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CHAPTER 14A

POLLUTANT DISCHARGE ELIMINATION SYSTEM

Authority

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

Source and Effective Date

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

Executive Order No. 66(1978) Expiration Date

Chapter 14A, Pollutant Discharge Elimination System, expires on February 5, 2002.

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Pursuant to Executive Order No. 66(1978), Chapter 14A was repealed as R.1983 d.260, effective June 8, 1983.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Pursuant to Executive Order No. 66(1978), Chapter 14A was repealed as R.1989 d.339, effective June 2, 1989. See 21 N.J.R. 707(a), 21 N.J.R. 1883(a). Petition for Rulemaking: Notice of Receipt of and Action on a Petition for Rulemaking. See: 23 N.J.R. 222(a), 23 N.J.R. 622(b). Public Notice: Opportunity for interested party review of rule amendments. See: 25 N.J.R. 411(a).

Appendix F, Values for Determination of NJPDES Permit Toxic Effluent Limitations, was repealed by R.1993 d.59, effective February 1, 1993.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

Subchapter 12, Requirements for a Treatment Works Approval, was repealed by R.1994 d.278, effective June 6, 1994.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

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

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

RESEARCH NOTE

The Water Quality Regulations of the Interstate Sanitation 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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- 7:14A-23.26 Anaerobic sludge digestion and management
- 7:14A-23.27 Sludge pumps
- 7:14A-23.28 Drying beds for residuals
- 7:14A-23.29 Residual dewatering lagoons
- 7:14A-23.30 Mechanical dewatering of residuals
- 7:14A-23.31 Stabilization residuals
- 7:14A-23.32 Storage of residuals or septage; and septage handling
- 7:14A-23.33 New treatment methods and technologies
- 7:14A-23.34 Closure requirements for wastewater treatment units

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

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

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

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

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

3. Pollutants are discharged directly into waters of the State which originate outside of the facility and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

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

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

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

1. Cold water fish species, including but not limited to, the Salmonidae family of fish (for example, trout and salmon), or other cold water aquatic animals in ponds, raceways, or other similar structures which discharge at least 30 days per year, but does not include:

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

2. Warm water fish species, including, but not limited to, the Ameiuride, Centrarchidae and Cyprinidae families of fish (for example, respectively, catfish, sunfish, and minnows), or other warm water aquatic animals in ponds,

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

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

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

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

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

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

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

SUBCHAPTER 3. DETERMINATION OF PERMIT FEES

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

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

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

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

3. All NJPDES permittees/applicants that are issued a draft or final NJPDES permit, or that are issued an

authorization to discharge under a final NJPDES general permit, shall submit payment within 30 days of assessment of the fee by the Department.

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

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

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

New Jersey Department of Environmental Protection
Bureau of Revenue
PO Box 402
Trenton, New Jersey 08625-0402

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

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

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

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

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

6. If the permittee objects to the assessment, the Department shall recalculate a permit fee upon receipt of a request from the permittee in writing within 30 days of assessment of the fee. The Department shall not recalculate a fee where the permittee has failed to submit information in compliance with its NJPDES permit.

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

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

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

(3) The charges are false or duplicative; or

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

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

(1) An employee's hourly salary rate;

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

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

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

(1) A copy of the bill;

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

(3) A list of specific fee charges contested;

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

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

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

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

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

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

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

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

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

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

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

(2) The Sum of Minimum Fees is the total amount of minimum fees to be paid by all dischargers in the category of discharge. The minimum fee is a base cost added to the calculated individual fee. The minimum fees are set forth in (h) below.

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

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

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

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

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

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

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

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

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

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

- (1) A breakdown of the program by account title;
- (2) An estimate of the amount of fees that will be collected; and
- (3) The current year's fee schedule.

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

- (1) A list of permits issued;
- (2) A list of facilities inspected;
- (3) A list of administrative orders and administrative consent orders issued by the Department (by type of order and discharge involved); and
- (4) A summary of variance request activities under Section 316 of the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.).

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

- i. In the New Jersey Register and one newspaper of general circulation; and
- ii. By mailing a copy of the Report to each NJPDES applicant/permittee.

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

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

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

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

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

(2) Volatile organic compounds, acid extractable compounds, base-neutral organic compounds, pesticides and PCB's will be deleted from the Total Pollutant Load, if reported as non-detectable in all samples for the monitoring period. For all other pollutants, and volatile organic compounds, acid extractable compounds, base-neutral organic compounds, pesticides, and PCB's detected at least once in the monitoring period, the Department shall calculate the Total Pollutant Load using one-half the reported minimum detection limit for pollutant concentrations.

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

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

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

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

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

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

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

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

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

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

ii. Quantity is the average daily volume in millions of gallons discharged by the permittee for the monitoring period selected by the Department in (a)7 above.

iii. Ground Water Rating Factor is the sum of the Ground Water Monitoring Status Factor, the Aquifer Factor, Ground Water Use Factor and Permeability Rating divided by 10 where:

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

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

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

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

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

(4) Permeability Factor is the rating number, based on hydraulic conductivity in centimeters per second, of the geological formation immediately beneath the regulated unit or if present, the facility liner material for facilities in detection monitoring. For all other facilities, the permeability factor is based on the hydraulic conductivity of the geological material contaminated. Facilities assigned a Ground Water Monitoring Status factor of 10, that have demonstrated control of the plume of ground water contamination shall be assigned a permeability factor of 10. Where permeability is not provided to the Department by the permittee, the Department shall assume a permeability factor of 10^{-2} . The rating numbers are assigned as follows:

Rating	Permeability
10	$<10^{-7}$
11	10^{-6}
12	10^{-5}
14	10^{-4}
18	10^{-3}
20	10^{-2}
22	$>10^{-2}$

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

(e) The Environmental Impact value for facilities which land apply, handle or distribute residuals listed in (h)3 below shall be zero.

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

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

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)1i above.

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

Rating	Closure Status
1.0	Operating landfill and sites containing wrecked or discarded equipment
0.5	Landfill terminated after January 1, 1982 without a Department approved closure plan
0.2	Landfill terminated prior to January 1, 1982
0.1	Landfill terminated and properly closed in accordance with a Department approved closure plan

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

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

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

Environmental Impact = (Total Pollutant Load)

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

(1) Volatile organic compounds, acid extractable compounds, base-neutral organic compounds, pesticides and PCB's will be deleted from the Total Pollutant Load, if reported as non-detectable in all samples for the monitoring period. For all other pollutants, and for volatile organic compounds, acid extractable compounds, base-neutral organic compounds, pesticides, and PCB's detected at least once in the monitoring period, the Department shall calculate the Total Pollutant Load using one-half the reported minimum detection limit for pollutant concentrations.

(h) Except as provided by (k) below, minimum fees are as set forth below.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

iii. General distribution permit exemptions providing Department approval of a sludge derived product distribution program which is not directly regulated for residuals handling through an individual NJPDES permit shall be assessed a fee of \$2,700 for the duration of the exemption. The Department will not consider a request for a permit exemption complete unless the request is accompanied by the fee;

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

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

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

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

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

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

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

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

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

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

1. Fee = A + B, where:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Table I
RISK CATEGORIES

Risk Factor <u>100</u>	<u>101</u>	<u>102</u>	<u>103</u>	<u>104</u>	<u>105</u>
SURFACE WATER					
TDS Chloride Sulfate Fluoride Iron	TSS Phosphorus Phtahalic Acid Sulfide Molybdenum Bismuth Manganese Zinc	Tin Aluminum Antimony Barium Chromium-trivalent Oil & Grease Surfactants N(nitrite, nitrate & Total) Oxidizable Matter Petroleum Hydrocarbons	Styrene Nickel Copper Silver Cobalt Ammonia Cyanide Selenium	Arsenic Beryllium Asbestos Acid fraction compounds Base-Neutral Compounds Volatile Organics	Lead Mercury Cadmium Chromium-hex Pesticides PCBs PBB
INDIRECT USERS					
BOD TSS COD Oil & Grease	TDS Iron Antimony Bismuth Tin Manganese Inorganic Sulfur Compounds	1,1 Dichloroethylene Copper Zinc Chromium-Trivalent Barium Cyanide Dimethyl phthalate Surfactants Petroleum Hydrocarbons Total Toxic Metals** Nitrogen Compounds/ Ammonia Phenols	Nickel Silver Asbestos Cobalt Selenium Benzene 1,2-Dichloroethane Chloroform Ethylbenzene 1,2,4-Trichlorobenzene Naphthalene Vinyl Chloride Base Neutral Compounds* Acid Extractable Compounds 1,1,2,2- Tetrachloroethane Bromoethane 1,2-Dichloropropane 1,1-Dichloroethane 1,1,2-Trichloroethane Dichlorobenzene Di-n-butyl Pthalate Anthracene Tetrachloroethylene Pentachlorophenol Butyl Benzyl phthalate Di-n-octyl Phthalate	Beryllium 1,1,1-Trichloroethane Lead Arsenic Bis(2-ethylhexyl)phthalate Dichlorodifluoromethane Trichlorofluoromethane Total Toxic Organics** Volatile Organics* TVOS as in N.J.A.C. 7:27-17.3** Chlorobenzene Toluene 1,2-Trans-Dichloroethylene Trichloroethylene	Carbon Tetrachloride Mercury Cadmium Chromium, hex Total Pesticides PCBs Dioxin

