

(f) (Reserved)

(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 each limited pollutant's average loading (in kilograms per day) for the selected 12-month period, as determined in accordance with N.J.A.C. 7:14A-3.1(a)7, multiplied by its associated risk factor 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 distribution program which is not directly regulated for residuals handling through an individual NJPDES permit shall be assessed a fee of \$2,700 for the duration of the exemption. The Department will not consider a request for a permit

exemption complete unless the request is accompanied by the fee.

(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. The fee for projects that disturb less than 5.0 acres is \$450.00. The fee for projects that disturb 5.0 acres or more is \$650.00. Except as set forth in (j)1 or 2 below, the fee shall be paid to the New Jersey Department of the Treasury, and submitted to the address set forth on the request for authorization form when the request for authorization is submitted to the Department.

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 \$450.00 or \$600.00, as applicable, shall be paid to the Department.

2. For a project that a Federal governmental entity is constructing or proposes to construct for which a stormwater discharge is regulated under this general permit, a fee in the amount set forth in the Soil Erosion and Sediment Control Act (N.J.S.A 4:24-39 et seq.) fee schedule for the appropriate County Soil Conservation District shall be made payable to the "Treasurer, State of New Jersey." The fee will be allocated to address the Department's administrative and enforcement responsibilities, the Department of Agriculture's administrative costs, and the appropriate Soil Conservation District's review and inspection activities.

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

* Unlisted
 ** Not Itemized

Table II
 (Reserved)

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

<u>Permit Fee Category¹</u>	<u>Min Fee Code</u>	<u>Minimum Fee</u>
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
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).

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

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

In (a)7, deleted “Discharge Monitoring Reports (DMRs) and/or Monitoring Report Forms” following “on”, deleted the parentheses around “MRFs” and substituted “12-month” for “12 month”; rewrote (b)2ii and (c)1i; in the introductory paragraph of (d), deleted “and landfills” following “residuals” and “and (f)” following “(e)”; rewrote (d)1; repealed (f); rewrote (g)1i and (j); and repealed Table II.

Public Notice: Adoption: NJPDES Annual Fee Report, FY2009.

See: 41 N.J.R. 680(a).

Administrative change.

See: 41 N.J.R. 2789(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 subchapter. Any person wishing to be authorized under a general permit shall comply with the application requirements in the applicable general permit. The application forms can be obtained by writing to the address cited in (b) below, or from the Department's web site, <http://www.state.nj.us/dep/dwq/>.

(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. If the Department revokes the industrial pretreatment program of a delegated local agency, the Department will notify each affected facility or activity that discharges under that industrial pretreatment program of the deadline for submitting an application for an individual NJPDES-SIU permit from the Department.

6. All existing facilities or activities which require an individual NJPDES-SIU permit due to promulgation of new Categorical Pretreatment Standards under 40 CFR

SUBCHAPTER 7. REQUIREMENTS FOR DISCHARGES TO GROUNDWATER (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

- vi. Ground water removal and treatment costs; and
- vii. The cost and availability of alternative water supplies;
- 7. The practicable capability of the owner or operator; and
- 8. Other relevant factors.

(e) The Department shall determine that remediation of a release of a 40 CFR 258 Appendix II constituent from a sanitary landfill is not necessary if the owner or operator demonstrates to the satisfaction of the Department that:

- 1. The ground water is additionally contaminated by substances that have originated from a source other than a sanitary landfill and those substances are present in concentrations such that cleanup of the release from the sanitary landfill would provide no significant reduction in risk to actual or potential receptors;
- 2. The constituent(s) is present in ground water that:
 - i. Is not currently or reasonable expected to be a source of drinking water; and
 - ii. Is not hydraulically connected with waters to which the hazardous constituents are migrating or are likely to migrate in a concentration(s) that would exceed the ground water protection standards established under N.J.A.C. 7:14A-9.8(h);
- 3. Remediation of the release(s) is technically impracticable; or
- 4. Remediation results in unacceptable cross-media impacts.

(f) A determination by the Department pursuant to (e) above shall not affect the authority of the State to require the owner or operator to undertake source control measures or other measures that may be necessary to eliminate or minimize further releases to the ground water, to prevent exposure to the ground water, or to remediate the ground water to concentrations that are technically practicable and significantly reduce threats to human health or the environment.

(g) When ground water contamination is known to have migrated outside the sanitary landfill boundary, the sanitary landfill shall request to conduct a cleanup in accordance with the Procedures for Department Oversight of the Remediation of Contaminated Sites at N.J.A.C. 7:26C within 90 days unless it can be demonstrated that a source other than the MSWLF caused the contamination, or that the statistically significant increase resulted from error in sampling, analysis, statistical evaluation, or natural variation in ground water quality. A report documenting this demonstration shall be certified by a qualified ground water scientist or approved by the Department and placed in the records maintained by the facility.

