applied prior to the initial application of bulk residual to a residual land application site by the applier. Any person who applies bulk residual subject to the cumulative pollutant loading rates in 40 CFR 503.13(b)2 to the land in New Jersey shall provide written notice to the Department prior to the initial application of bulk residual to a residual land application site by the applier. The permitting authority or Department shall retain and provide the public with access to the notice. The notice shall include:

(1) The location, by either street address or latitude and longitude, of the land application site; and

(2) The name, address, telephone number, and New Jersey or National Pollutant Discharge Elimination System permit number (if applicable) of the person who will apply the bulk residual.

2. In lieu of the management practices in 40 CFR 503.14:

i. Bulk residual shall not be applied to the land if it is likely to adversely affect a threatened or endangered species listed under Section 4 of the Federal Endangered Species Act, 16 U.S.C. § 1533 or its designated critical habitat.

ii. Bulk residual shall not be applied to agricultural land, forest, a public contact site, or a reclamation site that is flooded, frozen, or snow-covered so that the bulk residual enters a wetland or other waters of the State, as defined in N.J.A.C. 7:14A-1.2, except as otherwise provided in a permit issued pursuant to Section 402 or 404 of the CWA.

iii. Bulk residual shall not be applied to agricultural land, forest, or a reclamation site that is 10 meters or less from waters of the State, as defined in N.J.A.C. 7:14A-1.2, unless otherwise specified by the Department in a permit.

iv. Bulk residual shall be applied to agricultural land, forest, a public contact site, or a reclamation site in accordance with (g) below.

v. Either a label shall be affixed to the bag or other container in which residual that is sold or given away for application to the land, or an information sheet shall be provided to the person who receives residual sold or given away in an other container for application to the land. The label or information sheet shall contain the following information:

(1) The name and address of the person who prepared the residual that is sold or given away in a bag or other container for application to the land;

(2) A statement that application of the residual to the land is prohibited except in accordance with the instructions on the label or information sheet;

(3) The annual whole residual application rate for the residual that does not cause any of the annual pollutant loading rates in Table 4 of 40 CFR 503.13 to be exceeded; and

(4) Additional information as required under (h)4vii below.

(c) The applicable requirements and pollutant limits in 40 CFR 503.13(a) and (b) shall be met.

(d) Residual shall not be applied to the land unless the operational standards for pathogen and vector attraction reduction pursuant to 40 CFR 503.15(a) and (c) are met. Compliance with the operational standards for pathogen reduction is not required for pathogen-free material; however, the Department may impose operational standards for vector attraction reduction on pathogen-free material on a case-by-case basis through a NJPDES permit depending on the physical and chemical characteristics of the material to be land applied.

(e) Foreign material shall be removed from residual prior to the application of residual to the land. Foreign material removed from residual shall be managed in accordance with applicable State and Federal law and regulations.

(f) In accordance with the SSMP, it is the Department's policy that the use of domestic treatment works is the most environmentally sound and controllable method for management of domestic septage. However, the land application of domestic septage shall be permitted on a case-by-case basis where the applicant demonstrates that no reasonable alternative exists, subject to the following requirements:

1. Domestic septage shall not be applied to the land unless, at a minimum, the Class B pathogen reduction requirements pursuant to 40 CFR 503.32(b) and one of the vector attraction reduction requirements in 40 CFR 503.33(b)(1) through (b)(10) are met;

2. Domestic septage must be applied at a whole residual application rate that is equal to or less than the agronomic rate in accordance with (g) below;

3. Domestic septage must be screened through a number 4 mesh screen to remove foreign material;

4. Domestic septage must be certified to be from domestic sources only, analyzed pursuant to (a)1 above and satisfy the pollutant limits in 40 CFR 503.13(a) and (b); and

5. Domestic septage shall be applied to the land only in accordance with one of the land application programs described at (h) below.

(g) Bulk residual shall be applied to the land at a whole residual application rate that is equal to or less than the agronomic rate as specified by the Department in a permit based on best professional judgment unless, in the case of a reclamation site, otherwise approved by the Department.

(h) Residual applied to the land shall conform to one of the following programs based on the level of quality, pathogen reduction and vector attraction reduction achieved:

1. Residual which meets the pollutant concentrations in 40 CFR 503.13(b)(3), the Class A pathogen requirements in 40 CFR 503.32(a), and one of the vector attraction reduction requirements in 40 CFR 503.33(b)(1) through (8) shall be applied only in accordance with the following requirements:

- i. The residual shall be monitored, records kept and information reported in accordance with (i), (j) and (k) below;

- ii. Residual may be applied in bulk, or sold or given away in a bag or other container;

- iii. Residual which is sold, offered for sale, or intended for sale as a fertilizer, soil conditioner or agricultural liming material shall be licensed by the New Jersey Department of Agriculture pursuant to the New Jersey Commercial Fertilizer and Soil Conditioner Act, N.J.S.A. 4:9-15.1 et seq., or the New Jersey Agricultural Liming Materials Act, N.J.S.A. 4:9-21.1 et seq., unless permit conditions for distribution are otherwise established by the Department in accordance with N.J.A.C. 7:14A-20.5; and

- iv. Residual shall be labeled or accompanied by instructional literature conforming to the labeling requirements established by the New Jersey Department of Agriculture pursuant to the New Jersey Commercial Fertilizer and Soil Conditioner Act, N.J.S.A. 4:9-15.1 et seq., the New Jersey Agricultural Liming Materials Act, N.J.S.A. 4:9-21.1 et seq., or distribution requirements specified by the Department in a permit.

2. Residual which meets the pollutant concentrations in 40 CFR 503.13(b)(3) and the Class A pathogen requirements in 40 CFR 503.32(a), and which will meet one of the vector attraction reduction requirements in 40 CFR 503.33(b)(9) or (b)(10) shall be applied only in accordance with the following requirements:

- i. The residual shall be monitored, records kept and information reported in accordance with (i), (j) and (k) below;

- ii. The residual shall be applied in bulk only and shall not be applied to a lawn or home garden;

- iii. The general requirements at (b)1 above and the management practices at (b)2 above apply;

- iv. A Conservation Plan developed by the USDA-NRCS and approved by the Soil Conservation District or a SESCP (as applicable) shall be obtained and implemented for all residual land application sites (unless such planning is determined inapplicable to the site by an agency with concurrent jurisdiction); and

- v. A LLAMA shall be obtained for all residual land application sites pursuant to (a)3iii above prior to the initial application of residual to the residual land application site. The conditions of a LLAMA shall be met by the person who applies residual to a residual land application site.

3. Residual which meets the pollutant concentrations in 40 CFR 503.13(b)(3) and the Class B pathogen requirements in 40 CFR 503.32(b), and which meets one of the vector attraction reduction requirements in 40 CFR 503.33(b)(1) through (8) or which will meet one of the

vector attraction reduction requirements in 40 CFR 503.33(b)(9) or (b)(10), shall be applied only in accordance with the following requirements:

i. The residual shall be monitored, records kept and information reported in accordance with (i), (j) and (k) below;

ii. The residual shall be applied in bulk only and shall not be applied to a lawn or home garden;

iii. The general requirements at (b)1 above, the management practices at (b)2 above and the site restrictions at 40 CFR 503.32(b)(5) apply;

iv. A Conservation Plan developed by the USDA-NRCS and approved by the Soil Conservation District or a SESCO (as applicable) shall be obtained and implemented for all residual land application sites (unless such planning is determined inapplicable to the site by an agency with concurrent jurisdiction); and

v. A LLAMA shall be obtained for all residual land application sites pursuant to (a)3iii above prior to the initial application of residual to a residual land application site. The conditions of a LLAMA shall be met by the person who applies residual to a residual land application site.

4. Residual which meets the pollutant concentrations in 40 CFR 503.13(b)(1), the Class A pathogen requirements in 40 CFR 503.32(a), and one of the vector attraction reduction requirements in 40 CFR 503.33(b)(1) through (8) shall be applied only in accordance with the following requirements:

i. The residual must be monitored, records kept and information reported in accordance with (i), (j) and (k) below;

ii. The residual may be applied in bulk, or sold or given away in a bag or other container;

iii. The residual shall not be applied in bulk to a lawn or home garden;

iv. The general requirements at (b)1 above and the management practices at (b)2 above apply;

v. Residual which is sold, offered for sale, or intended for sale as a fertilizer, soil conditioner or agricultural liming material must be licensed by the New Jersey Department of Agriculture pursuant to the New Jersey Commercial Fertilizer and Soil Conditioner Act, N.J.S.A. 4:9-15.1 et seq., or the New Jersey Agricultural Liming Materials Act, N.J.S.A. 4:9-21.1 et seq., unless permit conditions for distribution are otherwise established by the Department in accordance with N.J.A.C. 7:14A-20.5;

vi. Residual sold or given away in a bag or other container shall be labeled or the other container shall be accompanied by instructional literature, conforming to the labeling requirements established by the New Jersey Department of Agriculture pursuant to the New Jersey Commercial Fertilizer and Soil Conditioner Act, N.J.S.A. 4:9-15.1 et seq., the New Jersey Agricultural Liming Materials Act, N.J.S.A. 4:9-21.1 et seq., the labeling or literature requirements of (b)2v above, or other distribution requirements specified by the Department in a permit;

vii. For residual applied in bulk, the cumulative pollutant loading rates in 40 CFR 503.13(b)(2) shall not be exceeded and shall be tracked, recorded and reported in accordance with (i), (j) and (k) below;

viii. Where residual is applied in bulk, a Conservation Plan developed by the USDA-NRCS and approved by the Soil Conservation District or a SESCO (as applicable) shall be obtained and implemented for the residual land application site (unless such planning is determined inapplicable to the site by an agency with concurrent jurisdiction); and

ix. Where residual is applied in bulk, a LLAMA shall be obtained for all residual land application sites pursuant to (a)3iii above prior to the initial application of residual to the residual land application site. The conditions of a LLAMA shall be met by the person who applies residual to a residual land application site.

5. Residual which meets the pollutant concentrations in 40 CFR 503.13(b)(1) and the Class A pathogen requirements in 40 CFR 503.32(a), and which will meet one of the vector attraction reduction requirements in 40 CFR 503.33(b)(9) or (b)(10) shall be applied only in accordance with the following requirements:

i. The residual shall be monitored, records kept and information reported in accordance with (i), (j) and (k) below;

ii. The residual shall be applied in bulk only and shall not be applied to a lawn or home garden;

iii. The general requirements at (b)1 above and the management practices at (b)2 above apply;

iv. The cumulative pollutant loading rates in 40 CFR 503.13(b)(2) shall not be exceeded and shall be tracked, recorded and reported in accordance with (i), (j) and (k) below;

v. A Conservation Plan developed by the USDA-NRCS and approved by the Soil Conservation District or a SESCO (as applicable) shall be obtained and implemented for all residual land application sites (unless such planning is determined inapplicable to the site by an agency with concurrent jurisdiction); and

vi. A LLAMA shall be obtained for all residual land application sites pursuant to (a)3iii above prior to the initial application of residual to the residual land application site. The conditions of a LLAMA shall be met by the person who applies residual to a residual land application site.

6. Residual which meets the pollutant concentrations in 40 CFR 503.13(b)(1) and the Class B pathogen requirements in 40 CFR 503.32(b), and which meets one of the vector attraction reduction requirements in 40 CFR 503.33(b)(1) through (8) or which will meet one of the vector attraction reduction requirements in 40 CFR 503.33(b)(9) or (b)(10) shall be applied only in accordance with the following requirements:

i. The residual shall be monitored, records kept and information reported in accordance with (i), (j) and (k) below;

ii. The residual shall be applied in bulk only and shall not be applied to a lawn or home garden;

iii. The general requirements at (b)1 above, the management practices at (b)2 above and the site restrictions at 40 CFR 503.32(b)(5) apply;

iv. The cumulative pollutant loading rates in 40 CFR 503.13(b)(2) shall not be exceeded and shall be tracked, recorded and reported in accordance with (i), (j) and (k) below;

v. A Conservation Plan developed by the USDA-NRCS and approved by the Soil Conservation District or a SESCO (as applicable) shall be obtained and implemented for all residual land application sites (unless such planning is determined inapplicable to the site by an agency with concurrent jurisdiction); and

vi. A LLAMA shall be obtained for all residual land application sites pursuant to (a)3iii above prior to the initial application of residual to the residual land application site. The conditions of a LLAMA shall be met by the person who applies residual to a residual land application site.

(i) For residual which is to be applied to the land, the frequency of monitoring for the pollutants listed in Table 1, Table 2, Table 3 and Table 4 of 40 CFR 503.13, for the pathogen density requirements in 40 CFR 503.32(a) and 40 CFR 503.32(b)(2) through (b)(4), when applicable, and for the vector attraction reduction requirements in 40 CFR 503.33(b)(1) through (b)(8), when applicable, shall be the frequency specified in Table 1 of 40 CFR 503.16(a) unless otherwise specified below:

1. For sewage sludge, the frequency of monitoring shall be as specified in Table 1 of 40 CFR 503.16(a) or quarterly, whichever is more frequent, except as allowed under (i)2 and 3 below;

2. After any residual has been monitored for two years at the frequency in Table 1 of 40 CFR 503.16(a) or (i)1 above, the permittee may request the Department to reduce the frequency of monitoring as specified in 40 CFR 503.16(a)(2);

3. When a single source of sewage sludge totaling less than 290 metric tons per year (see Table 1 of 40 CFR 503.16(a)) is removed for application to the land no more frequently than three times per year, then monitoring shall be performed at least once prior to each removal;

4. Process parameter monitoring necessary to demonstrate whether any of the pathogen reduction requirements in 40 CFR 503.32(a)(3), (a)(4), (a)(5), (a)(7), (a)(8) and/or 40 CFR 503.32(b)(3) or (b)(4) are met (for example, temperature, time, percent total solids and pH) must be performed each day that the process(es) intended to meet any of the requirements is operated and as often each day as necessary; and

5. Process parameter monitoring necessary to demonstrate whether vector attraction reduction requirements in 40 CFR 503.33(b)(1), (b)(5), (b)(6), (b)(7) and (b)(8) are met (for example, volatile solids, time, temperature, pH and percent total solids) must be performed each day that the process(es) intended to meet any of the requirements is operated and as often each day as necessary.