* Unlisted

** Not Itemized

Table II
FORMATION RATINGS

<u>System</u>	<u>Formation</u>	<u>Potential</u>	<u>Points</u>
Quarternary 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
Tertiary Pleistocene Pleistocene Miocene Eocene	Bridgeton	Moderate to Minor	6
	Beacon Hill	Poor	2
	Cohansey	Very Good	10
	Kirkwood	Good to Moderate	8
	Piney Point	Minor	4
	Shark River	None	1
	Manasquan	Poor	2

System	Formation	Potential	Points	
Paleocene	Vincentown	Poor to Good	8	
	Hornerstown	None to Poor	2	
Cretaceous	Tinton	None to Poor	2	
	Red Bank	None to Minor	4	
	Navesink	None to Poor	2	
	Mount Laurel	Moderate	6	
	Wenonah	Minor	4	
	Marshalltown	None to Poor	2	
	Englishtown	Good to Moderate	8	
	Woodbury	None	1	
	Merchantville	None	1	
	Raritan-Magothy	Very Good	10	
	Triassic	Watchung	Minor	4
Diabase		Minor	4	
Brunswick		Minor to Good	8	
Lockatong		Poor	2	
Stockton		Moderate to Good	8	
Border Conglomerates		Minor	4	
Devonian	Skunnemunk	Poor	2	
	Bellvale	Poor to Minor	4	
	Cornwall/Pequanac	Poor	2	
	Kanouse	Poor	2	
	Marcellus	Poor	2	
	Onondaga	Moderate	6	
	Schoharie	Minor	4	
	Esopus	Poor	2	
	Oriskany (includes Glenerie and Port Ewen)	Poor	4	
	Becraft (Minisink)	Poor	2	
	New Scotland	Minor	4	
	Kalkberg (Stormville)	Minor	4	
	Coeymans	Minor	4	
	Silurian	Manlius	Minor	4
Rondout		Minor	4	
Decker		Minor	4	
Bossardville		Minor	4	
Poxono Island		Minor	4	
High Falls		Minor	4	
Longwood		Minor	4	
Shawangunk and Green Pond		Poor	2	
Ordovician		Jacksonberg	Minor	4
		Ontelaunee	Minor	4
	Epier	Minor	4	
	Rickenback	Moderate	6	
Cambrian	Allentown Upper	Minor	4	
	Allentown Lower	Moderate to Very Good	10	
	Leithsville	Very Good	10	
	Hardystown	Poor	2	
Precambrian	Franklin	Minor to Moderate	6	
	Crystalline Rocks	Minor to Moderate	6	

Administrative correction.

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

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

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).

Case Notes

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

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

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

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

Former regulation's method of assessing fees for discharges to surface waters invalid as unrelated to legislative policy and not established in a reasonable manner; Department's determination as to excess fee assessment credits supported by substantial credible evidence. *Public*

Service Electric and Gas Co. v. Dept. of Environmental Protection, 193 N.J.Super. 676, 475 A.2d 665 (App.Div.1984), affirmed 101 N.J. 95, 501 A.2d 125 (1985).

SUBCHAPTER 4. PERMIT APPLICATION REQUIREMENTS

7:14A-4.1 Purpose and scope

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

7:14A-4.2 Application requirements

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

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

New Jersey Department of Environmental Protection
Bureau of Permit Management
Division of Water Quality
PO Box 029
Trenton, NJ 08625-0029
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. Facilities proposing a new discharge of stormwater associated with industrial activity shall submit an application 180 days before that facility intends to commence industrial activity which may result in a discharge of stormwater associated with that industrial activity. Construction activities discharging stormwater as described under subparagraph 1x of the definition of "stormwater discharge associated with industrial activity" in N.J.A.C. 7:14A-1.2 shall submit applications at least 90 days before the date on which construction is to commence.

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

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

- i. Otherwise required under (e)4 below;

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

- iii. The existing permit is an individual permit where:

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 whenever there is 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; and
- vi. An emergency plan in accordance with (d) below.

(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.

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.

(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 submission 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, 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 (f) 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. Antibalancing 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
 CN 402
 Trenton, NJ 08625

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.

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.

(b) The Department may issue an emergency permit to allow the activities listed in (a) above only after making a finding that:

- 1. An imminent and substantial endangerment to human health or the environment will result unless an emergency permit is granted;
- 2. A substantial and irretrievable loss of oil or gas resources will occur unless an emergency permit is granted to a Class II well under UIC program; and
 - i. Timely application for a regular permit could not practicably have been made; and
 - ii. The injection will not result in the movement of fluids into underground sources of drinking water; or
- 3. A substantial delay in production of oil or gas resources will occur unless an emergency permit is granted to a new Class II well under the UIC program, and the authorization will not result in the movement of fluids into an underground source of drinking water.

(c) The requirements for issuance of any emergency permit are as follows:

1. The Department may issue an emergency permit by either oral or written permission from the Director. Oral permission shall be followed within five days by a written emergency permit.

2. The Department may issue an emergency permit for any duration not to exceed 180 days, except:

i. That underground injections temporarily permitted in order to prevent an imminent and substantial endangerment to the health of persons shall be for a term no longer than required to prevent the hazard, or 90 days, whichever is less.

ii. That land application of municipal or nonhazardous sludge temporarily permitted in order to prevent an imminent and substantial endangerment to public health shall be for a term no longer than that required to prevent the hazard, or 180 days, whichever is less.

iii. That storage of municipal or non-hazardous sludge temporarily permitted in order to prevent an imminent and substantial endangerment to public health shall be for a term no longer than that required to prevent the hazard, or one year, whichever is less.

3. The Department shall clearly specify in the emergency permit the following:

i. The wastes to be received and disposed of under the emergency permit;

ii. The manner and location of the treatment, storage, disposal, or injection of wastes;

iii. The rate, quantity, and quality of pollutants to be discharged; and

iv. The monitoring and applicable reporting requirements which is required.

4. The Department may immediately suspend or revoke the emergency permit at any time following a determination that such action is appropriate to protect human health and the environment.

5. The Department shall publish, along with the emergency permit, a public notice of the emergency permit pursuant to N.J.A.C. 7:14A-15.10, including:

i. The name and address of the office granting the emergency authorization;

ii. The name and location of the permitted facility;

iii. A brief description of the wastes involved;

iv. A brief description of the action authorized and reasons for authorizing it; and

v. The duration of the emergency permit.

6. The Department shall issue an emergency permit regarding injections only after a complete NJPDES permit application has been submitted. The emergency permit shall only be effective until final action is taken on the NJPDES permit application.

7. The Department shall condition the emergency permit regarding injection under the UIC program in any manner that the Department determines is necessary to ensure that the injection shall not result in the movement of fluids into an underground source of drinking water.

8. The Department shall incorporate in the emergency permit, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of this chapter and 40 CFR Parts 264 and 266.

