

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

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

"SESCP" means soil erosion and sediment control plan.

"SIC" means Standard Industrial Classification.

"SIU" means significant indirect user.

"SNC" means significant non-compliance.

"SOD" means sediment oxygen demand.

"SSMP" means Statewide Sludge Management Plan.

"TDS" means total dissolved solids.

"TKN" means total Kjeldahl nitrogen.

"TM" means trout maintenance.

"TMDL" means total maximum daily load.

"TOC" means total organic carbon.

"TP" means trout production.

"TSD" means the USEPA Technical Support Document (See USEPA TSD).

"TSS" means total suspended solids.

"TTO" means total toxic organics.

"TUA" means toxic units acute.

"TUC" means toxic units chronic.

"TWA" means Treatment Works Approval.

"TWTDS" means treatment works treating domestic sewage.

"UIC" means Underground Injection Control program.

"ug/L" means micrograms per liter.

"USEPA" means the United States Environmental Protection Agency.

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

"USDA" means the United States Department of Agriculture.

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

"USDW" means underground source of drinking water.

"USGS" means United States Geological Survey.

"USNRC" means the United States Nuclear Regulatory Commission.

"UST" means underground storage tank.

"VOC" means volatile organic compounds.

"WET" means whole effluent toxicity.

"WLA" means wasteload allocation.

"WQBEL" means water quality based effluent limitation.

"WQM plan" means Water Quality Management plan.

"WSC" means Written Statement of Consent.

7:14A-1.2 Definitions

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

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

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

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

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

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

"Acute toxicity" means a lethal or severe adverse sublethal effect (for example, immobilization of daphnids) to an organism exposed to a toxic substance for a relatively short

period of time. Acute toxicity is measured by short-term bioassays, generally of 48 or 96 hour duration.

“Adequate conveyance capacity” means:

1. In the downstream sewers, the peak dry weather flow does not exceed 80 percent of the depth of the pipe and the peak wet weather flow does not result in overflows or discharges from any unpermitted discharge location; and

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

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

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

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

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

“Affected sewerage entity” means any public or private sewerage authority, municipal utilities authority, joint meeting, State agency, county, municipality, or other entity which owns or operates any sewage treatment plant or sewage collection system, into which a treatment works will discharge; or which has jurisdiction to treat or convey sewage or other wastewater in the service area in which the proposed treatment works are to be located. “Agricultural land,” for the purpose of N.J.A.C. 7:14A-20, means land on which a food crop, a feed crop, or a fiber crop is grown. This includes range land and land used as pasture.

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

1. To provide the amount of nitrogen or other nutrients needed by the food crop, feed crop, fiber crop, cover crop or vegetation grown on the land;

2. To minimize the amount of nitrogen or other nutrients from residual and all other fertilizer sources that passes below the root zone of the crop or vegetation grown on the land to the ground water or that runs off to surface waters; and

3. To provide the amount of calcium or magnesium oxides capable of neutralizing soil acidity.

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

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

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

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

“Animal feeding operation” means a lot or facility (other than an aquatic animal production facility) where the following conditions are met:

1. Animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and

2. Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

“Animal units” means the unit of measurement for any animal feeding operation calculated as follows: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 25 kilograms (approximately 55 pounds) multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

“Annual pollutant loading rate” means the maximum amount of a pollutant listed in 40 CFR 503.13 that can be applied to a unit area of land during a 365 day period.

“Annual whole residual application rate” means the maximum amount of a residual (dry weight basis) that can be applied to a unit area of land during a 365 day period.

“Applicant” means any person, corporation, government body or other legal entity which applies for a NJPDES permit or Departmental approval pursuant to this chapter.

“Application rates” means the hydraulic or loading limits determined and set by the Department governing the application of pollutants to the land or waters of the State.

“Apply residual or residual applied to the land” means land application of residual. This definition shall include apply sludge or sludge applied to the land as well as apply sewage sludge or sewage sludge applied to the land.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Bimonthly" means occurring every two months.

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

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

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

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

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

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

"Biweekly" means occurring every two weeks.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. For a given pollutant parameter, the 95th percent value for the 30-day average effluent quality achieved by a treatment works in a period of at least two years, excluding values attributable to upsets, bypasses, operational errors, or other unusual conditions; and

2. A seven-day average value equal to the product of the value derived under paragraph 1 of this definition, multiplied by 1.5.

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

1. Information necessary to determine the identity, amount, frequency, concentration, temperature, or other characteristics (to the extent related to water quality) of any pollutant which has been discharged by the source (or of any pollutant resulting from any discharge from the source), or any combination of the foregoing;

2. Information necessary to determine the identity, amount, frequency, concentration, temperature, or other characteristics (to the extent related to water quality) of the pollutants which, under an applicable standard or limitation, the source was authorized to discharge (including, to the extent necessary for such purpose, a description of the manner or rate of operation of the source); and

3. A general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

4. Notwithstanding 1 through 3 above, the following information shall be considered to be “effluent data” only to the extent necessary to allow the Department to disclose publicly that a source is (or is not) in compliance with an applicable standard or limitation, or to allow the Department to demonstrate the feasibility, practicability, or attainability (or lack thereof) of an existing or proposed standard or limitation:

- i. Information concerning research, or the results of research, on any product, method, device, or installation (or any component thereof) which was produced, developed, installed, and used only for research purposes; and

- ii. Information concerning any product, method, device, or installation (or any component thereof) designed and intended to be marketed or used commercially but not yet so marketed or used.

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

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

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

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

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

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

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

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

"Existing uses" means the following:

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

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

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

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

1. The BOD₅ and TSS effluent concentrations consistently achievable through proper operation and maintenance of the treatment works exceed the minimum level of the effluent quality set forth in N.J.A.C. 7:14A-12;
2. A trickling filter or waste stabilization pond is used as the principal process; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Hazardous pollutant" means:

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

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

“Hazardous waste” means any solid waste that is defined or identified as a hazardous waste pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., N.J.A.C. 7:26-8, or 40 CFR Part 261.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Interference" means:

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

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

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

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

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

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

"Landfill" see sanitary landfill.

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

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

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

"Large municipal separate storm sewer system" means a municipal separate storm sewer that is:

1. Located in an incorporated place with a population of 250,000 or more as determined by the latest Decennial Census by the Bureau of Census. See 40 CFR Part 122, Appendix F (As of May 5, 1997, Newark is listed); or
2. Located in the counties listed in 40 CFR Part 122, Appendix H (As of May 5, 1997, no New Jersey counties are listed), except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties; or
3. Owned or operated by a municipality other than those described in paragraph 1 or 2 of this definition and that are designated by the Director as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under paragraph 1 or 2 of this definition. In making this determination the Director may consider the following factors:
 - i. Physical interconnections between the municipal separate storm sewers;
 - ii. The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in paragraph 1 of this definition;
 - iii. The quantity and nature of pollutants discharged to waters of the United States;
 - iv. The nature of the receiving waters; and
 - v. Other relevant factors; or

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

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

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

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

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

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

"Level of pollutant concentration actually achieved" means:

1. For conventional pollutants, the effluent concentration consistently achieved through proper operation and maintenance as defined in this section with a 30-day and seven-day average effluent limitation.

2. For toxic pollutants, the effluent limitations based on existing effluent quality as defined at N.J.A.C. 7:14A-13.8 with a 30 day average and a daily maximum effluent limitation.

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

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

"Liner" means a continuous layer of soil or synthetic material which restricts the downward or lateral escape of any waste, waste constituents, or leachate. For the pur-

poses of N.J.A.C. 7:14A-20, a liner shall have a hydraulic conductivity of 1×10^{-7} centimeters per second or less.

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

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

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

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

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

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

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

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

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

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

"Major facility" means:

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

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

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

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

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

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

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

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

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

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

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

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

1. Located in an incorporated place with a population of 100,000 or more but less than 250,000, as determined by the latest Decennial Census by the Bureau of Census (40 CFR Part 122, Appendix G); or

2. Located in the counties listed in 40 CFR 122.26 Appendix I, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties; or

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

i. Physical interconnections between the municipal separate storm sewers;

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

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

iv. The nature of the receiving waters; or

v. Other relevant factors; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"New discharger" means any building, structure, facility, or installation:

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

This definition includes an indirect user which commences discharging into waters of the State after August 13, 1979. It also includes any existing mobile point source (other than an offshore or coastal oil and gas exploratory drilling rig) such as a seafood processing rig, seafood processing vessel, or aggregate plant, that begins discharging at a site for which it does not have a permit; and any offshore or coastal mobile oil and gas exploratory drilling rig or coastal mobile oil and gas development drilling rig that commences the discharge of pollutants after August 13, 1979, at a site for which it is not covered by an individual or general permit and which is located in an area determined by the Department in the issuance of the final permit to be an area of

biological concern. In determining whether an area is an area of biological concern, the Department shall consider the factors specified in 40 CFR 125.122(a)(1) through (1).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"No observable effect concentration" or "NOEC" means the maximum effluent concentration which results in no observable effect for the evaluated end-point. The NOEC is usually determined as the next lower tested concentration than the concentration which results in the lowest observable effect as compared to the controls. For discharge permits where the limitation is expressed as an NOEC, the results shall be reported as the calculated IC_{25} and shall be considered equivalent to the observed NOEC.

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

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

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

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

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

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

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

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

“Nonpoint source” means:

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

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

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

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

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

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

“Operating entity” or “operator” means any person who alone or along with other persons has primary management and operational decision-making authority over any part of a facility. This definition is not applicable to “operator” as that term is used in N.J.A.C. 7:14A-4.9(b)2, 22.6(a)4, 22.6(c)3, 23.25(a)3, or 23.25(a)4i, or in the phrase “operator error” in N.J.A.C. 7:14A-6.12(g).

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

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

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

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

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

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

movement of pollutants across the surface of the land where infiltration may occur.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Pond” see the definition for lake.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Reservoir” see the definition for lake.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Designed or used for collecting or conveying stormwater;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Sewage authority” see sewerage entity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- i. The user is subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N;
- ii. The user’s average volume of process wastewater exceeds 25,000 gallons per day;
- iii. The amount of BOD, COD or Suspended Solids in the industrial process wastewater discharge exceeds the mass equivalent of 25,000 gallons per day of the domestic waste of the affected local agency;
- iv. The volume of industrial process wastewater in the discharge exceeds five percent or more of the average daily dry weather flow of the local agency;
- v. The user’s discharge of process wastewater contributes, five percent or more of the daily mass loading of any of the pollutants listed in N.J.A.C. 7:14A-4, Appendix A Tables II through V;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“State” means the State of New Jersey.

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

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

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

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

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

“Stormwater” means stormwater runoff, snow melt runoff, and surface runoff and drainage.

“Stormwater discharge associated with industrial activity” means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Suspended Solids" see "total suspended solids".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Toxicity test" see "bioassay".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Ultimate sludge management alternative” means the final management of sludge at a facility or operation such

that no additional permit or approval actions are required for further processing or movement.

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

“Underground injection” means a well injection.

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

1. Which contains a sufficient quantity of ground water to supply a public water system; and

- i. Currently supplies drinking water for human consumption; or

- ii. Contains fewer than 10,000 mg/l total dissolved solids; and

2. Which is not Class III ground water, in accordance with N.J.A.C. 7:9-6.5(f).

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

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

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

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

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

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

“Variance” means any mechanism or provision under Sections 301 or 316 of the Federal Act or under 40 CFR Part 125, or in the applicable “effluent limitations guidelines” which allows modification to or waiver of the general-

ly applicable effluent limitation requirements or time deadlines of the Federal Act. This includes provisions which allow the establishment of alternative limitations based on fundamentally different factors or on Section 301(c), 301(g), 301(h), 301(i), or 316(a) of the Federal Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Zone of saturation” means saturated zone.

Case Notes

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

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

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

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

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

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

SUBCHAPTER 2. GENERAL PROGRAM REQUIREMENTS

7:14A-2.1 Purpose and scope

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

(b) The intent of these rules is to:

1. Restore, enhance, and maintain the chemical, physical, and biological integrity of the waters of the State;
2. Protect public health and safety;
3. Protect potable water supplies;
4. Safeguard fish and aquatic life and scenic and ecological values;

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

6. Prevent, control, and abate water pollution.

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

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

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

Case Notes

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

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

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

7:14A-2.2 Liberal construction and severability

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

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

7:14A-2.3 Incorporation by reference

(a) The requirements applicable to the NJPDES program of the Federal Clean Water Act (33 U.S.C. §§ 1251 et seq.), the Federal Safe Drinking Water Act (42 U.S.C. §§ 300F et seq.), the State Act, and all Federal regulations cited in this

chapter, including, but not limited to, 40 CFR Parts 110, 122, 123, 124, 125, 129, 133, 136, 144, 258, 264, 403, and National Pretreatment Standards in 40 CFR chapter I, subchapter N, and including all amendments and supplements thereto, are incorporated into this chapter by reference unless the context clearly indicates otherwise. A copy of the Federal Act, the State Act, or any Federal regulation cited in this chapter may be obtained at the State Library.

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

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

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

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

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

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

1. Discharge of pollutants to surface and ground waters;
2. A discharge from an indirect user;
3. The land application of municipal wastewaters and/or industrial wastewaters, including, but not limited to, spray irrigation, overland flow, and infiltration-percolation lagoons;
4. The discharge from facilities under the jurisdiction of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.;

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

6. The discharge of pollutants into wells;

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

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

9. Discharges from aquaculture projects;

10. Discharges from silvicultural point sources;

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

12. Discharges from site remediation projects;

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

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

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

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

7:14A-2.5 Exemptions

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

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

- i. Rubbish, trash, garbage, or other such materials discharged overboard; or
 - ii. Other discharges when the vessel is operating in a capacity other than as a means of transportation such as when used as an energy or mining facility, a storage facility or a seafood processing facility, a residence, or when secured to a storage facility or a seafood processing facility, or when secured to the bed of the ocean, contiguous zone, or waters of the United States for the purpose of mineral or oil exploration or development;
2. Discharges of dredged or fill material into waters of the United States which are regulated under Section 404 of the Federal Act;
3. Any discharge in compliance with the instructions of an On-Scene Coordinator pursuant to 40 CFR 300 (The National Oil and Hazardous Substances Pollution Plan) or 33 CFR 153.10(e) (Pollution by Oil and Hazardous Substances), and the State Spill Compensation and Control Act, N.J.S.A. 58:10-23.11;
4. Any introduction of pollutants from nonpoint source agricultural and silvicultural activities, including runoff from orchards, cultivated crops, pastures, range lands, and forest lands. This paragraph does not exempt the point source discharges from concentrated animal feeding operations as defined at N.J.A.C. 7:14A-1.2, from concentrated aquatic animal production facilities as defined at N.J.A.C. 7:14A-1.2, from silvicultural point sources as defined at N.J.A.C. 7:14A-1.2, or to aquaculture projects as defined at N.J.A.C. 7:14A-1.2;
5. Return flows from irrigated agriculture;
6. Indirect users which do not meet the SIU definition in N.J.A.C. 7:14A-1.2;
7. Indirect users which meet the SIU definition in N.J.A.C. 7:14A-1.2 and discharge to a delegated local agency. IPP permits issued by delegated local agencies to indirect users under this chapter are NJPDES permits. An exemption under this section does not limit the authority of a delegated local agency to require a IPP permit; and
8. Discharges into a privately owned treatment works, except as the Department may otherwise require on a case-by-case basis. In such a case, the Department shall specify in the statement of basis or fact sheet prepared in accordance with N.J.A.C. 7:14A-15 the reason for requiring the user to apply for a permit. Such dischargers shall comply with N.J.A.C. 7:14A-4.1.
- (b) (Reserved)
- (c) An exemption afforded under (a) above shall not:
1. Limit the administrative, civil, or criminal liability of any discharger; or

2. Exempt any discharger from approval or permit requirements under any other provision of law.

(d) The Department may require a NJPDES permit for the activities otherwise exempt under (a)4 and/or 5 above, in order to impose appropriate management measures for sources of nonpoint pollution necessary to achieve and maintain applicable water quality standards. Whenever the Department determines that a NJPDES permit is required under this section, the Department shall notify the discharger in writing of the reasons for such a determination and shall include an application form with such notice. The discharger shall apply under N.J.A.C. 7:14A-4 for a permit within 60 days of receipt of such notice. In such a case, comment regarding the appropriateness of the initial determination may be received during the public comment period under N.J.A.C. 7:14A-15.11 and in any subsequent hearing.

7:14A-2.6 Conflict of interest

(a) Any board or body which approves all or portion of a permit shall not include as a member any person who receives, or has during the previous two years received, a significant portion of direct or indirect income from permit holders or applicants for a permit.

(b) For the purposes of this section, "direct or indirect income from permit holders or applicants for a permit" is not received when it is derived from mutual fund payments, or from other diversified investments for which the recipient does not know the primary sources of income.

(c) For the purposes of this section, "permit holders or applicants for a permit" does not include any department or agency of the State government, such as the Division of Fish, Game, and Wildlife within the Natural and Historic Resources Program of the New Jersey Department of Environmental Protection, or the New Jersey Department of Transportation.

7:14A-2.7 Permit duration and renewal

(a) All NJPDES permits shall be issued for fixed terms not to exceed five years. The Department shall issue any permit for a duration that is less than the full allowable term under this section when:

1. A shorter permit duration will facilitate issuance of a discharge permit in accordance with a watershed management plan;
2. The permittee requests a shorter permit duration; or
3. The discharge is anticipated to cease in less than five years.

(b) Any permittee who wishes to continue the regulated activity after the expiration date of the permit shall file a timely and complete application or request for renewal as provided in N.J.A.C. 7:14A-4.2(e)3.

(c) A NJPDES permit may be modified, revoked and reissued, suspended, or revoked in accordance with N.J.A.C. 7:14A-16.3. The filing of a request for a permit modification, revocation and reissuance, suspension, or revocation, or a notification of planned changes or anticipated noncompliance, in and of itself, shall not stay any permit condition. A permit condition may be administratively stayed by the Department in accordance with N.J.A.C. 7:14A-17.6.

(d) A NJPDES permit shall be administratively expired if the regulated activity is not continued beyond the expiration date, or for continuing discharges where the conditions of N.J.A.C. 7:14A-2.8(a) have not been met. A permittee may request that a permit be revoked prior to the scheduled expiration date of the permit. A formal notification shall be made to the permittee if a permit has been administratively expired, suspended, or revoked.

7:14A-2.8 Administrative continuation of permits

(a) The conditions of an expired NJPDES permit are continued in force pursuant to the "Administrative Procedure Act," N.J.S.A. 52:14B-11, until the effective date of a new permit or of authorization under a general permit, or until the effective date of denial of a permit application, if:

1. The permittee submits a timely and complete application, request for renewal, or request for authorization under a general permit, if required, as provided in N.J.A.C. 7:14A-4.2(e)3; and

2. The Department, without fault on the part of the permittee, fails to issue a new permit with an effective date on or before the expiration date of the previous permit (for example, when issuance is delayed due to constraints of time or resources).

(b) Permits continued under this section remain fully effective and enforceable.

(c) When the permittee is not in compliance with the conditions of the administratively continued permit, the Department will take one or more of the following actions:

1. Initiate enforcement action;

2. Suspend or revoke the permit in accordance with N.J.A.C. 7:14A-16.6. If the permit is suspended or revoked, the permittee shall cease the activities that were previously authorized by the suspended or revoked permit. Otherwise, the permittee shall be considered to be operating without a permit, and be subject to appropriate enforcement action;

3. Issue a notice to deny a permit application for a new permit or permit renewal, in accordance with N.J.A.C. 7:14A-15.6(a)2 and 15.10;

4. Deny a request for authorization for a general permit, in accordance with N.J.A.C. 7:14A-6.13;

5. Issue a new permit under N.J.A.C. 7:14A-15 with appropriate conditions, or issue authorization under an appropriate general permit under N.J.A.C. 7:14A-6.13; or

6. Take other appropriate actions authorized by this chapter or the State Act.

(d) In the event that the permittee fails to submit a timely and complete application for renewal or request for authorization under a general permit if required under N.J.A.C. 7:14A-4.2(e)3, or fails to comply with (f) below, all discharges of pollutants from the permittee's facility shall cease and the permit shall be administratively expired in accordance with N.J.A.C. 7:14A-2.7(d), unless the Department determines that termination of the discharge will have widespread social or economic impact.

