

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) An applicant for an individual NJPDES permit for a process wastewater discharge is required to provide with the application a reasonable estimate or measure of the applicant's actual maximum and average actual production. For new sources or new discharges or activities, the applicant shall provide estimates expressed in terms of production (or other measure of operation). The reported estimate or measure of production must reflect the actual production of the facility as required in N.J.A.C. 7:14A-13.13(a)1ii. If production is likely to vary, alternative estimates may be submitted in consultation with the Department. Production estimates shall be made in accordance with the following (except as specified in N.J.A.C. 7:14A-11.5 for stormwater discharges):

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

(b) All applicants for an individual NJPDES permit shall provide as part of their application, information on the discharge of pollutants in accordance with this subsection (except information on stormwater discharges, which is to be provided as specified in N.J.A.C. 7:14A-11.5).

1. Where the Department has determined two or more outfalls to have substantially identical effluents, the Department will allow the applicant to report that the quantitative data from testing one outfall also applies to the other substantially identical outfall or outfalls.
2. When quantitative data for a pollutant are required, the applicant shall collect a sample of effluent and analyze it for the pollutant in accordance with analytical methods approved under 40 C.F.R. Part 136 or N.J.A.C. 7:18.

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

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

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

3. An effluent characterization shall be submitted as follows:

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

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

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

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

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

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

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

v. For new sources or new discharges, when the applicant is unable to provide sampling data, the appli-

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

2. Federal or other State agencies, subject to the provisions of N.J.A.C. 7:14A-18.9 or 18.12; or

3. Authorized representatives of the Department, subject to the provisions of N.J.A.C. 7:14A-18.10.

(b) Each Department officer or employee who has custody or possession of confidential information shall take appropriate measures to properly safeguard such information and to protect against its improper disclosure.

(c) No Department officer or employee shall disclose, or use for his or her private gain or advantage, any confidential information which came into his or her possession, or to which he or she gained access, by virtue of his or her official position of employment, except as authorized by N.J.A.C. 7:14A-18.10.

(d) If the Department finds that any person has violated this subchapter, it shall:

1. Commence a civil action in Superior Court for a restraining order and an injunction barring that person from further disclosing confidential information; and/or

2. Pursue any other remedy available to it by law.

(e) In addition to any other penalty that may be sought by the Department, violation of this subchapter by a Department employee, thereby exceeding the scope of his or her authority, shall constitute grounds for dismissal, suspension, fine or other adverse personnel action.

7:14A-18.9 Disclosure of confidential information to State, Interstate and Federal agencies with the exception of the USEPA and the U.S. Department of Justice

(a) The Department shall disclose information which has been determined to be entitled to confidential treatment to State, interstate, and Federal agencies, other than the USEPA and U.S. Department of Justice, as provided at N.J.A.C. 7:14A-18.12, if:

1. The Department receives a written request for disclosure of the information from a duly authorized officer or employee of the other agency;

2. The request sets forth the official purpose for which the information is needed;

3. The Department notifies the other agency of its determination that the information is entitled to confidential treatment;

4. The other agency has first furnished to the Department a written opinion from the agency's chief legal officer or counsel stating that under applicable law the agency has the authority to compel the person who submitted the information to the Department to disclose such information to the other agency; and

5. The other agency agrees not to disclose the information further, unless the other agency has statutory authority both to compel production of the information and to make the proposed disclosure.

(b) Except as provided in N.J.A.C. 7:14A-18.5(h) (emergency disclosure), and N.J.A.C. 7:14A-18.12, the Department shall notify the affected person in writing of its intention to disclose information which has been determined to be entitled to confidential treatment to any other governmental agency at least 10 days in advance of the disclosure.

7:14A-18.10 Disclosure of confidential information to authorized agents

(a) The Department shall disclose information which has been determined to be entitled to confidential treatment to an authorized agent, under contract with the Department, if:

1. The Department determines that such disclosure is necessary in order for the agent to carry out the work required by the contract;

2. The Department notifies the affected person; and

3. The agent contracts with the affected person to protect the confidentiality of the information.

(b) No information shall be disclosed under (a) above unless the contract in question provides that the agent and the agent's employees shall use the information only for the purpose of carrying out the work required by the contract, shall refrain from disclosing the information to anyone other than the Department, and shall return to the Department all copies of the information, and any abstracts or extracts therefrom, upon request by the Department or whenever the information is no longer required by the agent for the performance of the work required by the contract.