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

7:14A-6.15 Residuals management

(a) Where applicable, the permittee shall comply with land-based sludge management criteria and shall conform with the requirements for the management of residuals and grit and screenings under:

1. Section 405 of the Federal Act governing the disposal of sludge from treatment works treating domestic sewage;

2. The Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and the Solid Waste Management Rules, N.J.A.C. 7:26;

3. The Sludge Quality Assurance Regulations, N.J.A.C. 7:14C;

4. The Statewide Sludge Management Plan promulgated pursuant to the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.; and

5. The provisions concerning disposal of sewage sludge and septage in sanitary landfills set forth at N.J.S.A. 13:1E-42 and the Statewide Sludge Management Plan.

(b) The NJPDES permit shall specify standards for residual use or disposal, under Section 405(d) of the Federal Act and N.J.A.C. 7:14A-20, unless those standards have been included in a permit issued under the appropriate provisions of subtitle C of the Solid Waste Disposal Act, Part C of the Safe Drinking Water Act, the Marine Protection, Research, and Sanctuaries Act of 1972, or the Clean Air Act, or under State permit programs approved by the Department.

(c) When there are no applicable standards for residual use or disposal, the permit may include requirements developed on a case-by-case basis to protect public health and the environment from any adverse effects which may occur from toxic pollutants in residual. If any applicable standard for residual use or disposal is promulgated under section 405(d) of the Federal Act and Sections 4 and 6 of the State Act and that standard is more stringent than any limitation on the pollutant or practice in the permit, the Department may initiate proceedings under these rules to modify or revoke and reissue the permit to conform to the standard for residual use or disposal.

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)3, changed N.J.A.C. reference.

iii. Such report and certification shall be signed by a person described in N.J.A.C. 7:14A-4.9;

4. Permittees that are not required to submit monitoring reports at least annually pursuant to (a)3 above shall be required to report to the Department at least annually all instances of non-compliance not reported under N.J.A.C. 7:14A-6.7, 6.8 and 6.10;

5. For facilities that may operate at certain times as a means of transportation over water, the permit shall contain a condition that the discharge shall comply with any applicable regulations established for safe transportation, handling, carriage, and storage of pollutants as promulgated by the Secretary of the Department within which the Coast Guard is operating; and/or

6. Any conditions that the Secretary of the Army considers necessary to ensure that navigation and anchorage shall not be substantially impaired, in accordance with N.J.A.C. 7:14A-11.4.

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

7:14A-11.3 Additional requirements for all existing manufacturing, commercial, mining, silviculture, and research facilities

(a) The following condition, in addition to those set forth in N.J.A.C. 7:14A-11.2 and the general conditions applicable to all permits in N.J.A.C. 7:14A-6.2, applies to all DSW permits for the facilities specified below:

1. In addition to the reporting requirements under N.J.A.C. 7:14A-6.5 and 6.10, all existing manufacturing, commercial, mining, and silvicultural dischargers and research facilities shall notify the Department, in writing, as soon as they know or have reason to believe:

i. That any activity has occurred or will occur which would result in the discharge of any toxic pollutant which is not limited in the permit if such discharge will exceed the highest of the following notification levels:

- (1) One hundred micrograms per liter (100 µg/L);
- (2) Two hundred micrograms per liter (200 µg/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
- (3) Five times the maximum concentration value reported for the pollutant in the permit application in accordance with N.J.A.C. 7:14A-4.4(b); or
- (4) The notification level established by the Department in accordance with N.J.A.C. 7:14A-6.2(b)2.

ii. With the exception of research facilities, that they have begun or expect to begin to use and manufacture as an intermediate or final product or by-product any toxic pollutant which was not reported in the permit

application pursuant to N.J.A.C. 7:14A-4.3(a)19 or in the request for authorization under N.J.A.C. 7:14A-6.13(d), unless the general permit expressly refers to a "request for authorization" and does not require the request for authorization to include a listing of toxic pollutants.

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

7:14A-11.4 Permit denial or conditions requested by other governmental agencies

(a) If during the comment period for a draft DSW permit, the District Engineer of the Army Corps of Engineers advises the Department in writing that anchorage and navigation of any of the waters of the United States would be substantially impaired by the granting of a point source DSW permit, the permit shall be denied and the applicant so notified.

(b) If the District Engineer advises the Department that imposing specified conditions upon the permit is necessary to avoid any substantial impairment of anchorage or navigation, then the Department shall include the specified conditions in the permit.

(c) Review or appeal of a denial of a permit or of conditions specified by the District Engineer shall be made through the applicable procedures of the Corps of Engineers, and may not be made through the procedures provided in this chapter. If the conditions are stayed by a court of competent jurisdiction or by applicable procedures of the Corps of Engineers, those conditions shall be considered stayed in the DSW permit for the duration of that stay.

(d) If, during the comment period, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, or any other State or Federal Agency with jurisdiction over fish, wildlife, or public health advises the Department in writing that the imposition of specified conditions upon the permit is necessary to avoid substantial impairment of fish, shellfish, or wildlife resources, the Department shall include the specified conditions in the permit to the extent they are determined necessary to carry out provisions of 40 CFR 122.49 and the State and Federal Acts.

(e) In appropriate cases the Department may consult with one or more of the agencies referred to in this section or other agencies it deems appropriate before issuing a draft permit and may reflect such agencies' views in the statement of basis, the fact sheet, or the draft permit.

7:14A-11.5 Stormwater discharges

(a) The following concerns permit requirements for stormwater discharges:

1. Prior to October 1, 1994, discharges composed entirely of stormwater did not require a permit under Section 402 of the CWA except:

- i. A discharge with respect to which a permit has been issued prior to February 4, 1987;
- ii. A discharge associated with industrial activity from a point source;
- iii. A discharge from a large municipal separate storm sewer system;
- iv. A discharge from a medium municipal separate storm sewer system; and
- v. A discharge which either the Director or the USEPA Regional Administrator determined to contribute to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States. This designation may have included a discharge from any conveyance or system of conveyances used for collecting and conveying stormwater runoff or a system of discharges from municipal separate storm sewers, except for those discharges from conveyances which do not require a permit under Section 402 of the CWA and (a)2 below or agricultural stormwater runoff which is exempted from the definition of point source at 40 CFR 122.2. The Director may have designated discharges from municipal separate storm sewers on a system-wide or jurisdiction-wide basis. In making this determination the Director may have considered the following factors:

- (1) The location of the discharge with respect to waters of the United States as defined at 40 CFR 122.2;
- (2) The size of the discharge;
- (3) The quantity and nature of the pollutants discharged to waters of the United States; and
- (4) Other relevant factors.

2. The Director shall not require a permit under Section 402 of the CWA for discharges of stormwater runoff from mining operations or oil and gas exploration, production, processing or treatment operations or transmission facilities, composed entirely of flows which are from conveyances or systems of conveyances (including, but not limited to, pipes, conduits, ditches, and channels) used for collecting and conveying precipitation runoff and which are not contaminated by contact with or that has not come into contact with, any overburden, raw material, intermediate products, finished product, byproduct or waste products located on the site of such operations.

3. The permit requirements for large and medium municipal separate storm sewer systems, and for stormwater discharges associated with industrial activity that discharge through such systems, contained in 40 CFR 122.26(a)(3) and (a)(4) are incorporated into this chapter by reference.

4. The Director may issue permits for municipal separate storm sewers that are designated under (a)1v above on a system-wide basis, jurisdiction-wide basis, watershed basis or other appropriate basis, or may issue permits for individual discharges.

5. For stormwater discharges associated with industrial activity which discharge through a non-municipal or non-publicly owned separate storm sewer system, the Director shall issue either a single NJPDES permit (or a single authorization under a general NJPDES permit), with each discharger a co-permittee to a permit (or to an authorization under a general permit) issued to the operating entity for the portion of the system that discharges into waters of the United States, or individual permits (or authorizations under a general permit) to each discharger of stormwater associated with industrial activity through the non-municipal conveyance system.

i. All stormwater discharges associated with industrial activity that discharge through a stormwater discharge system that is not a municipal separate storm sewer shall be authorized by an individual permit (or by a single authorization under a general permit), or a permit (or authorization under a general permit) issued to the operating entity for the portion of the system that discharges to waters of the United States, with each discharger to the non-municipal conveyance a co-permittee to that permit (or to that authorization under a general permit).

ii. Where there is more than one operating entity for a single system of such conveyances, all operating entities for stormwater discharges associated with industrial activity shall submit applications (or requests for authorization under a general permit).

iii. Any permit authorizing more than one operating entity shall identify the effluent limitations, or other permit conditions, if any, that apply to each operating entity.