(e) A permittee with an administratively expired permit that continues discharging pollutants after the expiration date is operating without a permit from the time of expiration of the old permit to the effective date of any new permit or approval and is subject to enforcement action in accordance with N.J.A.C. 7:14-8. In any new permit or approval, the Department may require the submittal of any additional information, specifying a date for its submittal.

(f) In the event that the Department denies a timely and complete request for authorization under a general permit submitted under (a)1 above, the Department's written notice of denial under N.J.A.C. 7:14A-6.13(m) may require that permittee to apply for an individual permit or seek authorization under another general permit. A notice that contains such a requirement shall include:

1. A brief statement of the reasons for this decision;

2. An application form or, if applicable, the request for authorization form; and

3. A statement setting a timeframe within which the permittee must file the application or, if applicable, the request for authorization. The Department may grant additional time for filing, 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, then such permittee is subject to the provisions of (d) above.

7:14A-2.9 Enforcement action

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

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

(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
CN 402
Trenton, New Jersey 08625

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 plan 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:

Environmental Impact = (Risk x Quantity x Ground Water Rating Factor) 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:

<u>Rating</u>	<u>Risk</u>
1	Non-contact cooling water, treated ground water, filter backwash, sanitary wastewater with at least secondary treatment
21	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

Rating
15

Risk

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	Percent Use	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 = $(W1 + W2) \times (\text{Closure Status Factor} + \text{Ground Water Rating Factor})$ 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 of 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 10 ⁰	10 ¹	10 ²	10 ³	10 ⁴	10 ⁵
SURFACE WATER					
TDS Chloride Sulfate Fluoride Iron	TSS Phosphorus Phthalic Acid Sulfide Molybdenum Bismuth Manganese Zinc	Tin Aluminum Antimony Barium Chromium-trivalent Oil & Grease Surfactants N(nitrite, nitrate Kjeldhal, diss. & 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 Basic 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 Phthalate 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

System	Formation	Potential	Points
Quaternary Pleistocene	Glacial drift Mercer, Middlesex Other Counties	Poor Mod to Very Good	2 10

<u>System</u>	<u>Formation</u>	<u>Potential</u>	<u>Points</u>
Tertiary	Cape May	Moderate to Good	8
	Pennsauken	Moderate to Minor	6
	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
	Vincentown	Poor to Good	8
Paleocene	Hornerstown	None to Poor	2
	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
Cretaceous	Raritan-Magothy	Very Good	10
	Watchung	Minor	4
	Diabase	Minor	4
	Brunswick	Minor to Good	8
	Lokatong	Poor	2
	Stockton	Moderate to Good	8
	Border Conglomerates	Minor	4
	Skunnemunk	Poor	2
	Bellvale	Poor to Minor	4
	Cornwall/Pequanac	Poor	2
Devonian	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
	Jacksonberg	Minor	4
	Ontelaunee	Minor	4
Ordovician	Epier	Minor	4
	Rickenback	Moderate	6
	Allentown Upper	Minor	4
	Allentown Lower	Moderate to Very Good	10
	Leithsville	Very Good	10
	Hardystown	Poor	2
	Franklin	Minor to Moderate	6
Cambrian			
Precambrian			

SystemFormation
Crystalline RocksPotential
Minor to ModeratePoints
6**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
CN 029
Trenton, NJ. 08625
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) The permittee has been notified by the Department prior to submitting a renewal application pursuant to N.J.A.C. 7:14A-4.7 that the permit qualifies for expedited permit renewal under N.J.A.C. 7:14A-16.3(h), and elects to participate; or

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

4. (Reserved)

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

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

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

7:14A-4.3 Application information requirements

(a) All applicants for an individual NJPDES permit shall provide the following information to the Department using the application form(s) provided by the Department (except as specified in N.J.A.C. 7:14A-11.5 for stormwater discharges):

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

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

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

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

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

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

i. Operating entities of the treatment works;

ii. Owners of the land or property; and

iii. Licensed operators of the treatment works;

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

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

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

i. Hazardous Waste Management program under RCRA;

ii. NJPDES permits or Treatment Works Approvals under the State or Federal Acts;

iii. UIC program under N.J.A.C. 7:14A-8;

iv. Prevention of Significant Deterioration (PSD) program under the Clean Air Act;

v. Nonattainment program under the Clean Air Act;

vi. National Emission Standards for Hazardous Pollutants (NESHAPS) preconstruction approval under the Clean Air Act;

vii. Ocean dumping permits under the Marine Protection Research and Sanctuaries Act;

viii. Dredge or fill permits under Section 404 of the Federal Act; and

ix. Other relevant environmental permits, including Federal and State permits, such as stream encroachment or wetlands permits;

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

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

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

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

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

15. A topographic map (U.S. Geological Survey Topographic Map, 7.5 minute Quadrangle Series) extending one mile beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structures; each of its residual treatment, storage, or disposal facilities; each well where fluids from the facility are injected underground; and those wells, springs, other surface water bodies and drinking water wells listed in public records or otherwise known to the applicant in the map area;

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

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

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

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

20. For NJPDES-DSW permit applications, an identification of any biological toxicity tests, which the applicant knows or has reason to believe have been made within the last three years on any of the applicant's discharges or activities or on a receiving water in relation to a discharge or activity. The biological toxicity tests shall have been conducted in accordance with the laboratory certification regulations for biological testing, N.J.A.C. 7:18. The applicant shall include copies of the laboratory reports for such biological toxicity tests, if the test results were not previously submitted to the Department;

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

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

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

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

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

23. Information in compliance with the Sludge Quality Assurance Regulations, N.J.A.C. 7:14-4;

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.

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

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

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

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

1. The maximum daily and average monthly flow from each outfall;

2. The number of ponds, raceways, and similar structures;

3. The name of the receiving water and the source of intake water;

4. For each species of aquatic animals, the total yearly and maximum harvestable weight; and

5. The calendar month of maximum feeding and the total mass of food fed during that month.

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

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

1. For a corporation, by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

i. A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

ii. The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

2. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or

3. For a municipality, State, Federal, or other public agency, by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:

i. The chief executive officer of the agency; or

ii. A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator); or

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

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

1. The authorization is made in writing by a person described in (a)1 through 3 above;

2. The authorization specifies either an individual or a position whose occupant has responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position whose occupant has overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and

3. The written authorization is submitted to the Department.

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

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

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

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

APPENDIX A

PERMIT APPLICATION TESTING REQUIREMENTS/POLLUTANT LISTINGS

Table I

Testing Requirements for Organic Toxic Pollutants by Industrial Category

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

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

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

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

(b) At 46 FR 22585, April 20, 1981, the Environmental Protection Agency suspended until further notice 122.21(g)(7)(ii)(A) and the corresponding portions of Item V-C of the NPDES application Form 2 as they apply to:

1. Testing and reporting for all four organic fractions in the Greige Mills Subcategory of the Textile Mills industry (Subpart C—Low water use processing of 40 C.F.R. part 410), and testing and reporting for the pesticide fraction in all other subcategories of this industrial category.

2. Testing and reporting for the volatile, base/neutral and pesticide fractions in the Base and Precious Metals Subcategory of the Ore Mining and Dressing industry (subpart B of 40 C.F.R. part 440), and testing and reporting for all four fractions in all other subcategories of this industrial category.

3. Testing and reporting of all four GC/MS fractions in the Porcelain Enameling industry.

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

1. Testing and reporting for the pesticide fraction in the Tall Oil Rosin Subcategory (subpart D) and Rosin-Based Derivatives Subcategory (subpart F) of the Gum and Wood Chemicals industry (40 CFR part 454), and testing and reporting for the pesticide and base/neutral fractions in all other subcategories of this industrial category.

2. Testing and reporting for the pesticide fraction in the Leather Tanning and Finishing, Paint and Ink Formulation, and Photographic Supplies industrial categories.

3. Testing and reporting for the acid, base/neutral and pesticide fractions in the Petroleum Refining industrial category.

4. Testing and reporting for the pesticide fraction in the Papergrade Sulfite subcategories (subparts J and U) of the Pulp and Paper industry (40 C.F.R. part 430); testing and reporting for the base/neutral and pesticide fractions in the following subcategories: Deink (subpart Q), Dissolving Kraft (subpart F), and Paperboard from Waste Paper (subpart E); testing and reporting for the volatile, base/neutral and pesticide fractions in the following subcategories: BCT Bleached Kraft (subpart H), Semi-Chemical (subparts B and C), and Nonintegrated-Fine Papers (subpart R); and testing and reporting for the acid, base/neutral, and pesticide fractions in the following subcategories: Fine Bleached Kraft (subpart I), Dissolving Sulfite Pulp (subpart K), Groundwood-Fine Papers (subpart O), Market Bleached Kraft (subpart G), Tissue from Wastepaper (subpart T), and Nonintegrated-Tissue Papers (subpart S).

5. Testing and reporting for the base/neutral fraction in the Once-Through Cooling Water, Fly Ash and Bottom Ash Transport Water process wastestreams of the Steam Electric Power Plant industrial category.

This revision continues these suspensions.

For the duration of the suspensions, therefore, Table I effectively reads:

PERMIT APPLICATION TESTING REQUIREMENTS/POLLUTANT LISTINGS

Table I

Testing Requirements for Organic Toxic Pollutants by Industrial Category

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

Industrial

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

1. The pollutants in each fraction are listed in Item V-C of the USEPA Form *C.

* Testing required

3. Pump and Paperboard Mills:

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

1. Must test.

* Do not test unless 'reason to believe' it is discharge.

3. Subparts are defined in 40 C.F.R. Part 430.

Table II

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

Volatiles

Acrolein
Acrylonitrile
Benzene

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

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

Acid Compounds

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

Base/Neutral

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

Pesticides

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

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

Antimony, Total
Arsenic, Total
Beryllium, Total
Cadmium, Total
Chromium, Total
Copper, Total
Lead, Total
Mercury, Total
Nickel, Total

Selenium, Total
Silver, Total
Thallium, Total
Zinc, Total
Cyanide, Total
Phenols, Total

Table IV

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

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

Table V

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

Toxic Pollutants

Asbestos

Hazardous Substances

Acetaldehyde
Allyl alcohol
Allyl chloride
Amyl acetate
Aniline
Benzonitrile
Benzyl chloride
Butyl acetate
Butylamine
Captan
Carbaryl
Carbofuran
Carbon disulfide
Chlorpyrifos
Coumaphos
Cresol

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

**SUBCHAPTER 5. TECHNICAL REQUIREMENTS
FOR AMBIENT STUDIES FOR DSW
PERMITS (RESERVED)**

**SUBCHAPTER 6. CONDITIONS APPLICABLE TO
ALL NJPDES PERMITS**

7:14A-6.1 Purpose and scope

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

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

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

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

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

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

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

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

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

ii. Standards for sewage sludge use or disposal established under Section 405(d) of the Federal Act and N.J.A.C. 7:14A-20.

5. A permittee shall take all reasonable steps to minimize or prevent any activity in violation of its permit

which has a reasonable likelihood of adversely affecting human health or the environment.

6. A permit shall not convey any property rights of any sort or any exclusive privilege.

7. A permit shall not authorize any injury to persons or property or invasion of other private rights, or any infringement of Federal, State or local law or regulations;

8. A permit is not transferable to any person except after written notice in accordance with N.J.A.C. 7:14A-16.2.

9. All permittees with discharges that flow through an outfall pipe, unless such outfall pipe is completely and continuously submerged or is not assigned a Discharge Serial Number (DSN), shall notify the Department that a tag to mark the location of the pipe has been or will be installed on the pipe by the effective date of the permit, or by May 5, 1997, whichever is sooner.

i. The outfall tag shall be:

(1) Legible;

(2) Located as near to the end of the outfall pipe as possible;

(3) Made of a durable material such as metal; and

(4) Maintained on a regular basis, such as cleaned and inspected to ensure that the tag is properly attached.

ii. The outfall tag shall display, at a minimum, the following information:

(1) The name of the facility where the discharge originates;

(2) The NJPDES permit number;

(3) The NJDEP Hotline phone number; and

(4) The Discharge Serial Number for that particular outfall;

10. When the Department reopens the permit by modification or revocation and reissuance, it shall do so, at a minimum, for the following:

i. Any discharger within a primary industrial category, as listed in N.J.A.C. 7:14A-4 Appendix A, Table 1, if an applicable standard or limitation is promulgated under Sections 301(b)(2) (C) and (D), 302, 304(b)(2), or 307(a)(2), (b), (c) or (d) of the Federal Act and that effluent standard or limitation is more stringent than any effluent limitation in the permit or controls a pollutant or pollutant parameter not limited in the permit;

ii. Any permit issued to a treatment works treating domestic sewage or residual-only facilities, to incorporate any applicable standard for residual use or disposal promulgated under section 405 (d) of the Federal Act

or N.J.A.C. 7:14A-20, and the standard for residual use or disposal is more stringent than any requirements for residual use or disposal in the permit, or controls a pollutant or practice not limited in the permit;

iii. All dischargers, to incorporate any applicable effluent standard or any effluent limitation, including any effluent standards or effluent limitations to control the discharge of any toxic pollutants or pollutant parameters such as acute or chronic whole effluent toxicity, or chemical specific toxic parameters, requirements related to toxicity reduction or to implement a TMDL or watershed management plan adopted in accordance with N.J.A.C. 7:15-7, when the effluent standard or limitation is more stringent than any effluent limitation in the permit or controls a pollutant or pollutant parameter not limited in the permit; and

iv. DTWs, to incorporate the applicable pretreatment program conditions as approved by the Department;

11. The permittee shall take such corrective actions as required under the Federal and State Acts, and other relevant provisions of law, including, at a minimum, accelerated and/or additional types of monitoring, temporary repairs, ceasing discharge, or where ceasing discharge is not possible, other measures to mitigate the effects of violating its NJPDES permit;

12. If a permittee wishes to continue an activity regulated by a NJPDES permit after the expiration date of the permit, the permittee must comply with the reapplication procedures listed in N.J.A.C. 7:14A-4;

13. All permittees must comply with the noncompliance reporting requirements of N.J.A.C. 7:14A-6.10 for any noncomplying discharge listed in N.J.A.C. 7:14A-6.10(a); and

14. A permittee shall furnish to the Department, within a reasonable timeframe specified by the Department, any information which the Department may request to determine whether cause exists for issuing, modifying, revoking and reissuing, or revoking a discharge permit, or to determine compliance with a NJPDES permit. The permittee shall also furnish to the Department, upon request, copies of records required to be kept by the permit.

(b) When applicable, NJPDES-DSW permits shall include the following conditions:

1. Implementation of best management practices to control or abate the discharge of pollutants, when:

i. Authorized under Section 304(e) of the Federal Act for the control of toxic pollutants and hazardous substances from ancillary activities (40 CFR Part 125, Subpart K);

ii. Numeric effluent limitations are infeasible; or

iii. The practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the State and Federal Acts;

2. For existing manufacturing, commercial, mining, and silvicultural discharges and research facilities, a notification level different from the notification level of N.J.A.C. 7:14A-11.3(a)1, upon a petition from the permittee or on the Department's initiative. A notification level established pursuant to this paragraph will not exceed the level which can be achieved by the technology-based treatment requirements appropriate to the permittee under 40 CFR 125.3(c); and

3. Any conditions imposed in grants or loans made to DTWs by the Administrator under Sections 201 and 204 of the Federal Act or by the Department which are reasonably necessary for the achievement of any conditions of the permit.

Case Notes

Defendant, owner of smelting and metal recycling facility, failed to establish bypass defense to action for violation of permit due to discharge of untreated water following heavy rainfall; owner's failure to notify DEP within 24 hours of violation precluded it from asserting upset defense. *Public Interest Research Group v. U.S. Metals Refining Co.*, 681 F.Supp. 237 (D.N.J.1987).

Before warrantless inspection of pervasively regulated business will be deemed reasonable, there must be constitutionally adequate substitute for warrant. *State v. Bonaccorso*, 227 N.J.Super. 159, 545 A.2d 853 (L.1988).

Department of Environmental Protection inspectors' warrantless inspections were reasonable. *State v. Bonaccorso*, 227 N.J.Super. 159, 545 A.2d 853 (L.1988).

Entry by Department of Environmental Protection inspectors was reasonable and fell within open fields exception to warrant requirement. *State v. Bonaccorso*, 227 N.J.Super. 159, 545 A.2d 853 (L.1988).

Requirement that entry be reasonable in terms of its time, place and manner was implicit in statute empowering Department of Environmental Protection to enter any premises in which discharge source was or might be located. *State v. Bonaccorso*, 227 N.J.Super. 159, 545 A.2d 853 (L.1988).

Landfill operator violated permit and Water Pollution Control Act by failing properly to take samples and submit monitoring reports and by failing to timely submit permit renewal application. *Department of Environmental Protection v. James H. James, Inc.*, 93 N.J.A.R.2d (EPE) 13.

Failure by landfill owner to install off-site ground water monitoring wells; defenses of estoppel and impossibility. *Division of Water Resources v. Southern Ocean Landfill, Inc.* 92 N.J.A.R.2d (EPE) 91.

7:14A-6.3 Establishing permit conditions

(a) In addition to conditions required in all permits for all programs pursuant to N.J.A.C. 7:14A-6.2, the Department shall establish conditions in permits for the individual programs, as required on a case-by-case basis.

(b) All NJPDES permits shall include any applicable Federal or State statutory or regulatory requirements which take effect prior to final permit issuance. N.J.A.C. 7:14A-15.15, Reopening of comment period, provides a means for reopening NJPDES permit proceedings at the discretion of the Department where new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. An applicable requirement is also any requirement which takes effect prior to the modification or revocation and reissuance of a permit, to the extent allowed in N.J.A.C. 7:14A-16.4.

Cross References

Procedures and conditions applicable to NJPDES-DSW permits, see N.J.A.C. § 7:14A-11.

Case Notes

Applying two different permits to same effluent was hazardous waste violation warranting civil penalty. *Camden County Municipal Utilities v. Department of Environmental Protection*, 95 N.J.A.R.2d (EPE) 44.

7:14A-6.4 Schedules of compliance

(a) The Department shall, when appropriate, specify in the permit a schedule of compliance, including interim deadlines for progress or reports of progress towards compliance with the State and Federal Acts and all other applicable authority for this chapter.

1. The first NJPDES permit issued to a new source or a new discharger shall contain a schedule of compliance only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised after commencement of construction but less than three years before commencement of the relevant discharge. For dischargers who a discharge that has been suspended for an extended period during which the submittal of DMRs has also been suspended, a schedule of compliance shall be included as part of the permit or conditions for recommencement only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised less than three years before recommencement of discharge.

2. Except as provided in (b)1ii below, if a permit establishes a schedule of compliance which exceeds one year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.

i. The time between interim dates shall not exceed one year except that in the case of a schedule for compliance with standards for sewage sludge use or disposal, the time between interim dates shall not exceed six months.

ii. If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than one year and is not readily divisible into stages for completion, the permit shall

specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

3. No later than 14 days following each interim date or final date of compliance, the permittee shall provide written notice to the Department of its compliance or noncompliance with interim or final requirements, or submit progress reports if (a)2ii above is applicable.

(b) A permittee may cease conducting regulated activities rather than continue to operate and meet permit requirements as follows:

1. If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued:

i. The permit may be modified pursuant to N.J.A.C. 7:14A-16, to contain a new or additional schedule leading to timely cessation of activities; or

ii. The permittee shall cease conducting permitted activities before noncompliance with any interim or final compliance requirement already specified in the permit.

2. If the decision to cease conducting regulated activities is made before issuance of a permit whose term shall include the expiration date, the permit shall contain a schedule leading to expiration which shall ensure compliance no later than any applicable statutory deadline.