(j) For residual which is to be applied to the land, recordkeeping shall conform to the requirements of 40 CFR 503.17(a) and the following additional information shall be retained for five years (unless otherwise required by 40 CFR Part 503):

1. Daily records of the sources of residual generated, received and processed as well as the quantity of residual generated, received and processed;

2. If bulk residual does not satisfy the pollutant concentrations in 40 CFR 503.13(b)(3), the Class A pathogen requirements in 40 CFR 503.32(a), or one of the vector attraction reduction options in 40 CFR 503.33(b)(1) through (8), the person who prepares the residual shall keep daily records of the destination of the residual, including, but not limited to, the location, by either street address, lot and block number or latitude and longitude of each site, the quantity of residual delivered and applied to each site, and the whole residual application rate in accordance with (g) above;

3. Where not otherwise specified in 40 CFR 503.17(a), information necessary to demonstrate compliance with the applicable land application program(s) pursuant to (h) above;

4. Records necessary to demonstrate compliance with (i) above; and

5. Records on the quantity and quality of all residual generated and/or received for processing pursuant to the Sludge Quality Assurance Regulations, N.J.A.C. 7:14C. A 12 month moving mean and median shall be kept for all parameters specified under 40 CFR 503.13.

(k) For the land application of residual the following reporting requirements shall apply in lieu of the reporting requirements of 40 CFR 503.18:

1. The frequency of reporting to the Department of the records kept in accordance with (j) above shall be quarterly; and

2. The frequency of reporting may be reduced by the Department after two years of reporting pursuant to (k)1 above, but in no case shall the frequency of reporting be less than once per year.

(l) Out-of-State generators which transport residual into the State of New Jersey to be applied to the land shall, at a minimum, comply with all applicable requirements for the land application of residual pursuant to this subchapter and the following additional notice requirements:

1. In order for the Department to determine the applicable requirements under this subchapter, any person who prepares residual out-of-State for land application in New Jersey shall provide notice to the Department at least 120 days prior to the date that person intends to commence operations for the land application of residual. This notice shall, at a minimum, include:

i. Information on each residual land application site as required to be submitted pursuant to (a)3 and (b)1ix above, as applicable;

ii. Copies of those permits and approvals issued by the permitting authority for the state in which the residual is prepared;

iii. The name, address and phone number of a contact for the permitting authority for the state in which the residual is prepared; and

iv. A listing of any brand names under which a marketable residual product will be distributed.

2. In order for the Department to determine the applicable requirements under this subchapter, any person who currently prepares residual out-of-State which is land applied in New Jersey and plans to continue such activities after May 5, 1997 shall provide notice to the Department by August 3, 1997. This notice shall, at a minimum, include:

i. Information on each residual land application site as required to be submitted pursuant to (a)3 and (b)1ix above, as applicable;

ii. Copies of those permits and approvals issued by the permitting authority for the state in which the residual is prepared;

iii. The name, address and phone number of a contact for the permitting authority for the state in which the residual is prepared; and

iv. A listing of any brand names under which a marketable residual product has been or will be distributed.

3. Upon receipt of the notifications pursuant to (l)1 and 2 above, the Department shall notify the person who prepares residual of the applicable requirements of this subchapter.

4. The Department shall waive some or all of the requirements for record keeping and reporting pursuant to (j) and (k) above if equivalent information is already kept and reported to the permitting authority for the out-of-State generator.

(m) See N.J.A.C. 7:14A-20.2(b) and (c) for situations in which the requirements in this section and in (b) above, respectively, do not apply.

Administrative correction.

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

Amended N.J.A.C. references.

Amended by R.1999 d.164, effective May 17, 1999.

See: 31 N.J.R. 200(a), 31 N.J.R. 1320(a).

In (a)1iii and (j)5, changed N.J.A.C. references.

7:14A-20.8 Surface disposal of sewage sludge

(a) The storage of sewage sludge for more than six months constitutes surface disposal and is prohibited under this subchapter. However, this prohibition does not apply to sewage sludge that remains on the land for longer than six months when the person who prepares the sewage sludge demonstrates that the land on which the sewage sludge remains is not a surface disposal site. The demonstration shall explain why sewage sludge must remain on the land for longer than six months prior to final use or disposal, discuss the approximate time period during which the sewage sludge shall be used or disposed and provide documentation of ultimate management arrangements. Said demonstration shall be in writing, kept on file by the person who prepares sewage sludge and submitted to the Department upon request.

(b) The owner and/or operator of a sewage sludge surface disposal site that has not implemented a Department approved closure plan prior to May 5, 1997 shall submit a surface disposal site closure plan in accordance with the requirements of (d) below by May 5, 1998.

(c) The operating entity for a closed surface disposal site shall comply with the following management practices:

1. The closure of a surface disposal site shall not restrict the flow of a base flood, unless otherwise approved by the Department under the Flood Hazard Area Control rules, N.J.A.C. 7:13;

2. A closed surface disposal site shall not be located in an unstable area;

3. The sewage sludge leachate collection system for a closed surface disposal site that has a liner and sewage sludge leachate collection system shall be operated and maintained for a minimum of five years after the Department approves closure of the surface disposal site. Leachate from a closed surface disposal site that has a liner and sewage sludge leachate collection system shall be collected and shall be disposed in accordance with applicable requirements for a minimum of five years after the Department approves closure of the surface disposal site;

4. When a final cover is placed on a surface disposal site at closure, the concentration of methane gas in air in any structure within the surface disposal site shall not exceed 25 percent of the lower explosive limit for methane gas and the concentration of methane gas in air at the property line of the surface disposal site shall not exceed the lower explosive limit for methane gas for a minimum of five years after the Department approves closure of the surface disposal site;

5. The owner of a surface disposal site shall provide written notification to the subsequent owner of the site that sewage sludge was placed on the land. As part of closure of the surface disposal site, a detailed description of the surface disposal site shall be recorded, along with the deed, with the appropriate county recording office. The description shall include the quantity and quality of sewage sludge disposed, a map indicating the location and depth of sewage sludge on the site, the depth and type of cover material (if applicable), the dates the surface disposal site was in use and all such other information as may be of interest to potential landowners, and shall remain in the legal record of the property in perpetuity;

6. A food crop, a feed crop, or a fiber crop shall not be grown on a closed surface disposal site, unless the owner/operator of the surface disposal site demonstrates to the Department that through management practices public health and the environment will be protected from any adverse effects of pollutants in sewage sludge when crops are grown;

7. Animals shall not be grazed on a closed surface disposal site, unless the owner/operator of the surface disposal site demonstrates to the Department that through management practices public health and the environment will be protected from any adverse effects of pollutants in sewage sludge when animals are grazed;

8. The operating entity must implement a ground water monitoring program in compliance with N.J.A.C. 7:9C; and

9. Public access to a closed surface disposal site shall be restricted for a minimum of five years after the Department approves closure of the surface disposal site.

(d) In addition to the requirements of N.J.A.C. 7:14A-4 and 20.6, a surface disposal site closure plan shall include the following minimum information:

1. The approximate date discharge to the surface disposal site ceased;

2. A description of the surface disposal site including approximate acreage, and lateral and vertical extent of the surface disposal site;

3. A discussion of the characteristics of the sewage sludge present in the surface disposal site, including:

i. The origin and volume of the sewage sludge;

ii. Dated quality analyses of the sewage sludge on a mg/kg dry weight basis including analyses of all constituents required to be analyzed in accordance with the Sludge Quality Assurance Regulations (SQAR), N.J.A.C. 7:14C. The number of samples required to be analyzed shall be based on a statistical method as described in the Department's Field Sampling Procedures manual, or as otherwise approved by the Department;

iii. Additional quality analyses may be required if deemed necessary by the Department through evaluation of past SQAR reports or other relevant information, such as information on industrial discharges which might contribute constituents not normally evaluated under the SQAR program for domestic treatment works; and

iv. A discussion, or where applicable, analyses pursuant to 40 CFR 503.25, explaining how pathogen requirements or vector attraction reduction requirements were achieved;

4. A description of the proposed method of closure, including plans for the removal and/or in-situ closure of sewage sludge remaining at the surface disposal site, and an implementation schedule for each component of the closure plan;

5. For in-situ closure proposals, the following information:

i. If the surface disposal site has a liner and sewage sludge leachate collection system, a discussion of how the sewage sludge leachate collection system will be operated and maintained for a minimum of five years;

ii. A description of the system used to monitor for methane gas in the air in any structures within the surface disposal site and in the air at the property line of the surface disposal site for a minimum of five years, where applicable;

iii. A discussion of how public access to the surface disposal site will be restricted for a minimum of five years; and

iv. A calculation of the surface run-off across the surface disposal site shall be prepared using a 24-hour, 25-year storm event with estimates of the effect of such run-off on treatment capacity, storage capacity, erosion, flooding, impacts on surface water quality and related details;

6. A soil erosion and sediment control plan certified by the local Soil Conservation District in accordance with the Soil Erosion and Sediment Control Act of 1975, or as amended (N.J.S.A. 4:24-39 et seq.), unless such planning is determined inapplicable by an agency with concurrent jurisdiction; and

7. Any other information required by N.J.A.C. 7:14A-7.14 for residual surface impoundment's or residual infiltration-percolation lagoons.

Amended by R.1999 d.164, effective May 17, 1999.

See: 31 N.J.R. 200(a), 31 N.J.R. 1320(a).

In (d)3ii, changed N.J.A.C. reference.

Administrative correction.

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

Administrative correction.

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

7:14A-20.9 Fact sheet

(a) In addition to the requirements of N.J.A.C. 7:14A-15.8, any fact sheet prepared under this subchapter shall contain the following:

1. Any calculations or other necessary explanation of the derivation of specific conditions or standards for residual use or disposal, including a citation as to the applicable basis or standard for residual use or disposal;

2. When the draft permit contains limitations set on a case-by-case basis pursuant to N.J.A.C. 7:14A-20.5, an explanation of the reasons why such conditions are appropriate;

3. When appropriate, a sketch or detailed description of the location of the regulated activity described in the application; and

4. For a draft permit that includes a notification plan under N.J.A.C. 7:14A-20.7(a)3, a brief description of the conditions of the permit that address approval of land application sites not identified at the time of permit application.

7:14A-20.10 Residual transfer stations

(a) In addition to the information required by N.J.A.C. 7:14A-4 and 20.6, an applicant for a NJPDES permit for a residual transfer station shall submit application information for residual transfer stations required pursuant to the Statewide Sludge Management Plan and the applicable NJPDES Permit Technical Manual adopted pursuant to N.J.S.A. 13:1D-111.

(b) Transfer of residual transport containers directly from vehicle to vehicle, including truck to train, for shipment to a residual management site or facility authorized by the permitting authority, is not considered a residual transfer station under this subchapter provided the following conditions are met:

1. The contents of each residual transport container shall remain in the residual transport container during transfer between vehicles; and

2. The transfer of residual transport containers shall not result in off-site nuisances, including, but not limited to, dust, odor and noise.

7:14A-20.11 Generic residual quality determinations

(a) It shall be the responsibility of the person who prepares residual to ensure that all residual accepted for processing is compatible with the applicable residual quality limitations.

(b) A person who prepares residual to be applied to the land may accept a residual which does not meet the residual quality limitations of 40 CFR 503.13 provided the residual is to be blended with other residual and the final residual to be applied to the land meets the appropriate pollutant limits under 40 CFR 503.13, subject to the following:

1. Written Department approval pursuant to (c) below is required to accept sewage sludge for blending from domestic treatment works sources not known at the time of permit application where the median or mean pollutant concentration (based on a 12 month moving mean and median) for the source exceeds the residual quality limitations imposed on the person who prepares the residual pursuant to 40 CFR 503.13; and

2. Written Department approval pursuant to (c) below is required to accept residual from industrial treatment works sources not known at the time of permit application regardless of quality.

(c) The following information shall be submitted in order to obtain a generic residual quality determination:

1. For requests to process specific residuals, information shall be provided on the characteristics of the residual and analyses conducted in accordance with N.J.A.C. 7:14A-20.7(a)1 for the previous 12 month period, which shall be analyzed for mean, median and range for each parameter; and

2. For blending requests, a process schematic shall be provided on how complete blending of residuals will be achieved as well as technical documentation on achievement of residual quality limitations pursuant to 40 CFR 503.13 (including mass balance calculations).

SUBCHAPTER 21. REQUIREMENTS FOR INDIRECT USERS

7:14A-21.1 Purpose and scope

(a) This subchapter:

1. Establishes requirements to prevent the introduction of pollutants into a local agency's treatment works which may:

- i. Interfere with the operation of the local agency's treatment works;
- ii. Pass through or would otherwise be incompatible with the local agency's treatment works; or
- iii. Interfere with the local agency's chosen method of sludge management;

2. Sets forth the minimum discharge criteria and reporting requirements for all indirect users; and

3. Sets forth the specific requirements for an individual NJPDES-SIU permit for a significant indirect user as defined in N.J.A.C. 7:14A-1.2 discharging into a non-delegated local agency's treatment works.

(b) The Department adopts and incorporates herein by reference the General Pretreatment Regulations for Existing and New Sources of Pollution, 40 CFR 403, and National Pretreatment Standards in 40 CFR chapter I, subchapter N, as amended and supplemented.

7:14A-21.2 Minimum requirements for all indirect users

(a) The following conditions apply to all indirect users:

1. The prohibitions, as set forth in 40 CFR Part 403.5, against the introduction into a local agency's treatment works of any of the following:

- i. Any pollutant(s) which causes pass through or interference;
- ii. Any pollutants which create a fire or explosion hazard in the local agency's treatment works including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR 261.21;
- iii. Any pollutants which will cause corrosive structural damage to the local agency's treatment works, but in no case a discharge with pH lower than 5.0, unless the treatment works is specifically designed to accommodate such discharges;

iv. Any solid or viscous pollutants in amounts which will cause obstruction to the flow in the local agency's treatment works resulting in interference;

v. Any pollutant, including oxygen demanding pollutants (for example, BOD) released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the local agency's treatment works;

vi. Heat in amounts which will inhibit biological activity at the local agency's treatment works resulting in interference, but in no case heat in such quantities that the temperature at the local agency's treatment works exceeds 40 degrees Celsius (104 degrees Fahrenheit) unless the Department, upon request of the local agency, approves alternative temperature limits;

vii. Petroleum oil, nonbiodegradable cutting oil, or any product of mineral oil origin in amounts that will cause interference or pass through;

viii. Any pollutants which result in the presence of toxic gases, vapors, or fumes within the local agency's treatment works in a quantity that may cause acute worker health and safety problems; or

ix. Any trucked or hauled pollutant, except at discharge points designated by the local agency.

2. The State pretreatment standards for petroleum hydrocarbons pursuant to N.J.A.C. 7:14A-12; and

3. Local limits developed by the local agency pursuant to N.J.A.C. 7:14A-19.7.

(b) All indirect users shall notify the local agency immediately of all discharges that could cause problems to the local agency's treatment works, including any slug discharge loading.

(c) The penalties, including mandatory minimum penalties, and the settlement restrictions applicable to any civil administrative penalty assessment, as specified under N.J.A.C. 7:14-8, are fully applicable to violations by indirect users occurring on or after January 19, 1999.