6. Conveyances that discharge stormwater runoff combined with municipal sewage are point sources that require NJPDES permits applied for in accordance with N.J.A.C. 7:14A-4 or N.J.A.C. 7:14A-6.13, and are not subject to the provisions of this section.

7. Whether a discharge from a municipal separate storm sewer is or is not subject to regulation under this section shall have no bearing on whether the owner or operating entity for the discharge is eligible for funding under title II, title III or title VI of the Federal Act. See 40 CFR part 35, subpart I, appendix A(b) H.2.j.

8. On and after October 1, 1994, discharges composed entirely of stormwater, that are not otherwise already required by (a)1 above or (a)9 below to obtain a permit, require a permit applied for under (g) below. The Director shall not require a permit under Section 402 of the CWA for discharges of stormwater as provided in (a)2 above or agricultural stormwater runoff which is exempted from the definition of point source at 40 CFR 122.2 and 122.3.

9. A stormwater discharge associated with industrial activity from a nonpoint source shall be required to obtain a NJPDES permit pursuant to (c)1 and (e)1iii below.

(b) The following concerns requests for information about stormwater discharges associated with industrial activity:

1. The Department may, by written notice, request any person whom the Department has reason to believe may own or operate a facility with a "stormwater discharge associated with industrial activity" as defined in N.J.A.C. 7:14A-1.2 to either:

i. Declare to the Department that person's intent to obtain a DSW permit for a "stormwater discharge associated with industrial activity"; or

ii. Provide information to the Department that explains why, in that person's judgment, that person is not required to obtain, for property or operations owned or operated by that person, a DSW permit for a "stormwater discharge associated with industrial activity" as defined in N.J.A.C. 7:14A-1.2. Such information may include:

(1) Information about the nature, source, and location of the stormwater discharge from such property or operations (for example, that all of the stormwater soaks into the ground or is discharged to a combined sewer system, or falls for some specified reason outside the definition of "stormwater discharge associated with industrial activity"); or

(2) Relevant information concerning that person (for example, information explaining why that person does not have a duty under N.J.A.C. 7:14A-4.2(c) to obtain a NJPDES permit).

2. A written notice under (b)1 above shall include a statement that such notice was sent pursuant to this subsection and the State Act, and that failure to respond to such notice in the manner required by this subsection is a violation of the State Act. Such notice shall also briefly explain why the Department has reason to believe that person may own or operate a facility with a "stormwater discharge associated with industrial activity" as defined in N.J.A.C. 7:14A-1.2. (For example, one sufficient reason is information indicating that the person may own or operate an establishment classified under a Standard Industrial Classification (SIC) code expressly listed in the definition of "stormwater discharge associated with industrial activity," or a landfill, steam electric power generating plant, treatment works treating domestic sewage, or construction operation that results in the disturbance of land.) Such notice may also require the person's response to be on a form provided by the Department, and to include a certification substantially equivalent to that required in a permit application under N.J.A.C. 7:14A-4.9(d).

3. Upon receipt of a written notice under (b)1 above, the person shall provide a written response in accordance with this subsection within 60 days, unless the notice specifies a longer time period. The Department, in its discretion, may also extend the time allowed for submitting a response for good cause shown.

4. Nothing in (b)1 through 3 above shall exempt any person from any permit application deadline under this section and N.J.A.C. 7:14A-4.2(e), or prevent the Department from making other requests for information under N.J.A.C. 7:14A-2.11 or the State Act.

(c) Permit application requirements for stormwater discharges associated with industrial activity are as follows:

1. Dischargers of stormwater associated with industrial activity from point or nonpoint sources are required to apply for an individual NJPDES permit or request authorization under a final stormwater general NJPDES permit. (This subsection does not apply to discharges of such stormwater from nonpoint sources until November 3, 1997.) Facilities that are required or seek to obtain an individual permit, or any discharge of stormwater which the Director is evaluating for designation under (a)1v above and is not a municipal separate storm sewer shall submit a NJPDES application in accordance with the requirements of N.J.A.C. 7:14A-4 as modified and supplemented by the provisions of the remainder of this subsection and (h) below. Except as provided in (c)1ii, vi and 2 below, applicants for an individual permit for discharges composed entirely of stormwater shall submit the NJPDES-1 Form and the NJPDES-2F Form. Applicants for an individual permit for discharges composed of stormwater and non-stormwater shall submit the NJPDES-1 Form, Form 2C, and the NJPDES-2F Form.

i. Except as provided in (c)1ii through iv, vi and 2 below, the operating entity applying for an individual permit for a stormwater discharge associated with industrial activity subject to this section shall provide the following in the permit application:

(1) A site map showing topography (or indicating the outline of drainage areas covered in the application if a topographic map is unavailable) of the facility, including each of its drainage and discharge structures; the drainage area of each stormwater outfall; each drainage area not served by a stormwater outfall; paved areas and buildings within each drainage area; each area used at present or in the three years prior to the submittal of this application for outdoor storage or disposal of significant materials; each existing structural control measure to reduce pollutants in stormwater runoff; materials loading and access areas; areas where pesticides, herbicides, soil conditioners and fertilizers are applied; each of its hazardous waste treatment, storage or disposal facilities (including each area not required to have a RCRA permit which is used for ac-

cumulating hazardous waste under 40 C.F.R. 262.34); each well where fluids from the facility are injected underground; springs, and other surface water bodies which receive stormwater discharges from the facility;

(2) An estimate of the area of impervious surfaces (including paved areas and building roofs) and the total drainage area of each outfall and of each area not served by an outfall (within a mile radius of the facility) and a narrative description of the following on-site features at the facility: Significant materials that in the three years prior to the submittal of this application (see (c)1i(4) below) have been treated, stored or disposed in a manner to allow exposure to stormwater; method of treatment, storage or disposal of such materials; materials management practices employed, in the three years prior to the submittal of this application (see (c)1i(4) below), to minimize contact by these materials with stormwater runoff; materials loading and access areas; the location, manner and frequency in which pesticides, herbicides, soil conditioners and fertilizers are applied; the location and a description of existing structural and non-structural control measures to reduce pollutants in stormwater runoff; and a description of the treatment the stormwater receives, including the ultimate disposal of any solid or fluid wastes other than by discharge;

(3) A certification that all outfalls (and all drainage areas not served by outfalls) that should contain stormwater discharges associated with industrial activity have been tested or evaluated for the presence of non-stormwater discharges which are not authorized by a NJPDES permit; tests for such non-stormwater discharges may include smoke tests, fluorometric dye tests, analysis of accurate schematics, as well as other appropriate tests. The certification shall include a description of the method used, the date of any testing, and the on-site drainage points that were directly observed during a test;

(4) Existing information regarding significant leaks or spills of toxic or hazardous pollutants at the facility that have taken place within the three years prior to the submittal of this application. For purposes of the preceding sentence, significant leaks or spills at a facility generally include releases of oil or hazardous substances in excess of reportable quantities under Section 311 of the Clean Water Act (see 40 C.F.R. 110.10 and 40 C.F.R. 117.21) or Section 302 of CERCLA (see 40 C.F.R. 302.4). (The information which (c)1i(2) above and this subparagraph requires concerning events in the three years prior to the submittal of the application shall also be provided concerning events in previous years, if the applicant has information concerning such events.);

(5) Quantitative data based on samples collected during storm events and collected in accordance with (h) below from all outfalls (and all drainage areas not served by outfalls) containing a stormwater discharge associated with industrial activity for the following parameters:

(A) Any pollutant limited in an effluent guideline to which the facility is subject;

(B) Any pollutant listed in the facility's NJPDES permit for its process wastewater (if the facility is operating under an existing NJPDES permit);

(C) Oil and grease, pH, BOD₅, COD, TSS, total phosphorus, total Kjeldahl nitrogen, and nitrate plus nitrite nitrogen;

(D) Any information on the discharge required under N.J.A.C. 7:14A-4.4(b)5i, ii and 6;

(E) Measurements or estimates of the maximum flow rate and of the total amount of discharge for the storm event(s) sampled, and the method of flow measurement or estimation; and