3. If the permittee is undecided as to whether it will cease conducting regulated activities, the Department shall either issue or modify a permit to contain two schedules:

i. One schedule shall lead to timely compliance with all applicable requirements, no later than the statutory deadline;

ii. The second schedule shall lead to cessation of regulated activities by a date which shall ensure timely compliance with all applicable requirements;

iii. Both schedules shall contain an identical interim deadline requiring a final decision as to whether the permittee will cease conducting regulated activities. A decision by the permittee to continue conducting regulated activities shall be made by a date which ensures sufficient time to comply in a timely manner with all applicable requirements;

iv. Each permit containing two schedules shall include a requirement that the permittee, after making a final decision under (b)3iii above, shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and shall follow the schedule leading to expiration if the decision is to cease conducting regulated activities.

4. The permittee's decision to cease conducting regulated activities shall be evidenced by a firm public com-

mitment satisfactory to the Department, such as a resolution of the board of directors of a corporation.

(c) A POTW required to develop a pretreatment program shall have a pretreatment program compliance schedule based on the dates established in a written notification from the Department. This compliance schedule shall be incorporated into the NJPDES permit at the time of issuance, reissuance or modification of the permit. The compliance schedule shall require the development and submission of a pretreatment program developed in accordance with N.J.A.C. 7:14A-19 as soon as possible, but in no case later than one year after the receipt of written notification from the Department.

(d) Any schedules of compliance under this section shall require compliance as soon as possible, but no later than any applicable statutory deadline.

(e) The permittee shall meet schedules for compliance with the terms of the permit and interim deadlines for progress or reports of progress towards compliance. Reports of compliance or noncompliance with, or any progress reports on, the interim and final requirements contained in any compliance schedule of a permit shall be submitted no later than 14 days following each scheduled date, and may be submitted with the DMRs in accordance with N.J.A.C. 7:14A-6.9.

7:14A-6.5 Monitoring

(a) Monitoring requirements are as follows:

1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

2. The permittee shall perform all analyses in accordance with the analytical test procedures specified in 40 C.F.R. 136 or, in the case of residual use or disposal, in 40 C.F.R. 136 unless otherwise specified in 40 C.F.R. 503, or unless other test procedures have been specified in the permit. Where no approved test procedure is available, the permittee shall indicate a suitable analytical procedure and shall provide the Department with literature references or a detailed description of the procedure. The Department shall determine the appropriate procedure and require that procedure in the NJPDES permit. The laboratory performing the analyses shall be certified by the Department for the analysis of those specific parameters in accordance with N.J.A.C. 7:18. Information concerning laboratory approval and/or certification may be obtained from:

New Jersey Department of Environmental Protection
Division of Financial Management
Planning and General Services
Bureau of Revenue
CN 402
Trenton, New Jersey 08625
(609) 530-5760

(b) All permittees shall:

1. Properly install, use, and maintain monitoring equipment and use proper monitoring methods (including biological monitoring methods when appropriate);

2. Properly monitor the discharge in accordance with the monitoring type, interval, and frequency as specified in the permit;

i. Certain discharges of non-contact cooling water shall be exempt from monitoring, unless specifically required by the Department, where the applicant's activities do not affect the following constituents: COD, BOD, TSS, pH, and/or settleable solids.

ii. Bacterial monitoring shall not be required for facilities which do not receive wastewater containing pathogenic organisms, including fecal coliform or enterococci organisms, unless otherwise required by the Department. Discharge permits shall contain a monitoring-only requirement for enterococci organisms, unless the Department determines that it is appropriate to require enterococci effluent limitations and publishes a public notice in the New Jersey Register with supporting reasons to this effect;

3. Comply with the reporting requirements specified in the permit; and

4. Monitor in accordance with the edition of the Department's "Field Sampling Procedures Manual" applicable at the time of sampling or an alternate method approved by the Department.

(c) If the Department has reason to believe that the accuracy and/or precision of one or more analyses is inadequate to provide a reasonable estimate of effluent quality, the Department shall, upon written notification, require any facility that analyzes its effluent samples at a laboratory it directly or indirectly owns, operates or manages to annually have one of its permit-required periodic sampling analyses performed by a certified laboratory which is not owned, operated or managed by the permittee. This shall be broadly construed to include all the sample analyses that are to be performed during the course of routine hourly, daily, monthly, quarterly, semi-annual, or annual sampling.

(d) Requirements for automatically adjusting effluent monitoring frequency are as follows:

1. Any permittee shall automatically adjust its effluent monitoring and reporting frequency to monthly when the permittee:

i. Reports effluent values that would make the permittee a serious violator for one or more parameters for which the permittee is required to report less frequently than monthly. Monthly reporting is only required for parameters with serious violations. (However, NJPDES-SIU permittees shall resample within 30 days of becoming aware of any violation if required by 40 C.F.R. Part 403); or

ii. Fails to submit a completed Discharge Monitoring Report (DMR).

2. The monthly reporting required by (d)1 above shall begin the first month after the submission of the DMR or the month in which the permittee was required to submit the completed DMR or the Baseline Report (BR) to the Department which results in the permittee becoming a serious violator. If the Department grants an affirmative defense pursuant to N.J.A.C. 7:14-8.3(i) for an effluent violation, the violation shall not be considered a serious violation and shall not be subject to monthly reporting under (d)1 above.

3. Any permittee required to adjust its monitoring and reporting pursuant to (d)1 above shall continue this monthly schedule until the permittee has submitted six consecutive monthly Discharge Monitoring Reports which show compliance with the particular serious violation parameter at the particular discharge point, at which time the permittee may resume the original schedule in its permit.

7:14A-6.6 Recordkeeping

(a) A person shall retain records of all monitoring information including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by a NJPDES permit, records of all data used to complete the application for a NJPDES permit, and records of monitoring information required by the permit related to the permittee's residual use and/or disposal practices for a period of at least five years, or longer as required by N.J.A.C. 7:14A-20, from the date of the sample, measurement, report, application, or record. The Department may at any time, extend this period through a written notice, and require that a person retain all records listed above for a period longer than five years for, at a minimum, any of the following reasons:

1. Enforcement action;
2. Litigation; and
3. Water quality studies.

(b) Records of monitoring information shall include:

1. The date, exact place, and time of sampling or measurements;
2. The individual(s) who performed the sampling or measurements;
3. The date(s) analyses were performed;
4. The individual(s) who performed the analyses;
5. The analytical techniques or methods used; and
6. The results of such analyses.

7:14A-6.7 Notice requirements for facility alterations and additions

(a) All permittees shall give written notice to the Department of any planned physical alterations or additions to the permitted facility which meet the criteria in (b) below, or as soon as possible.

(b) Notice is required only when:

1. The alteration or addition to a permitted facility meets one of the criteria for determining whether a facility is a new source in N.J.A.C. 7:14A-1.2;
2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged;
3. The alteration or addition is expected to result in a significant change in the permittee's residual use or disposal practices, and such alterations, additions, or changes may justify the application of permit conditions that are different from or absent in the existing permit. This includes notification of additional use or disposal sites not reported during the permit application process; or
4. The planned alterations or changes in the permitted facility or activity may result in noncompliance with permit requirements.

(c) Fulfillment of these notice requirements does not relieve the applicant of the responsibility to obtain any applicable approvals or permits.

7:14A-6.8 Reporting monitoring results

(a) The permittee shall report monitoring results on the Discharge Monitoring Reports (DMR) and/or the Baseline Reports (BR) or other monitoring report forms required by the permit or the Department at the intervals specified in the permit.

(b) All permittees with effluent limits expressed as daily maxima or minima without a monthly average for a particular parameter shall report, in addition to all other applicable reporting requirements, the average value obtained during the reporting month. However, for pH and WET, the reporting requirements of the permit shall govern.

(c) Any permittee required to adjust its effluent monitoring to monthly under N.J.A.C. 7:14A-6.5(d) shall also automatically adjust its reporting frequency to monthly.

(d) Upon written notice from the Department, monitoring results may be submitted to the Department electronically, provided the data is submitted in accordance with the standards for information exchange detailed in the Department's Manual for Information Management, "Guidance Document for Electronic Reporting of Environmental Data," August 1995 (see data dictionary and file format), as may be amended and supplemented. However, the permittee shall continue to submit signed transmittal forms.

(e) All monitoring requirements of the permit are minimum requirements. However, if a permittee monitors any pollutant more frequently than required by the permit in accordance with the permit requirements for sample type, location, and analysis and using test procedures approved under 40 C.F.R. 136 or, in the case of residual use or disposal, approved under 40 C.F.R. 136, unless otherwise specified in 40 C.F.R. 503 or as specified in the permit, the results of this monitoring shall be included in the calculation and reported on the form specified by the Department.

(f) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in the permit by the Department.

(g) When subject to limitations based on a measure of production, the permittee shall submit with the report the level of production that actually occurred during the reporting month and the limitations, standards, or prohibitions applicable to that level of production.

(h) The permittee shall report all instances of noncompliance not reported under N.J.A.C. 7:14A-6.10 at the time DMRs are submitted. The reports shall contain the information required in the written submission listed in N.J.A.C. 7:14A-6.10(e) if not already submitted to the Department.

(i) All SIUs, DSW major industrial facilities, DGWs, and DSW local agencies, other than those discharging only stormwater or non-contact cooling water, required to submit DMRs to the Department shall submit the required reporting forms to the Department on a monthly basis when sampling is required on a monthly basis for one or more parameters. Reporting is required on a monthly basis for all those parameters that are required to be monitored during that particular month.

7:14A-6.9 Signatory requirements for DMR and BR

(a) All DMRs and the BRs shall be signed by the highest ranking official having day-to-day managerial and operational responsibilities for the discharging facility, whose responsibilities usually include authorizing capital expenditures and/or hiring personnel.

1. For private entities this will usually be a person identified in N.J.A.C. 7:14A-4.9(a)1; and

2. For public entities it will usually be a plant manager or plant operator, an executive director of a public authority, or a ranking elected official.

(b) The following certification shall be made by the above described official and shall accompany the report:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and/or imprisonment."

(c) The above described official may authorize another responsible high ranking official to sign the DMR in his or her absence. Authorizations for other individuals to sign in accordance with this subsection shall be made in accordance with N.J.A.C. 7:14A-4.9(b).

(d) The highest ranking official shall be liable in all instances for the accuracy of all of the information provided in the report. However, the highest ranking official may file within seven days of his or her return, amendments to the report to which he or she was not a signatory. The filing of amendments to a monitoring report in accordance with this subsection shall not be considered a late filing of a report for the purposes of N.J.A.C. 7:14A-6.8, or for the purposes of determining a significant noncomplier.

7:14A-6.10 Noncompliance reporting

(a) All permittees shall report to the Department (and receiving DTW, if applicable) any noncompliance including, but not limited to:

1. Any exceedance of effluent limitation that:

i. Causes injury to persons;

ii. Poses a threat to human health;

iii. Causes damage to the environment;

iv. Poses a threat to the environment; or

v. Violates a daily maximum effluent limitation for a toxic pollutant listed in N.J.A.C. 7:14A-4 Appendix A;

2. Any discharge of any toxic or hazardous pollutant listed in N.J.A.C. 7:14A-4 Appendix A, which is not covered under a permit; or

3. Any upset or an unanticipated bypass not otherwise covered in (a)1 or 2 above.

(b) Any permittee discharging pollutants under the conditions identified in (a) above shall comply with the reporting requirements in this section. Any permittee with a discharge not otherwise covered in (a) above shall comply with the reporting requirements relating to that type of discharge as listed below.

(c) For the situations listed in (a)1i through iv and 2, above, the permittee shall communicate the information in (c)1 through 3 below by telephone to the DEP Hotline at (609) 292-7172 (and to the receiving DTW, if applicable) within two hours of the commencement of the discharge or of the permittee's becoming aware of the discharge. Any revision to this information for situations listed in (a)1i through iv and 2 above shall be reported to the DEP Hotline within 24 hours after the permittee's becoming aware of the need to revise the information.

1. A description of the discharge, including the time of the discharge, the location of discharge, the volume of the discharge, the concentration of pollutants discharged, and the receiving water of the discharge;

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 no longer term 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.

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. 7:14-4;

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.

7:14A-6.16 Pretreatment requirements for local agencies

(a) Pretreatment program requirements for local agencies included, where applicable, in a NJPDES permit shall meet the requirements of 40 CFR Part 403 and N.J.A.C. 7:14A-19. In addition, a permit for a delegated local agency shall include effluent limits for all pollutants listed under the USEPA Categorical Pretreatment Standards, adopted pursuant to 33 U.S.C. § 1317, and such other pollutants for which effluent limits have been established for a permittee discharging into the municipal treatment works of the delegated local agency, except those categorical or other pollutants that the delegated local agency demonstrates to the Department are not discharged above detectable levels by the local agency. The NJPDES permit may authorize the use by a delegated local agency of surrogate parameters in accordance to N.J.A.C. 7:14A-13.10, for categorical and other pollutants discharged from the local agency, except that if a surrogate parameter is exceeded, the permit shall include effluent limits for each categorical or other pollutant for which the surrogate parameter was used, for such period of time as may be specified in the permit.

(b) Sewage sludge use or disposal practices shall be required as a condition of the permit to a local agency, to monitor and report results with a frequency dependent on the nature and effect of the sewage sludge use or disposal practice. This frequency of monitoring and reporting shall be specified in N.J.A.C. 7:14A-20, but in no case shall be less than once per year.

7:14A-6.17 Adjustment of DSW limitations for alternative disposal of pollutants

(a) When part of a discharger's process wastewater is not being directly discharged into surface waters of the State or contiguous zone because it is disposed into a well, into a DTW, or by land application thereby reducing the flow or level of pollutants being discharged into surface waters of the State, applicable effluent standards or limitations for the discharge in a NJPDES permit shall be adjusted to reflect the reduced raw waste resulting from such disposal.

(b) Effluent limitations and standards in the permit shall be calculated by one of the following methods:

1. If none of the waste from a particular process is discharged into waters of the State, and effluent limitation guidelines provide separate allocations for waste from that process, all allocations for the process shall be eliminated from calculation of permit effluent limitations or standards;

2. In all cases other than those described in (b)1 above, effluent limitations shall be adjusted by multiplying the effluent limitation guidelines to the total waste stream by the amount of wastewater flow to be treated and discharged into surface waters of the State and dividing the result by the total wastewater flow. Effluent limitations and standards so calculated may be further adjusted under 40 CFR Part 125, Subpart D, to make them more

stringent if discharges to wells, DTWs, or by land application change the character or treatability of the pollutants being discharged to receiving waters.

i. This method may be algebraically expressed as:

$$(1) P = E \times N/T$$

(where: P is the permit effluent limitation,

E is the limitation derived by applying effluent guidelines to the total waste stream,

N is the wastewater flow to be treated and discharged to surface waters of the State, and

T is the total wastewater flow).

(c) Subsection (a) above shall not apply to the extent that promulgated effluent limitation guidelines:

1. Control concentrations of pollutants discharged but not mass; or

2. Specify a different specific technique for adjusting effluent limitations to account for well injection, land application, or disposal into DTWs.

(d) Subsection (a) above does not alter a discharger's obligation to meet any more stringent requirements established under this chapter.

SUBCHAPTER 7. REQUIREMENTS FOR DISCHARGES TO GROUND WATER (DGW)

7:14A-7.1 Purpose

This subchapter establishes NJPDES permit requirements for persons who discharge pollutants to ground waters of the State. The purpose of the NJPDES discharge to ground water permit is to restore, enhance, and maintain the ground water quality of the State, in accordance with N.J.S.A. 58:10A-1 et seq. and the Ground Water Quality Standards (GWQS) in N.J.A.C. 7:9-6.

7:14A-7.2 Requirement to discharge in compliance with a valid NJPDES permit

(a) Persons responsible for discharges to ground water shall comply with all applicable NJPDES regulations.

(b) Except as otherwise provided in N.J.A.C. 7:14A-7.4 and 7.5, no person shall discharge to ground water prior to obtaining a discharge to ground water permit.

(c) All discharges to ground water permits existing on May 5, 1997 shall continue in full force and effect until renewed or terminated in accordance with the provisions of this chapter.

7:14A-7.3 Scope and applicability

(a) Persons responsible for discharges to ground water shall comply with all the requirements of this subchapter, except those persons listed under (c), (d), and (e) below, and in N.J.A.C. 7:14A-7.4.

(b) Persons responsible for the activities, pollution sources, or regulated units listed at (b)1 through 7 below shall comply with the requirements of this subchapter. Persons responsible for discharges not listed below are not exempt from the requirement to obtain a discharge to ground water permit. The list is intended only to be illustrative and is not exhaustive:

1. Surface impoundments;
2. Spray irrigation;
3. Overland flow;
4. Infiltration/percolation lagoons;
5. Residuals surface impoundments;
6. Injection wells; and
7. Land disposal of dredge spoils.

(c) Persons responsible for discharges to ground water from sanitary landfills as provided for in N.J.A.C. 7:26 shall conduct ground water monitoring in accordance with N.J.A.C. 7:14A-9.

(d) Persons responsible for discharges to ground water from hazardous waste facilities as defined in N.J.A.C. 7:26, shall conduct ground water monitoring in accordance with N.J.A.C. 7:14A-10.

(e) Persons responsible for discharges to ground water associated with land application of residual shall comply with N.J.A.C. 7:14A-20.

7:14A-7.4 Exemptions

(a) Persons responsible for the following discharges are exempt from the requirement to obtain a discharge to ground water permit:

1. Discharges from single family residential subsurface sewage disposal systems that are designed, constructed, installed and operated in compliance with the Realty Improvement Sewerage and Facilities Act, N.J.S.A. 58:11-23 et seq., and Standards for Individual Subsurface Sewage Disposal Systems, N.J.A.C. 7:9A;
2. Return flows from irrigated agriculture;
3. Discharges that occurred prior to May 5, 1997, except existing permitted discharges identified in N.J.A.C. 7:14A-7.2(c); and

4. Any discharge not to exceed 60 calendar days and in compliance with the instructions of a Department on-scene coordinator or remedial project manager pursuant to 40 CFR 300 (the National Oil and Hazardous Substances Contingency Plan) or 33 CFR 153.10(e) (Pollution by Oil and Hazardous Substances), and the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11.

7:14A-7.5 Authorization of discharges to ground water by permit-by-rule

(a) Any person responsible for any of the following discharges to ground water is deemed to have a permit-by-rule:

1. Discharges to ground water from underground injection activities that are eligible for a permit-by-rule under N.J.A.C. 7:14A-8.5;
2. Discharges to ground water from activities associated with the flushing or cleaning of potable water mains and fire water systems, including hydrants and sprinklers;
3. Discharges to ground water from activities associated with the development of potable water wells;
4. Discharges to ground water from activities associated with the development and sampling of monitoring wells in accordance with a NJPDES permit; and
5. Except when the Department is remediating a contaminated site as defined in N.J.A.C. 7:26C-1.3, discharges to ground water, from wells which test aquifers, not to exceed 30 calendar days, for the purpose of obtaining hydrogeologic data.