Amended by R.1999 d.32, effective January 19, 1999.
See: 30 N.J.R. 1356(a), 31 N.J.R. 157(a).
Added (c).

7:14A-21.3 Additional requirements for all significant indirect users

(a) Within 60 days after the effective date of a pretreatment standard for a subcategory under which an indirect user may be included, the indirect user may request that the control authority provide written determination on whether the indirect user falls within that particular subcategory. If an existing indirect user adds or changes a process or operation which may be included in a subcategory, the existing indirect user shall request this determination prior to commencing discharge from the added or changed process or operation. A new source shall request this determination prior to commencing discharge. Each request shall include:

1. A description of which subcategories might be applicable;
2. Evidence and reasons why a particular subcategory is applicable and why others are not applicable; and
3. The following certification over the signature of the person submitting the request:

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

(b) Within 180 days after the effective date of a categorical pretreatment standard or 180 days after the final decision by the control authority on the categorical determination request submitted under (a) above, whichever is later, each existing indirect user subject to a categorical pretreatment standard and currently discharging or scheduled to discharge to a local agency shall submit to the control authority a baseline report. The baseline report shall contain the information specified in (b)1 through 7 below. New sources and sources that became users subsequent to the promulgation of an applicable categorical standard shall submit the information specified in (b)1 through 5 below.

1. Identifying information, specifically the name and address of the facility and including the name of the operator and owners;
2. A list of any environmental control permits held by or for the facility;
3. A brief description of the nature, average rate of production, and Standard Industrial Classification of the operation(s) carried out by such indirect user. This description shall include a schematic process diagram

which indicates points of discharge to the local agency from the regulated processes;

4. Information showing the measured average daily and maximum daily flow, in gallons per day, to the local agency's treatment works from each of the following:

- i. Regulated process streams; and
- ii. Other streams as necessary to allow use of the combined wastestream formula of N.J.A.C. 7:14A-21.4(c). The control authority may accept verifiable estimates of these flows instead of measured flows where justified by cost or feasibility considerations;

5. Pollutant levels measured as follows:

- i. The indirect user shall identify the pretreatment standards applicable to each regulated process;
- ii. The indirect user shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the standard or control authority) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations;

iii. A minimum of four grab samples shall be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, 24-hour composite samples shall be obtained through flow-proportional composite sampling techniques where feasible. The control authority shall waive flow-proportional composite sampling for any indirect user that demonstrates that flow-proportional sampling is infeasible. In such cases, samples shall be obtained through time-proportional composite sampling techniques or through a minimum of four grab samples where the indirect user demonstrates that this shall provide a representative sample of the effluent being discharged;

iv. The indirect user shall take a minimum of one representative sample to compile data necessary to comply with the requirements of this paragraph;

v. Samples shall be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the indirect user shall measure the flows and concentrations necessary to allow use of the combined wastestream formula of N.J.A.C. 7:14A-21.4(c) in order to evaluate compliance with the pretreatment standards. Where an alternative concentration or mass limit has been calculated in accordance with N.J.A.C. 7:14A-21.4(c) this adjusted limit along with supporting data shall be submitted to the control authority;

vi. Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR

Part 136 and amendments thereto. Where 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the Department determines that the 40 CFR Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the local agency or other parties, approved by the Department;

vii. The control authority may allow the submission of a baseline report which utilizes only historical data so long as the data are sufficient to determine the need for industrial pretreatment measures; and

viii. The baseline report shall indicate the time, date and place, of sampling, and methods of analysis, and shall contain a certification from an authorized representative that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the local agency's treatment works;

6. A statement, reviewed by an authorized representative of the indirect user and certified to by a qualified professional, as to whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance and/or additional pretreatment is required for the indirect user to meet the pretreatment standards and requirements; and

7. If additional pretreatment and/or operation and maintenance shall be required to meet the pretreatment standards, the shortest compliance schedule under which the indirect user shall provide such additional pretreatment and/or operation and maintenance shall be submitted. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.

i. Where the indirect user's categorical pretreatment standard has been modified by the combined wastestream formula pursuant to N.J.A.C. 7:14A-21.4(c) and/or a fundamentally different factors variance pursuant to N.J.A.C. 7:14A-21.5 at the time the indirect user submits the baseline report required under this subsection, the information required under (b)6 above and this paragraph shall pertain to the modified limits;

ii. If the categorical pretreatment standard is modified by the combined wastestream formula pursuant to N.J.A.C. 7:14A-21.4(c) and/or a fundamentally different factors variance pursuant to N.J.A.C. 7:14A-21.5 after the indirect user submits the baseline report required under this subsection, any necessary amendments to the information required under (b)6 above and this paragraph shall be submitted by the indirect user to the control authority within 60 days after the modified limit is approved.

(c) Existing sources shall comply with categorical pretreatment standards within three years of the date the standard is effective unless a sooner compliance deadline is specified in the applicable subpart of 40 CFR chapter I, subchapter N. Existing sources which become indirect users subsequent to promulgation of an applicable categorical pretreatment standard shall be considered existing indirect users except where such sources meet the definition of a "new source" under N.J.A.C. 7:14A-1.2. New sources shall install and have in operating condition, and shall "start-up" all pollution control equipment required to meet applicable pretreatment standards, before beginning to discharge. Within the shortest feasible time, not to exceed 90 days from commencement of discharge, new sources shall meet all applicable pretreatment standards.

(d) As conditions to any compliance schedule for meeting categorical pretreatment standards pursuant to (b)7 above, the indirect user shall:

1. Incorporate in the compliance schedule increments of progress described as dates for the commencement and completion of milestones in the construction and operation of additional pretreatment as required for the indirect user to meet the applicable categorical pretreatment standards (for example, hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction). No such increment shall exceed nine months; and

2. Not later than 14 days following each date in the compliance schedule and the final date for compliance, submit a progress report to the control authority including, at a minimum, whether or not the indirect user met the increment of progress on such date and, if not, the anticipated date of compliance with such increment of progress, the reason for delay, and the steps being taken by the indirect user to resume the construction schedule established. In no event shall more than nine months elapse between such progress reports to the control authority.

(e) Within 90 days following the date for final compliance with applicable categorical pretreatment standards or, in the case of a new source, within 90 days following commencement of the introduction of wastewater into the local agency's treatment works, any indirect user subject to pretreatment standards and requirements shall submit to the control authority a report containing the information described in (b)4 through 6 above. For indirect users subject to equivalent mass or concentration limits established by the control authority in accordance with the procedures in N.J.A.C. 7:14A-21.4(c), this report shall contain a reasonable measure of the indirect user's long term production rate. For all other indirect users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the indirect user's actual production during the appropriate sampling period.

(f) Periodic reports on continued compliance shall be submitted as follows:

1. Any indirect user subject to a categorical pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the local agency, shall submit to the control authority during the months of June and December, unless required more frequently in the pretreatment standard or by the control authority or the Department, a report indicating the nature and concentration of pollutants in the effluent which are limited by such categorical pretreatment standards. This report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the discharge reported in (b)4 above except that the control authority may require more detailed reporting of flows. At the discretion of the control authority and in consideration of such factors as local high or low flow rates, holidays, and budget cycles, the control authority may approve the designation of months other than June and December during which the above reports are to be submitted.

2. Where the control authority has imposed mass limitations on indirect users as provided for by N.J.A.C. 7:14A-21.4(c), the report required under (f)1 above shall indicate the mass of pollutants regulated by pretreatment standards in the discharge from the indirect user.

3. For indirect users subject to equivalent mass or concentration limits established by the control authority in accordance with the procedures in N.J.A.C. 7:14A-21.4(a), the report required under (f)1 above shall contain a reasonable measure of the indirect user's long term production rate. For all other indirect users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report required under (f)1 above shall include the indirect user's actual average production rate for the reporting period.

(g) Monitoring and analysis to demonstrate continued compliance shall be conducted as follows:

1. The reports required under (b), (e) and (f) above shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the control authority, of pollutants contained therein which are limited by the applicable pretreatment standards. This sampling and analysis may be performed by the control authority in lieu of the indirect user. Where the control authority performs the required sampling and analysis in lieu of the indirect user, the indirect user will not be required to submit the compliance certification required under (b)6 and (e) above. In addition, where the control authority itself collects all the information required for the report, including flow data, the indirect

user will not be required to submit the report required under (b), (e) and (f) above.

2. If sampling performed by an indirect user indicates a violation of pretreatment standards, the indirect user shall notify the control authority within 24 hours of becoming aware of the violation. The indirect user shall repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within 30 days after becoming aware of the violation, except the indirect user is not required to resample if:

i. The control authority conducts sampling of the indirect user's discharge at a frequency of at least once per month; or

ii. The control authority conducts sampling of the indirect user's discharge between the time when the indirect user performs its initial sampling and the time when the indirect user receives the results of this sampling.

3. The reports required under (f) above shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period. The control authority shall require that frequency of monitoring necessary to assess and ensure compliance by indirect users with applicable pretreatment standards and requirements.

4. All analyses shall be performed in accordance with procedures contained in 40 CFR Part 136, as amended, or with any other test procedures approved by the Department. Sampling shall be performed in accordance with the techniques approved by the Department. Where 40 CFR Part 136 does not include sampling or analytical techniques for the pollutants in question, or where the Department determines that the 40 CFR Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other sampling and analytical procedures, including procedures suggested by the control authority, local agency or the indirect user, approved by the Department.

5. If an indirect user subject to the reporting requirement in (f) above monitors any pollutant more frequently than required by the control authority, using the procedures prescribed in (g)4 above, the results of this monitoring shall be included in the report.

(h) Significant indirect users as defined in N.J.A.C. 7:14A-1.2 shall submit to the control authority at least once each month (on dates specified by the control authority) a description of the nature, concentration, and flow of the pollutants required by the control authority to be reported. These reports shall be based on sampling and analysis performed in the period covered by the report, and in accordance with the techniques described in 40 CFR Part 136, as amended. Where 40 CFR Part 136 does not contain

sampling or analytical techniques for the pollutant in question, or where the Department determines that the 40 CFR Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the control authority, local agency or the indirect user, approved by the Department. This sampling and analysis may be performed by the control authority in lieu of the significant indirect user. Where the control authority itself collects all the information required for the report, the indirect user will not be required to submit the report.

(i) Requirements for notification regarding hazardous waste are as follows:

1. The indirect user shall notify the local agency, the USEPA Regional Waste Management Division Director, and the Department's Division of Solid and Hazardous Waste in writing of any discharge into the local agency's treatment works of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification shall include the name of the hazardous waste as set forth in 40 CFR Part 261, the USEPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the indirect user discharges more than 100 kilograms of such waste per calendar month to the local agency's treatment works, the notification shall also contain the following information to the extent such information is known and readily available to the indirect user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. Indirect users who commence discharging after the effective date of this chapter shall provide the notification no later than 180 days after the discharge of the listed or characteristic hazardous waste. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notification of changed discharges must be submitted under (j) below. The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of (b), (e) and (f) above.

2. Dischargers are exempt from the requirements of (i)1 above during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Additional notification is not required in subsequent months during which the indirect user discharges more than such quantities of any hazardous waste.

3. In the case of any new promulgated regulation under section 3001 of RCRA or the State's Solid Waste Management Act identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the indirect user shall notify the local agency, the USEPA Regional Waste Management Waste Division Director, and the Division of Solid and Hazardous Waste of the discharge of such substance within 90 days of the effective date of such regulation.

4. In the case of any notification made under this subsection, the indirect user shall certify that it has a program in place to reduce the volume and toxicity of hazardous waste generated to the degree it has determined to be economically practical.

(j) All indirect users shall promptly notify the local agency in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the indirect user has submitted initial notification (i) above.

7:14A-21.4 Categorical standards, calculation of equivalent and/or alternative limits

(a) When the categorical pretreatment standards are expressed in terms of production, equivalent effluent limitations shall be calculated as follows:

1. When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the control authority may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual indirect users.

2. A control authority calculating equivalent mass-per-day limitations under (a)1 above shall calculate such limitations by multiplying the limits in the categorical pretreatment standard by the indirect user's average rate of production. This average rate of production shall be based not upon the designed production capacity but rather upon a reasonable measure of the indirect user's actual long-term daily production, such as the average daily production during a representative year. For new sources, actual production shall be estimated using projected production.

3. A control authority calculating equivalent concentration limitations under (a)1 above shall calculate such limitations by dividing the mass limitations derived under (a)2 above by the average daily flow rate of the indirect user's regulated process wastewater. This average daily flow rate shall be based upon a reasonable measure of the indirect user's actual long-term average flow rate, such as the average daily flow rate during the representative year. For new sources, flow rate shall be estimated using projected flow rate.

4. Equivalent limitations calculated in accordance with (a)2 and 3 above shall be deemed pretreatment standards for the purposes of section 307(d) of the Federal Act and this subchapter. Indirect users will be required to comply with the equivalent limitations in lieu of the promulgated categorical standards from which the equivalent limitations were derived.

5. When a categorical pretreatment standard that specifies one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum monthly average, or four-day average, limitations are applied, the same production or flow figure shall be used in calculating both types of equivalent limitations.

6. Any indirect user operating under a control mechanism incorporating equivalent mass or concentration limits calculated from a production based standard shall notify the control authority within two business days after the indirect user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any indirect user that does not notify the control authority of such anticipated change shall be required to meet the mass or concentration limits in its IPP permit that were based on the original estimate of the long term average production rate.

(b) Except where expressly authorized to do so by an applicable pretreatment standard or requirement, no indirect user shall increase the use of process water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement. The control authority may impose mass limitations on indirect users which are using dilution to meet applicable pretreat-

ment standards or requirements, or in other cases where the imposition of mass limitations is appropriate.

(c) Where process effluent is mixed prior to treatment with wastewaters other than those generated by the regulated process, fixed alternative categorical limits shall be derived by the control authority or by the indirect user with the written concurrence of the control authority. These alternative categorical limits shall be applied to the mixed effluent. When deriving alternative categorical limits, the control authority or indirect user shall calculate both an alternative daily maximum value using the daily maximum value(s) specified in the appropriate categorical pretreatment standard(s) and an alternate monthly or consecutive sampling day average value using the monthly or consecutive sampling day average value(s) specified in the appropriate categorical pretreatment standard(s). The indirect user shall comply with the alternative categorical daily maximum and monthly average or consecutive sampling day limits fixed by the control authority, in the indirect user's permit. Modification is authorized whenever there is a material or significant change in the values used in the calculation to fix alternative categorical limits for the regulated pollutant. An indirect user shall immediately report any such material or significant change to the control authority. Where appropriate, alternative categorical limits shall be re-calculated within 30 days of being informed of changes by the indirect user.