(F) The date and duration (in hours) of the storm event(s) sampled, rainfall measurements or estimates of the storm event (in inches) which generated the sampled runoff and the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event (in hours);

(6) In preparing a permit application under (c)1i, both outfalls and drainage areas not served by outfalls shall be regulated in the same manner as "outfalls" for purposes of (c)1i(5)(D) above, (h) below, and N.J.A.C. 7:14A-4.4(b);

(7) Any operating entity for a discharge composed entirely of stormwater is exempt from the requirements of N.J.A.C. 7:14A-4.3(a)17 and 21, and 4.4(a), (b)3i and ii and (b)7; and

(8) Any operating entity for a new source or new discharge (as defined in N.J.A.C. 7:14A-1.2) composed in part or entirely of stormwater shall include estimates for the pollutants or parameters listed in (c)1i(5) above instead of actual sampling data, along with the source of each estimate. Any operating entity for a new source or new discharge composed in part or entirely of stormwater must provide quantitative data for the parameters listed in (c)1i(5) above within two years after commencement of discharge, unless such data has already been reported under the monitoring requirements of the NJPDES permit for the discharge. Any operating entity for a new source or new discharge composed entirely of stormwater is exempt from the requirements of N.J.A.C. 7:14A-4.3(a)17 and 21iii and 4.4(b)3 through 7.

ii. The operating entity for an existing or new stormwater discharge that is associated with construction activity solely under subparagraph 1x of the definition of "stormwater discharge associated with industrial activity" in N.J.A.C. 7:14A-1.2 is exempt from the requirements of (c)1i above and N.J.A.C. 7:14A-4.3(a)11, (a)16 through 24, (c) and (d) and 4.4, and shall not submit the NJPDES-2F Form. Such operating entity shall, if applying for an individual permit, submit the NJPDES-1 Form and provide a narrative description of:

(1) The location and the nature of the construction activity;

(2) The total area of the site and the area of the site that is expected to undergo excavation during the life of the permit;

(3) Proposed measures, including best management practices, to control pollutants in stormwater discharges during construction, including a brief description of applicable State and local erosion and sediment control requirements;

(4) Proposed measures to control pollutants in stormwater discharges that will occur after construction operations have been completed, including a brief description of applicable State or local erosion and sediment control requirements;

(5) An estimate of the runoff coefficient of the site and the increase in impervious area after the construction addressed in the permit application is completed, the nature of fill material and existing data describing the soil or the quality of the discharge; and

(6) The name of the receiving water.

iii. The operating entity for an existing or new discharge composed entirely of stormwater from an oil or gas exploration, production, processing, or treatment operation, or transmission facility is not required to submit a permit application in accordance with (c)1i above, unless the facility:

(1) Has had a discharge of stormwater resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 117.21 or 40 CFR 302.6 at anytime since November 16, 1987; or

(2) Has had a discharge of stormwater resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 110.6 at any time since November 16, 1987; or

(3) Contributes to a violation of a water quality standard.

iv. The operating entity for an existing or new discharge composed entirely of stormwater from a mining

operation is not required to submit a permit application in accordance with (c)1i above, unless the discharge has come into contact with, any overburden, raw material, intermediate products, finished product, byproduct or waste products located on the site of such operations.

v. Applicants shall provide such other information as the Director may reasonably require under N.J.A.C. 7:14A-4.3(e) to determine whether to issue a permit and may require any facility subject to (c)1ii above to comply with (c)1i above.

vi. Until December 31, 1992, applicants for renewal of a NJPDES permit or for a new or modified NJPDES permit for a stormwater discharge associated with industrial activity were allowed to submit Form 2C rather than Form 2F (and rather than the information required under (c)1i above) if the permit or application addressed all such stormwater discharges.

2. A group application submitted to USEPA under 40 CFR 122.26(c)(2) does not qualify under (c)1 above as an application for an individual NJPDES permit, or as a request for authorization under a NJPDES general permit. However, if a facility was approved by the USEPA as a member of a group application pursuant to 40 CFR 122.26(e)(2) and applies to the Department for an individual NJPDES permit for a stormwater discharge associated with industrial activity, the Department may accept the quantitative data in Part 2 of that group application in lieu of quantitative data collected at the applicant's facility for that stormwater discharge, provided that:

i. The quantitative data in Part 2 of that group application is submitted to the Department by the entity that prepared the group application or by the applicant; and

ii. The USEPA has not informed that entity that the quantitative data in Part 2 that was submitted to the Department is inaccurate or incomplete.

(d) Application requirements for large and medium municipal separate storm sewer discharges, and for a discharge from a municipal separate storm sewer that is designated under (a)1v above, are contained in 40 CFR 122.26(d), which is incorporated into this chapter by reference. Also incorporated into this chapter by reference, for purposes of this subsection only, are the definitions at 40 CFR 122.26(b)(2), (5), (6), and (9) of "illicit discharge," "major municipal separate storm sewer outfall," "major outfall" and "outfall." References to a "NJPDES permit" or "permit" in 40 CFR 122.26(b)(2) and (d) shall be understood to mean a NJPDES permit under this chapter, unless the context clearly indicates otherwise. Applicants for a discharge under this subsection are exempt from the requirements of N.J.A.C. 7:14A-4.3(a)11 and 16 through 24, (c) through (e) and 4.4(a) and (b)3 through 7.

(e) Any operating entity for a discharge required to obtain a permit under (a)1 or 9 above that does not have an

effective NJPDES permit authorizing its stormwater discharges shall submit an application for an individual permit or a request for authorization for a general permit in accordance with the following deadlines:

1. Except as provided in (e)1i through vii below, for any "stormwater discharge associated with industrial activity" as defined in N.J.A.C. 7:14A-1.2 which is not authorized by a stormwater general permit, a permit application made pursuant to (c) above, or a request for authorization for a stormwater general permit, shall have been submitted to the Director by April 1, 1993.

i. For any stormwater discharge associated with industrial activity from a facility that is owned or operated by a municipality with a population of less than 100,000 other than an airport, power plant, or uncontrolled sanitary landfill, permit requirements are contained in (g) below.

ii. Facilities that are owned or operated by a municipality and that were rejected by the USEPA as members of part 1 group application under 40 CFR 122.26(e)(2) shall have submitted an individual application or a request for authorization for a general permit no later than 180 days after the date of receipt of the notice of rejection or April 1, 1993, whichever was later.

iii. If the discharge is from a nonpoint source and is not from a point source or identified under (e)1iv below, the permit application or request for authorization shall be submitted by November 3, 1997. No NJPDES permit shall require pollutants in such a discharge to be controlled before November 3, 1997.

iv. If the Department classifies the discharge as a "stormwater discharge associated with industrial activity" under paragraph 2 in the definition of that term in N.J.A.C. 7:14A-1.2, the permit application or request for authorization shall be submitted within 180 days of receipt of written notice of such classification, unless a later submission date is requested and approved by the Department.

v. A group application submitted to USEPA under 40 CFR 122.26(e)(2) does not qualify under this paragraph as an application for an individual NJPDES permit, or as a request for authorization under a NJPDES general permit. If a facility was approved by the USEPA as a member of a group application pursuant to 40 CFR 122.26(e)(2), or if a facility which was a participant of a group application was not approved or rejected by the USEPA pursuant to 40 CFR 122.26(e)(2) by April 1, 1993, the facility shall have either applied for an individual NJPDES permit, or have submitted a written request for authorization under an applicable NJPDES general permit, by October 1, 1993 (except as provided in (e)1i above).

vi. When an individual application for discharges of stormwater is submitted pursuant to (c) above for a facility that already has an individual DSW permit that does not authorize all of those discharges, then that application shall be submitted in the following manner:

(1) If that DSW permit has expired, or is due to expire within 180 days of the submission of that application, then that application shall be submitted as part of the application for renewal of that DSW permit (such submission may supplement a renewal application previously submitted to the Department).

(2) If that DSW permit has not expired and is not due to expire within 180 days of the submission of that application, then that application shall be submitted either as part of the application for renewal of that DSW permit, or in a request under N.J.A.C. 7:14A-16.4 to modify that DSW permit to authorize all of those discharges of stormwater.

vii. For facilities submitting an individual application for a new discharge of stormwater associated with industrial activity, application deadlines are contained in N.J.A.C. 7:14A-4.2(e)1.