(b) Any person responsible for discharges to ground water listed in (b)3i through v below is deemed to have a permit-by-rule if the discharge occurs when:

1. The Department is remediating a contaminated site as defined in N.J.A.C. 7:26C-1.3, pursuant to the rules at N.J.A.C. 7:14B implementing the Underground Storage of Hazardous Substances Act (N.J.S.A. 13:1K-6 et seq.), the requirements of the Industrial Site Recovery Act (N.J.S.A. 13:1K-6 et seq.), or when the owner or operator of a contaminated site is conducting remediation under Department oversight, or the requirements of the Spill Compensation and Control Act (N.J.S.A. 58:10-23.11), or the Procedures for Department Oversight of the Remediation of Contaminated Sites at N.J.A.C. 7:26C; and
2. The person is in receipt of written approval from the Department.
3. The following ground water discharges are authorized by permit-by-rule under this subsection:
 - i. Discharges to ground water, not to exceed 90 calendar days, from pilot treatment plants to obtain engineering design data;
 - ii. Discharges related to in situ biotreatability studies where the discharge will not exceed 180 calendar days from the first date of discharge;

(13) All areas subject to flooding within the five-, 10- and 25-year storm events; and

v. A well inventory of the area within one half mile of the boundaries of the discharge to ground water indicating the depth of all existing domestic, municipal and industrial supplies. Yields of all wells exceeding 100,000 gallons per day or 70 gallons per minute shall be indicated on a location map or key map;

4. Soils and geologic evaluation as follows:

i. A sufficient number of borings shall be made of the disposal site to characterize and verify the subsurface conditions beneath the site with respect to the types of material, uniformity, depth to bedrock, and ground water elevations. When, in the judgment of the Department, the number of borings is not sufficient to adequately describe the geologic formations and ground water flow patterns below the disposal site, in regard to potential contaminant migration paths, supplemental borings or geophysical methods will be required;

ii. Data obtained from borings shall be collected by standard undisturbed soil sampling techniques for engineering properties, and split spoon sampling or standard penetration tests for classification. Samples shall be collected and classified continuously for the first 20 feet of boring and at five foot intervals thereafter;

iii. All borings shall extend to a minimum depth of 20 feet unless specified by the Department. The Department shall require deeper borings in areas in which 20 feet is not sufficient to describe the geologic formations and ground water flow patterns in regard to the potential contaminant migration paths;

iv. Logs shall be submitted for each boring, regarding rock and soil conditions encountered. Each log shall include a soil or rock description in accordance with recognized standard methods (USDA, Unified or Burmeister Soil Classification System; Rock Quality Description System), depth of individual soil or rock strata, water levels encountered, blow counts, depth of soil tests and dates. All depths described within the boring logs shall be correlated to New Jersey Geodetic Control Survey Datum;

v. A sufficient number of test pits necessary to characterize all soil series within the discharge to ground water site shall be excavated. Each test pit log shall describe each recognizable soil horizon or substratum for depth and thickness, soil color using the Munsell System of Classification (including abundance, size and contrast of mottling where present), soil texture using the USDA Soil Textural Classification System, an estimation of the volume of coarse fragment (where present), soil structural class and soil consistency;

vi. A determination of depths to seasonal high water table specifying the methodology used to make the determination; and

vii. A description of the physiographic region and geologic formation(s) into which pollutants are discharged. Site specific geology including, but not limited to, bedrock outcrop, strike and dip of sedimentary formations and foliation trend and dip angles of igneous and metamorphic rocks, faults, joint and fracture trends in bedrock including dip angles, trend direction of solution channels in karst topography, saprolite development, clay lenses or fragipans, perched water tables or any other geologic features which may impede the treatment and/or disposal of pollutants shall be described;

5. Hydrogeologic evaluation as follows:

i. A determination of ambient or background ground water quality shall be required for the parameters listed in (d)2iii(1) above. The well used to characterize background water quality shall be located where unaffected, or if not possible where least impacted, by the discharge. Data shall be provided to show that background water quality wells are located in the same hydrologic units as the wells subsequently used to monitor the impact of the discharge;

ii. A representative determination of background ground water quality shall be made for all parameters specified in (d)2iii(1) above. A minimum of five samples shall be collected over a time period which is representative of spatial or seasonal variations in quality. The arithmetic mean and variance shall be determined for each respective parameter concentration by pooling the measurements in samples;

iii. Ground water samples shall be collected within 18 months before the date of receipt by the Department of the application for a permit under this section from well(s) located hydraulically upgradient from the discharge to ground water;

iv. A sufficient number of tests shall be performed in order to characterize onsite hydrogeologic characteristics, including, but not limited to, horizontal hydraulic conductivity, ground water flow velocity and hydraulic gradient. Where, in the judgment of the Department, the information submitted is insufficient to adequately evaluate the hydrogeologic characteristics of the site, supplemental tests or methods may be required; and

v. Ground water contour maps shall be submitted depicting both initial piezometric conditions and ground water flow conditions resulting from the growth and/or decay of ground water mound(s) induced by the discharge to ground water. For facilities which have surface impoundments, the ground water contour map for the facility would not need to depict ground water recharge characteristics associated with surface impoundments. Ground water elevations shall be based upon synoptic well data collected within 18 months of the date of receipt by the Department of an application for a permit under this section; and

6. Engineering information as follows:

i. Engineering plans and specifications for the entire project, describing the proposed treatment process(es) and facilities, storage facilities (if necessary), conveyance systems, disposal facilities, equipment specifications, capacities and all related engineering and operational data;

ii. Description of the method by which compliance with Ground Water Quality Standards are to be achieved; and

iii. A calculation of the surface run-off across the discharge to ground water site prepared using a 25-year storm, with estimates of the effect of such run-off on wastewater treatment, storage, disposal, and on erosion, flooding and related details.

7:14A-7.10 Additional requirements for applications for NJPDES-DGW permits for surface impoundments

(a) In addition to the general requirements for applications for discharge to ground water permits in N.J.A.C. 7:14A-7.9, an applicant for a NJPDES Discharge to Ground Water permit for a surface impoundment shall submit to the Department the information as required in this section.

(b) Surface impoundments with both a primary liner and a secondary liner, as defined in N.J.A.C. 7:14A-1.2, which cover all surrounding earth likely to be in contact with the waste or leachate and which incorporate the use of a leachate collection system located between the liners designed to monitor for any failure of the primary liner and collect all leachate that may pass through as a result of primary liner failure, may pursue the monitoring style in N.J.A.C. 7:14A-7.6(d)1.

(c) Surface impoundments which treat, store, or dispose of hazardous waste shall comply with the requirements of N.J.A.C. 7:26. Any surface impoundment that is not a solid waste facility pursuant to N.J.A.C. 7:26 shall comply with the provisions of this subchapter.

(d) Information shall be submitted concerning the resistance to oxidation and sunlight exposure of the wastewater to be impounded. Information shall also be submitted as to the physical and chemical compatibility of the liner material with on-site soils and the wastewater constituents.

7:14A-7.11 Additional requirements for applications for NJPDES-DGW permits for spray irrigation

(a) In addition to the general requirements for applications for discharge to ground water permits in N.J.A.C. 7:14A-7.9, an applicant for a NJPDES Discharge to Ground Water permit for spray irrigation systems shall submit to the Department the information as required in this section.

(b) In addition to the soils evaluation requirements in N.J.A.C. 7:14A-7.9(d)4, soil pH, cation exchange capacity, percent base saturation, exchangeable sodium percentage and electrical conductivity shall be analyzed for each horizon within the soil column for each soil series within the discharge to ground water area.

(c) Climate related information, reported on a monthly basis, including, but not limited to, total precipitation, total snowfall, mean number of days with precipitation exceeding 0.10 and 0.50 inches, mean temperature, mean daily maximum and minimum temperatures and mean number of days with mean temperature less than 32 degrees Fahrenheit. All data shall be collected from the nearest National Weather Service weather station, for the 10 year period preceding the date of receipt by the Department of the application for a permit under this section.

(d) A description of the proposed cover crop and natural vegetation, including, but not limited to, nutrient requirements, length of growing season, water tolerance and sensitivity to wastewater constituents being land applied as well as a detailed long term vegetation or crop management program, including use or disposal of the crop.

7:14A-7.12 Additional requirements for applications for NJPDES-DGW permits for overland flow

(a) In addition to the general requirements for applications for discharge to ground water permits in N.J.A.C. 7:14A-7.9, an applicant for a NJPDES Discharge to Ground Water permit by overland flow shall submit to the Department the information as required in this section.

(b) In addition to the soils evaluation requirements in N.J.A.C. 7:14A-7.9(d)4, soil pH, cation exchange capacity, percent base saturation, exchangeable sodium percentage and electrical conductivity shall be analyzed for each horizon within the soil column for each soil series within the discharge to ground water area.

(c) Climate related information, reported on a monthly basis including but not limited to total precipitation, total snowfall, mean number of days with precipitation exceeding 0.10 and 0.50 inches, mean temperature, mean daily maximum and minimum temperatures and mean number of days with mean temperature less than 32 degrees Fahrenheit. All data shall be collected from the nearest National Weather Service weather station, for the 10 year period preceding the date of receipt by the Department of the application for a permit under this section.

(d) A description of the proposed cover crop and natural vegetation, including, but not limited to, nutrient requirements, length of growing season, water tolerance and sensitivity to wastewater constituents being land applied, as well as a detailed long term vegetation or crop management program, including use or disposal of the crop.

7:14A-7.13 Additional requirements for applications for NJPDES-DGW permits for infiltration/percolation lagoons

(a) In addition to the general requirements for applications for discharge to ground water permits in N.J.A.C. 7:14A-7.9, an applicant for a NJPDES Discharge to Ground Water permit by infiltration/percolation lagoons shall submit to the Department the information as required in this section.

(b) Climate related information, reported on a monthly basis including but not limited to total precipitation, total snowfall, mean number of days with precipitation exceeding 0.10 and 0.50 inches, mean temperature, mean daily maximum and minimum temperatures and mean number of days with mean temperature less than 32 degrees Fahrenheit. All data shall be collected from the nearest National Weather Service weather station, for the 10 year period preceding the date of receipt by the Department of the application for a permit under this section.

(c) A description of the proposed cover crop or natural vegetation within the lagoon area and a detailed long term vegetation or crop management program, including use or disposal of the crop.

7:14A-7.14 Additional requirements for applications for NJPDES-DGW permits for residual surface impoundments

(a) In addition to the general requirements for applications for discharge to ground water permits in N.J.A.C. 7:14A-7.9, an applicant for a NJPDES Discharge to Ground Water permit for a residual surface impoundment shall submit to the Department the information as required in this section.

1. A description of residual characteristics as follows:

- i. The origin and volume of residual;
- ii. Dated analysis of the residual on a mg/kg dry weight basis, including all constituents required to be analyzed in accordance with the Sludge Quality Assurance Regulations (SQAR), N.J.A.C. 7:14-4; and
- iii. Additional quality analyses as deemed necessary by the Department based on its evaluation of past SQAR reports or other related information, such as information on industrial discharges which may contribute constituents not normally evaluated under the SQAR program or which may contribute constituents identified in USEPA's Technical Support Document for Surface Disposal of Sewage Sludge.

iv. Any additional residual monitoring data the applicant compiled prior to applying for a permit, including available ground water monitoring data, with descriptions of well locations and depth to ground water;

2. Operational and procedural information as follows:

i. Procedures to fill the residual surface impoundment or residual infiltration/percolation lagoon which provide for uniform distribution;

ii. Application or loading rates as well as procedures for periodic evacuation for cleaning and inspection or to provide the resting phases;

iii. A schedule for periodic removal of residual and designation of ultimate management sites;

iv. The frequency of inspection of containment structures for routine maintenance and leakage, wall or liner failures or imperfections and general site management;

v. A spill control plan (for example, overflow prevention devices and/or high level alarms and automatic shut-off valves on influent lines) and emergency response procedures; and

vi. Facility operations, including volumes of residual to be handled, methods of handling, facility layout and use or disposal methods; and

3. Surface impoundments which treat, store, or dispose of hazardous waste shall comply with the requirements of N.J.A.C. 7:26. Any surface impoundment that is not a solid waste facility pursuant to N.J.A.C. 7:26 shall comply with the provisions of N.J.A.C. 7:10.

7:14A-7.15 Additional requirements for applications for NJPDES-DGW permits for disposal of dredge spoils

(a) In addition to the general requirements for discharge to ground water permits in N.J.A.C. 7:14A-7.9, an applicant for a NJPDES Discharge to Ground Water permit for land application of dredge spoils shall submit to the Department the information as required in this section.

(b) The applicant shall provide a proposed dredge spoils disposal plan containing the following components:

1. An engineering design and construction plan, including at a minimum;

i. A description of proposed pre-construction site work, grading, and foundation preparation;

ii. A description of characteristics of liners or other foundation materials;

iii. Results of stability analyses of dikes and berms with respect to operational stresses; and

iv. A description of the onsite and offsite transportation system, including transportation of dredge spoils to the site, routing, loading/unloading, and construction and maintenance of roads;

2. An operation/maintenance plan that includes:

i. A plan that details the filling sequence;

ii. A plan detailing staging, and interim storage of materials prior to disposal into the confined upland site;

iii. Provisions for dust control, and control of fugitive dust emissions; and

iv. Use of intermediate and final cover;

3. A Ground Water Protection Program demonstrating that the disposal of dredge spoils will not contravene the Ground Water Quality Standards of N.J.A.C. 7:9-6. The Ground Water Protection Program shall identify and discuss the monitoring system to be employed pursuant to N.J.A.C. 7:14A-7.6(b) in consideration of the following:

i. With the exception of facilities which qualify for the monitoring style in N.J.A.C. 7:14A-7.6(d)1, the maximum leachate concentration of the dredge spoils shall be determined by subjecting an adequate number of samples to leaching tests. The determination of what constitutes an adequate number of samples shall be in accordance with a statistical method, as described in N.J.A.C. 7:14A-7.7 above. Leaching tests shall be performed according to the methods described by the U.S. Army Corps of Engineers, Waterways Experiment Station (WES), or other test approved by the Department.

ii. With the exception of facilities which qualify for the monitoring style in N.J.A.C. 7:14A-7.6(d)1, the leachate volume shall be estimated using the Hydrologic Evaluation of Landfill Performance (HELP) Model, EPA/600/9-94/xxx, U.S. Environmental Protection Agency Risk Reduction Engineering Laboratory, Cincinnati, OH.

iii. When the results of (b)3i and ii above indicate that the quality of the leachate shall exceed the ground water quality standards, the plan shall include a ground water flow and solute transport model that can demonstrate that the annual discharge of contaminants in the leachate will not result in contravention of the ground water quality standards; and

4. A closure/post closure care plan, that describes in detail:

- i. The final cover to be used;
- ii. A program to maintain the berms and dikes;
- iii. Plans to maintain or control vegetation; and
- iv. Plans to limit access using fences, and gates, etc.; and
- v. A financial plan that describes in detail how the closure improvements shall be maintained for 30 years.

SUBCHAPTER 8. ADDITIONAL REQUIREMENTS FOR UNDERGROUND INJECTION CONTROL (UIC) PROGRAM

7:14A-8.1 Purpose and scope

(a) This subchapter establishes a system of controls to ensure that underground injection practices do not endanger underground sources of drinking water (USDWs). The goal of this subchapter is preventive. The Department's policy is to liberally interpret and enforce this subchapter to prevent the contamination of the State's ground water resources.

(b) This subchapter regulates the disposal of wastes by well injection as well as the underground storage of fluids (including gases) which have been emplaced by means of an injection well and the injection of water. Paragraph (b)1 below sets forth examples of the underground injection activities regulated under this subchapter. All injection wells are divided into five classifications, which are set forth at N.J.A.C. 7:14A-8.2.

1. The following injection wells are among the injection activities regulated under this subchapter:

i. Any injection well located on a drilling platform within the State's territorial waters;

ii. Any well, including any dug hole, that is deeper than its largest surface dimension, where the principal function of the well is emplacement of fluids;

iii. Any septic system, disposal bed, seepage pit, or cesspool used by a generator of hazardous waste, or by an owner or operator of a hazardous waste management facility to dispose of fluids containing hazardous waste;

iv. Any one subsurface disposal system or multiple subsurface disposal systems, on a single property, for which the aggregate sanitary wastewater design flow is in excess of 2000 gpd, calculated in accordance with the minimum standards for average facilities listed in the Department's Standards for Individual Subsurface Sewage Disposal Systems, at N.J.A.C. 7:9A-7.4; and

v. Any injection well used to inject industrial wastes, including but not limited to drywells, leaching fields, septic systems, and seepage pits.

2. The following injection activities are not regulated under this subchapter;

i. Any injection well located on a drilling platform or other site that is beyond the State's territorial waters;

ii. Any single family residential subsurface sewage disposal system that is designed, constructed, installed and operated in compliance with the Realty Improvement Sewerage and Facilities Act, N.J.S.A. 58:11-23 et seq., and the Department's Standards for Individual Subsurface Sewage Disposal Systems, N.J.A.C. 7:9A, where applicable;

6. If necessary, the statistical method shall include procedures to control or correct for seasonal and spatial variability as well as temporal correlation in the data.

(i) The owner or operator shall determine whether or not there is a statistically significant increase over background values for each parameter or constituent required in the particular ground water monitoring program that applies to the sanitary landfill, as determined under N.J.A.C. 7:14A-9.7(a) or 9.8(a).

1. In determining whether a statistically significant increase has occurred, the owner or operator shall compare the ground water quality of each parameter or constituent at each monitoring well designated pursuant to N.J.A.C. 7:14A-9.3(a)2 to the background value of that constituent, according to the statistical procedures and performance standards specified at (g) and (h) above.

2. Within a reasonable period of time after completing sampling and analysis, not to exceed 90 days unless otherwise approved by the Department in writing, the owner or operator shall determine whether there has been a statistically significant increase over background at each monitoring well.

7:14A-9.6 Relevant point of compliance

(a) The relevant point of compliance for a MSWLF shall be no more than 150 meters from the actual disposal area and shall be located on land owned by the owner of the sanitary landfill. In determining the relevant point of compliance, the Department shall consider the following factors:

1. The hydrogeologic characteristics of the facility and the surrounding land;
2. The volume and physical and chemical characteristics of the leachate;
3. The quantity, quality and direction of flow of ground water;
4. The proximity and withdrawal rate of the ground water users;
5. The availability of alternative drinking water supplies; and
6. The existing quality of the ground water, including other sources of contamination and their cumulative impacts on the ground water, and whether the ground water is currently used or reasonably expected to be used for drinking water.

(b) The relevant point of compliance for sanitary landfills that are not MSWLFs shall be the sanitary landfill property boundary, but when possible, shall be no more than 150 meters from the actual disposal area within the "set back" as defined in N.J.A.C. 7:26-1.6.

7:14A-9.7 Leak detection monitoring program

(a) Leak detection monitoring is required at sanitary landfills at all ground water monitoring wells installed as part of a ground water monitoring system established pursu-

ant to N.J.A.C. 7:14A-9.3(a)1 and 2. At a minimum, a detection monitoring program shall include the monitoring for the constituents listed in Appendix A to this subchapter, incorporated herein by reference.

1. The Department shall remove any of the Appendix A monitoring parameters for a sanitary landfill if it can be shown that the removed constituents are not reasonably expected to be in or derived from the waste contained in the sanitary landfill unit.

2. The Department will establish an alternative list of inorganic indicator parameters for a sanitary landfill, in lieu of some or all of the heavy metals (constituents 1 through 15 in Appendix A to this subchapter), if the alternative parameters provide a reliable indication of inorganic releases from the sanitary landfill to the ground water. In determining alternative parameters, the Department shall consider the following factors:

- i. The types, quantities, and concentrations of constituents in wastes managed at the sanitary landfill;
- ii. The mobility, stability, and persistence of waste constituents or their reaction products in the unsaturated zone beneath the sanitary landfill;
- iii. The detectability of indicator parameters, waste constituents and reaction products in the ground water; and
- iv. The concentration or values and coefficients of variation of monitoring parameters or constituents in the ground water background.

(b) The monitoring frequency for all constituents listed in Appendix A to this subchapter, or in the alternative list approved in accordance with (a)2 above, shall be at least semiannual during the active life of the facility (including closure) and the post closure period. A minimum of four independent samples from each well (background and downgradient) shall be collected and analyzed for the Appendix A constituents, or the alternative list approved in accordance with (a)2 above during the first semiannual sampling event. At least one sample from each well (background and downgradient) shall be collected and analyzed during subsequent semiannual sampling events. The Department will specify an appropriate alternative frequency for repeated sampling and analysis for Appendix A constituents, or the alternative list approved in accordance with (a)2 above during the active life (including closure) and the post closure care period. The alternative frequency during the active life (including closure) shall be no less than annual. The alternative frequency shall be based on consideration of the following factors:

1. The lithology of the aquifer and unsaturated zone;
2. The hydraulic conductivity of the aquifer and unsaturated zone;
3. The ground water flow rates;
4. The minimum distance between upgradient edge of the sanitary landfill and downgradient monitoring well screen (minimum distance of travel), and

5. The resource value of the aquifer.

(c) If the owner or operator of a sanitary landfill determines, pursuant to N.J.A.C. 7:14A-9.5(g), that there is a statistically significant increase over background for one or more of the constituents listed in Appendix A-Part A to this subchapter or in the alternative list approved in accordance with (a)2 above, at any monitoring well at the boundary specified under N.J.A.C. 7:14A-9.3(a)2, the owner or operator shall:

1. Within 14 days of this finding, place a notice in the records maintained by the facility indicating which constituents have shown statistically significant changes from background levels, and notify the Department that this notice was placed in the operating record; and
2. Establish an assessment monitoring program meeting the requirements of N.J.A.C. 7:14A-9.8 within 90 days except as provided at (d) below.