1. For purposes of these formulas, the average daily flow means a reasonable measure of the average daily flow for a 30-day period. For new sources, flows shall be estimated using projected values. The alternative limit for a specified pollutant shall be derived by the use of either of the following formulas:

i. Alternative concentration limit.

$$C_T = \frac{\sum_{i=1}^N C_i F_i}{\sum_{i=1}^N F_i} + \frac{F_T - F_D}{F_T}$$

where

C_T = the alternative concentration limit for the combined wastestream.

C_i = the categorical pretreatment standard concentration limit for a pollutant in the regulated stream i .

F_i = the average daily flow (at least a 30-day average) of stream i to the extent that it is regulated for such pollutant.

F_D = the average daily flow (at least a 30-day average) from:

(1) Boiler blowdown streams, non-contact cooling streams, stormwater streams, and demineralizer backwash streams, provided, however, that where such streams contain a significant amount of a pollutant, and the combination of such streams, prior to treatment, with an indirect user's regulated process wastestream(s) will result in a substantial reduction of that pollutant, the control authority, upon application of the indirect user, may exercise its discretion to determine whether such stream(s) shall be classified as diluted or unregulated. In its permit application to the control authority, the indirect user shall provide engineering, production, sampling and analysis and such other information so that the control authority can make its determination; or

(2) Sanitary wastestreams where such streams are not regulated by a categorical pretreatment standard; or

(3) From any process wastestreams which were or could have been entirely exempted from categorical pretreatment standards pursuant to paragraph 8 of the *NRDC v. Costle* Consent Decree (12 ERC 1833) for one or more of the following reasons:

(A) The pollutants of concern are not detectable in the effluent from the indirect user (paragraph (8)(a)(iii)) and/or as specified in the appropriate categorical standards;

(B) The pollutants of concern are present only in trace amounts and are neither causing nor likely to cause toxic effects (paragraph (8)(a)(iii)) and/or as specified in the appropriate categorical pretreatment standards;

(C) The pollutants of concern are present in amounts too small to be effectively reduced by technologies known to the Administrator (paragraph (8)(a)(iii)); or

(D) The wastestream contains only pollutants which are compatible with the local agency's treatment works (paragraph (8)(b)(i)) and/or as specified in the appropriate categorical standards.

F_T = The average daily flow (at least a 30-day average) through the indirect user's treatment works (includes F_i , F_D and unregulated streams).

N = The total number of regulated streams.

ii. Alternative mass limit:

$$M_T = \sum_{i=1}^N M_i * \frac{F_T - F_D}{\sum_{i=1}^N F_i}$$

where

M_T= the alternative mass limit for a pollutant in the combined wastestream.

M_i= the categorical pretreatment standard mass limit for a pollutant in the regulated stream i (the categorical pretreatment mass limit multiplied by the appropriate measure of production).

F_i= the average flow (at least a 30-day average) of stream i to the extent that it is regulated for such pollutant.

F_D= the average daily flow (at least a 30-day average) from:

(1) Boiler blowdown streams, non-contact cooling streams, stormwater streams, and demineralizer backwash streams, provided, however, that where such streams contain a significant amount of a pollutant, and the combination of such streams, prior to treatment, with an indirect user's regulated process wastestream(s) will result in a substantial reduction of that pollutant, the control authority, upon application of the indirect user, may exercise its discretion to determine whether such stream(s) shall be classified as diluted or unregulated. In its permit application to the control authority, the indirect user shall provide engineering, production, sampling and analysis and such other information so that the control authority can make its determination; or

(2) Sanitary wastestreams where such streams are not regulated by a categorical pretreatment standard; or

(3) From any process wastestreams which were or could have been entirely exempted from categorical pretreatment standards pursuant to paragraph 8 of the *NRDC v. Costle* Consent Decree (12 FRC 1833) for one or more of the following reasons:

(A) The pollutants of concern are not detectable in the effluent from the indirect user (paragraph (8)(a)(iii)) and/or as specified in the appropriate categorical standards;

(B) The pollutants of concern are present only in trace amounts and are neither causing nor likely to cause toxic effects (paragraph (8)(a)(iii)) and/or as specified in the appropriate categorical standards;

(C) The pollutants of concern are present in amounts too small to be effectively reduced by technologies known to the Administrator (paragraph (8)(a)(iii)); or

(D) The wastestream contains only pollutants which are compatible with the local agency's treatment works (paragraph 8(b)(i)) and/or as specified in the appropriate categorical standards.

F_T= The average flow (at least a 30-day average) through the indirect user's treatment works (includes F_i, F_D and unregulated streams).

N= The total number of regulated streams.

2. An alternative pretreatment limit shall not be used if such alternative limit is below the analytical detection limit for any of the regulated pollutants.

3. The indirect user shall monitor, to ensure compliance with the alternative categorical limits, in accordance with the requirements of N.J.A.C. 7:14A-21.3(g).

4. Where a treated regulated process wastestream is combined prior to treatment with wastewaters other than those generated by the regulated process, the indirect user may monitor either the segregated process wastestream or the combined wastestream for the purpose of determining compliance with applicable pretreatment standards. If the indirect user monitors the segregated process wastestream, it shall apply the applicable categorical pretreatment standard. If the indirect user chooses to monitor the combined wastestream, it shall apply an alternative

discharge limit calculated using the combined wastestream formula as provided in this section. The indirect user may change monitoring points only after receiving approval from the control authority. The control authority shall ensure that any change in an indirect user's monitoring point(s) will not allow the indirect user to substitute dilution for adequate treatment to achieve compliance with applicable standards.

(d) Categorical pretreatment standards may be adjusted to reflect the presence of pollutants in the indirect user's intake water as follows:

1. Any indirect user wishing to obtain credit for intake pollutants must submit a written request to the control authority. Upon such request, the applicable standard will be calculated on a "net" basis (that is, adjusted to

reflect credit for pollutants in the intake water) if the requirements of (d)2 and 3 below are met.

2. Criteria adjusting categorical pretreatment standards to reflect the presence of pollutants in the indirect user's intake water are as follows:

i. The indirect user shall demonstrate that the control system it proposes, or uses to meet applicable categorical pretreatment standards would, if properly installed and operated, meet the standards in the absence of pollutants in the intake waters.

ii. Credit for generic pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS), and oil and grease shall not be granted unless the indirect user demonstrates that the constituents of the generic measure in the indirect user's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.

iii. Credit shall be granted only to the extent necessary to meet the applicable categorical pretreatment standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credit and compliance with standard(s) adjusted under this section.

iv. Credit shall be granted only if the indirect user demonstrates that the intake water is drawn from the same body of water as that into which the local agency's treatment works discharges. The control authority may waive this requirement if it finds that no environmental degradation will result.

3. The applicable categorical pretreatment standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis.

7:14A-21.5 Variance from categorical pretreatment standards for fundamentally different factors

(a) Any interested person believing that factors relating to an indirect user are fundamentally different from the factors considered during development of a categorical pretreatment standard applicable to that indirect user and that the existence of those factors justifies a different discharge limit than specified in the applicable categorical pretreatment standard may request a fundamentally different factors variance under this section.

1. A request for a variance based upon fundamentally different factors shall be approved only if:

i. There is an applicable categorical pretreatment standard which specifically controls the pollutant for which alternative limits have been requested;

ii. Factors relating to the discharge controlled by the categorical pretreatment standard are fundamentally different from the factors considered by USEPA in establishing the standards; and

iii. The request for a variance is made in accordance with the procedural requirements of (e) and (f) below.

2. A variance request for the establishment of limits less stringent than required by the standard shall be approved only if:

i. The alternative limit requested is no less stringent than justified by the fundamental difference;

ii. The alternative limit will not result in a violation of any prohibition established under N.J.A.C. 7:14A-21.2(a)1;

iii. The alternative limit will not result in a non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the pretreatment standards; and

iv. Compliance with the standards (either by using the technologies upon which the standards are based or by using other control alternatives) would result in either:

(1) A removal cost (adjusted for inflation) wholly out of proportion to the removal cost considered during development of the standards; or

(2) A non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the standards.

3. A variance request for the establishment of limits more stringent than required by the standards shall be approved only if:

i. The alternative limit request is no more stringent than justified by the fundamental difference; and

ii. Compliance with the alternative limit would not result in either:

(1) A removal cost (adjusted for inflation) wholly out of proportion to the removal cost considered during development of the standards; or

(2) A non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the standards.

(b) Factors which may be considered fundamentally different are:

1. The nature or quality of pollutants contained in the raw waste load of the indirect user's process wastewater;

2. The volume of the indirect user's process wastewater and effluent discharged;

3. The non-water quality environmental impact of control and treatment of the indirect user's raw waste load;

4. The energy requirements of the application of control and treatment technology;

5. The age, size, land availability, and configuration as they relate to the indirect user's equipment or facilities, processes employed, process changes, and engineering aspects of the application of control technology; and

6. The cost of compliance with required control technology.

(c) A variance request or portion of such a request under this section shall not be granted on any of the following grounds:

1. The feasibility of installing the required waste treatment equipment within the time the Act allows;

2. The assertion that the standards cannot be achieved with the appropriate waste treatment facilities installed, if such assertion is not based on factors listed in (b) above;

3. The indirect user's ability to pay for the required waste treatment; or

4. The impact of a discharge on the quality of the local agency's receiving waters.

(d) Nothing in this section shall be construed to impair the right of any local agency to impose more stringent limitations than required by Federal law.

(e) Requests for a variance and supporting information shall be submitted in writing to the Department no later than 180 days after the date on which a categorical pretreatment standard is published in the Federal Register for a request based on a categorical pretreatment standard promulgated on or after February 4, 1987.

1. Where the indirect user has requested a categorical determination pursuant to N.J.A.C. 7:14A-21.3(a), the indirect user may elect to await the results of the categorical determination before submitting a variance request under this section. Where the indirect user so elects, he or she must submit the variance request within 30 days after a final decision has been made on the categorical determination.

(f) Written variance requests shall include:

1. The name and address of the person making the request;

2. Identification of the interest of the requester which is affected by the categorical pretreatment standard for which the variance is requested;

3. Identification of the local agency currently receiving the waste from the indirect user for which alternative discharge limits are requested;

4. Identification of the categorical pretreatment standards which are applicable to the indirect user;

5. A list of each pollutant or pollutant parameter for which an alternative discharge limit is sought;

6. The alternative discharge limits proposed by the requester for each pollutant or pollutant parameter identified pursuant to (f)5 above;

7. A description of the indirect user's existing water pollution control facilities;

8. A schematic flow representation of the indirect user's water system including water supply, process wastewater systems, and points of discharge; and

9. A statement of facts clearly establishing why the variance request should be approved, including detailed support data, documentation, and evidence necessary to fully evaluate the merits of the request, e.g., technical and economic data collected by the USEPA and used in developing each pollutant discharge limit in the pretreatment standard.

(g) The Department shall act only on written requests for variances that contain all of the information required pursuant to (f) above. Persons who have made incomplete submissions will be notified by the Department that their requests are deficient and unless the time period is extended, will be given up to 30 days to remedy the deficiency. If the deficiency is not corrected within the time period allowed by the Department, the request for a variance shall be denied.

(h) Upon receipt of a complete request, the Department shall provide public notice of receipt, opportunity to review the submission, and opportunity to comment.

1. The public notice shall be published in a manner designed to inform interested and potentially interested persons of the request, and shall include mailing notices to:

i. The local agency into whose treatment works the indirect user requesting the variance discharges;

ii. Adjoining states whose waters may be affected;

iii. Agencies responsible for areawide Water Quality Management Plan, Federal and State fish, shellfish and wildlife resource agencies; and

iv. Any other person or group who has requested individual notice, including those on appropriate mailing lists.

2. The public notice shall provide for a period not less than 30 days following the date of the public notice during which time interested persons may review the request and submit written comments on the request.

3. Following the comment period, the Department will make a determination on the request, taking into consider-

ation any comments received. Notice of this final decision shall be provided to the requester and the indirect user for which the variance is requested, if different, the local agency into whose treatment works the indirect user discharges and all persons who submitted comments on the request.

(i) Review of requests by the Department is as follows:

1. Where the Department finds that fundamentally different factors do not exist, it shall deny the request and notify the requester (and indirect user where they are not the same) and the local agency of the denial.

2. Where the Department finds that fundamentally different factors do exist, it shall forward the request, with a recommendation that the request be approved, to the USEPA Administrator. (Review of the variance request by USEPA is governed by 40 CFR Part 403.13(l)).

(j) Requests for an adjudicatory hearing shall be as follows:

1. If the Department denies the variance request, the requester may request an adjudicatory hearing pursuant to N.J.A.C. 7:14A-17.

2. If USEPA denies the variance request, the requester may seek relief pursuant to 40 CFR Part 403.13(m).

7:14A-21.6 Bypass

(a) An indirect user may allow any bypass to occur which does not cause pretreatment standards to be violated, but only if such bypass is for essential maintenance to ensure efficient operation. Such bypasses are not subject to (b) and (c) below.

(b) Notice of bypass shall be as follows:

1. If an indirect user knows in advance of the need for a bypass, it shall submit prior notice to the control authority, if possible at least 10 days before the date of the bypass.

2. An indirect user shall inform the control authority by telephone or in person of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time the indirect user becomes aware of the bypass. A written submission shall also be provided within five days of the time the indirect user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The control authority may waive the written report on a case-by-case basis if the information of the bypass by telephone or in person was received within 24 hours of the indirect user's becoming aware of the bypass.

(c) Bypass is prohibited, and the control authority may take enforcement action against an indirect user for a bypass, unless:

1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

3. The indirect user notified the control authority as required under (b) above.

(d) The control authority may approve an anticipated bypass, after considering its adverse effects, if the control authority determines that it will meet the conditions in (c)1 through 3 above.

7:14A-21.7 Additional requirements for facilities which meet the SIU definition and discharge to a delegated local agency's treatment works

Any indirect user which meets the SIU definition in N.J.A.C. 7:14A-1.2 and discharges or plans to discharge to a delegated local agency's treatment works shall obtain an IPP permit from that delegated local agency. Delegated local agencies are required pursuant to N.J.A.C. 7:14A-19.3(c)2 to issue IPP permits to such indirect users.

7:14A-21.8 Additional requirements for facilities which meet the SIU definition and discharge to a non-delegated local agency's treatment works

An indirect user which meets the SIU definition in N.J.A.C. 7:14A-1.2 and discharges or plans to discharge to a local agency which is not a delegated local agency as defined at N.J.A.C. 7:14A-1.2 shall obtain an individual NJPDES-SIU permit from the Department pursuant to N.J.A.C. 7:14A-2.4 and 7:14A-4.