7:14A-9.11 Implementation of the Corrective Action Program

(a) Based on the schedule established under N.J.A.C. 7:14A-9.10(d) for initiation and completion of remedial activities, the owner/operator shall:

- 1. Establish and implement a corrective action ground water monitoring program that:
 - i. At a minimum, meets the requirements of an assessment monitoring program under N.J.A.C. 7:14A-9.8;
 - ii. Indicates the effectiveness of the corrective action remedy; and
 - iii. Demonstrates compliance with ground water protection standards pursuant to (e) below;
- 2. Implement the corrective action remedy selected under N.J.A.C. 7:14A-9.10; and
- 3. Take any interim measures necessary to ensure the protection of human health and the environment. Interim measures shall, to the greatest extent practicable, be consistent with the objectives of and contribute to the permanence of any remedy that may be required pursuant to N.J.A.C. 7:14A-9.10. The following factors shall be considered by an owner or operator in determining whether interim measures are necessary:
 - i. The time required to develop and implement a final remedy;
 - ii. The actual or potential exposure of nearby populations or environmental receptors to hazardous constituents;
 - iii. The actual or potential contamination of drinking water supplies or sensitive ecosystems;
 - iv. The further degradation of the ground water that may occur if remedial action is not initiated expeditiously;
 - v. Weather conditions that may cause hazardous constituents to migrate or be released;
 - vi. The risks of fire or explosion, or potential for exposure to hazardous constituents as a result of an accident or failure of a container or handling system; and
 - vii. Other situations that may pose threats to human health and the environment.

(b) An owner or operator may determine, based on information developed after implementation of the remedy has begun or other information, that compliance with N.J.A.C. 7:14A-9.10(b) is not being achieved through the remedy selected. In such a case, the owner or operator shall implement other methods or techniques that could practicably achieve compliance with the requirements, un-

less the owner or operator makes the determination under (c) below.

(c) If the owner or operator determines that compliance with N.J.A.C. 7:14A-9.10(b) cannot be practically achieved with any currently available methods, the owner or operator shall:

1. Obtain certification of a qualified ground water scientist or approval by the Department that compliance with N.J.A.C. 7:14A-9.10(b) cannot be practically achieved with any currently available methods;
2. Implement alternate measures to control exposure of humans or the environment to residual contamination, as necessary to protect human health and the environment;
3. Implement alternate measures for control of the sources of contamination, or for removal or decontamination of equipment, units, devices, or structures that are:
 - i. Technically practicable; and
 - ii. Consistent with the overall objective of the remedy; and
4. Notify the Department within 14 days that a report justifying the alternative measures prior to implementing such alternative measures has been placed in the records maintained by the facility.

(d) All solid wastes that are managed pursuant to a remedy required under N.J.A.C. 7:14A-9.10, or an interim measure required under (a)3 above, shall be managed in a manner that:

1. Is protective of human health and the environment; and
2. Complies with applicable RCRA requirements.

(e) Remedies selected pursuant to N.J.A.C. 7:14A-9.10 shall be considered complete when:

1. The owner or operator complies with the ground water protection standards established under N.J.A.C. 7:14A-9.8(h) at all points within the plume of contamination that lie beyond the ground water monitoring well system established pursuant to N.J.A.C. 7:14A-9.3(a);
2. Compliance with the ground water protection standards established under N.J.A.C. 7:14A-9.8(h) has been achieved by demonstrating that concentrations of 40 C.F.R. 258 Appendix II constituents have not exceeded the ground water protection standard(s) for a period of three consecutive years using the statistical procedures and performance standards in N.J.A.C. 7:14A-9.5(g) and (h). The Department will specify an alternative length of time during which the owner or operator shall demonstrate that concentrations of 40 C.F.R. 258 Appendix II constituents have not exceeded the ground water protection standard(s) taking into consideration:

- i. Extent and concentration of the release(s);
 - ii. Behavior characteristics of the hazardous constituents in the ground water
 - iii. Accuracy of monitoring or modeling techniques, including any seasonal, meteorological, or other environmental variabilities that may affect the accuracy; and
 - iv. Characteristics of the ground water; and
3. All actions required to complete the remedy have been satisfied.

(f) Upon completion of the remedy, the owner or operator shall notify the Department within 14 days that a certification that the remedy has been completed in compliance with the requirements of N.J.A.C. 7:14A-9.11(e) has been placed in the records maintained by the facility. The certification shall be signed by the owner or operator and by a qualified ground water scientist or approved by the Department.

(g) When, upon completion of the certification, the owner or operator determines that the corrective action remedy has been completed in accordance with the requirements of (e) above, the owner or operator shall be released from the requirements for financial assurance for corrective action under 40 CFR 258.73.

7:14A-9.12 Application requirements for NJPDES-DGW permits for sanitary landfills

(a) In addition to the information required pursuant to N.J.A.C. 7:14A-4.3, an applicant for a NJPDES-DGW sanitary landfill monitoring permit shall ensure that the Department has in its possession maps, cross sections and reports as follows. Maps may be combined if all required features are clearly shown.

1. A location map:

i. The site shall be located on a U.S. Geological Survey 7.5 minute series Topographic Quadrangle. The quadrangle shall be the most recent revision.

ii. The site shall be shown by legal boundaries surveyed by a New Jersey licensed land surveyor indicating roadways, adjacent property ownerships and all inhabited structures and facilities within one half mile of site boundaries.

2. A topographic map(s):

i. The topographic map of the facility shall have a horizontal scale of at least one inch equals 200 feet and a contour interval of five feet. Contour elevations shall be based on established N.J. Geological Control Survey Datum and the map shall be keyed into the New Jersey State plane coordinate systems. The topographic map(s) shall indicate original, existing, and proposed topography.