(d) The owner or operator may demonstrate that a source other than a sanitary landfill caused the contamination or that the statistically significant increase resulted from error in sampling, analysis, statistical evaluation, or natural variation in ground water quality. A report documenting this demonstration shall be certified by a qualified ground water scientist or approved by the Department and be placed in the records maintained by the facility. If a successful demonstration is made and documented the owner or operator may continue detection monitoring as specified in this section. If, after 90 days, a successful demonstration is not made, the owner or operator shall initiate an assessment monitoring program as required in N.J.A.C. 7:14A-9.8.

7:14A-9.8 Assessment monitoring program

(a) Assessment monitoring is required whenever a statistically significant increase over background has been detected for one or more of the constituents listed in Appendix A to this subchapter or in the alternative list established in accordance with N.J.A.C. 7:14A-9.7(a)2.

(b) Within 90 days of initiating an assessment monitoring program, and annually thereafter, the owner or operator shall sample and analyze the ground water for all constituents identified in 40 C.F.R. 258 Appendix II. A minimum of one sample from each downgradient well shall be collected and analyzed during each sampling event. For any constituent detected in the downgradient wells as a result of the complete 40 C.F.R. 258 Appendix II analysis a minimum of four independent samples from each well (background and downgradient) shall be collected and analyzed to establish background for the constituents. The Department will specify an appropriate subset of wells to be sampled and analyzed for 40 C.F.R. 258 Appendix II constituents during assessment monitoring. The Department will remove any of the 40 C.F.R. 258 Appendix II monitoring parameters for a sanitary landfill if it can be shown that the removed constituents are not reasonably expected to be in or derived from the waste contained in the unit.

(c) The Department will specify an appropriate alternate frequency for repeated sampling and analysis for the full set of 40 C.F.R. 258 Appendix II constituents required to be monitored pursuant to (b) above, during the active life (including closure) and post closure care of the unit based on the following factors:

1. The lithology of the aquifer and unsaturated zone;
2. The hydraulic conductivity of the aquifer and unsaturated zone;
3. The ground water flow rate;
4. The minimum distance between upgradient edge of the sanitary landfill and downgradient monitoring well screen (minimum distance of travel);
5. The resource value of the aquifer; and
6. The nature (fate and transport) of any constituents detected.

(d) After obtaining the results from the initial or subsequent sampling required pursuant to (b) above, the owner or operator shall:

1. Within 14 days, place a notice in the records maintained by the facility identifying the 40 C.F.R. 258 Appendix II constituents that have been detected and notify the Department that this notice has been placed in the records maintained by the facility;

2. Within 90 days, and on at least a semiannual basis thereafter, resample all wells installed as part of the ground water monitoring system established pursuant to N.J.A.C. 7:14A-9.3(a) and conduct analyses for all constituents in 40 C.F.R. 258 Appendix II or in the alternative list established pursuant to N.J.A.C. 7:14A-9.7(a)2, and for those constituents in 40 C.F.R. 258 Appendix II that are detected in response to (b) above, and record their concentrations in the records maintained by the facility. At least one sample from each well (background and downgradient) shall be collected and analyzed during these sampling events. The Department will specify an alternative monitoring frequency during the active life (including closure) and the post closure period for the constituents referred to in this paragraph. The alternative frequency for 40 C.F.R. 258 Appendix II constituents or the alternative list established pursuant to N.J.A.C. 7:14A-9.7(a)2 during the active life (including closure) shall be no less than annual. The alternative frequency shall be based on consideration of the factors specified at (c) above;

3. Establish background concentrations for any constituents detected pursuant to (b) or (d) above; and

4. Establish ground water protection standards for all constituents detected pursuant to (b) or (d) above. The ground water protection standards shall be established in accordance with (h) below, or when available, shall be the Ground Water Quality Standards set forth in N.J.A.C. 7:9-6.

(e) If the concentrations of all 40 C.F.R. 258 Appendix II constituents are shown to be at or below background values, using the statistical procedures set forth at N.J.A.C. 7:14A-9.5(g), for two consecutive sampling events, the owner or operator shall notify the Department of this finding and may resume detection monitoring pursuant to N.J.A.C. 7:14A-9.7.

(f) If the concentrations of any 40 C.F.R. 258 Appendix II constituents are above background values, but all concentrations are below the ground water protection standard established pursuant to (h) below using the statistical procedures in N.J.A.C. 7:14A-9.5(g), the owner or operator shall continue assessment monitoring in accordance with this section.

(g) If one or more 40 C.F.R. 258 Appendix II constituents are detected at statistically significant levels above the ground water protection standards established pursuant to (d) 4. above in any sampling event, the owner or operator shall within 14 days of this finding, place a notice in the records maintained by the facility identifying the 40 C.F.R. 258 Appendix II constituents that have exceeded the ground water protection standard and notify the Department and all appropriate local government officials that the notice has been placed in said records.

1. The owner or operator shall also:

i. Characterize the nature and extent of the release by installing additional monitoring wells as necessary;

ii. Install at least one additional monitoring well at the facility boundary in the direction of contaminant migration and sample this well in accordance with (d)(2)above;

iii. Notify all persons who own the land or reside on the land that directly overlies any part of the plume of contamination if contaminants have migrated off-site as indicated by sampling of wells in accordance with this subsection; and

iv. Initiate an assessment of corrective measures as required by N.J.A.C. 7:14A-9.9 within 90 days; or

2. The owner or operator may demonstrate that a source other than a sanitary landfill unit caused the contamination, or that the statistically significant increase resulted from error in sampling, analysis, or natural variation in ground water quality. A report documenting this demonstration shall be certified by a qualified ground water scientist or approved by the Department and placed in the records maintained by the facility. If a successful demonstration is made, the owner or operator shall continue monitoring in accordance with the assessment monitoring program established pursuant to this section, and may resume to detection monitoring if the Appendix A constituents are at or below background as specified at (e) above. Until a successful demonstration is made, the

owner or operator shall comply with (g) above, including initiating an assessment of corrective measures.

(h) Ground water protection standards for each 40 C.F.R. 258 Appendix II parameter shall be determined according to the criteria in N.J.A.C. 7:9-6 or in accordance with 40 C.F.R. 258.55(h) through (i), whichever is more stringent.

7:14A-9.9 Assessment of corrective measures.

(a) Within 90 days of finding that any of the constituents listed in 40 C.F.R. 258 Appendix II have been detected at a statistically significant level exceeding the ground water protection standards under N.J.A.C. 7:14A-9.8(h), the owner or operator shall initiate an assessment of corrective measures. Such assessment shall be completed within a reasonable period of time, not to exceed 90 days unless otherwise approved by the Department in writing.

(b) The owner or operator shall continue to monitor in accordance with the assessment monitoring program specified in N.J.A.C. 7:14A-9.8.

(c) The assessment shall include an analysis of the effectiveness of potential corrective measures in meeting all of the requirements and objectives of the remedy as described under N.J.A.C. 7:14A-9.10, addressing at least the following:

1. The performance, reliability, ease of implementation, and potential impacts of appropriate potential remedies, including safety impacts, cross-media impacts, and control of exposure to any residual contamination;

2. The time required to begin and complete the remedy;

3. The costs of remedy implementation; and

4. The institutional requirements such as State or local permit requirements or other environmental or public health requirements that may substantially affect implementation of the remedy(s).

(d) The owner or operator shall discuss the results of the corrective measures assessment, prior to the selection of remedy, in a public meeting with interested and affected parties.

7:14A-9.10 Selection of remedy

(a) Based on the results of the assessment of corrective measures conducted pursuant to N.J.A.C. 7:14A-9.9, the owner or operator shall select a remedy that, at a minimum, meets the standards listed at (b) below. The owner or operator shall notify the Department, within 14 days of selecting a remedy, that a report describing the selected remedy has been placed in the records maintained by the facility and how it meets the standards in (b) below.

(b) Remedies shall:

1. Be protective of human health and the environment;
2. Attain the ground water protection standard specified pursuant to N.J.A.C. 7:14A-9.8(h);
3. Control the source(s) of releases so as to reduce or eliminate, to the maximum extent practicable, further releases of 40 C.F.R. 258 Appendix II constituents into the environment that may pose a threat to human health or the environment;
4. Comply with standards for management of wastes specified in N.J.A.C. 7:14A-9.11(d); and
5. Be implemented in accordance with provisions in the solid waste facility permit, or the closure plan approval issued in accordance with N.J.A.C. 7:26.

(c) In selecting a remedy that meets the standards of (b) above, the owner or operator shall consider the following factors:

1. The long and short term effectiveness and protectiveness of the potential remedy(s), along with the degree of certainty that the remedy will prove successful based on:
 - i. The magnitude of reduction of existing risks;
 - ii. The magnitude of residual risks in terms of likelihood of other releases due to waste remaining following implementation of a remedy;
 - iii. The type and degree of long term management required, including monitoring, operation, and maintenance;
 - iv. The short term risks that might be posed to the community, workers, or the environment during implementation of such a remedy, including potential threat to human health and the environment associated with excavation, transportation, and redispersion or containment;
 - v. The time until full protection is achieved;
 - vi. The potential for exposure of humans and environmental receptors to remaining wastes, considering the potential threat to human health and the environment associated with excavation, transportation, redispersion, or containment;
 - vii. The long term reliability of the engineering and institutional controls; and
 - viii. The potential need for replacement of the remedy;
2. The effectiveness of the remedy in controlling the source to reduce further releases based on:
 - i. The extent to which containment practices will reduce further releases; and
 - ii. The extent to which treatment technologies may be used;

3. The ease or difficulty of implementing a potential remedy(s) based on:

- i. The degree of difficulty associated with constructing the technology;
- ii. The expected operational reliability of the technology;
- iii. The need to coordinate with and obtain necessary approvals and permits from other agencies;
- iv. The availability of necessary equipment and specialists; and
- v. The available capacity and location of needed treatment, storage, and disposal services;

4. The practicable capability of the owner or operator, including a consideration of the technical and economic capability; and

5. The degree to which community concerns are addressed by a potential remedy(s).

(d) The owner or operator shall specify as part of the selected remedy a schedule(s) for initiating and completing remedial activities. Such a schedule shall specify the initiation of remedial activities within a reasonable period of time, not to exceed 90 days unless otherwise approved by the Department in writing, taking into consideration the factors set forth in (d)1 through 8 below:

1. The extent and nature of contamination;
2. The practical capabilities of remedial technologies in achieving compliance with ground water protection standards established under N.J.A.C. 7:14A-9.8(g) or (h) and other objectives of the remedy;
3. The availability of treatment or disposal capacity for wastes managed during implementation of the remedy;
4. The desirability of utilizing technologies that are not currently available, but which may offer significant advantages over already available technologies in terms of effectiveness, reliability, safety, or ability to achieve remedial objectives;
5. The potential risks to human health and the environment from exposure to contamination prior to completion of the remedy;
6. The resource value of the aquifer including:
 - i. Current and future uses;
 - ii. The proximity and withdrawal rate of users;
 - iii. Ground water quantity and quality;
 - iv. The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituent;
 - v. The hydrogeologic characteristic of the facility and surrounding land;

7:14A-10.14 Corrective action program

(a) The owner or operator required to establish a compliance monitoring program under this subchapter shall take corrective action to ensure that hazardous waste facility units are in compliance with the ground water protection standards of N.J.A.C. 7:9-6. The Department shall specify the ground water protection standard in the NJPDES-DGW permit, including:

1. A list of the hazardous constituents identified under N.J.A.C. 7:14A-10.7;
2. Concentration limits under N.J.A.C. 7:14A-10.8 for each of those hazardous constituents;
3. The relevant point of compliance under N.J.A.C. 7:14A-10.9; and
4. The compliance period under N.J.A.C. 7:14A-10.10.

(b) The owner or operator shall implement a corrective action program that prevents hazardous constituents from exceeding their respective concentration limits at the compliance point by removing the hazardous waste constituents or treating them in place. The permit shall specify the specific measures that shall be taken.

(c) The owner or operator shall begin corrective action within a reasonable time period after the ground water protection standard is exceeded. The Department shall specify that time period in the NJPDES-DGW permit. If a NJPDES-DGW permit includes a corrective action program in addition to a compliance monitoring program, the permit shall specify when the corrective action will begin and such a requirement will operate in lieu of N.J.A.C. 7:14A-10.13(i)2.

(d) In conjunction with a corrective action program, the owner or operator shall establish and implement a ground water monitoring program to demonstrate the effectiveness of the corrective action program. Such a monitoring program may be based on the requirements for a compliance monitoring program under N.J.A.C. 7:14A-10.13 and shall be as effective as that program in determining compliance with the ground water protection standard under N.J.A.C. 7:14A-10.6 and in determining the success of a corrective action program under (e) below, where appropriate.

(e) In addition to the other requirements of this section, the owner or operator shall conduct a corrective action program to remove or treat in place any hazardous constituents under N.J.A.C. 7:14A-10.7 that exceed concentration limits under N.J.A.C. 7:14A-10.8 in ground water as specified in (e)1 and 2 below. Corrective action measures under this subsection shall be initiated and completed within a reasonable period of time, as specified in the NJPDES-DGW permit, considering the extent of contamination. Corrective action measures under this subsection may be terminated once the concentration of hazardous constituents under N.J.A.C. 7:14A-10.13 is reduced to levels below their respective concentration limits under N.J.A.C. 7:14A-10.8.

1. Between the compliance point under N.J.A.C. 7:14A-10.9 and the downgradient property boundary; and

2. Beyond the facility boundary where necessary to protect human health and the environment, unless the owner or operator demonstrates to the satisfaction of the Department that, despite the owners or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake such action. The owner or operator is not relieved of all responsibility to clean up a release that has migrated beyond the facility boundary where offsite access is denied. Onsite measures to address such releases shall be determined on a case by case basis.

(f) The owner or operator shall continue corrective action measures during the compliance period to the extent necessary to ensure that the ground water protection standard is not exceeded. If the owner or operator is conducting corrective action at the end of the compliance period, the owner or operator shall continue that corrective action for as long as necessary to achieve compliance with the ground water protection standard. The owner or operator may terminate corrective action measures taken beyond the period equal to the active life of the hazardous waste facility area (including the closure period) if the owner or operator can demonstrate, based on data from the ground water monitoring program under (d) above that the ground water protection standard of N.J.A.C. 7:14A-10.6 has not been exceeded for a period of three consecutive years.

(g) The owner or operator shall report in writing to the Department on the effectiveness of the corrective action program. The owner or operator shall submit these reports semiannually.

(h) If the owner or operator determines that the corrective action program no longer satisfies the requirements of this section, the owner or operator shall, within 90 days after said determination, submit an application for a permit modification to make any appropriate changes to the program.

7:14A-10.15 Application requirements for NJPDES-DGW permits for hazardous waste facilities

Application requirements for hazardous waste facilities are the same as those listed in N.J.A.C. 7:14A-7.9.

7:14A-10.16 Application requirements for NJPDES-DGW permits for hazardous waste facilities with surface impoundments

Application requirements for hazardous waste facility surface impoundments shall be the same as those listed in N.J.A.C. 7:14A-7.10.

7:14A-10.17 Application requirements for NJPDES-DGW permits for hazardous waste facilities with land discharge by infiltration-percolation lagoons

Application requirements for hazardous waste facility land discharge by infiltration-percolation lagoons shall be the same as those listed in N.J.A.C. 7:14A-7.13.

7:14A-10.18 Application requirements for NJPDES-DGW permits for hazardous waste landfills

Application requirements for hazardous waste landfills shall be the same as the requirements for sanitary landfills as described in N.J.A.C. 7:14A-9.12.

SUBCHAPTER 11. PROCEDURES AND CONDITIONS APPLICABLE TO NJPDES-DSW PERMITS

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).

7:14A-11.1 Purpose and scope

(a) This subchapter sets forth specific conditions and procedures which are applicable only to DSW permits.

(b) The DSW program requires permits for the discharge of pollutants into surface waters of the State from any point source, stormwater discharge associated with industrial activity, and nonpoint sources regulated under N.J.A.C. 7:14A-2.5(d).

Case Notes

Accidental discharge of oil from tanker warranted civil penalties. In re Oriental Republic of Uruguay, 1993, 821 F.Supp. 941.

Application of New Jersey Water Pollution Control Act; intentional or unintentional act. In re Oriental Republic of Uruguay, 1993, 821 F.Supp. 941.

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

7:14A-11.2 Establishing DSW permit conditions

(a) In addition to the conditions established under N.J.A.C. 7:14A-6.3, the Department shall include in DSW permits one or more conditions which meet the following requirements, as applicable:

1. Pollutants for which the permittee is required to report noncompliance with an effluent limitation in accordance with N.J.A.C. 7:14A-6.10(a)1 shall be identified and listed in the permit. This list shall include any toxic pollutant or hazardous substance or another appropriate indicator specifically identified as the method to control a toxic pollutant or hazardous substance;

2. In addition to the monitoring requirements contained in N.J.A.C. 7:14A-6.5, to assure compliance with permit limitations, a permittee shall be required to monitor:

- i. The mass, or other measurement specified in the permit, for each pollutant limited in the permit;

- ii. The volume of effluent discharged from each outfall;

- iii. Other measurements as appropriate, including pollutants in internal waste streams addressed at N.J.A.C. 7:14A-13.16(a), pollutants in intake water for net limitations addressed at N.J.A.C. 7:14A-13.4(k); parameters for noncontinuous discharges addressed at N.J.A.C. 7:14A-13.20; pollutants subject to notification requirements at N.J.A.C. 7:14A-11.3(a); and pollutants in sewage sludge, or other monitoring as specified in 40 C.F.R. 503 or as determined to be necessary on a case-by-case basis pursuant to section 405(d)(4) of the CWA; and

- iv. In accordance with the test procedures under 40 C.F.R. 136 for the analyses of pollutants having approved methods (unless other test procedures have been specified in the permit), or according to a test procedure specified in the permit for pollutants with no approved methods pursuant to N.J.A.C. 7:14A-6.5(a)2. If more than one method exists for analyzing a pollutant and the Department specifies a particular method in the permit, the Department shall provide the basis for selecting the particular method in the fact sheet for the draft permit in accordance with N.J.A.C. 7:14A-15.8;

3. For stormwater discharges associated with industrial activity that are not subject to an effluent limitation guideline, monitoring requirements shall be established on a case-by-case basis depending upon the nature and effect of the discharge. The permittee shall be required to monitor such discharges in accordance with (a)2 above, or, at a minimum:

- i. The permittee shall be required to conduct an annual inspection of the facility to identify areas contributing to a stormwater discharge associated with industrial activity and evaluate whether measures to reduce pollutant loadings identified in a stormwater pollution prevention plan are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed;

- ii. The permittee shall be required to prepare a report summarizing the result of the annual inspection conducted under (a)3i above. This report shall be accompanied by an annual certification that the facility is in compliance with its stormwater pollution prevention plan and the permit, except that if there are any incidents of non-compliance, those incidents shall be identified in the certification. If there are incidents of non-compliance, the report shall identify the steps being taken to remedy the non-compliance and to prevent such incidents from recurring. The permittee shall maintain this report and certification for a period of at least five years from the date of the report. This period may be extended by written request from the Department at any time; and

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.

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-4.3; 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 or 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)13 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.

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 served by the outfall(s) 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 accumulating hazardous waste under 40 C.F.R. 262.34); each well where fluids from the facility are injected underground; springs, and other surface wa-

ter 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 are 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 authoriza-

tion 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, powerplant, 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 CFR 122.26(c)(2) and (e)(2) listed New Jersey facilities shall have provided the information in (e)3i through iii to the Department within 30 days of the USEPA decision to approve or deny the members of the group application (see 40 CFR 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 CFR 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 discharge 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 discharges 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 stormwa-

ter 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 storm sewer system or a 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.