2. Any entity whose group application to USEPA pursuant to 40 CFR 122.26(c)(2) and (e)(2) listed New Jersey facilities shall have provided the information in (e)2i and ii below to the Department by December 2, 1992. Any entity whose group application to USEPA included New Jersey facilities shall provide to the Department, within 30 days of the Department's request, a copy of the entire group application or any portion thereof specified by the Department.

i. An identification, by name and location, of all New Jersey facilities participating in the group application, including all facilities that the group or trade association approved as an addition to a group application pursuant to 40 CFR 122.26(e)(2)(v); and

ii. A narrative description summarizing the industrial activities of participants of the group application.

3. Any entity whose group application to USEPA pursuant to 40 C.F.R. 122.26(c)(2) and (e)(2) listed New Jersey facilities shall have provided the information in (e)3i through iii below to the Department within 30 days of the USEPA decision to approve or deny the members of the group application (see 40 C.F.R. 122.26(e)(2)(ii)) or by December 2, 1992, whichever was later. The entity shall also have provided to the Department the information in (e)3i and ii below for any facility that the group or trade association approved as an addition to a group application pursuant to 40 C.F.R. 122.26(e)(2)(v). The entity shall have provided this information within 30 days of the USEPA approval or denial of the addition or by December 2, 1992, whichever was later.

i. An identification, by name and location, of all facilities participating in the group application;

ii. A copy of the USEPA decision to approve or deny the participating facilities as members of the group application; and

iii. A narrative description summarizing the industrial activities of participants of the group application.

4. For any discharge from a large or medium municipal separate storm sewer system, application deadlines are contained in 40 CFR 122.26(e)(3) and (4), which is incorporated into this chapter by reference.

5. A permit application or request for authorization shall be submitted to the Director within 60 days of notice, unless a later submission date is requested and approved by the Director, for:

i. A stormwater discharge which the Director or the EPA Regional Administrator determines that the discharge contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States (see (a)1v above); and

ii. A stormwater discharge subject to (c)1v above.

6. Facilities with existing NJPDES permits for stormwater discharges associated with industrial activity shall maintain existing permits. Facilities with permits for stormwater discharges associated with industrial activity which expire on or after May 18, 1992 shall submit a new application in accordance with the requirements of N.J.A.C. 7:14A-4 and (c) above 180 days before the expiration of such permits.

7. The Director shall issue or deny individual permits (or authorization under general permits) for discharges composed entirely of stormwater under this section in accordance with the following schedule:

i. The Director shall issue or deny individual permits (or authorization under general permits) for stormwater discharges associated with industrial activity no later than April 1, 1994, or for new sources or existing sources which did not submit a complete NJPDES permit application or request for authorization by April 1, 1993, one year after receipt of a complete NJPDES permit application or request for authorization (unless the general permit specifies a shorter time period);

ii. The Director shall issue or deny permits for large or medium municipal separate storm sewer systems by the deadlines contained in 40 CFR 122.26(e)(7)(ii) and (iii), which are incorporated into this chapter by reference.

(f) The following concerns petitions:

1. Any operating entity for a municipal separate storm sewer system may petition the Director to require a separate NJPDES permit for any discharge into the municipal separate storm sewer system.

2. Any person may petition the Director to require a NJPDES permit for a point source discharge which is

composed entirely of stormwater which contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States.

3. The owner of or operating entity for a municipal separate storm sewer system may petition the Director to reduce the Census estimates of the population served by such separate system to account for stormwater discharged to combined sewers as defined by 40 CFR 35.2005(b)(11) that is treated in a publicly owned treatment works. In municipalities in which combined sewers are operated, the Census estimates of population may be reduced proportional to the fraction, based on estimated lengths, of the length of combined sewers over the sum of the length of combined sewers and municipal separate storm sewers where an applicant has submitted the NJPDES permit number associated with each discharge point and a map indicating areas served by combined sewers and the location of any combined sewer overflow discharge point.

4. Any person may petition the Director for the designation of a large or medium municipal separate storm sewer system as defined by paragraph 4 of the definitions of "large municipal separate storm sewer system" or "medium municipal separate storm sewer system" in N.J.A.C. 7:14A-1.2.

5. The Director shall make a final determination on any petition received under this section within 90 days after receiving the petition.

(g) The following concerns discharges composed entirely of stormwater under Section 402(p)(6) of the Federal Act. Any operating entity for a point source required to obtain a permit under (a)8 above shall submit an application for an individual permit, or a request for authorization under a general permit, in accordance with the following requirements.

1. The operating entity shall submit an application or request for authorization in accordance with the following deadlines:

i. A discharger which the Director determines to contribute to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States shall submit an application or request for authorization to the Director within 180 days of receipt of notice, unless a later submission date is requested and approved by the Director; or

ii. All other dischargers shall submit an application or request for authorization to the Director no later than August 7, 2001.

2. The operating entity shall submit an application or request for authorization in accordance with the following requirements, unless otherwise modified by the Director:

i. An individual application for non-municipal discharges shall meet the requirements contained in (c)1 above.

ii. Applications for municipal separate storm sewer discharges shall meet the requirements contained in (d) above.

iii. Requests for authorization under a general permit issued by the Director shall meet the requirements contained in N.J.A.C. 7:14A-6.13(d).

(h) When "quantitative data" for a pollutant are required in an individual NJPDES permit application for a stormwater discharge, the applicant shall collect samples in accordance with N.J.A.C. 7:14A-4.4(b) (also see (c)1i(6) above) and the following requirements:

1. All samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inch and at least 72 hours from the previously measurable (greater than 0.1 inch) storm event. Where feasible, the variance in the duration of the event and the total rainfall of the event should not exceed 50 percent from the average or median rainfall event in that area;

2. A flow-weighted composite shall be taken for either the entire discharge or for the first three hours of the discharge as follows:

i. The flow-weighted composite sample for a stormwater discharge may consist of:

(1) Continuous sampling;

(2) A combination of a minimum of three sample aliquots taken in each hour of discharge for the entire discharge; with each aliquot being separated by a minimum period of fifteen minutes; or

(3) A combination of a minimum of three sample aliquots taken for the first three hours of the discharge, with each aliquot being separated by a minimum period of 15 minutes;

ii. Applicants submitting permit applications for stormwater discharges under this section may collect flow-weighted composite samples using different protocols with respect to the time duration between the collection of sample aliquots, subject to the approval of the Department;

iii. A minimum of one grab sample may be taken for stormwater discharges from holding ponds or other impoundments with a retention period greater than 24 hours;

iv. For a flow-weighted composite sample, only one analysis of the composite of aliquots is required;

v. For stormwater discharge samples taken from discharges associated with industrial activities, quantitative data must be reported for the grab sample taken during the first thirty minutes (or as soon thereafter as practicable) of the discharge for all pollutants requiring analysis under (c) above; and

vi. For all stormwater permit applicants taking flow-weighted composites, quantitative data must be reported for all pollutants requiring analysis under (c) above except pH, temperature, cyanide, total phenols, chlorine produced oxidants, oil and grease, fecal coliform, and fecal streptococcus; and

3. The Department may allow or establish appropriate site-specific sampling procedures or requirements, including sampling locations, the season in which the sampling takes place, the minimum duration between the previous measurable storm event and the storm event sampled, the minimum or maximum level of precipitation required for an appropriate storm event, the form of precipitation sampled (snow melt or rain fall), protocols for collecting samples that may differ from protocols for collecting samples under 40 C.F.R. 136, and additional time for submitting data on a case-by-case basis.

(i) The operating entity for a large or medium municipal separate storm sewer system or a municipal separate storm sewer that has been designated by the Department or the Regional Administrator under (a)1v above shall submit an annual report by the anniversary of the date of the issuance of the permit for such system. The report shall include the information required under 40 C.F.R. 122.42(c), which is incorporated into this chapter by reference.

(j) Appendix A and Appendix B to this subchapter, incorporated herein by reference, contain two final general permits that the Department has issued for stormwater discharges associated with industrial activity. The inclusion of these two general permits within this subchapter does not affect the status or requirements of other general permits that the Department issued prior to or after May 5, 1997.