7:14A-21.9 Exemptions from the requirements for an individual NJPDES-SIU permit from the Department

(a) An indirect user authorized to discharge by the local agency is exempt from the requirement to obtain an individual NJPDES-SIU permit from the Department if:

1. The indirect user does not meet the SIU definition; or

2. The indirect user discharges to a delegated local agency's treatment works.

(b) The Department may, at its discretion, revoke a NJPDES-SIU permit if the permittee meets the exemption criteria of (a) above.

(c) A permittee may request revocation of an individual NJPDES-SIU permit by submitting to the Department a certification by an authorized representative of the permittee stating the date and describing in detail when and why the permittee became eligible for an exemption pursuant to (a) above.

(d) The Department shall revoke the NJPDES-SIU permit if the permittee establishes pursuant to (c) above that the permittee qualifies for an exemption under (a) above.

(e) The terms and conditions of the individual NJPDES-SIU permit, including, but not limited to, the requirement to file a timely application for permit renewal, remain in full force and effect unless and until such permit is revoked consistent with the procedures in N.J.A.C. 7:14A-16.

(f) If an individual NJPDES-SIU permit is revoked pursuant to this section, the user may continue to discharge and shall comply with any pretreatment requirements of the local agency and this subchapter.

7:14A-21.10 Establishing conditions and effluent limitations for an individual NJPDES-SIU permit issued by the Department

(a) Effluent limitations for NJPDES-SIU permits shall be developed for the applicable pollutants based on one or more of the following:

1. Applicable or relevant categorical pretreatment standards under 40 CFR Chapter I, Subchapter N, calculated and/or adjusted if applicable in accordance with N.J.A.C. 7:14A-21.4;
2. Local limits developed in accordance with N.J.A.C. 7:14A-19.7;
3. In the absence of local limits developed by the local agency in accordance with N.J.A.C. 7:14A-19.7, limitations will be calculated by the Department to prevent pass through or interference at the receiving local agency's treatment works using the Guidance Manual on the Development and Implementation of Local Discharge Limitations Under the Pretreatment Program, USEPA, (December 1987);
4. Limitations based upon performance of existing and proposed wastewater pretreatment units; and
5. Minimum requirements for all indirect users of local agencies specified in N.J.A.C. 7:14A-21.2.

(b) In addition to effluent limitations, the individual NJPDES-SIU permit shall contain the following conditions, requirements and/or provisions, as applicable:

1. Reporting and filing requirements in accordance with N.J.A.C. 7:14A-21.3;

2. Slug discharge control plan requirements as specified in N.J.A.C. 7:14A-19.6(a)7;
3. Residuals management requirements pursuant to N.J.A.C. 7:14A-6.15;
4. Treatment Works Approval requirements such as proper maintenance and operation of the pretreatment system and, licensed operator requirements in accordance with N.J.A.C. 7:14A-22;
5. Compliance schedule pursuant to N.J.A.C. 7:14A-6.4(a); and
6. Bypass provisions pursuant to N.J.A.C. 7:14A-21.6.

7:14A-21.11 Violations; closing off of use of sewerage connections

The Department or the local agency may, in instances of indirect user non-compliance, take such steps as may be necessary to seal or close off connections from the local agency to the indirect user until it is satisfied that adequate measures have been taken to prevent the recurrence of non-compliance in accordance with N.J.S.A. 58:11-56.

7:14A-21.12 Requirements for dental facilities

(a) This section establishes best management practices and regulatory requirements for owners of dental facilities that generate amalgam waste through the removal or placement of amalgams. The requirements of this section do not apply to a dental facility at which no dentistry is practiced other than any of the following specialties:

1. Orthodontics;
2. Periodontics;
3. Endodontics;
4. Oral and Maxillofacial Surgery;
5. Oral and Maxillofacial Radiology; and
6. Oral and Maxillofacial Pathology.

(b) Except as provided under (c) below, an owner of any dental facility that generates amalgam waste shall be exempt from the requirement to obtain a NJPDES-SIU permit from the Department or the delegated local agency for the discharge of wastewater into a local agency's treatment works, provided the owner complies with following requirements:

1. The owner of a dental facility shall implement the best management practice described in (d) below no later than October 1, 2008;
2. The owner of the dental facility shall install an amalgam separator to serve every dental chair in the facility where amalgam waste is generated. The amalgam separator must be adequately sized for the maximum expected flow rate. The amalgam separator shall be installed no later than October 1, 2009. The separator shall

conform with the ISO 11143 protocol. Each dental facility constructed on or after October 1, 2007 shall include an installed amalgam separator that conforms with the ISO 11143 protocol. A separator shall be deemed to meet to the required ISO protocol if it conforms to the ISO 11143 protocol issued in 1999 or later; and

3. The owner of a dental facility subject to this section shall register and certify compliance with the requirements of (b)1 and 2 above. This registration and certification shall be submitted annually to the Department on forms or in the format provided by the Department.

(c) If a local agency conducts a headworks analysis pursuant to N.J.A.C. 7:14A-19.7(a) and determines that additional mercury control measures are necessary to ensure compliance with its NJPDES permit, then the control authority shall impose additional mercury control measures on dischargers to the local agency's treatment works, including, as appropriate, dental facilities subject to this section. Where additional mercury control measures are necessary, all dental facilities discharging to such local agency shall apply for an NJPDES-SIU permit.

(d) Best management practices require a dental facility to, at a minimum:

1. Use mercury-free material when appropriate;
2. Eliminate all use of bulk elemental mercury;
3. Use precapsulated alloys only;
4. Recycle used disposable capsules containing amalgam;
5. Maintain and operate the amalgam separator when installed according to its manufacturer's specifications;
6. Install chair-side traps in both the vacuum system and cuspidor of each operatory where restoration work is done;
7. Change and clean chair-side traps frequently;
8. Not rinse traps or vacuum pump filters over drains or in the sinks;
9. Not throw or place the disposable trap, sludge from reusable trap, or vacuum pump filter or contents with regular garbage;
10. Not throw or place the disposable trap, sludge from reusable trap, or vacuum pump filter or contents into sharps containers or biohazard bag;
11. Not flush amalgam waste down the drain;
12. Use only non-bleach, non-chlorine cleaners to clean vacuum system lines;
13. Appropriately disinfect and store amalgam pieces from removal and restoration with amalgam waste;

14. Store amalgam waste in airtight containers;
15. Have a licensed recycling contractor, mail-in service or hazardous waste hauler remove amalgam waste;
16. Recycle all amalgam waste containing mercury;
17. Train staff in the proper handling, management, and disposal of mercury containing material; and
18. Keep records to document that the BMP requirements are being met.

(e) Those dental facilities that generate amalgam waste and do not comply with the requirements of (b)1 and 2 above shall apply for a NJPDES-SIU permit from the Department or the DLA in accordance with the following:

1. No later than October 1, 2008, when a dental facility fails to comply with (b)1 above; or
2. No later than October 1, 2009, when a dental facility fails to comply with (b)2 above.

New Rule, R.2007 d.304, effective October 1, 2007.
See: 38 N.J.R. 3393(a), 39 N.J.R. 4117(a).

SUBCHAPTER 22. TREATMENT WORKS APPROVALS, SEWER BANS, SEWER BAN EXEMPTIONS

7:14A-22.1 General policy and purpose

(a) It is the purpose of this subchapter to:

1. Establish when a treatment works approval permit is required from the Department;
2. Establish the administrative requirements for treatment works approval applications;
3. Establish the criteria for the imposition of sewer connection bans;
4. Restrict the approval of additional sewer connections, by means of a sewer connection ban, in circumstances when untreated or partially treated wastewater is being discharged in substantial non-compliance with a NPDES or NJPDES permit, or circumstances when inadequate conveyance capacity exists in a collection/conveyance system;
5. Establish criteria for exemptions from sewer connection bans; and
6. Establish a mechanism for actions by local and regional sewerage authorities to provide for adequate sewerage conveyance and treatment facilities within their sewer service areas, and to ensure that sewage generating facilities are located within the appropriate sewer service area as determined by the applicable water quality management plans.

(b) The performance of sewerage facilities, which are generally owned and operated by local and regional sewerage authorities, is dependent, in part, on how they are managed as well as upon controls exercised over the issuance of local approvals and additional sewage connection permits. Adequate monitoring and prudent management of such facilities is essential in order to prevent violations of their NJPDES permits or overflows of conveyance systems. It is the responsibility of the sewerage authority and/or treatment plant owner/operator to implement timely corrective actions and to ensure that additional connections to the treatment works do not result in such occurrences. Whenever the participating municipalities and sewerage authorities fail in this responsibility, the Department may take whatever action that it deems necessary to assure compliance, including, but not limited to, ceasing the issuance of treatment works approval permits and/or the imposition of a sewer connection ban.

Case Notes

Seriousness of polluter's 386 violations and economic benefits obtained by polluter together with evidence that penalty would not jeopardize polluter's continued operation, warranted statutory maximum penalty for violations of permit, subject to reduction to reflect actions and inaction of federal and state enforcement agencies. *Pirg v. Powell Duffryn Terminals, Inc.*, D.N.J.1989, 720 F.Supp. 1158, affirmed in part, reversed in part 913 F.2d 64, rehearing denied, certiorari denied 111 S.Ct. 1018, 498 U.S. 1109, 112 L.Ed.2d 1100.

7:14A-22.2 Scope

(a) Pursuant to N.J.S.A. 58:10A-6, no person shall build, install, modify or operate any facility (including any sewer extension as defined in this chapter) for the collection, conveyance, treatment or discharge of any industrial or domestic wastewater except in conformance with this subchapter.

(b) In a sewer connection ban area, any project involving the construction, operation or modification of a connection, including the modification of a building's projected flow, may not be undertaken except in conformance with this subchapter.

(c) In addition to any action expressly authorized by this chapter, the Department shall have the authority to pursue other remedial actions and may take enforcement actions under the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., and impose fines or penalties in accordance with the Civil Administrative Penalty Rules, N.J.A.C. 7:14-8, or other applicable statute for failure to comply with the terms, conditions, and requirements of this subchapter.

(d) These rules shall be liberally construed to permit the Department and its various agencies to administer their statutory functions.

(e) The Department may, upon notice to all parties and in the public interest, delegate, in accordance with N.J.A.C. 7:14A-22.23, the application of these rules.

(f) The technical standards for the design and construction of treatment works are contained in N.J.A.C. 7:14A-23.

(g) When a treatment works is not required to obtain an approval from the Department pursuant to this subchapter, the treatment works is nonetheless required to conform with any applicable requirements of this subchapter and N.J.A.C. 7:14A-23, Technical Requirements for Treatment Works Approvals.

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

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

Amended by R.1997 d.107, effective May 5, 1997.

See: 28 N.J.R. 380(a), 28 N.J.R. 2779(a), 28 N.J.R. 3494(a), 28 N.J.R. 3858(a), 28 N.J.R. 4697(a), 28 N.J.R. 5028(a), 29 N.J.R. 1704(a).

Deleted (j).

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

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

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

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

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

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

4. Building, installing, operating or modifying any domestic or industrial treatment works that discharges directly to the surface water or ground water of the State, with the exception of individual subsurface disposal systems exempted pursuant to N.J.A.C. 7:14A-22.4(a)3; or

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

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

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

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

Case Notes

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

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

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

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

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

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

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

3. Building, installing, operating or modifying a septic system or other subsurface disposal system where the aggregate projected flow of the facility, using the criteria

established in N.J.A.C. 7:9A, is less than or equal to 2,000 gallons per day of sanitary sewage. Treatment works for such facilities are regulated pursuant to N.J.A.C. 7:9A Standards for Individual Subsurface Sewage Disposal Systems;

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

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

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

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

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

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

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

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

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

i. Frac tanks except when fixed into position;

ii. Tanker trailers; and

iii. Roll-off containers;

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

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

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

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

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

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

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

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

2. Building, installing, operating or modifying an American Petroleum Institute approved gravity oil/water separator, a retention or detention basin, sand traps or sediment traps that are installed routinely in facilities such as car washes, truck wash bays and other similar discharges, when these systems are authorized under a general NJPDES permit, have been determined not to require a NJPDES permit, or are exempted from obtaining a NJPDES permit pursuant to this chapter or are stormwater management facilities (see (b)3v below);

3. Building, installing, operating or modifying any of the following activities or facilities:

i. Grease traps for use in restaurants;

ii. Cooling towers for non-contact water/heat exchange units and necessary associated appurtenances;

iii. Holding tanks for wastewater which is solely industrial in nature and the amount to be hauled to a treatment works will be less than 8,000 gallons per day, and the tank will have a total volume of 21,000 gallons or less;

iv. Recycling systems for industrial waste only, which do not discharge directly to the surface water or ground water;

v. Stormwater management facilities, including but not limited to retention basins, detention basins, and oil/water separators that prevent, abate, reduce, collect, convey, store, treat, dispose of, or otherwise manage stormwater runoff;

vi. Any part of a separate storm sewer system; or

vii. Treatment units used for pretreatment of water for use in an on-going manufacturing process at the industrial facility;

4. Mobile treatment works to be specifically utilized for the treatment of water in relation to a short-term pump test or dewatering associated with an underground storage tank project authorized under a NJPDES category B4B General permit; or

5. Building, installing, modifying or operating any system for discharges to ground water that are authorized by permit-by-rule in accordance with N.J.A.C. 7:14A-7.5 or 8.5.

(c) Notwithstanding the terms of (a) and (b) above, the Department shall have the authority to regulate, at its discretion, any sewer connection or other domestic or industrial treatment works when a sewer connection ban exists or a health emergency so requires.

(d) The lack of a need to obtain a treatment works approval in accordance with this section does not relieve the project owner and/or sewerage authority from the responsibility to comply with all requirements of a NJPDES discharge permit. The responsibility of determining that additional flows to the treatment works will not result in any unpermitted discharge or NJPDES permit violation rests with the owner of the collection system and treatment facility.

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

Amended by R.1994 d.448, effective September 6, 1994.

See: 26 N.J.R. 158(a), 26 N.J.R. 3709(a).

Amended by R.1997 d.107, effective May 5, 1997.

See: 28 N.J.R. 380(a), 28 N.J.R. 2779(a), 28 N.J.R. 3494(a), 28 N.J.R. 3858(a), 28 N.J.R. 4697(a), 28 N.J.R. 5028(a), 29 N.J.R. 1704(a).

In (a)5, deleted “, slope” following “the diameter” and added “and providing that the slope . . . Department design standards”; in (a)12, substituted “handling equipment” for “treatment” and “marketable residual products” for “sludge derived products”; added (a)13; in (b)1, deleted “(indirect discharger)” following “treatment works” and amended N.J.A.C. reference; in (b)3ii, added “and necessary associated appurtenances”; in (b)3iii, deleted reference to discharged wastewater added 21,000 gallon total volume restriction; and in (b)5, amended N.J.A.C. reference

Amended by R.2005 d.222, effective July 5, 2005.