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;

3. The criteria and standards for determining fundamentally different factors shall be as set forth in 40 C.F.R. 125, Subpart D;

4. The criteria and standards for determining alternative effluent limitations for the thermal component of a discharge shall be as set forth in 40 C.F.R. 125, Subpart H;

5. The criteria applicable to cooling water intake structures shall be as set forth in 40 C.F.R. 125, Subpart I, when the USEPA adopts these criteria;

6. The criteria and standards for best management practices for ancillary industrial activities shall be as set forth in 40 C.F.R. 125, Subpart K;

7. The criteria and standards for imposing conditions for the disposal of sewage sludge shall be as set forth in 40 C.F.R. 125, Subpart L; and

8. The criteria for ocean discharges shall be as set forth in 40 C.F.R. 125, Subpart M.

(b) Whenever the provisions elsewhere in this chapter are more stringent than the criteria and standards referenced in this section, the more stringent provisions elsewhere in this chapter shall apply.

Case Notes

State law's removal percent requirement in pollutant discharge elimination system permit not arbitrary or capricious if implementing federal clean water law. *Rahway Valley Sewerage Authority v. New Jersey Department of environmental Protection*, 96 N.J.A.R.2d (EPE) 49.

7:14A-11.7 Variances and modifications under the State and Federal acts

(a) Any discharger may request a variance from effluent limitations by filing a request by the close of the public comment period established pursuant to N.J.A.C. 7:14A-15.10 as follows:

1. A variance under N.J.A.C. 7:9B-1.8 or 1.9 for achieving water quality based effluent limitations. An applicant shall follow the procedures in N.J.A.C. 7:9B-1.8 or 1.9.

2. A variance under Section 316(a) of the Federal Act for the thermal component of any discharge. A copy of the request submitted to USEPA pursuant to 40 C.F.R. 125, Subpart H, shall be submitted simultaneously to the Department as required under 40 C.F.R. 125. Such request shall be determined in accordance with N.J.A.C. 7:14A-11.11.

(b) A discharger which is not a POTW may request a variance from otherwise applicable effluent limitations under any of the following statutory or regulatory provisions within the time period specified in this subsection:

1. A request for a variance based on the presence of fundamentally different factors from those on which the effluent limitation guideline was based shall be submitted as follows:

i. For a request for a variance from best practicable control technology currently available (BPT), by the close of the public comment period established under N.J.A.C. 7:14A-15.10.

ii. For a request for a variance from best available technology economically achievable (BAT) and/or best conventional pollutant control technology (BCT), by no later than 180 days after the date on which an effluent limitation guideline is published in the Federal Register for a request based on an effluent limitation guideline promulgated on or after February 4, 1987.

iii. Any request for a variance made under this paragraph shall explain how the requirements of 40 C.F.R. 125, Subpart D have been met.

2. A request for a variance from the BAT requirements of Section 301(b)(2)(F) of the Federal Act for non-conventional pollutants (ammonia; chlorine; color; iron; total phenols (4AAP) and any other pollutant which the Administrator lists under Section 301(g)(4) of the Federal Act) pursuant to Section 301(c) of the Federal Act because of the economic capability of the owner or operating entity, or pursuant to Section 301(g) of the Federal Act shall be submitted as follows:

i. For those requests for a variance from an effluent limitation based upon an effluent limitation guideline a requester shall submit:

(1) An initial request to the Regional Administrator and to the Department, stating the name of discharger, the permit number, the outfall number(s), the applicable effluent guideline, and whether the discharger is requesting a Section 301(c) or Section 301(g) modification or both. This request shall be filed not later than 270 days after promulgation of an applicable effluent limitation guideline for guidelines promulgated after December 27, 1977; and

(2) A complete request no later than the close of the public comment period established under N.J.A.C. 7:14A-15.10, demonstrating that the requirements of N.J.A.C. 7:14A-15.13 and the applicable requirements of 40 C.F.R. 125 have been met. Notwithstanding this provision, the complete request under section 301(g) shall be filed 180 days before the Department is required to make a final decision (unless the Department establishes a shorter or longer period).

ii. For those requests for a variance from effluent limitations not based on effluent limitation guidelines, the request need only comply with (b)2i(2) above, and need not be preceded by an initial request under (b)2i(1) above.

3. A request for a modification, under Section 302(b)(2) of the Federal Act, of water quality related effluent limitations developed by the USEPA under Section 302(a) of the Federal Act shall be submitted by the close of the public comment period established under N.J.A.C. 7:14A-15.10 on the permit for which the modification is being sought.

4. A request for a modification of effluent limitations which are more stringent than the BAT based limitations established in accordance with N.J.A.C. 7:14A-13.4 shall be submitted by the close of the public comment period established under N.J.A.C. 7:14A-15.10 on the permit for which the modification is being sought. For a modification requested under this paragraph, the relief and procedures in N.J.A.C. 7:9B-1.8 or 1.9 shall apply.

(c) Notwithstanding the time period requirements in (a) and (b) above, the Department may send notification before a draft permit is issued under N.J.A.C. 7:14A-15.6 that the draft permit will likely contain limitations which are eligible for variances. In the notice, the Department may require as a condition of consideration of any potential variance request submission a request explaining how the requirements of 40 C.F.R. 125 applicable to the variance have been met and may require submission of such a request within a specified reasonable time after receipt of the notice. The notice may be sent before the permit application has been submitted. The draft or final permit may contain the alternative limitations which may become effective upon granting of the variance.

(d) A discharger who cannot file a complete request required under (a)1, (b)2i(2), 2ii or 4 above may request a one time extension. The extension may be granted or denied at the discretion of the Department. If the extension request is denied, the Department shall state the reason(s) for the denial. An extension shall be limited to:

1. Twelve months for a variance requested under (a)1 or (b)4; or
2. Six months for a variance requested under (b)2i(2) or 2ii.

7:14A-11.8 Decisions on variances

(a) The Department may grant or deny a request for a variance for the thermal component of a discharge under Section 316(a) of the Federal Act.

(b) The Department may deny, forward to the Regional Administrator with a written concurrence, or submit to USEPA without recommendation a completed request for:

1. A variance based on the economic capability of the applicant under Section 301(c) of the Federal Act; and
2. A variance based on water quality related effluent limitations under Section 302(b)(2) of the Federal Act.

(c) The Department may deny or forward to the Regional Administrator with a written concurrence a completed request for:

1. A variance based on the presence of "fundamentally different factors" from those on which an effluent limitation guideline was based; and
2. A variance based on certain water quality factors under section 301(g) of the Federal Act.

(d) The Department shall reopen or revoke and reissue a permit, after final action by the USEPA, for a variance from water quality based effluent limitations under N.J.A.C. 7:9B-1.8 or 1.9.

(e) If the USEPA approves the variance, the Department shall prepare a draft permit incorporating the variance. Any public notice of a draft permit for which a variance or modification has been approved or denied shall identify the applicable procedures for appealing that determination under 40 C.F.R. 124.64, or under N.J.A.C. 7:14A-17.2 if the variance was denied or partially denied by the Department.

7:14A-11.9 Procedures for variances

(a) A request for a variance is filed under N.J.A.C. 7:14A-11.7 shall be processed as follows:

1. If, at the time that a request for a variance is submitted, the Department has received an application for issuance or renewal of a permit but has not yet prepared a draft permit, the Department may:

- i. Prepare a draft permit for public notice incorporating the Department's decision on the variance request; or
- ii. If the variance determination will cause significant delay in issuing the permit, separate the variance request from the permit application and process the permit application.

2. If, at the time that a request for a variance is submitted the Department has published public notice of the draft permit but has not issued a final permit, the Department may:

- i. Stay administrative proceedings concerning the draft permit and prepare a new draft permit incorporating the Department's decision on the variance request; or
- ii. If the variance determination will cause significant delay in issuing the permit, separate the variance request from the draft permit and issue the final permit.

3. If the final permit has been issued and a variance request has been separated from a draft permit pursuant to (a)1 or 2 above, the Department may subsequently prepare a new draft permit for public notice incorporating the Department's decision on the variance request.

(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.

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 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 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.

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

APPENDIX A

PERMIT NUMBER NJ0088315 NJPDES-DSW GENERAL INDUSTRIAL STORMWATER PERMIT (ROUND 2)

Permittee	Co-Permittee		
GENERAL PERMIT— CATEGORY 5G2 PER INDIVIDUAL NOTICE OF AUTHORIZATION	Location of Activity		
Property Owner	GENERAL PERMIT— CATEGORY 5G2 PER INDIVIDUAL NOTICE OF AUTHORIZATION		
Current Authorization	Issuance	Effective	Expiration
Covered By This Approval	Date	Date	Date
And Previous Authorization	May 5, 1997	May 5, 1997	January 31, 2002
5G2:GEN INDUST STRMWTR ROUND 2			
By Authority of:	COMMISSIONER, DEPARTMENT OF ENVIRONMENTAL PROTECTION		

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 discharges 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" or "hazardous waste landfills", as defined in N.J.A.C. 7:26-1.4, unless those landfills have been closed in compliance with N.J.A.C. 7:26-2A.9 or 7:26-9.8 (the Solid Waste rules), the appropriate certifications have been submitted in accordance with N.J.A.C. 7:26, 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 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 I.B.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).

ii. Except as provided in iii. below, within 18 months after the date of notification of general permit authorization, the permittee shall implement the SPPP prepared for the facility; and shall submit to the Department the "Stormwater Pollution Prevention Implementation and Inspection Certification" contained in Attachment D (except if this certification was already included in the RFA submitted to the Department under Part II).

iii. The Department may grant a six-month extension to the deadline in ii. above, if the permittee submits a written request for such extension, at least 30 days prior to the deadline, establishing to the Department's satisfaction that the Federal, State and local permits and approvals necessary for the construction of best management practices identified in the SPPP could not with due diligence be obtained within the time period set forth in ii. above.

iv. For purposes of the deadlines in i. and ii. above, "notification of general permit authorization" includes notification of authorization under Part I.D.1.a of this permit or the previous version of this permit, but does not include notice of automatically renewed authorization under Part I.D.4.a.

b. New discharges:

The SPPP shall be prepared and implemented prior to submission of the RFA under Part II; and the RFA shall contain the "Stormwater Pollution Prevention Plan Preparation Certification" contained in Attachment C, and the "Stormwater Pollution Prevention Plan Implementation and Inspection Certification" contained in Attachment D.

3. Additional Requirements

a. Agency Review

i. The permittee shall make the SPPP available upon request to an authorized representative of the Department and to the owner of and operating entity for any municipal separate storm sewer system through which the stormwater discharge associated with industrial activity is discharged.

ii. Upon review by an authorized representative, the Department may notify the permittee at any time that the SPPP does not meet one or more of the minimum requirements of this part, or that two or more SPPPs prepared for a single facility by different permittees who submitted separate RFAs must be consolidated into a single SPPP for that facility. Within 30 days after receiving such notification (unless otherwise specified by the Department), the SPPP shall be amended to adequately address all deficiencies, or the SPPPs shall be consolidated, and written certification of such amendments or consolidation shall be submitted to the Department.

b. (Reserved)

c. Amendments to the Stormwater Pollution Prevention Plan

SPPPs may be amended so long as they continue to meet the requirements of part III.A of this permit. Any amended SPPPs shall be signed, dated, implemented, retained, and otherwise treated in the same manner as the original SPPP, except that amended SPPPs do not require the "Stormwater Pollution Prevention Plan Preparation Certification" contained in Attachment C. The permittee shall retain each previous SPPP for a period of at least five years from the date of that previous SPPP. This period may be extended by written request of the Department at any time (see N.J.A.C. 7:14A-6.6).

d. Copies to Owner

The permittee shall provide a copy of the SPPP and the certifications contained in Attachments C and D to the owner(s) of the facility.

B. Annual Inspections

Once the SPPP has been implemented in accordance with III.A.1 and 2 above, the permittee shall conduct an annual inspection of the facility to identify areas contributing to the stormwater discharge authorized by this permit and to evaluate whether the SPPP complies with part III.A. and is

being properly implemented, or whether additional measures are needed to meet the conditions of this permit. A report summarizing each inspection shall be included in the SPPP as required under Attachment B, Part H.

C. Annual Reports and Recertification

1. The permittee shall prepare an annual report summarizing each inspection performed under III.B. above. This report shall be accompanied by an annual certification that the facility is in compliance with its SPPP and this permit, except that if there are any incidents of noncompliance, those incidents shall be identified in the certification (see Attachment D to this permit for the form of these certifications). If there are incidents of noncompliance, the report shall identify the steps being taken to remedy the noncompliance and to prevent such incidents from recurring. The report and certification shall be signed and dated by the permittee in accordance with Attachment D to this permit, and shall be maintained for a period of at least five years. This period may be extended by written request of the Department at any time (see N.J.A.C. 7:14A-6.6). The certification should be submitted concurrently with the annual recertifications required under C.2 below.

2. After the certification contained in Attachment D has been received by the Department, the permittee must annually resubmit this certification (with new signatures each year). These annual recertifications shall be submitted in the same calendar month as the initial submission of these certifications. These recertifications shall be submitted to the Department at the address specified on the certification form provided by the Department.

D. All instances of noncompliance not reported under N.J.A.C. 7:14A-6.10 shall be reported to the Department annually.

E. Other Discharges

If, during or after the preparation of the SPPP, it is discovered that the facility generates and discharges, through storm sewers to surface waters, any unpermitted domestic sewage, non-contact cooling water, or process waste water (including leachate and cooling water) other than stormwater, the permittee shall discontinue such discharges or apply for the appropriate NJPDES-DSW permit in accordance with the NJPDES rules at N.J.A.C. 7:14A.

PART IV. STANDARD CONDITIONS APPLICABLE TO THIS GENERAL PERMIT AUTHORIZING STORMWATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITY

The permittee shall comply with all the conditions set forth in this permit and all the applicable requirements relevant to the permittee's discharge(s) that can be found in the Federal Clean Water Act and the New Jersey Water Pollution Control Act (the State Act as amended), N.J.S.A.

58:10A-1 et seq. The permittee may be subject to penalties for any violations thereof.

The following conditions are incorporated by reference. The permittee is required to comply with the rules which were in effect as of the effective date of the final permit.

A. General Conditions

1. Penalties for Violations	N.J.A.C. 7:14-8.1 et seq
2. Consolidation of Permit Processing	N.J.A.C. 7:14A-15.5
3. Incorporation by Reference	N.J.A.C. 7:14A-2.3
4. Enforcement Action	N.J.A.C. 7:14A-2.9
5. General Conditions Applicable to All Permittees	N.J.A.C. 7:14A-6.2 (also see Part I.D.3 above)
6. Duty to Reapply	N.J.A.C. 7:14A-4.2(e) (also see Parts I.D.4 and II.A.1 above)
7. Administrative Continuation of Permits	N.J.A.C. 7:14A-2.8
8. Duty to Mitigate	N.J.A.C. 7:14A-6.2(a)5, 6.2(a)11
9. Permit Actions	N.J.A.C. 7:14A-2.7(c)
10. Permit Duration and Renewal	N.J.A.C. 7:14A-2.7(a), (b)
11. Effect of Permit	N.J.A.C. 7:14A-2.9(c), 6.2(a)6&7 (also see Part V.A below)
12. Inspection and Entry	N.J.A.C. 7:14A-2.11(e)
13. Severability	N.J.A.C. 7:14A-2.2(b)
14. Toxic Pollutants	N.J.A.C. 7:14A-6.2(a)4 (also see Part V.A below)
15. Standard Reopener Clause	N.J.A.C. 7:14A-6.2(a)10
16. General Permits	N.J.A.C. 7:14A-6.13
17. Fee Schedule	N.J.A.C. 7:14A-3.1

B. Operation and Maintenance

1. Proper Operation and Maintenance	N.J.A.C. 7:14A-6.12(a)
2. Need to Halt or Reduce not a Defense	N.J.A.C. 7:14A-2.9(b)
3. Bypass	N.J.A.C. 7:14A-6.11
4. Upset	N.J.A.C. 7:14A-6.11

C. Records and Reporting Requirements

1. Record Keeping	N.J.A.C. 7:14A-6.6
2. Planned Changes	N.J.A.C. 7:14A-6.7
3. Changes in Discharge	N.J.A.C. 7:14A-6.7
4. Anticipated Noncompliance	N.J.A.C. 7:14A-6.7
5. Transfer	N.J.A.C. 7:14A-6.2(a)8, 6.13(n), 16.1, 16.2
6. Compliance Schedules	N.J.A.C. 7:14A-6.4
7. Noncompliance Reporting	N.J.A.C. 7:14A-6.10
8. Duty to Provide Information	N.J.A.C. 7:14A-2.11, 6.2(a)14
9. Signatory Requirements	N.J.A.C. 7:14A-4.9
10. Public Access to Information	N.J.A.C. 7:14A-18.1
11. Additional Requirements for all Existing Manufacturing Commercial, Mining, Silviculture, and Research Facilities	N.J.A.C. 7:14A-11.3
12. Missing or Incorrect Information	N.J.A.C. 7:14A-2.11(f), 6.10(e)2 & (f)3
13. Confidentiality	N.J.A.C. 7:14A-18.2

Copies of the NJPDES rules may be purchased by contacting:

West Group
St. Paul, Minnesota
1-800-808-WEST

PART V. SPECIAL CONDITIONS

A. Other Laws

In accordance with N.J.A.C. 7:14A-6.2(a)7, this permit does not authorize any infringement of State or local law or regulations, including, but not limited to the Pinelands rules (N.J.A.C. 7:50), N.J.A.C. 7:1E (Department rules entitled "Discharges of Petroleum and other Hazardous Substances"), and all other Department rules. No discharge of hazardous substances (as defined in N.J.A.C. 7:1E-1.6) resulting from an onsite spill shall be deemed to be "pursuant to and in compliance with [this] permit" within the meaning of the Spill Compensation and Control Act at N.J.S.A. 58:10-23.11c.

B. Exemptions

1. (Reserved)
2. Operations and Maintenance Manual

In accordance with N.J.A.C. 7:14A-6.12(c), for a stormwater discharge authorized by this permit, the permittee is exempt from the requirement to prepare an operations and maintenance manual.

PART VI. DEFINITIONS

Unless otherwise stated herein the definitions set forth at N.J.A.C. 7:14A-1.2 are incorporated into this permit in addition to the definition of "source material" which is contained in Attachment B.

"Process waste water" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by product, or waste product. Process waste water includes, but is not limited to, "leachate" and cooling water other than "non-contact cooling water". (Please note that for the purposes of this NJPDES permit, the stormwater discharges regulated by this permit are not process waste waters.)

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

1. Designed or used for collecting or conveying stormwater;
2. Which is not part of a "combined sewer system"; and
3. Which is not part of a "Publicly Owned Treatment Works" (POTW).

“Source materials” means any materials or machinery, located at the facility and directly or indirectly related to process or other industrial activities, which could be a source of pollutants in a stormwater discharge associated with industrial activity that is subject to N.J.A.C. 7:14A-11.5. Source materials include, but are not limited to: raw materials; intermediate products; final products; waste materials; by-products; industrial machinery and fuels; and lubricants, solvents, and detergents that are related to process or other industrial activities. Material or machinery that are not exposed to stormwater or that are not located at the facility are not “source materials”.

“Stormwater” means stormwater runoff, snow melt runoff, and surface runoff and drainage.

ATTACHMENT A: RFA Certification

Every Request for Authorization (RFA) shall include the following RFA certification.

“I certify under penalty of law that this Request for Authorization and all attached documents were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. As far as I know, none of the stormwater discharges for which this Request for Authorization is submitted are excluded from authorization by part I.B of NJPDES Permit No. NJ0088315.

“I am aware that pursuant to the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., there are significant civil and criminal penalties for making a false statement, representation or certification in any application, record, or other document filed or required to be maintained under that Act, including fines and/or imprisonment.”