Administrative correction.

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

Administrative change.

See: 30 N.J.R. 340(a).

7:14A-11.6 Federal criteria and standards for DSW permits

(a) The following Federal criteria and standards apply to DSW permits:

1. The criteria and standards for the imposition of technology-based treatment requirements in DSW permits shall be as set forth in 40 C.F.R. 125, Subpart A;

2. The criteria for issuance of a permit to aquaculture projects shall be as set forth in 40 C.F.R. 125, Subpart B;

(b) The Department may grant a stay of an effluent limitation(s) until a decision on a variance is made in accordance with the following:

1. For a request under Section 301(g), effluent limitations shall not be stayed unless:

i. In the judgment of the Department, the stay or variance sought will not result in the discharge of pollutants in quantities which may be reasonably anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistence in the environment, acute toxicity, chronic toxicity, or synergistic propensities;

ii. In the judgment of the Department, there is a substantial likelihood that the discharger will succeed on the merits of its appeal; and

iii. The discharger files a bond or appropriate security as deemed necessary by the Department to assure timely compliance with the requirements from which a variance is sought in the event that the appeal is unsuccessful.

2. For a request other than under Section 301(g), the requirements for requesting a stay in accordance with N.J.A.C. 7:14A-17.6 shall apply.

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

Substituted "final permit decision" for "final permit" throughout.

7:14A-11.10 Public notice of Section 316(A) request

(a) In addition to the information required under N.J.A.C. 7:14A-15.10(f), public notice of a DSW draft permit for a discharge where a request under section 316(a) of the Federal Act and Section 6 of the State Act has been filed under N.J.A.C. 7:14A-11.7(a)2 shall include:

1. A statement that the thermal component of the discharge is subject to effluent limitations under Sections 301 and 306 of the Federal Act and Section 6 of the State Act and a brief description, including a quantitative statement, of the thermal effluent limitations proposed under Sections 301 or 306 of the Federal Act and Section 6 of the State Act;

2. A statement that a Section 316(a) request has been filed and that alternative less stringent effluent limitations may be imposed on the thermal component of the discharge under Section 316(a) and a brief description, including a quantitative statement, of the alternative effluent limitations, if any, included in the request; and

3. If the applicant has filed an early screening request pursuant to 40 C.F.R. 125.72 for a Section 316(a) variance, a statement that the applicant has submitted such a request.

7:14A-11.11 Special procedures for decisions on thermal variances under Section 316(A)

(a) Except as provided in 40 C.F.R. 124.65, the only issues connected with issuance of a particular permit on which the Department will make a final decision before the final permit decision is issued under N.J.A.C. 7:14A-15.15 are whether alternative effluent limitations would be justified under Section 316(a) of the Federal Act and Section 6 of the State Act and whether cooling water intake structures will use the best available technology under Section 316(b) of the Federal Act. A permit applicant who seeks an early decision on these issues should request it and furnish supporting reasons with the permit application filed under N.J.A.C. 7:14A-4.2. The Department shall decide whether or not to make an early decision. If the Department makes an early decision, such a decision on issues under Section 6 of the State Act and Section 316(a) or (b) of the Federal Act and the grant of the balance of the permit shall be considered issuance of a final permit decision under this chapter, subject to the requirements of public notice and comment and adjudicatory hearing requests of N.J.A.C. 7:14A-15 and 17.

(b) If the Department, on review of the administrative record, determines that the information necessary to decide issues under Section 6 of the State Act and Section 316(a) of the Federal Act is not likely to be available before the final permit decision, the Department may issue a permit under N.J.A.C. 7:14A-15.15 for a term up to five years. This permit shall require achievement of the effluent limitations initially proposed for the thermal component of the discharge no later than the date otherwise required by State or Federal law. However, the permit shall also afford the permittee an opportunity to file a demonstration under Section 316(a) of the Federal Act after conducting such studies as are required under 40 C.F.R. 125, Subpart H. A new discharger may not exceed the thermal effluent limitation which is initially proposed unless and until its State Act Section 6 and Federal Act Section 316(a) variance request is finally approved.

(c) Any proceeding held under (a) above shall be subject to public notice as required by N.J.A.C. 7:14A-15.10 and shall be conducted at a time allowing the permittee to take necessary measures to meet the final compliance date in the event its request for modification of thermal limits is denied.

(d) Whenever the Department defers the decision under Section 316(a) of the Federal Act and Section 6 of the State Act, any decision under Section 316(b) may be deferred.

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

Substituted "final permit decision" for "final permit" throughout.

7:14A-11.12 Discharges from combined sewer overflows

Permits issued for discharges from combined sewer overflows shall include applicable provisions of the Federal Combined Sewer Overflow (CSO) Policy (59 Federal Regis-

ter 18688, published April 19, 1994) incorporated herein at Appendix C.

APPENDIX A

**PERMIT NUMBER NJ0088315
NJPDES-DSW GENERAL INDUSTRIAL
STORMWATER PERMIT (ROUND**

2)

GENERAL PERMIT—
CATEGORY 5G2
PER INDIVIDUAL
NOTICE OF AUTHORIZATION

GENERAL PERMIT—
CATEGORY 5G2
PER INDIVIDUAL
NOTICE OF AUTHORIZATION
Current Authorization
Covered By This Approval
And Previous Authorization
5G2: GEN INDUST STRMWTR
ROUND 2

By Authority of: COMMISSIONER, DEPARTMENT OF
ENVIRONMENTAL PROTECTION

Permittee Property Owner	Co-Permittee GENERAL PERMIT— CATEGORY 5G2 PER INDIVIDUAL NOTICE OF AUTHORIZATION	Location of Activity Issuance Date Effective Date Expiration Date
May 5, 1997	May 5, 1997	January 31, 2002

PART I. AUTHORIZATION UNDER THIS PERMIT

A. Permit Area

This permit applies to all areas of the State of New Jersey.

B. Eligibility

1. This permit may authorize all new and existing stormwater dischargers associated with industrial activity as defined in N.J.A.C. 7:14A-1.2, except for the following:

a. Stormwater discharges subject to any of the following effluent guideline limitations for stormwater: cement manufacturing, materials storage piles (40 CFR 411, Subpart C); feedlots (40 CFR 412); fertilizer manufacturing (40 CFR 418); petroleum refining (40 CFR 419); phosphate manufacturing (40 CFR 422); steam electric, coal pile runoff (40 CFR 423); mineral mining and processing (40 CFR 436); ore mining and dressing (40 CFR 440); and asphalt emulsion (40 CFR 443 Subpart A).

b. Stormwater discharges authorized under another NJPDES Discharge to Surface Water (DSW) permit (including an expired permit), or combined with domestic wastewater or process waste water prior to treatment.

c. Stormwater discharges that may be fully authorized under NJPDES Permit No. NJ0088323 (a separate general permit for stormwater discharges from certain construction and mining activities).

d. Stormwater discharges from facilities with "sanitary landfills" as defined in N.J.A.C. 7:26-1.4 or hazardous waste landfills subject to N.J.A.C. 7:26G, unless those landfills have been closed in compliance with N.J.A.C. 7:26-2A.9 (the Solid Waste rules) or N.J.A.C. 7:26G (the Hazardous Waste rules), the appropriate certifications have been submitted in accordance with N.J.A.C. 7:26 or N.J.A.C. 7:26G, and the landfills are not disrupted. Such closed landfills are eligible for authorization under this permit.

e. (Reserved)

f. Stormwater discharges from projects or activities that conflict with an adopted WQM plan.

2. Other discharges are not authorized by this permit, even if such discharges are combined with stormwater discharges that are authorized by this permit.

C. Requiring an Individual Permit or Another General Permit

1. The Department may require any permittee authorized under this permit to apply for and obtain an individual DSW permit, or seek and obtain authorization under another general permit. Conversely, any permittee authorized under this permit may request to be excluded from authorization under this permit by applying for an individual DSW permit or for another general DSW permit. Revocation of existing permits under such circumstances is governed by N.J.A.C. 7:14A-6.13.