See: 37 N.J.R. 405(a), 37 N.J.R. 2499(a).

In (b), amended the N.J.A.C. reference in 5.

7:14A-22.5 Treatment works approval

(a) A treatment works approval consists of the following three stages:

1. Stage I is an optional preliminary or conceptual review of treatment works as prescribed in N.J.A.C. 7:14A-22.7. The Department recommends that a stage I review and approval be obtained for any new sewage treatment plant or plant expansion, or if the proposed treatment works involves a new or innovative design or technology.

2. Stage II is an approval to construct, install or modify a treatment works as outlined in this subchapter.

3. Stage III is an approval to operate a treatment works that has been constructed or received a stage II approval. In general, separate stage II “construct only” approvals are issued for projects located in sewer ban areas, in future sewer service areas for which no downstream sewers exist, and for construction of some treatment plants. Stage II and stage III approvals are generally issued concurrently as a single document, when operation of the treatment works can occur immediately upon completion of the project.

(b) The construction, installation, modification or operation of a treatment works in a manner inconsistent with the terms and conditions of the Department’s approval constitutes a violation of the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq. and may be subject to penalties and fines pursuant to the above Act, the Civil Administrative Penalty Rules, N.J.A.C. 7:14-8, or other applicable statute.

(c) The Department may modify, suspend or revoke a treatment works approval in accordance with N.J.A.C. 7:14A-22.11.

(d) The Department shall approve, condition, or deny an application for a treatment works approval pursuant to this subchapter and N.J.A.C. 7:1C-1, within 90 days of receipt of a complete application by the Department. This time period may be extended for one 30 day period upon the mutual consent of the applicant and the Department.

(e) The issuance of a treatment works approval by the Department does not relieve the applicant of the continuing responsibility for the successful collection, conveyance, treat-

ment or discharge of pollutants, nor does it relieve the applicant from the responsibility of insuring that all discharges are consistent at all times with the terms and conditions of the applicable NJPDES permit and that no pollutant will be discharged more frequently than authorized or at a level in excess of that which is authorized by the applicable NJPDES permit. The applicant is also responsible for complying with all applicable permits, regulations, statutes, or other laws.

(f) The applicant and any owner or operator of a treatment works shall provide notice of the terms and conditions of any existing treatment works approval to a prospective purchaser of the treatment works. Upon change of ownership of the treatment works, the new owner shall assume responsibility for its proper operation and maintenance or closure. Notification to the Department of a change in ownership for the treatment works approval permit is not required.

(g) The Department’s review of applications and submissions is limited to engineering (including hydraulic) features of significance to applicable discharge limits and protection of the environment. The Department will not review structural, mechanical or electrical design, except when it may be significant to achievement of discharge limitations or to the protection of the environment.

(h) A permit to construct or operate a treatment works, previously issued to the owner or operator pursuant to N.J.S.A. 58:11-10 or 58:12-3 will constitute a treatment works approval for the purpose of this subchapter. The permit and any conditions thereto will continue to be in effect until such time as the permit is revoked, amended or expired.

(i) The full responsibility for adequate design, construction and operation of the treatment works, and the full responsibility for successful collection, treatment and discharge of pollutants shall be on the applicant.

(j) Treatment works shall be constructed in a manner which is consistent with the provisions of the appropriate wastewater management plan.

(k) The Department may grant an emergency approval authorizing the construction and/or operation of a treatment works prior to issuance of a formal treatment works approval in situations such as the modification/rehabilitation of existing treatment and conveyance systems where time delays may threaten the public health or safety. Such approvals shall be subject to the following requirements:

1. The Department and the affected collection system owner and/or treatment plant owner (as appropriate) shall be informed by telephone or in writing, prior to construction, as to the project location, the extent of work to be performed, and the reason for the emergency.

2. Within 15 calendar days of commencing the activity for which an emergency approval is authorized, an application for a treatment works approval and/or sewer ban exemption shall be submitted to the Department for review and issuance of the required permit. "As-built" drawings, if applicable, shall be submitted.

3. The Department reserves the right to deny an emergency approval request if it is determined that an emergency approval request is not justified, the activity would be inconsistent with any applicable rules, or a more prudent alternative is available.

4. Failure to comply with the requirements of (k)1 or 2 above, the construction or operation of treatment works inconsistent with the emergency authorization, or submission of false information may subject the applicant to enforcement action by the Department, including the imposition of fines or penalties.

(l) For most industrial treatment works, treatment works approvals will be issued in the form of a General Industrial Treatment Works Approval. The submission requirements for a General Industrial TWA are contained in N.J.A.C. 7:14A-22.6, and are administrative in nature. Within 30 days of receipt of a complete General Industrial TWA application, the Department will issue a General Industrial TWA or notify the applicant that due to a potentially significant health risk, environmental impact, or past performance of the facility the project cannot be granted a General Industrial TWA and an individual treatment works approval is required.

7:14A-22.6 Information and submission requirements for general industrial treatment works approvals

(a) Industrial treatment works not exempt pursuant to N.J.A.C. 7:14A-22.4 shall submit the following information as an application for a General Industrial Treatment Works Approval:

1. The Departments' Treatment Works Approval application form (original) signed, dated and imprinted with a seal where applicable;

i. The application form shall require information regarding name and address of applicant, applicant's agent and design engineer; project site location; project description; the status of related permit applications; property owner's certification; professional engineer's certification; and proper construction and operation clause.

2. The minimum fee for a treatment works pursuant to N.J.A.C. 7:1C-1.5;

3. A certification signed and sealed by a New Jersey licensed professional engineer stating the following:

i. The proposed treatment works, as designed, will enable the facility to meet all applicable Federal, State and local effluent limitations, conditions and/or requirements;

ii. The proposed treatment works or contributing facility will not dilute any portion of its waste stream for the purpose of meeting any applicable NJPDES effluent limitation or condition; and

iii. The permittee currently holds a valid final NJPDES permit, General permit authorization, or for indirect dischargers, the applicant is specifically exempted by the Department;

4. A completed Licensed Operator Grading sheet;

5. A resolution, certification and/or written statement of consent from the affected municipality, sewerage authority, owner of the receiving treatment plant; owner/operator of the wastewater conveyance system into which the project will directly connect; and district sludge management lead planning agency (if applicable, see (a)5ii below) or completion of the Department's form WQM003;

i. Required consents shall be in conformance with N.J.A.C. 7:14A-22.8(a)3.

ii. A written statement of consent from the district sludge management lead planning agency is required only for applications that involve construction of residual management units at ultimate residuals management sites.

iii. Written statements of consent from the affected sewerage authority must contain a certification concerning the plant's compliance with the applicable NJPDES permit requirements.

iv. A written statement of consent from the owner/operator of the conveyance system must certify that the conveyance system has adequate conveyance capacity as defined in N.J.A.C. 7:14A-1.2 to convey the additional flow.

v. If an applicant is unable to obtain the required endorsement or written statement of consent, then the procedures stated in N.J.A.C. 7:14A-22.8(a)3 shall apply. An application may be considered complete only after the 60 day period of notification, as required in N.J.A.C. 7:14A-22.8(a)3 has elapsed;

6. One set, each, of final construction plans and specifications, signed and sealed by a New Jersey licensed professional engineer.

7. An engineering abstract containing, at a minimum, the following:

i. A description of waste treatment system;

ii. The ultimate destination of all wastewater and residuals;

iii. A listing of all pollutants, including regular and intermittent flows, which may enter the system;

iv. Average and peak flow requirements; and

v. The expected composition of effluent from the treatment system; and

8. Copies of notification to local agencies by certified mail, return receipt requested, in accordance with N.J.A.C. 7:1C-1.5.

(b) The Department, within 30 days of receipt of a complete application for an Industrial Treatment Works Approval, shall issue a General Industrial TWA, or notify the applicant that based upon the potential for significant health risk, environmental impact, or past performance of the facility an individual treatment works approval review is required.

1. At the time of notification to the applicant that the project does not qualify for a General Industrial TWA, the applicant will also be notified of the additional administrative requirements, if any, necessary for the application to be considered administratively complete pursuant to N.J.A.C. 7:14A-22.8.

(c) A General Industrial TWA permit shall consist, at a minimum, of the following:

1. The name of the facility and permittee receiving the General Industrial TWA;

2. The General Industrial TWA permit number and applicable NJPDES number or authorization;

3. The licensed operator classification where applicable;

4. The date of authorization for construction, operation or modification of the industrial treatment works; and

5. Such other general conditions as are appropriate.

(d) For direct dischargers to surface or groundwater or for indirect dischargers required to obtain an SIU permit from the Department, applications for General Industrial TWA's will not be accepted for review unless the applicant has previously obtained a valid NJPDES permit or general permit authorization.

Amended by R.1995 d.356, effective July 3, 1995.
See: 27 N.J.R. 998(a), 27 N.J.R. 2599(a).

In (a)1 substituted "Treatment Works Approval application form" for "standard application form CP-1"; and added (a)ii.
Amended by R.1997 d.107, effective May 5, 1997.
See: 28 N.J.R. 380(a), 28 N.J.R. 2779(a), 28 N.J.R. 3494(a), 28 N.J.R. 3858(a), 28 N.J.R. 4697(a), 28 N.J.R. 5028(a), 29 N.J.R. 1704(a).
In (a)5i, iv, and v, amended N.J.A.C. references.

7:14A-22.7 Requirements for preliminary review of applications for treatment works approval—stage I

(a) Stage I approvals are optional but are recommended for new or expanded treatment plants and for projects involving new or innovative technologies or designs.

(b) Applications submitted for stage I review shall contain the following:

1. A letter of request for a Stage I review from the applicant or applicant's agent; and

2. A project report which, at a minimum, contains the following:

i. Project concept, scope and purpose;

ii. Water quality management considerations;

iii. A brief description of proposed treatment and/or conveyance methods, and appropriate basis for design;

iv. For new or innovative technology application, performance data from similar facilities; and

v. A sludge management proposal;

(c) The Department will respond to the applicant with the review findings for appropriate consideration.

(d) Any applicant who proceeds to a stage II design, without first obtaining a stage I approval shall bear the full responsibility for the adequacy of design to meet the intended purpose and the Department reserves the right to require the applicant to investigate the feasibility of alternate treatment or conveyance methods during the stage II application process, if the Department determines that drawbacks may exist with the submitted design.

7:14A-22.8 Requirements for construction, installation, or modification of treatment works—Stage II

(a) Persons who propose to build, install or modify treatment works that require the Department's approval pursuant to this subchapter, shall submit the following information and documents in the manner prescribed in this subchapter:

1. The Department's Treatment Works Approval application form, as defined at N.J.A.C. 7:14A-22.6(a)1, (original) signed, dated and imprinted with a seal where applicable; and

2. The appropriate fee, calculated in accordance with N.J.A.C. 7:1C-1.5, made payable to Treasurer, State of New Jersey, Environmental Services Fund;

3. A resolution and/or written statement of consent from the affected municipality, sewerage authority, owner of the receiving treatment plant, owner/operator of the wastewater conveyance system into which the project will directly connect, and district sludge management lead planning agency (if applicable, see (a)3ii below) or completion of the Department's form WQM003.

i. Prior to the submission of an application for treatment works approval, the applicant shall submit (return receipt requested) a copy of the application (at a minimum) to the affected sewerage authority (not required for direct dischargers) and to the municipality in which the construction will be located, with a request that they provide a written statement of consent of the application.

(1) A written statement of consent by the municipality shall include the statement that the project as proposed is in conformance with the requirements of all municipal ordinances and that the governing body of the municipality accepts and approves of the project as proposed by the applicant. If the statement of consent is signed by anyone other than the mayor, the municipality shall file with the Department an official resolution by the governing body delegating such responsibility to the named individual.

ii. A written statement of consent from the district sludge management lead planning agency is required only for applications that involve construction of residual management units at ultimate residuals management sites.

iii. Written statements of consent from the affected sewerage authority shall contain a certification concerning the plant's compliance with applicable NJPDES permit requirements.

iv. A written statement of consent from the owner/operator of the conveyance system must certify that the conveyance system has adequate conveyance capacity as defined in N.J.A.C. 7:14A-1.2, to convey the additional flow.

v. If an applicant is unable to obtain the required written statement of consent, then the applicant may choose to follow the procedures stated in (a)3v(1) through (5) below. An application may be considered complete only after the 60 day period of notification, as required in (a)3v(1) through (5) below, has elapsed.

(1) The affected sewerage authority or municipality shall submit a written statement of consent to the application or submit written comments to the Department within 60 days of the request for consent. Prior to the expiration of the 60 day period to respond a request for a written statement of consent, the municipality or sewage authority may request a 30 day extension for review of a request for consent.

(2) Any document issued by a sewerage authority or municipality which is tentative, preliminary, or conditional approval shall not be considered a statement of consent.

(3) When the affected sewerage authority or municipality does not consent to a project, it shall state all reasons for rejection or disapproval in a resolution and send a certified copy of the resolution to the Department.

(4) When the affected municipality or sewerage authority expressly denies a request for a written statement of consent for a project, the permit application may be determined by the Department to be incomplete for processing; or in the alternative, the Department may review the reasons for denial. Any such reasons shall be considered by the Department in determining whether to issue a treatment works approval or sewer connection approval in accordance with this subchapter.

(5) When the affected municipality or sewerage authority does not issue either a written statement of consent or a denial of the request for consent, the Department, upon receipt of proof that the applicant has delivered to the affected agency a written request for a written statement of consent, shall review the reasons for the lack of consent or denial, if known on the basis of reasonably reliable information. Any such reasons shall be considered by the Department in determining whether to issue a treatment works approval or sewer connection approval in accordance with this subchapter.