(c) Violation of the contractual provisions of (b) above by the agent or the agent's employee in question shall constitute grounds for debarment or suspension as provided under the rules regarding debarment, suspension and disqualification from department contracting, at N.J.A.C. 7:1-5.

7:14A-18.11 Designation by person of an addressee for notices and inquiries

(a) Any affected person who wishes to designate a specific person or office as the proper addressee of communications from the Department under this subchapter may do so by furnishing in writing to the Department the following information: the name and address of the person making the designation; the name, address, and telephone number of the designated person or office; and a request that Department inquiries and communications (oral and written) under this subchapter be furnished to the person designated pursuant to this section. Only one person or office may serve at any time as an affected person's designee under this subchapter.

(b) If an affected person has named a particular designee under this section, the following Department inquiries and notices to the affected person shall be addressed to the designee:

1. Notices to submit comments, under N.J.A.C. 7:14A-18.5(d);
2. Notices of denial of confidential treatment and proposed disclosure of information, under N.J.A.C. 7:14A-18.5(g);
3. Notices concerning shortened comment and/or waiting periods under N.J.A.C. 7:14A-18.5(h); and
4. Notices to affected persons under N.J.A.C. 7:14A-18.9 and 18.10.

7:14A-18.12 Access to information for the USEPA and U.S. Department of Justice

Notwithstanding any other provision of this subchapter, any information obtained or used in the administration of the NJPDES and RCRA programs shall be available to the USEPA and the U.S. Department of Justice upon request without restriction. If the information has been submitted to the Department under a claim of confidentiality, the Department shall submit that claim to USEPA and the U.S. Department of Justice when providing information as required in this section.

7:14A-18.13 Use of confidential information in rulemaking, permitting, and enforcement proceedings

(a) Notwithstanding any other provisions of this subchapter, the Department may, subject to the protection from making the information available to the public as provided in N.J.A.C. 1:1, use information determined to be eligible for confidential treatment pursuant to N.J.A.C. 7:14A-18.5 and 18.6 in rulemaking, permitting and enforcement proceedings.

1. Where the Department uses confidential information in any enforcement proceeding, the Department shall indicate that such information has been used.
2. Where the Department uses confidential information in administrative proceedings, the procedures in (b) and (c) below shall apply.

(b) Where the Department determines that there shall be an adjudicatory hearing, information determined to be eligible for confidential treatment pursuant to N.J.A.C. 7:14A-18.5 and 18.6 may be used in any enforcement and permitting proceeding as provided in N.J.A.C. 1:1.

(c) Where the Department determines that there shall not be an adjudicatory hearing, information determined to be eligible for confidential treatment pursuant to N.J.A.C. 7:14A-18.5 and 18.6 may be used in any enforcement, permitting, or rulemaking proceeding as provided below:

1. The affected person shall be informed that the Department is considering using the information in connection with the proceeding and shall afford the person a comment period 10 days after the date of the affected person's receipt of written notice from the Department;

2. The Department, after consideration of any timely comments submitted by the affected person, determines that the information is relevant to the subject of the proceeding;

3. The Department determines that the public interest shall be served by use of the information in the proceeding; and

4. The Department shall give the affected person at least five days notice prior to using the information which may result in the information being made available to the public.

SUBCHAPTER 19. PRETREATMENT PROGRAM REQUIREMENTS FOR LOCAL AGENCIES

7:14A-19.1 Purpose and scope

(a) This subchapter establishes requirements to:

1. Prevent the introduction of pollutants into a local agency's treatment works which may:

- i. Interfere with the operation of the local agency's treatment works;
- ii. Pass through or would otherwise be incompatible with the local agency's treatment works; or
- iii. Interfere with the local agency's chosen method of sludge management;

2. Set forth the minimum requirements for all local agencies to control the discharge of pollutants by indirect users of the agencies' treatment works; and

3. Set forth the minimum requirements for the establishment and implementation of an approvable industrial pretreatment program (IPP) by local agencies. Such a program shall require the local agency to establish a regulatory program with adequate legal authority contained in IPP regulations which allows that agency to deny or permit contributions of pollutants to the treatment works, as well as enforce the applicable pretreatment program requirements.

(b) The Department adopts and incorporates herein by reference the General Pretreatment Regulations for Existing and New Sources of Pollution, 40 CFR Part 403, and the National Pretreatment Standards in 40 CFR chapter I, subchapter N, as amended and supplemented.