2. If, after receiving authorization under this permit, a facility is required by the Department to obtain another NJPDES DSW permit that would also cover the authorized stormwater discharge, then authorization under this permit shall remain in effect only until either:

- a. The date such other permit becomes effective; or
- b. The date the application for such other permit (or request for authorization under another general permit) is denied.

If such a facility fails to submit an application or request for authorization by the date specified by the Department, then the general permit authorization remains in effect only until that date.

D. Authorization

1. In order to obtain authorization under this permit (except for automatic renewal of authorization under 4.a below), a complete Request for Authorization (RFA) and the \$500.00 fee required under N.J.A.C. 7:14A-3.1(i) shall be submitted in accordance with the requirements of part II of this permit (or shall have been submitted in accordance with the previous version of this permit). Upon review of the RFA, the Department may, in accordance with N.J.A.C. 7:14A-6.13, either:

- a. Issue notification of authorization under this permit, in which case, authorization is deemed effective as of the date the complete RFA is received by the Department;
- b. Deny authorization under this permit and require submittal of an application for an individual DSW permit; or
- c. Deny authorization under this permit and require submittal of an RFA for another general permit.

2. The Department shall issue or deny authorization within a period of 90 days after submission of a complete RFA (except for automatic renewal of authorization under 4.a below). In the event that the Department fails to issue or deny authorization within such period, the authorization shall be deemed to have been issued.

3. For a stormwater discharge authorized by this permit, the permittee is exempt from N.J.A.C. 7:14A-6.2(a)2, which declares that the discharge of any pollutant not specifically regulated in the NJPDES permit or listed and quantified in the NJPDES application shall constitute a violation of the permit.

4. Automatic Renewal of Authorization

a. Authorization under this permit was automatically renewed when this permit was reissued, and will be automatically renewed if this permit is reissued in the future (so long as the discharge remains eligible). In either case, for any permittee who had or has authorization under this permit immediately prior to the effective date of the reissued permit, the most recently submitted RFA is also a timely and complete RFA under the reissued permit. (However, if the permittee is aware that any information in that most recently submitted RFA is no longer true, accurate, and 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.) The Department shall issue a notice of renewed authorization to each such permittee.

b. A permittee whose authorization was renewed under a. above may request to be excluded from the reissued general permit in accordance with N.J.A.C. 7:14A-6.13(g), 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.

PART II. REQUEST FOR AUTHORIZATION REQUIREMENTS

A. Deadline for Requesting Authorization for a New Discharge

An RFA for a new stormwater discharge associated with industrial activity must be submitted at least 30 days prior to the date upon which there may be such a discharge. The Department may, in its discretion, accept an RFA submitted after the foregoing deadline; however, the discharger may still be held liable for any violations that occurred prior to the submission of the RFA.

B. Persons Requesting Authorization

An RFA shall be submitted by each person who is an operating entity for any part of the facility requiring a NJPDES permit for the stormwater discharge associated with industrial activity at that facility. When a facility is owned by one person but is currently operated by another

person, the operating entity shall submit the RFA. Separate RFAs shall be submitted for separate facilities. Except at an airport or seaport, no two buildings shall be considered to be within a single facility unless those buildings have the same operating entity(ies) for their stormwater discharges. In addition, no two buildings shall be considered to be within a single facility unless those buildings are on the same or adjacent properties.

1. If two or more persons request authorization under this permit for activities within a single building, then those activities should be considered to be within a single facility.

2. If a facility has more than one operating entity for its stormwater discharges, all such entities should jointly submit a single RFA for the facility. Any RFA not submitted by all known operating entities shall include an explanation under C.3. below.

C. Contents of the Request for Authorization

A completed RFA shall include all of the following information regarding the regulated facility, using the Department's RFA form:

1. The name, mailing address, location, and EPA identification number (if assigned) of the facility.

2. The 4-digit Standard Industrial Classification (SIC) code and corresponding short title assigned to the facility by the New Jersey Department of Labor. If the facility is exempt from Department of Labor SIC code assignment procedures, the RFA shall provide the 4-digit SIC code and short title that best represents the principal products or activities provided by the facility.

3. The legal name, address, and business telephone number of all known current owners and operating entities, and, if applicable, their agents and engineers. The RFA shall also identify whether each person named is an owner, an operating entity, or both; which of these persons is submitting the RFA; and whether the owner or operating entity is a Federal, State, or other public agency, or is a private entity. Any RFA not submitted by all known operating entities shall also state that the facility has other operating entities who refused to join in submitting that RFA.

4. The Federal tax identification number of the owner.

5. An 8.5' x 11' copy of a portion of the U.S. Geological Survey Topographic Map, 7.5 minute quadrangle series, showing the boundaries of the facility and the name of the quadrangle(s).

6. A brief description of the facility and its current and proposed uses.

7. Proposed date upon which there may be a new stormwater discharge associated with industrial activity, where applicable.

8. A list of any individual NJPDES permits for discharges to surface water issued for the facility.

9. The RFA certification contained in Attachment A.

10. Other certifications submitted in accordance with Part III.A.2 and the following:

a. For existing stormwater discharges, the certifications contained in Attachments C and D may also be submitted concurrently with the RFA, where appropriate.

b. For new stormwater discharges, the RFA must also include the certifications contained in Attachments C and D.

11. Additional information may be required by the Department to be included as part of the RFA if the Department determines that such additional information (including other data, reports, specifications, plans, permits, or other information) is reasonably necessary to determine whether to authorize the discharge under this permit.

The RFA shall be submitted along with payment of \$500.00 (except for authorization renewal under Part I.D.4), in accordance with N.J.A.C. 7:14A-3.1(i), unless this amount has already been submitted, for the same billing year, for the same facility under this permit.

D. Where to Submit

A completed and signed RFA shall be submitted to the Department at the address specified on the Department's RFA form.

E. Additional Notification

1. Facilities that discharge stormwater associated with industrial activity through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must also submit a copy of the RFA to the owner of and operating entity for that system.

2. Persons requesting authorization shall also submit a copy of the RFA to each owner (if any) of the facility who did not submit the RFA.

PART III. EFFLUENT LIMITATIONS; INSPECTION AND REPORTING REQUIREMENTS

A. Preparation and Implementation of the Stormwater Pollution Prevention Plan

1. General Requirements

a. A stormwater pollution prevention plan (SPPP) shall be prepared and implemented, in accordance with the deadlines specified in 2. below, for each of the permittee's facilities that generates stormwater discharges authorized by this permit. The SPPP shall include, at a minimum, all of the information and items identified in Attachment B. The SPPP shall be signed and dated by the permittee and retained at the facility.

b. The SPPP shall demonstrate that once it has been implemented, there will be no exposure, during and after storm events, of industrial materials, machinery, waste products or other source materials located at the facility, to stormwater that is discharged to surface waters and regulated under this permit. (The term "source materials" is defined in Part VI and Attachment B.)

c. If a facility has or will have two or more permittees under this permit, then the SPPP may allocate responsibility for implementing specific parts of the SPPP to specific permittees, so long as those permittees are able to implement those parts of the SPPP. All permittees for the facility shall be jointly and severally liable for all violations of this permit arising from failure to implement fully the SPPP, except that subject to d. below, a permittee shall not be liable for such a violation if that permittee can prove by clear and convincing evidence that:

i. Prior to the violation, the SPPP clearly and expressly stated that the permittee was not responsible for implementing the applicable part of the SPPP; and

ii. The permittee was not directly responsible for the violation.

d. A permittee who is an owner of all or part of the facility shall not be exempted under c. above for violations which occur on facility property which is or was leased from that owner by a tenant permittee, if:

i. The tenant permittee vacated the leased property, no longer exists, or is otherwise unable to implement the applicable part of the SPPP; and

ii. No other tenant permittee (other than a tenant described under i. above) has been allocated responsibility in the SPPP for implementing the applicable part of the SPPP.

Liability of owners under this Part III.A.1.d exists only to the extent that permit violations began or continued after the conditions described under i. and ii. above occurred.

2. Deadlines and Certifications

a. Existing discharges:

i. Within six months after the date of notification of general permit authorization, the permittee shall prepare an SPPP for the authorized facility; and shall submit to the Department the "Stormwater Pollution Prevention Plan Preparation Certification" contained in Attachment C (except if this certification was already included in the RFA submitted to the Department under Part II).