The RFA certification shall be signed as follows:

- (1) For a corporation, by a responsible corporate officer as described in N.J.A.C. 7:14A-4.9(a)1;
- (2) For a partnership or sole proprietorship, by a general partner or the proprietor, respectively;
- (3) For a municipality, State, Federal or other public agency, by either a principal executive officer or ranking elected official; or
- (4) For a corporation or other entity under (1), (2), or (3) above, by a duly authorized representative, provided that:
 - (a) The representative is authorized by a person described in (1), (2), or (3) above;

(b) This authorization specifies either an individual or a position responsible for the overall operation of the regulated facility such as plant manager, operator of a well or well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company or public agency. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

(c) The written authorization is submitted to the Department.

A separate RFA certification shall be signed, dated and submitted for each person submitting the RFA.

ATTACHMENT B: Contents of the Stormwater Pollution Prevention Plan

A. Inventory Requirements

The SPPP shall contain an inventory that includes the following:

1. A list of general categories of all “source materials” used, stored, or otherwise located at the facility. As used in this permit, the term “source materials” means any materials or machinery, located at the facility and directly or indirectly related to process or other industrial activities, which could be a source of pollutants in a stormwater discharge associated with industrial activity that is subject to N.J.A.C. 7:14A-11.5. Source materials include, but are not limited to: raw materials; intermediate products; final products; waste materials; by-products; industrial machinery and fuels; and lubricants, solvents, and detergents that are related to the process or other industrial activities. Materials or machinery that are not exposed to stormwater or that are not located at the facility are not “source materials”.

2. A list of any domestic sewage, non-contact cooling water, or process waste water (including leachate and contact cooling water) other than stormwater, that is generated at the facility and discharged through separate storm sewers to surface waters.

3. For discharges identified in A.2. above, a list of any final or draft NJPDES permits, pending NJPDES permit applications, or pending requests for authorization under another general NJPDES permit (including the NJPDES permit number where available).

B. Mapping Requirements

The SPPP shall include a map of the entire facility that depicts the approximate location of all the items listed below. All of the information specified below should be shown on one map unless, for the sake of clarity, additional maps are needed.

1. Existing buildings and other permanent structures;

2. All paved areas, including roads;
3. Generalized stormwater flow and drainage patterns;
4. Location of each of the facility's stormwater discharges associated with industrial activity that is subject to N.J.A.C. 7:14A-11.5.

5. All surface drainage, inlet and discharge structures, including swales and ditches, but excluding rooftop drainage.

6. Location of each point or sewer segment, if any, where domestic sewage, non-contact cooling water, or process waste water (other than stormwater) generated by the facility enters storm sewers that discharge to surface waters.

7. All locations where source materials are reasonably likely to be present. In doing so, the map shall at a minimum depict the location(s) of any of the following activities that occur at the facility and address all materials and machinery listed under the definition of "source materials" in A.1. above.

a. Outdoor handling, treatment, storage, or disposal activities;

b. Loading and unloading areas;

c. Outdoor manufacturing, processing, or cleaning activities; and other activities that disturb the land surface, except for construction or mining authorized under NJPDES Permit No. NJ0088323;

d. Significant dust or particulate generating processes, except those where dust or particulates are transmitted entirely off-site through the air or are regulated under an effective permit to construct, install or alter control apparatus or equipment pursuant to N.J.A.C. 7:27-8.1.;

e. Hazardous waste storage or disposal facilities;

f. On-site waste management, storage and disposal practices, including wastes not associated with or derived from on-site industrial activities;

g. Access routes. As used in this permit, the term "Access routes" means any immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility.

C. Narrative Description of Existing Conditions

The SPPP shall include a narrative description concerning the management of all source materials at the facility which are handled, treated, stored, disposed, or which otherwise exist in a manner allowing contact with stormwater. The narrative description shall address the following:

1. Location and method of materials transport, loading and unloading;

2. Existing management practices employed to minimize contact of source materials with stormwater;

3. Existing structural and non-structural measures employed to reduce pollutants in stormwater;

4. Existing practices employed to divert stormwater to specific areas on or off-site, including diversion to containment areas, holding tanks, treatment facilities, or sanitary or combined sewers; and

5. A description of any treatment the stormwater already receives;

6. Any discharges of domestic sewage, non-contact cooling water, or process waste water (other than stormwater) that the SPPP lists in accordance with B.6. above (unless such discharges have been authorized by other NJPDES permits or identified in applications or requests for authorization submitted for other NJPDES permits). The narrative description shall also discuss any existing practices to prevent or permit such discharges.

D. Description of Required Best Management Practices

The SPPP shall identify and discuss the best management practices (BMPs) that will be implemented at the facility to:

1. Ensure that there will be no exposure of source material located at the facility to stormwater that is discharged to surface waters and regulated under this permit; and

2. Ensure that the facility does not generate and discharge, through storm sewers to surface waters, any domestic sewage, non-contact cooling water, or process waste water (other than stormwater), unless that discharge is authorized by another NJPDES permit or identified in an application or request for authorization submitted for another NJPDES permit.

E. Implementation Schedule

The SPPP shall include a schedule for full implementation of the BMPs identified in accordance with D, above. This schedule must provide for full implementation by the applicable deadlines specified in Part III of this permit.

F. Maintenance Schedule

The SPPP shall include a schedule for providing regular and appropriate maintenance and repairs of all structural BMPs identified in accordance with D, above.

G. Inspection Schedule

The SPPP shall include a schedule for regular inspection by facility personnel of designated areas, operations, and equipment. An annual inspection of the entire facility shall also be conducted in accordance with part III.B. to identify areas contributing to the stormwater discharge authorized by this permit and to evaluate whether the SPPP complies with part III.A. and is being properly implemented, or whether additional measures are needed in order to meet the conditions of this permit.

H. Internal Reporting

The SPPP shall include a report summarizing, in accordance with III.C., each annual inspection performed under G. above. The report shall indicate whether the facility was found to be in compliance with the SPPP and the conditions of this permit. In the case of non-compliance, the report shall identify measures taken to remedy any noncompliance discovered during the inspection. All instances of non-compliance with the permit or the SPPP not reported under N.J.A.C. 7:14A-6.10 shall be reported to the Department annually.

The SPPP shall record any incidents such as leaks or accidental discharges, and any failures or breakdowns of structural BMPs. The SPPP shall also ensure that, in such instances, corrective measures are implemented and inspected, and verify that full remediation is achieved.

I. Special Requirements

The following are special requirements for certain types of facilities with stormwater discharges associated with industrial activity. For such facilities, the SPPP must satisfy these special requirements as well as all the requirements provided above.

1. Facilities Discharging Through Municipal Separate Storm Sewer Systems

For any discharges of stormwater associated with industrial activity through a municipal separate storm sewer system that has a final NJPDES discharge permit, the SPPP shall also require compliance with all applicable requirements of the municipal stormwater management program developed under that permit.

2. Facilities Subject to SARA Title III, Section 313 Requirements

The SPPP shall include, or cite the location of, any spill reports prepared under section 313 in Title III of the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. 9601 et seq.

3. Facilities With SPCC Plans, DPCC Plans, and DCR Plans

The SPPP shall include, or cite the location(s) of, any Spill Prevention Control and Countermeasure Plan (SPCC Plan) prepared under 40 CFR 112 and section 311 of the Clean Water Act, 33 U.S.C. 1321; and any discharge prevention, containment and countermeasure plan (DPCC plan) and discharge cleanup and removal plan (DCR plan) prepared under N.J.A.C. 7:1E.

4. Facilities Undergoing Construction

Whenever construction activities are undertaken at the facility, the SPPP shall be amended, if necessary, so that the

SPPP continues to be accurate and to meet the requirements of part III.A of this permit.

Additionally, for construction activities disturbing less than five acres of total land area which are not part of a larger common plan of development or sale, the SPPP shall include proof that any certification or municipal approval required under the Soil Erosion and Sediment Control Act (N.J.S.A. 4:24-39 et seq.) has been obtained.

For construction activities disturbing five acres or more of total land area, authorization must be obtained under NJPDES Permit No. NJ0088323, or under an individual NJPDES permit, for stormwater from such construction activities that would be discharged to surface waters.

J. Allocation of Responsibility

If the 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, in accordance with parts III.A.1.c and III.A.1.d.

ATTACHMENT C: *Stormwater Pollution Prevention Plan Preparation Certification*

The following certification shall be signed, dated and submitted to the Department using the appropriate Department forms.

"I certify under penalty of law that I have signed a stormwater pollution prevention plan (SPPP), and that if this plan is fully 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 NJPDES Permit No. NJ0088315 (except for unintentional and temporary exposure because of an event beyond the reasonable control of the permittee). I further certify that if any part of this stormwater pollution prevention plan requires the consent of the owner(s) of or another operating entity for the facility, that consent has been obtained.

"I further certify that this Stormwater Pollution Prevention Plan Preparation Certification, all attached documents, and stormwater pollution prevention plan were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate this information. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering this information, the information in this Stormwater Pollution Prevention Plan Preparation Certification, all attached documents, and stormwater pollution prevention plan is, to the best of my knowledge and belief, true, accurate and complete.

"I certify that the stormwater pollution prevention plan referred to in this Stormwater Pollution Prevention Plan

Preparation Certification has been signed and is being retained at the facility in accordance with part III.A of NJPDES Permit No. NJ0088315, and that the permittee intends that this stormwater pollution prevention plan will be fully implemented at the facility in accordance with the terms and conditions of that permit. I am aware that pursuant to the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., there are significant civil and criminal penalties for making a false statement, representation, or certification in any application, record, or other document filed or required to be maintained under that Act, including fines and/or imprisonment."

This certification shall be signed as follows:

- (1) For a corporation, by a responsible corporate officer as described in N.J.A.C. 7:14A-4.9(a)1;
- (2) For a partnership or sole proprietorship, by a general partner or the proprietor, respectively;
- (3) For a municipality, State, Federal or other public agency, by either a principal executive officer or ranking elected official; or
- (4) For a corporation or other entity under (1), (2), or (3) above, by a duly authorized representative, provided that:
 - (a) The representative is authorized by a person described in (1), (2), or (3) above;
 - (b) This authorization specifies either an individual or a position responsible for the overall operation of the regulated facility such as plant manager, operator of a well or well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company or public agency. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and
 - (c) The written authorization is submitted to the Department.

Whenever there are two or more permittees for the facility, all of those permittees shall jointly submit this Stormwater Pollution Prevention Plan Preparation Certification, unless permittees received authorization on different dates and this certification is therefore due from them at different dates.

A copy of the RFA form that was originally submitted to the Department (in accordance with Part II of this permit) must be submitted along with this certification (with updated names, addresses and telephone numbers attached), unless the certification is submitted concurrently with the RFA.

ATTACHMENT D: Stormwater Pollution Prevention Plan Implementation and Inspection Certification

The following certification shall be signed, dated and submitted to the Department using the appropriate Department forms.

"I certify under penalty of law that this Stormwater Pollution Prevention Plan Implementation and Inspection Certification and all attached documents were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate this information. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering this information, the information in this Stormwater Pollution Prevention Plan Implementation and Inspection Certification and all attached documents is, to the best of my knowledge and belief, true, accurate and complete.

"I certify that the facility has been inspected to identify areas contributing to the stormwater discharge authorized under NJPDES permit No. NJ0088315 and to evaluate whether the stormwater pollution prevention plan (SPPP) prepared under that permit complies with part III.A. of that permit and is being properly implemented.

"I certify that the stormwater pollution prevention plan referred to in this Stormwater Pollution Prevention Plan Implementation and Inspection Certification has been and will continue to be fully implemented at this facility in accordance with the terms and conditions of part III of NJPDES Permit No. NJ0088315. I specifically certify that there is 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 through separate storm sewers to surface waters (except for any incidents of non-compliance identified in the attached report). I also specifically certify that this facility does not generate and discharge, through storm sewers to surface waters, any domestic sewage, non-contact cooling water, or process waste water (including leachate and contact cooling water) other than stormwater, unless that discharge is authorized by another NJPDES permit or identified in an application (or request for authorization) submitted for another NJPDES permit.

"I also certify that this facility is not in violation of any conditions of NJPDES Permit No. NJ0088315, including requirements in part III of that permit for preparation and implementation of a stormwater pollution prevention plan, except for any incidents of noncompliance (which are noted in the attached report). For any incidents of noncompliance identified in the annual inspection (or made known to me during the course of the past year), I have attached a report identifying these incidents, and identifying steps taken or being taken to remedy the noncompliance and to prevent such incidents from recurring. If the attached report identifies any incidents of noncompliance, I certify that any remedial or preventative steps identified therein were or will be taken in compliance with the schedule set forth in the attachment to this certification. I am aware that pursuant to the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., there are significant civil and criminal penalties for making a false statement, representation, or certification in any application, record, or other document filed or required to be maintained under that Act, including fines and/or imprisonment."

This certification shall be signed as follows:

(1) For a corporation, by a responsible corporate officer as described in N.J.A.C. 7:14A-4.9(a)1;

(2) For a partnership or sole proprietorship, by a general partner or the proprietor, respectively;

(3) For a municipality, State, Federal or other public agency, by either a principal executive officer or ranking elected official; or

(4) For a corporation or other entity under (1), (2), or (3) above, by a duly authorized representative, provided that:

(a) The representative is authorized by a person described in (1), (2), or (3) above;

(b) This authorization specifies either an individual or a position responsible for the overall operation of the regulated facility such as plant manager, operator of a well or well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company or public agency. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

(c) The written authorization is submitted to the Department.

A copy of the RFA form that was originally submitted to the Department (in accordance with Part II of this permit) must be submitted along with this certification (with updated names, addresses, and telephone numbers attached), unless the certification is submitted concurrently with the RFA.

The permittee shall also identify the number of the NJPDES permit of any discharges through storm sewers to surface waters of domestic sewage, non-contact cooling water, or process waste water other than stormwater generated by the facility. If no NJPDES permit number has been assigned yet, the permittee shall provide a copy of the cover page of the application or request for authorization in an attachment to this certification.

If the facility has or will have two or more permittees under this permit, and if the person submitting this certification is responsible for implementing only some portions of the SPPP in accordance with parts III.A.1.c and III.A.1.d, then this certification shall apply only to those portions of the SPPP.

ATTACHMENT D: Stormwater Pollution Prevention Plan Implementation and Inspection Certification

Text of Attachment D effective November 3, 1997.

The following certification shall be signed, dated and submitted to the Department using the appropriate Department forms.

"I certify under penalty of law that this Stormwater Pollution Prevention Plan Implementation and Inspection Certification and all attached documents were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate this information. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering this information, the information in this Stormwater Pollution Prevention Plan Implementation and Inspection Certification and all attached documents is, to the best of my knowledge and belief, true, accurate and complete.

"I certify that the facility has been inspected to identify areas contributing to the stormwater discharge authorized under NJPDES permit No. NJ0088315 and to evaluate whether the stormwater pollution prevention plan (SPPP) prepared under that permit complies with part III.A. of that permit and is being properly implemented.

"I certify that the stormwater pollution prevention plan referred to in this Stormwater Pollution Prevention Plan Implementation and Inspection Certification has been and will continue to be fully implemented at this facility in accordance with the terms and conditions of part III of NJPDES Permit No. NJ0088315. I specifically certify that there is 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 that NJPDES permit (except for any incidents of non-compliance identified in the attached report). I also specifically certify that this facility does not generate and discharge, through storm sewers to surface waters, any domestic sewage, non-contact cooling water, or process waste water (including leachate and contact cooling water) other than stormwater, unless that discharge is authorized by another NJPDES permit or identified in an application (or request for authorization) submitted for another NJPDES permit.

"I also certify that this facility is not in violation of any conditions of NJPDES Permit No. NJ0088315, including requirements in part III of that permit for preparation and implementation of a stormwater pollution prevention plan, except for any incidents of noncompliance (which are noted in the attached report). For any incidents of noncompliance identified in the annual inspection (or made known to me during the course of the past year), I have attached a report identifying these incidents, and identifying steps taken or being taken to remedy the noncompliance and to prevent such incidents from recurring. If the attached report identifies any incidents of noncompliance, I certify that any remedial or preventative steps identified therein were or will be taken in compliance with the schedule set forth in the attachment to this certification. I am aware that pursuant

to the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., there are significant civil and criminal penalties for making a false statement, representation, or certification in any application, record, or other document filed or required to be maintained under that Act, including fines and/or imprisonment.”

This certification shall be signed as follows:

- (1) For a corporation, by a responsible corporate officer as described in N.J.A.C. 7:14A-4.9(a)1;
- (2) For a partnership or sole proprietorship, by a general partner or the proprietor, respectively;
- (3) For a municipality, State, Federal or other public agency, by either a principal executive officer or ranking elected official; or
- (4) For a corporation or other entity under (1), (2), or (3) above, by a duly authorized representative, provided that:

(a) The representative is authorized by a person described in (1), (2), or (3) above;

(b) This authorization specifies either an individual or a position responsible for the overall operation of the regulated facility such as plant manager, operator of a well or well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company or public agency. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

(c) The written authorization is submitted to the Department.

A copy of the RFA form that was originally submitted to the Department (in accordance with Part II of this permit) must be submitted along with this certification (with updated names, addresses, and telephone numbers attached), unless the certification is submitted concurrently with the RFA.

The permittee shall also identify the number of the NJPDES permit of any discharges through storm sewers to surface waters of domestic sewage, non-contact cooling water, or process waste water other than stormwater generated by the facility. If no NJPDES permit number has been assigned yet, the permittee shall provide a copy of the cover page of the application or request for authorization in an attachment to this certification.

If the facility has or will have two or more permittees under this permit, and if the person submitting this certification is responsible for implementing only some portions of the SPPP in accordance with parts III.A.1.c and III.A.1.d, then this certification shall apply only to those portions of the SPPP.

APPENDIX B

PERMIT NUMBER NJ0088323 NJPDES-DSW GENERAL PERMIT CONSTRUCTION ACTIVITY STORMWATER

Permittee		Co-Permittee	
GENERAL PERMIT—			
CATEGORY 5G3			
PER INDIVIDUAL			
NOTICE OF AUTHORIZATION			
Property Owner		Location of Activity	
GENERAL PERMIT—		GENERAL PERMIT—	
CATEGORY 5G3		CATEGORY 5G3	
PER INDIVIDUAL		PER INDIVIDUAL	
NOTICE OF AUTHORIZATION		NOTICE OF AUTHORIZATION	
Current Authorization	Issuance	Effective	Expiration
Covered By This Approval	Date	Date	Date
And Previous Authorization			
5G3:GEN PERMIT CONSTRUCT	May 5,	May 5,	January 31,
ACTIVITY	1997	1997	2002
By Authority of: COMMISSIONER, DEPARTMENT OF ENVIRONMENTAL PROTECTION			

PART I. AUTHORIZATION UNDER THIS PERMIT

A. Permit Area

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

B. Eligibility

1. Except as provided in B.2 below, this permit may authorize all new and existing stormwater discharges associated with industrial activity as defined in N.J.A.C. 7:14A-1.2, and that are from the following facilities:

a. Construction activities including clearing, grading and excavation activities.

b. Active or inactive operations for mining or quarrying of stone, gravel, sand, soil, shale, or clay; including crushing, grinding, pulverizing, and washing activities at such mines or quarries, but excluding:

i. Facilities where mined or quarried material is treated with detergents, oils, acids, or other chemicals.

ii. Facilities that include active or inactive mining or quarrying for metallic minerals (ores).