4. Copies of notification to local agencies by certified mail, return receipt requested, in accordance with N.J.A.C. 7:1C-1.5;

5. For wastewater collection and conveyance systems, an original signed copy of the Department's Engineering Report Form WQM006. The Engineer's Report shall be signed and sealed (embossed) by a New Jersey licensed professional engineer;

6. For treatment units, holding tanks, equalization tanks, or treatment works other than collection and conveyance systems, in addition to the Department's form WQM006, the applicant shall prepare and submit a technical report addressing the requirements specified in N.J.A.C. 7:14A-23.5;

7. An itemized engineering cost estimate for the proposed treatment works. The cost estimate shall be in sufficient detail to indicate the basis for the estimate and the approximate separation of costs for individual sewerage facilities;

8. One set, each, of final construction plans and specifications, signed and sealed by a New Jersey licensed professional engineer, and meeting the requirements stated in N.J.A.C. 7:14A-23.4;

9. One original Dry Sewer Affidavit, if applying for a stage II "construction only" permit pursuant to N.J.A.C. 7:14A-22.9;

10. A copy of a USGS Quad Map with the project site location boundaries drawn to scale;

11. Copies of Pinelands approval or certificate of filing, or Delaware and Raritan Canal Commission approval, if required;

12. For sewage holding tank applications, the following additional items are required:

i. A letter of consent from the local board of health; and

ii. Evidence of contracts with two licensed waste haulers (one as a back-up); and

13. For a hauling/diversion treatment works application, the following additional items are required:

i. Evidence of contracts with two licensed waste haulers (one as a back-up);

ii. For projects involving wastewater hauling, a letter of consent from the entity accepting the wastewater for treatment and final disposal and for projects involving wastewater diversion, a letter of consent from the municipality or authority accepting additional flow through its collection system; and

iii. A statement concerning the frequency and amount of wastewater which will be hauled/diverted. This amount shall be at least equivalent to the project's projected flow pursuant to N.J.A.C. 7:14A-23.3.

(b) All submissions, including the application, engineer's report, specifications, and plans shall bear an embossed seal of a New Jersey licensed professional engineer.

(c) Applications shall be signed by the applicant, a responsible official of the applicant as defined in (c)1 below, or an authorized agent providing that an authorization for signature is submitted with the application.

1. A responsible official is an individual meeting the requirements set forth in N.J.A.C. 7:14A-4.9.

2. Signatures older than one year at the time of submission to the Department are not acceptable, except in the case of a previously denied application, in which case the Department shall have the discretion to accept signatures older than one year, or require more recent signatures, depending upon the specific circumstances.

Amended by R.1995 d.356, effective July 3, 1995.

See: 27 N.J.R. 998(a), 27 N.J.R. 2599(a).

In (a)1 substituted "Treatment Works Approval application form, as defined at N.J.A.C. 7:14A-22.6(a)1" for "standard application form CP-1".

Amended by R.1997 d.107, effective May 5, 1997.

See: 28 N.J.R. 380(a), 28 N.J.R. 2779(a), 28 N.J.R. 3494(a), 28 N.J.R. 3858(a), 28 N.J.R. 4697(a), 28 N.J.R. 5028(a), 29 N.J.R. 1704(a).

Rewrote (a)3i; in (a)3iv, amended N.J.A.C. reference; in (a)3v, amended N.J.A.C. references and added clauses (1) through (5); and in (c)1, amended N.J.A.C. references.

7:14A-22.9 Stage II "construction only" treatment works approvals

(a) "Dry/construct only" treatment works approvals are stage II approvals, for which operation may not occur until the Department issues a formal stage III approval in accordance with the provisions of this subchapter. Generally, the Department will consider applications for "dry/construct only" facilities in the following circumstances:

1. The proposed project is located in an area that is not currently served by a sewage collection system, and is located within a future sewer service area as identified in the appropriate water quality management plan. In such cases, the application shall include the following:

i. Permits for individual septic systems issued by the administrative authority pursuant to N.J.A.C. 7:9A, or a

certification from the administrative authority attesting to the suitability of the soils to support on-site subsurface disposal systems in accordance with N.J.A.C. 7:9A; and

ii. A statement from the municipality and the person financially responsible for the project, that the septic systems will be abandoned and connection to the domestic treatment works will occur at such time as sewer lines become available.

2. The proposed project is located in an area currently subject to a sewer connection ban and the applicant seeks permission to construct sewage collection and conveyance facilities that will not become operational until the sewer connection ban is rescinded by the Department. The Department's consideration of this request is dependent upon submission and compliance with the following:

i. The owner of the receiving sewage treatment plant or downstream collection/conveyance facility which is subject to the sewer ban is in compliance with one of the following:

(1) An executed administrative consent order with the Department, which provides a schedule for all corrective work that is necessary for rescission of the sewer connection ban; or

(2) A treatment works approval permit has been issued for construction, the completion of which will result in rescission of the sewer connection ban, and a contract with a specific date for the completion of construction has been awarded;

ii. Submission of a written statement with appropriate documentation that the project can be financially managed during the expected duration of the sewer connection ban, or submission and concurrent approval of an interim means of sewage disposal pursuant to N.J.A.C. 7:14A-22.13 or 22.14; or

3. The project is for the construction of sewer lines in conjunction with a road paving project, will not have any immediate source of contributory flow, and is located in a current or future sewer service area as identified by the appropriate wastewater management plan.

(b) "Dry/construct only" treatment works approval applications shall include the following:

1. All items identified under N.J.A.C. 7:14A-22.8, for requirements of stage II treatment works approvals, with the exception of non-applicable sections of the Department's WQM003 consent form for treatment plants or collection systems subject to a sewer connection ban; and

2. A Dry Sewer Affidavit signed by (as applicable) the property owner, the municipality in which the project is located, and appropriate official of the receiving sewage treatment plant, stating at least the following:

i. The affected authority/municipality shall not allow the use of the sewerage facilities without prior written approval from the Department;

ii. That operation of the treatment works will not be permitted until the sewer connection ban has been rescinded by the Department (if applicable) or adequate downstream sewerage facilities are available as determined by the Department (if applicable);

iii. That the possibility exists a treatment works approval for operation (stage III) may not be granted, or may be excessively delayed and that the applicant is proceeding at his own risk; and

iv. The applicant is aware that subsequent construction of the permitted "dry" treatment works, in and of itself, does not qualify the project for a sewer ban exemption pursuant to N.J.A.C. 7:14A-22.22.

(c) A "dry/construct only" treatment works approval shall be filed with the appropriate county clerk as notice to prospective purchasers of restrictions that may apply to the property. The "dry/construct only" TWA shall remain filed with the deed of record until such time as a treatment works approval for operation (stage III) has been issued by the Department.

7:14A-22.10 Requirements for stage III treatment works approval applications

(a) No person shall operate a treatment works for which a treatment works approval from the Department is required except in conformance with the provisions of this subchapter.

(b) For treatment works approvals that have been issued concurrently as stage II and stage III approvals ("construct and operate"), operation of the facilities may occur upon completion of the project, inspection and approval of the facilities by the licensed professional engineer overseeing the construction, approval by the local municipality or sewerage authority, and submission to the Department of Form WQM005, Certification of Approval.

(c) For treatment works approvals that have been issued as stage II ("construct only"), except for the temporary operation of treatment works for the purpose of performance testing, operation may begin only after written approval in the form of a stage III treatment works approval is issued by the Department. Requirements for a stage III approval include:

1. Inspection and approval of the facilities by the licensed professional engineer overseeing the construction and submission of a properly completed form WQM005 to the Department;

2. Submission of a written request for operation from the applicant or duly authorized agent and a written statement in which proof that all conditions of the stage II TWA to construct have been satisfied;

3. An appropriate fee for a permit modification pursuant to N.J.A.C. 7:1C-1.5; and

4. Submission of "as-built" plans and specifications if different than the approved plans and specifications.

7:14A-22.11 Modifications and revocations of treatment works approvals

(a) The Department may modify, suspend or revoke a treatment works approval in whole or in part for cause, including, but not limited to:

1. Violation of any term or condition of the treatment works approval;
2. Obtaining a treatment works approval by misrepresentation or failure to disclose fully all relevant facts; or
3. If such treatment works approval is inconsistent with any duly authorized effluent limitation, permit, regulation, statute, or other applicable local, State or Federal law.

(b) The Department shall determine whether any material changes, design or construction alterations, or changes in flow, which occur after the issuance of a treatment works approval permit will require a modification. When assessing the need for a modification, the Department will evaluate how the proposed changes affect the design or conditions of approval of the original permit. Generally a treatment works approval modification is not required for the substitution of units or materials with others that are structurally, hydraulically, and functionally equivalent, except in cases when a detailed engineering review is needed to determine equivalency. Changes in location or unit sizing and capacity, or increases in flow or project scope, will require a modification or a new TWA, as determined by the Department, depending on the magnitude of the change.

(c) Unless such a requirement is specifically waived by the Department, a modification request will generally not be considered, and instead, a new treatment works application will be required for major modifications of the project scope including, but not limited to, the addition of a pumping station or alternate treatment units or processes, significant changes to the collection system and the inclusion of sewage generating structures not covered in the original approval.

1. Requests for modifications shall include the following documents:
 - i. An appropriate fee pursuant to N.J.A.C. 7:1C-1.5;
 - ii. A written request from the applicant stating the nature, scope and reasons for the modification;
 - iii. Revised construction plans and specifications (if applicable);
 - iv. A revised WQM006 Engineer's Report (if applicable);
 - v. A copy of the original treatment works approval permit; and
 - vi. Written consent from the appropriate sewerage authority if the modification will result in an increase in the project's projected flow, or if the modification re-

quires a change or alteration to the point of connection of the proposed sewer to the existing collection system.

2. The Department will accept permit modification requests only for treatment works approvals that are valid (not expired) at the time that the modification request is submitted to the Department. In addition requests for modification will only be considered for a maximum period of two years following the last construction activity on the treatment works conducted in accordance with the Department's original approval.

7:14A-22.12 Extensions of time for treatment works approvals

(a) Stage II treatment works approvals are valid for an initial period of two years, unless otherwise stated in the approval document. A stage II approval will expire unless building, installing or modifying of the treatment works has begun within the initial approval period stated on the permit, unless the permit is extended pursuant to this subchapter.

(b) At the Department's discretion, a treatment works approval may be extended beyond the original two year approval date, to a maximum period of five years from the original issuance date. Each extension, if granted, will be for a maximum period of one year.

1. A request for an extension of time must be received by the Department prior to the expiration date of the permit and shall include the following:

- i. An appropriate fee pursuant to N.J.A.C. 7:1C-1.5(b);
- ii. A written request from the applicant or authorized agent; and
- iii. Consent for the time extension from the sewerage authority if the sewerage authority has notified the Department, in writing, that all time extension requests under its jurisdiction must be accompanied by the authority's consent.

2. If the extension request is not received by the Department prior to the expiration date of the permit, then in addition to the information required under (b)1 above, the applicant shall also submit written proof of consent for the time extension from the sewerage authority or municipality which owns the receiving treatment plant, and the minimum fee in accordance with N.J.A.C. 7:1C-1.5. In such cases, if the request is approved, the Department will issue the permit extension in the form of a new TWA valid for one year, but extendible up to a maximum of five years from the issuance date of the original approval.

(c) The Department's decision on whether or not to grant a time extension is dependent upon the circumstances which exist at the time the request is made, including, but not limited to, the status of any sewer connection ban. Generally, the request will be denied if a sewer connection ban is in

place and the project does not qualify for a sewer ban exemption pursuant to this subchapter.

(d) The earliest a time extension request will be considered by the Department is one year prior to the permit expiration date.

(e) Once the construction of sewerage facilities is legally initiated, the TWA is considered to be in effect and further time extensions are not required. However, if construction has been interrupted for a period of more than two years, the Department, at its discretion, may revoke the TWA and deny the extension request. The factors to be considered in making such decisions include, but are not limited to, a sewer connection ban or conveyance problem, time span for which construction is interrupted, the status of the construction, and the reasons for construction interruption.

7:14A-22.13 Administrative requirements for wastewater holding tanks (non-industrial)

(a) Wastewater holding tanks for temporary use may be approved by the Department in the following circumstances:

1. Simultaneous or subsequent to the issuance of a Stage II "dry/construct only" treatment works approval issued by the Department pursuant to N.J.A.C. 7:14A-22.9(a), for projects located in sewer ban areas; or

2. To serve a proposed project that is located in an area not presently served by sanitary sewers and where a treatment works approval has been issued and a contract has been awarded which contains a scheduled completion date for the construction of downstream facilities necessary for the elimination of the holding tank.

(b) An administrative authority may, pursuant to N.J.A.C. 7:9A-3.12, approve the temporary use of a sewage holding tank for a period of up to 180 days for an existing structure served by a malfunctioning septic system that is causing a public health hazard.

(c) Wastewater holding tanks as a permanent means of sewage disposal may be approved in the following circumstances:

1. The holding tank will be utilized to eliminate a failed subsurface disposal system which has been certified by the local board of health or the Department to be a health hazard, connection to a domestic treatment works is not possible or practical, and the holding tank will not be utilized for additional sources of wastewater flow resulting from a building expansion, change in use, or other source;

i. For holding tanks to serve a facility with a projected flow of less than 2,000 gallons per day, the applicant shall demonstrate in accordance with N.J.A.C. 7:9A-3.4(d)1 through (d)5, that the existing system was legally constructed and cannot be repaired or rehabilitated

and there are no feasible alternatives or substitutes.

ii. For holding tanks to serve a facility with a projected flow of 2,000 gallons or more, in addition to demonstrating that the existing system cannot be repaired or rehabilitated, an amendment to the appropriate wastewater management plan pursuant to N.J.A.C. 7:15-4.3 may be required, unless in accordance with N.J.A.C. 7:15-4.2 the use of the holding tank is mandated by an administrative consent order executed between the Department and the applicant; or

2. The holding tank will be utilized at a marina or dock which serves watercraft that are equipped with marine sanitation devices.

(d) The holding tank shall meet the technical design requirements specified in N.J.A.C. 7:14A-23.5.

(e) The entity identified as the receiving treatment plant for the final treatment and disposal of hauled wastewater shall have sufficient capacity to handle the additional flow and not be subject to a sewer connection ban.

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

7:14A-22.14 Temporary wastewater hauling/diversion

(a) Wastewater hauling is the removal and transportation of a permitted quantity of wastewater from the headworks of a facility and prior to treatment, by a licensed waste hauler, from a treatment facility which is subject to a sewer ban, to a treatment facility which is not subject to a sewer ban. Wastewater diversion is the re-direction of a permitted quantity of wastewater flow from a collection or conveyance system to an alternate collection system not subject to a sewer connection ban.

1. Flow diversion may be accomplished by constructing various temporary gravity sewers or pumping stations or by modifying an existing collection system so that flows are re-directed to an alternative treatment works.

(b) The temporary use of wastewater hauling/diversion may be approved by the Department simultaneous or subsequent to the issuance of a stage II "dry/construct only" treatment works approval issued by the Department pursuant to N.J.A.C. 7:14A-22.9(a), for projects located in sewer ban areas, or if authorized by the Department through an administrative/judicial consent order executed by the applicant and the Department.

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

7:14A-22.15 Requirements for flow equalization tanks

(a) The use of flow equalization tanks located at the head of treatment plants, regional pumping stations or pre-treatment facilities for the purpose of improving the treatment

Developer not entitled to sewer ban extension for construction of proposed development; absence of preliminary subdivision approval before date specified in former regulation. *Misko Development Corporation v. Division of Water Resources*, 92 N.J.A.R.2d (EPE) 238.

Property owners entitled to exemption from sewer connection ban for reconfiguration of lots. *Hay v. Department of Environmental Protection*, 92 N.J.A.R.2d (EPE) 175.

7:14A-22.23 Delegation

(a) Except as stated in (g) below, the Department may delegate its authority to approve or disapprove sewer ban exemption applications, to a municipality or sewerage authority in accordance with the provisions of this subchapter.

(b) Any municipality or sewerage authority, which is the owner of the affected sewerage facilities, may make an application to the Department to be considered as a delegated agency for the purpose of this subchapter. To be considered for delegation by the Department, the sewerage authority or municipality shall satisfy all of the following:

1. The sewerage authority or municipality shall demonstrate that it is capable of effectively implementing the rules, regulations and standards adopted by the Department for administration of the sewer ban exemption program; and

2. The sewerage authority or municipality shall have sufficient resources, including qualified staff to implement the delegated ban exemption program.

(c) If the sewer ban exemption program or portion thereof is delegated by the Department, the affected sewerage authority or municipality shall comply with the following:

1. The delegated agency shall adopt an ordinance or resolution containing all required provisions of the rules, and include provisions for enforcement and administration of the program.

2. The delegated sewerage authority or municipality shall submit a quarterly report with a list of approvals or denials of projects, including the project scope and location, a certification by the appropriate official that all projects granted approval meet the requirements of this subchapter. If no actions were taken during the quarter, a statement to this effect shall be submitted to the Department.

3. The delegated sewerage authority or municipality shall execute a binding memorandum of understanding with the Department specifying, at a minimum, each party's authority and obligations, and the specific review standards, monitoring and record keeping requirements for the delegated agency.

(d) The Department shall review the delegation arrangement and its effectiveness at least every three years from the date of initial approval, and reserves the right to

rescind any previously issued delegation of authority for any valid reason.

(e) In the event that the Department amends any of the rules in this subchapter, the delegated agency shall implement the amended rules as of their effective date.

(f) Delegation pursuant to this subchapter shall not waive the Department's right to monitor and inspect any documents or project sites or to seek fines or penalties pursuant to the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.

(g) Sewer ban exemption applications submitted pursuant to N.J.A.C. 7:14A-22.22(a)3, (a)6 and (a)7 (public need, ground water remediation and not-for-profit organization projects) shall not be delegated.

(h) Any sewerage authority or municipality accepting delegation pursuant to these provisions shall review and approve or deny projects in accordance with the provisions of this subchapter and applicable provisions contained in N.J.A.C. 7:14A-23.

7:14A-22.24 Requests for adjudicatory hearings

(a) Subject to the limitation on third-party hearing rights specified in (e) below, any interested person who considers himself or herself aggrieved by the approval or denial of a treatment works approval may request an adjudicatory hearing in accordance with the procedures specified in N.J.A.C. 7:1C-1.9 of the "Rules and Regulations Governing 90 Day Construction Permits".

(b) Subject to the limitation on third-party hearing rights specified in (e) below, any interested person aggrieved by the approval or denial of a sewer ban exemption request by the Department may request an adjudicatory hearing within 30 days of receipt of the Department's denial. Adjudicatory hearing requests shall be in writing and shall be accompanied by:

1. A copy of the approval or denial and the same documents that were submitted with the application;

2. A statement specifying which of the Department's reasons for denial are contested; and

3. Additional statements describing, in detail, how that person is aggrieved by the decision, and which findings of fact and conclusions of law are being challenged.

(c) Requests for hearing shall be sent to the Department's Office of Legal Affairs, Attention: Adjudicatory Hearing Requests, PO Box 402, Trenton, New Jersey 08625-0402.

(d) All hearings pursuant to this section shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(e) Nothing in this section shall be construed to provide a right to an adjudicatory hearing in contravention of N.J.S.A. 52:14B-3.1 through 3.3 (P.L. 1993, c.359).

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

SUBCHAPTER 23. TECHNICAL REQUIREMENTS FOR TREATMENT WORKS APPROVAL APPLICATIONS

7:14A-23.1 Purpose

The purpose of this subchapter is to establish technical requirements for the approval of the design, construction and operation of domestic and industrial treatment works so that wastes are properly collected, conveyed and treated before discharge to the waters of the State.

Case Notes

Seriousness of polluter's 386 violations and economic benefits obtained by polluter from not complying with permit together with evidence that penalty would not jeopardize polluter's continued operation, warranted statutory maximum penalty for violations of permit, subject to reduction to reflect actions and inaction of federal and state enforcement agencies. *Pirg v. Powell Duffryn Terminals, Inc.*, D.N.J.1989, 720 F.Supp. 1158, affirmed in part, reversed in part 913 F.2d 64, rehearing denied, certiorari denied 111 S.Ct. 1018, 498 U.S. 1109, 112 L.Ed.2d 1100.

7:14A-23.2 Scope

(a) These rules apply to individuals, sewerage authorities, municipalities, governmental agencies, private firms and all persons who propose to design, construct and/or operate any treatment works for the collection, conveyance or treatment of domestic or industrial wastes in the State of New Jersey, and for which a treatment works approval from the Department is required pursuant to N.J.A.C. 7:14A-22.

(b) These rules establish specific criteria and standards for the construction and operation of treatment works. In promulgating these requirements, the Department recognizes that, at times, deviations from these requirements may be necessary to address specific circumstances. The Department will consider deviations from these design criteria provided that appropriate documentation addressing the need for deviation and justification for the proposed design is submitted with the treatment works approval applications and includes a signed and sealed statement from the design engineer attesting to the treatment works ability to meet the purposes intended.

(c) These rules do not specify any technical standards explicitly for the construction of industrial treatment works due to the high degree of variability of the wastestreams, and

treatment process options available to deal with the various pollutants that may be present at an industrial facility. Because of this variability, it would not be prudent to impose specific technical standards on facilities where such standards may not be appropriate. It is the responsibility of the design engineer to design industrial treatment works to meet all applicable Federal, State or local limitations, conditions, and/or requirements, including, but not limited to, the requirements of a facility's NJPDES or NPDES permit. When appropriate, the general technical standards specified in this subchapter for domestic waste treatment and conveyance systems may be used.

7:14A-23.3 Projected flow criteria

(a) The values specified below are to be used in computing the projected flow to wastewater conveyance and treatment facilities and when making an application for a treatment works approval pursuant to N.J.A.C. 7:14A-22. The specific measurement unit listed for each category shall be used as the basis for the projected flow. No additional provisions for inflow and infiltration are required. For the purposes of design only, other values, proposed by the design engineer, through actual water usage data, may be accepted at the Department's discretion, with an appropriate safety factor. However, all determination concerning whether or not any specific project requires a treatment works approval and/or sewer ban exemption shall be based upon the projected flow criteria established below. These criteria are not mandated to be used by sewerage authorities as a basis for establishing local user fees and/or connection fees.

Type of Establishment	Measurement Unit	Gallons Per Day
Residential Dwellings (single family home, duplex units, town-houses, condominiums, apartments)		
1 bedroom unit	Per Dwelling	150
2 bedroom unit	Per Dwelling	225
3 bedroom unit or larger	Per Dwelling	300
Transit dwelling units		
Hotels	Bedroom	75
Lodging houses and tourist homes	Bedroom	60
Motels and tourist cabins	Bedroom	60
Boarding houses (max. permitted occupancy)	Boarder	50
Camps		
Campground/mobile rec. vehicle/tent	Site	100
Parked mobile trailer site	Site	200
Children's camps	Bed	50
Labor camps	Bed	40
Day camps—no meals	Person	15
Restaurants (including washrooms and turnover)		
Average restaurant	Seat	35
Bar/cocktail lounges	Seat	20
Fast food restaurant	Seat	15
24 hour service restaurant	Seat	50
Curb service/drive-in restaurant	car space	50
Clubs		
Residential	Member	75
Nonresidential	Member	35

Type of Establishment	Measurement Unit	Gallons Per Day
Racquet club	(per court per hour)	80
Bathhouse with shower	Person	25
Bathhouse without shower	Person	10
Institutions (includes staff)		
Hospitals	Bed	175
Other institutions	Bed	125
Schools (includes staff)		
No shower or cafeteria	Student	10
With cafeteria	Student	15
With cafeteria and showers	Student	20
With cafeteria, showers and laboratories	Student	25
Boarding	Student	75
Automobile service stations		
	per filling position	125
Service bays	per bay	50
Mini-market	Sq. Ft.	0.100
Miscellaneous		
Office buildings (gross area)	Sq. Ft.	0.100
Stores and shopping centers (gross area)	Sq. Ft.	0.100
Factories/warehouses (add process wastewater)	Employee	25
with showers, (add process wastewater)	Employee	40
Laundromats	Per machine	580
Bowling alleys	Alley	200
Picnic Parks (restrooms only)	Person	10
Picnic Parks with showers	Person	15
Fairgrounds (based upon average attendance)	Person	5
Assembly halls	Seat	3
Airports (based on passenger use)	Passenger	3
Churches (worship area only)	Seat	3
Theater (indoor)	Seat	3
Dinner theater	Seat	20
Catering/Banquet Hall	Person	20
Sports stadium	Seat	3
Visitor Center	Visitor	5

7:14A-23.4 Plans and specifications submitted to the Department with treatment works approval applications

(a) Maps, drawings, plans and profiles submitted as part of a treatment works approval application shall conform to the following:

1. Plans shall be drawn to standard scale and show the entire area of the project, including a general site plan;
2. The name of the New Jersey licensed professional engineer responsible for the design and his or her signature and embossed seal shall appear in the title block of each sheet of the submitted plans;
3. In the event that there is more than one sheet of plans, all shall be bound together and an index provided;
4. Plans shall not exceed 30 inches by 42 inches in size;
5. Streams and wetland areas, if present, shall be clearly indicated;
6. Plans shall show municipal boundaries, property lines, easements and all existing and proposed streets, including the existing and proposed surface elevations at all street intersections where sewer lines are proposed; and
7. All existing and proposed structures, sanitary sewers and combined sewers, both above and below ground, shall be shown and clearly labeled.

(b) Symbols used on submitted drawings shall conform to the following:

1. Existing and future sewers shall be shown by standard conventions;
2. All topographical symbols and conventions used shall conform to those of the United States Geological Survey; and
3. Elevations shown shall meet the following requirements:
 - i. Elevations of the surfaces of streets shall be placed outside the street lines, opposite their respective locations;
 - ii. Elevations of sewer inverts shall be shown at intersections, ends of lines, and wherever a change in sewer grade occurs;
 - iii. The elevation of sewers shall be written close to the point to which they refer, parallel with the sewer lines and between the street lines;
 - iv. The elevations of surfaces shall be drawn to the nearest 0.1 foot and those of the sewer inverts to the nearest 0.01 foot; and
 - v. All elevations shall be referenced to the North American Vertical Datum of 1988.

(b) Flow for facilities that have combined uses shall be determined by the summation of all appropriate projected flow values for each use.

(c) The Department recognizes that the table in (a) above may not cover all establishments and facilities, and in particular facilities that require an industrial treatment works approval. In the event that a facility is not covered, the applicant shall propose the projected flow based upon operation of similar facilities or best professional judgment. The Department reserves the right to accept, modify or deny the proposed flow values.

Case Notes

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

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

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

(c) The horizontal distances and stationing between manholes, grades in percent and sewer sizes and materials shall be shown for all proposed sewer lines.

(d) All sewer appurtenances, such as manholes, siphons and pumping stations shall be designated on the plans by appropriate symbols and referenced by a legend.

(e) Plans labeled preliminary are not acceptable for review unless a note is added to each sheet submitted stating that the plans are final with respect to sanitary sewer design.

(f) Plans submitted for treatment works that are already constructed shall show the "as-built" conditions (as determined through field investigation) and the title block of each sheet shall include the term "as-built."

(g) Profiles and construction details shall meet the following requirements:

1. Profiles shall indicate all manholes, pumping stations, sanitary, combined or industrial sewer lines, concrete encasements, sleeves, and any significant crossings such as storm sewers, potable water lines or utility lines.

2. In the case of stream crossings, elevations of stream beds, normal flow lines and the type of sewer pipe with the length of concrete encasement, as required by N.J.A.C. 7:14A-23.6(b), shall be indicated.

3. The size and gradients of sewers, surface elevations and sewer inverts shall be shown at or between each manhole.

4. Profiles of gravity and forced sewer lines shall be drawn to standard scale with all symbols indicated in the legend.

5. Detail drawings of all sewer appurtenances, such as manholes, drop manholes, inspection chambers, siphons, pumping stations, force main connections into manholes and other related items shall accompany the general sewer system plans.

6. For sewage treatment plants, in addition to all other requirements, the plans shall contain the following:

i. A general plan showing site boundaries including areas reserved for future expansions;

ii. All buildings or building lots within 500 feet of the plant property;

iii. A detail plan of the various units and structures which comprise the plant; and

iv. Detail plans showing a flow diagram, and longitudinal and transverse sections sufficient to explain the construction of each unit including hydraulic gradient.

(h) Specifications for the construction of treatment works shall be directly applicable to the engineering (including hydraulic) features of the proposed project and shall meet the following minimum requirements:

1. Detailed information shall be included on the construction methods and materials proposed for use so as to provide the construction contractor with the specific details necessary to satisfy the project design; and

2. Specifications shall address the following:

i. The quality of materials and workmanship;

ii. The operating characteristics and equipment rating;

iii. Allowable infiltration/exfiltration and the testing procedures to be followed;

iv. Requirements for all mechanical and electrical equipment necessary for the treatment works; and

v. A program for maintaining the operation of existing sewerage systems during construction.

7:14A-23.5 Engineering design reports to be submitted to the Department with treatment works approval applications

(a) Engineering reports required to be submitted pursuant to N.J.A.C. 7:14A-22.8 for domestic treatment systems shall, at a minimum, include:

1. A complete description of the selected waste treatment system;

2. For the modification of an existing system which has not previously been granted a treatment works approval, the capacities of the existing units and a brief description of the operation of each, and a statement concerning which units are existing and which are proposed at the time of the application. If there exists a previously issued treatment works approval for the subject facility, the date of issuance and the TWA number shall be provided;

3. The basis and computations for the projected wastewater flow;

4. Hydraulic profiles of the flow of wastewater through the system;

5. A unit by unit mass balance for all discharge parameters;

6. The ultimate disposal location of all effluent;

7. The basis and computations for average and peak flow requirements;

8. The expected composition of the influent and effluent from the treatment system including the average, maximum and minimum values of the pollutant parameters specified in the facility's NJPDES permit;

9. An evaluation of the quantity and quality of any and all residuals generated and projected to be generated, including a hydraulic profile and unit by unit mass balance for the flow of residuals through the system;