2. The following stormwater discharges are not authorized by this permit:

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 from facilities with “sanitary landfills” or “hazardous waste landfills,” as defined in N.J.A.C. 7:26-1.4, unless:

i. The landfill is under construction and has not received any solid waste (including hazardous waste) as defined at N.J.A.C. 7:26-1.6; or

ii. The landfill has been closed in compliance with N.J.A.C. 7:26-2A.9 or 7:26-9.8 (the Solid Waste rules), the appropriate certifications have been submitted in accordance with N.J.A.C. 7:26, and the landfill is not disrupted. If the landfill meets i. or ii. above, the discharge is eligible for authorization under this permit.

c. (Reserved)

d. Stormwater discharges from construction, mining or quarrying activities that are not regulated under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., or that are not within the definition of "project" at N.J.S.A. 4:24-41.g.

e. A stormwater discharge from a mining or quarrying operation authorized by an effective individual DSW permit for that discharge.

f. Stormwater discharges that occur after the construction activities under 1.a above have been completed, unless such discharges are from mining or quarrying operations eligible for authorization under 1.b above. (If the facility being constructed is in one or more of the categories identified in subparagraphs 1i through 1ix or subparagraph 1xi of the definition in N.J.A.C. 7:14A-1.2 of "stormwater discharge associated with industrial activity," and is not such a mining or quarrying operation, then authorization for that stormwater discharge must be obtained under another NJPDES permit (such as NJPDES Permit No. NJ0088315, where applicable), even if authorization for the stormwater discharge from the construction activity has been obtained under this permit.)

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

3. 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 Other 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 to the Department 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

In order to obtain authorization under this permit (except for automatic renewal of authorization under 5.a below), a complete Request for Authorization (RFA) and the \$200 fee required under N.J.A.C. 7:14A-3.1(j) 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).

1. Authorization becomes effective when the soil conservation district or the New Jersey Department of Transportation (DOT) certifies the RFA (and when, in addition, the Pinelands Commission has made any determination required under 2. below).

2. For new stormwater discharges commencing in the Pinelands Area (as defined by N.J.S.A. 13:18A-11) after November 2, 1992, authorization under this permit becomes effective only if, pursuant to N.J.S.A. 13:18A-15, the Pinelands Commission has determined that:

a. The Pinelands Commission will not review the facility based upon the issuance of a certification of the facility's soil erosion and sediment control plan issued by the soil conservation district or the State Soil Conservation Committee, or the approval of the facility's soil erosion and sediment control requirements issued by the municipality (whichever is applicable);

b. The Pinelands Commission has reviewed and approved the facility following issuance of a certification of the facility's soil erosion and sediment control plan issued by the soil conservation district or the State Soil Conservation Committee, or the approval of the facility's soil erosion and sediment control requirements issued by the municipality (whichever is applicable); or

c. The Pinelands Commission has, pursuant to N.J.A.C. 7:50-4.51 et seq., reviewed and approved the development application of the DOT.

3. Authorizations under this general permit cease to be effective:

a. When the certification or municipal approval (under N.J.S.A. 4:28-48) of the facility's soil erosion and sediment control plan expires without being renewed or extended; or

b. When the State Soil Conservation Committee rejects (pursuant to N.J.S.A. 4:24-6.1 and N.J.A.C. 2:90-1.6) a decision by the soil conservation district to

certify the facility's soil erosion and sediment control plan.

4. For a stormwater discharge authorized under this permit, the permittee is exempt from the provision in 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.

5. 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 (except for DOT) shall provide the correct information to the soil conservation district within 90 days after that effective date, if the permittee has not done so already.) The soil conservation district shall provide a notice of renewed authorization to each such permittee (except for DOT).

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 must be submitted at least 30 days prior to the commencement of the land disturbance that may result in that discharge. The soil conservation district or DOT may, at 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 at the facility. When a facility is owned by one person but is currently operated by another person, the operating entity shall submit the RFA.

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. A fee of \$200, paid by check or money order payable to "Treasurer, State of New Jersey," shall be submitted along with the completed RFA (except for authorization renewal under Part I.D.5).

1. The legal name and address of all known current owners and operating entities. The RFA shall also identify which of these persons is submitting the RFA.
2. The facility name and address.
3. A brief description of the facility and its current and proposed uses.
4. The RFA certification contained in Attachment A.
5. For stormwater discharges occurring in the Pinelands Area (as defined in N.J.S.A. 13:18A-11) prior to November 2, 1992, a Pinelands Commission "no call up" letter or public development approval.

D. Where to Submit

1. For projects that the New Jersey Department of Transportation (DOT) is constructing or proposes to construct, a completed, signed, and certified RFA (see II.E.1 below) and the \$200 fee (except for authorization renewal under Part I.D.5) shall be submitted by DOT to the Department at the address specified on the Department's RFA form.
2. For all other projects, a completed and signed RFA and \$200 fee (except for authorization renewal under Part I.D.5) shall be submitted to the soil conservation district.

E. Certifying the Request for Authorization

1. For projects that the DOT is constructing or proposes to construct, the DOT shall certify the RFA if the requirements in II.C above have been satisfied, and if the DOT has certified the facility's plan for soil erosion and sediment control under N.J.S.A. 4:24-43.
2. For other projects, the soil conservation district shall certify the RFA if the requirements in II.C above have been satisfied, and if:
 - a. The soil conservation district has certified the facility's plan for soil erosion and sediment control under N.J.S.A. 4:24-43; or
 - b. The State Soil Conservation Committee has certified the facility's plan for soil erosion and sediment control under N.J.S.A. 4:24-6.1 and N.J.S.A. 4:24-43; or
 - c. The facility has been approved under a municipal ordinance for soil erosion and sediment control pursuant to N.J.S.A. 4:24-48.

3. The district shall grant or deny certification of the RFA within a period of 30 days after submission of a complete RFA unless, by mutual agreement in writing between the district and the persons requesting authorization, the period of 30 days shall be extended for an additional period of 30 days. Failure of the district to grant or deny certification within such time period shall constitute certification of the RFA.

4. RFAs certified by the soil conservation districts shall be submitted by those districts to the State Soil Conservation Committee, which shall submit them to the Department at the address specified on the Department's RFA form.

F. 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. Stormwater Pollution Prevention Plan

1. Land disturbances that may result in a stormwater discharge authorized by this permit shall be executed only in accordance with a soil erosion and sediment control plan certified pursuant to N.J.S.A. 4:24-43, or requirements for soil erosion and sediment control established in or pursuant to a municipal ordinance in accordance with N.J.S.A. 4:24-48, whichever is applicable. For purposes of this permit, the above mentioned soil erosion and sediment control plan or requirements constitute the facility's stormwater pollution prevention plan (except for any provisions that are not relevant to the stormwater discharge authorized by this permit). A copy of this stormwater pollution prevention plan shall be retained by the permittee for a period of at least five years after the completion of construction. This period may be extended by written request of the Department at any time (see N.J.A.C. 7:14A-6.6).

2. Land disturbances that may result in a stormwater discharge authorized by this permit shall not commence until authorization is effective under I.D. above.

B. (Reserved)

C. Annual Inspections

The permittee shall conduct an annual inspection of the facility to identify areas contributing to the stormwater discharge authorized by this permit and evaluate whether the stormwater pollution prevention plan (SPPP) identified

under III.A above is being properly implemented, or whether additional measures are needed to implement the SPPP.

D. Annual Reports and Certifications

The permittee shall prepare an annual report summarizing each inspection performed under III.C above. This report shall be accompanied by an annual certification that the facility is in compliance with its SPPP and this permit, except that if there are any incidents of noncompliance, those incidents shall be identified in the certification. If there are incidents of noncompliance, the report shall identify the steps being taken to remedy the noncompliance and to prevent such incidents from recurring. The report and certification shall be signed and dated by the permittee in accordance with N.J.A.C. 7:14A-4.9, and shall be maintained for a period of at least five years. This period may be extended by written request from the Department at any time (see N.J.A.C. 7:14A-6.6).

E. Reports of Noncompliance

All instances of noncompliance not reported under N.J.A.C. 7:14A-6.10 shall be reported to the Department annually.

PART IV. STANDARD CONDITIONS APPLICABLE TO THIS GENERAL PERMIT AUTHORIZING STORMWATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITY

The permittee shall comply with all the conditions set forth in this permit and all the applicable requirements relevant to the permittee's discharge(s) that can be found in the Federal Clean Water Act and the New Jersey Water Pollution Control Act (the State Act as amended), N.J.S.A. 58:10A-1 et seq. The permittee may be subject to penalties for any violations thereof.

The following conditions are incorporated by reference. The permittee is required to comply with the rules which were in effect as of the effective date of the final permit.

A. General Conditions

- | | |
|--|---|
| 1. Penalties for Violations | N.J.A.C. 7:14-8.1 et seq |
| 2. Consolidation of Permit Processing | N.J.A.C. 7:14A-15.5 |
| 3. Incorporation by Reference | N.J.A.C. 7:14A-2.3 |
| 4. Enforcement Action | N.J.A.C. 7:14A-2.9 |
| 5. General Conditions Applicable to All Permittees | N.J.A.C. 7:14A-6.2 (also see Part I.D.3 above) |
| 6. Duty to Reapply | N.J.A.C. 7:14A-4.2(c) (also see Parts I.D.4 and II.A.1 above) |
| 7. Administrative Continuation of Permits | N.J.A.C. 7:14A-2.8 |
| 8. Duty to Mitigate | N.J.A.C. 7:14A-6.2(a)5, 6.2(a)11 |
| 9. Permit Actions | N.J.A.C. 7:14A-2.7(c) |
| 10. Permit Duration and Renewal | N.J.A.C. 7:14A-2.7(a), (b) |
| 11. Effect of Permit | N.J.A.C. 7:14A-2.9(c), 6.2(a)6&7 (also see Part V.A below) |
| 12. Inspection and Entry | N.J.A.C. 7:14A-2.11(e) |
| 13. Severability | N.J.A.C. 7:14A-2.2(b) |
| 14. Toxic Pollutants | N.J.A.C. 7:14A-6.2(a)4 (also see Part V.A below) |

- | | |
|------------------------------|-------------------------|
| 15. Standard Reopener Clause | N.J.A.C. 7:14A-6.2(a)10 |
| 16. General Permits | N.J.A.C. 7:14A-6.13 |
| 17. Fee Schedule | N.J.A.C. 7:14A-3.1 |

B. Operation and Maintenance

- | | |
|---|------------------------|
| 1. Proper Operation and Maintenance | N.J.A.C. 7:14A-6.12(a) |
| 2. Need to Halt or Reduce not a Defense | N.J.A.C. 7:14A-2.9(b) |
| 3. Bypass | N.J.A.C. 7:14A-6.11 |
| 4. Upset | N.J.A.C. 7:14A-6.11 |

C. Records and Reporting Requirements

- | | |
|---|---|
| 1. Record Keeping | N.J.A.C. 7:14A-6.6 |
| 2. Planned Changes | N.J.A.C. 7:14A-6.7 |
| 3. Changes in Discharge | N.J.A.C. 7:14A-6.7 |
| 4. Anticipated Noncompliance | N.J.A.C. 7:14A-6.7 |
| 5. Transfer | N.J.A.C. 7:14A-6.2(a)8, 6.13(n), 16.1, 16.2 |
| 6. Compliance Schedules | N.J.A.C. 7:14A-6.4 |
| 7. Noncompliance Reporting | N.J.A.C. 7:14A-6.10 |
| 8. Duty to Provide Information | N.J.A.C. 7:14A-2.11, 6.2(a)14 |
| 9. Signatory Requirements | N.J.A.C. 7:14A-4.9 |
| 10. Public Access to Information | N.J.A.C. 7:14A-18.1 |
| 11. Additional Requirements for all Existing Manufacturing, Commercial, Mining, Silviculture, and Research Facilities | N.J.A.C. 7:14A-11.3 |
| 12. Missing or Incorrect Information | N.J.A.C. 7:14A-2.11(f), 6.10(c)2 & (f)3 |
| 13. Confidentiality | N.J.A.C. 7:14A-18.2 |

Copies of the NJPDES rules may be purchased by contacting:

West Group
St. Paul, Minnesota
1-800-808-WEST

PART V. SPECIAL CONDITIONS**A. Other Laws**

In accordance with N.J.A.C. 7:14A-6.2(a)7, this permit does not authorize any infringement of State or local law or regulations, including, but not limited to the Pinelands rule (N.J.A.C. 7:50), N.J.A.C. 7:1E (Department rules entitled "Discharges of Petroleum and other Hazardous Substances"), and all other Department rules. No discharge of hazardous substances (as defined in N.J.A.C. 7:1E-1.6) resulting from an onsite spill shall be deemed to be "pursuant to and in compliance with [this] permit" within the meaning of the Spill Compensation and Control Act at N.J.S.A. 58:10-23.11c.

B. Exemptions

1. (Reserved)
2. Operations and Maintenance Manual

In accordance with N.J.A.C. 7:14A-6.12(c), for a stormwater discharge authorized by this permit, the permittee is exempt from the requirement to prepare an operations and maintenance manual.

PART VI. DEFINITIONS

Unless otherwise stated herein the definitions set forth at N.J.A.C. 7:14A-1.2 are incorporated into this permit.

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

1. Designed or used for collecting or conveying stormwater;
2. Which is not part of a "combined sewer system"; and
3. Which is not part of a "Publicly Owned Treatment Works" (POTW).

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

ATTACHMENT A: RFA Certification

Every Request for Authorization (RFA) shall include the following RFA certification.

"I certify under penalty of law that this Request for Authorization and all attached documents were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. As far as I know, none of the stormwater discharges for which this Request for Authorization is submitted are excluded from authorization by part I.B of NJPDES Permit No. NJ0088323.

"I am aware that pursuant to the Water Pollution Control Act (see N.J.S.A. 58:10A-10f(2) and (3)), there are significant civil and criminal penalties for making a false statement, representation or certification in any application, record, or other document filed or required to be maintained under that Act, including fines and/or imprisonment."

The RFA certification shall be signed as follows:

- (1) For a corporation, by a responsible corporate officer as described in N.J.A.C. 7:14A-4.9(a)1;
- (2) For a partnership or sole proprietorship, by a general partner or the proprietor, respectively;
- (3) For a municipality, State, Federal or other public agency, by either a principal executive officer or ranking elected official; or
- (4) For a corporation or other entity under (1), (2), or (3) above, by a duly authorized representative, provided that:

(a) The representative is authorized by a person described in (1), (2), or (3) above;

(b) This authorization specifies either an individual or a position responsible for the overall operation of the regulated facility such as plant manager, operator of a well or well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company or public agency. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

(c) The written authorization is attached to the RFA.

A separate RFA certification shall be signed, dated and submitted for each person submitting the RFA.

APPENDIX C

FEDERAL POLICY ON COMBINED SEWER OVERFLOWS

Appendix C incorporates the Federal policy on combined sewer overflows published in the Federal Register on April 19, 1994.

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4732-7]

Combined Sewer Overflow (CSO) Control Policy

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final policy.

SUMMARY: EPA has issued a national policy statement entitled "Combined Sewer Overflow (CSO) Control Policy." This policy establishes a consistent national approach for controlling discharges from CSOs to the Nation's waters through the National Pollutant Discharge Elimination System (NPDES) permit program.

FOR FURTHER INFORMATION CONTACT: Jeffrey Lape, Office of Wastewater Enforcement and Compliance, MC-4201, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 260-7361.

SUPPLEMENTARY INFORMATION: The main purposes of the CSO Control Policy are to elaborate on the Environmental Protection Agency's (EPA's) National CSO Control Strategy published on September 8, 1989, at 54 FR 37370, and to expedite compliance with the requirements of the Clean Water Act (CWA). While implementation of the 1989 Strategy has resulted in progress toward controlling CSOs, significant public health and water quality risks remain.

This Policy provides guidance to permittees with CSOs, NPDES authorities and State water quality standards au-

thorities on coordinating the planning, selection, and implementation of CSO controls that meet the requirements of the CWA and allow for public involvement during the decision-making process.

Contained in the Policy are provisions for developing appropriate, site-specific NPDES permit requirements for all combined sewer systems (CSS) that overflow as a result of wet weather events. For example, the Policy lays out two alternative approaches—the "demonstration" and the "presumption" approaches—that provide communities with targets for CSO controls that achieve compliance with the Act, particularly protection of water quality and designated uses. The Policy also includes enforcement initiatives to require the immediate elimination of overflows that occur during dry weather and to ensure that the remaining CWA requirements are complied with as soon as practicable.

The permitting provisions of the Policy were developed as a result of extensive input received from key stakeholders during a negotiated policy dialogue. The CSO stakeholders included representatives from States, environmental groups, municipal organizations and others. The negotiated dialogue was conducted during the Summer of 1992 by the Office of Water and the Office of Water's Management Advisory Group. The enforcement initiatives, including one which is underway to address CSOs during dry weather, were developed by EPA's Office of Water and Office of Enforcement.

EPA issued a Notice of Availability on the draft CSO Control Policy on January 19, 1993, (58 FR 4994) and requested comments on the draft Policy by March 22, 1993. Approximately forty-one sets of written comments were submitted by a variety of interest groups including cities and municipal groups, environmental groups, States, professional organizations and others. All comments were considered as EPA prepared the Final Policy. The public comments were largely supportive of the draft Policy. EPA received broad endorsement of and support for the key principles and provisions from most commenters. Thus, this final Policy does not include significant changes to the major provisions of the draft Policy, but rather, it includes clarification and better explanation of the elements of the Policy to address several of the questions that were raised in the comments. Persons wishing to obtain copies of the public comments or EPA's summary analysis of the comments may write or call the EPA contact person.

The CSO Policy represents a comprehensive national strategy to ensure that municipalities, permitting authorities, water quality standards authorities and the public engage in a comprehensive and coordinated planning effort to achieve cost effective CSO controls that ultimately meet appropriate health and environmental objectives. The Policy recognizes the site-specific nature of CSOs and their impacts and provides the necessary flexibility to tailor controls to local situations. Major elements of the Policy ensure that CSO controls are cost effective and meet the objectives and requirements of the CWA.

The major provisions of the Policy are as follows.

CSO permittees should immediately undertake a process to accurately characterize their CSS and CSO discharges, demonstrate implementation of minimum technology-based controls identified in the Policy, and develop long-term CSO control plans which evaluate alternatives for attaining compliance with the CWA, including compliance with water quality standards and protection of designated uses. Once the long-term CSO control plans are completed, permittees will be responsible to implement the plans' recommendations as soon as practicable.

State water quality standards authorities will be involved in the long-term CSO control planning effort as well. The water quality standards authorities will help ensure that development of the CSO permittees' long-term CSO control plans are coordinated with the review and possible revision of water quality standards on CSO-impacted waters.

NPDES authorities will issue/reissue or modify permits, as appropriate, to require compliance with the technology-based and water quality-based requirements of the CWA. After completion of the long-term CSO control plan, NPDES permits will be reissued or modified to incorporate the additional requirements specified in the Policy, such as performance standards for the selected controls based on average design conditions, a post-construction water quality assessment program, monitoring for compliance with water quality standards, and a reopener clause authorizing the NPDES authority to reopen and modify the permit if it is determined that the CSO controls fail to meet water quality standards or protect designated uses. NPDES authorities should commence enforcement actions against permittees that have CWA violations due to CSO discharges during dry weather. In addition, NPDES authorities should ensure the implementation of the minimum technology-based controls and incorporate a schedule into an appropriate enforceable mechanism, with appropriate milestone dates, to implement the required long-term CSO control plan. Schedules for implementation of the long-term CSO control plan may be phased based on the relative importance of adverse impacts upon water quality standards and designated uses, and on a permittee's financial capability.

EPA is developing extensive guidance to support the Policy and will announce the availability of the guidances and other outreach efforts through various means, as they become available. For example, EPA is preparing guidance on the nine minimum controls, characterization and monitoring of CSOs, development of long-term CSO control plans, and financial capability.

Permittees will be expected to comply with any existing CSO-related requirements in NPDES permits, consent decrees or court orders unless revised to be consistent with this Policy.

The policy is organized as follows:

- I. Introduction
 - A. Purpose and Principles
 - B. Application of Policy
 - C. Effect on Current CSO Control Efforts
 - D. Small System Considerations
 - E. Implementation Responsibilities
 - F. Policy Development
- II. EPA Objectives for Permittees
 - A. Overview
 - B. Implementation of the Nine Minimum Controls
 - C. Long-Term CSO Control Plan
 - 1. Characterization, Monitoring, and Modeling of the Combined Sewer Systems
 - 2. Public Participation
 - 3. Consideration of Sensitive Areas
 - 4. Evaluation of Alternatives
 - 5. Cost/Performance Consideration
 - 6. Operational Plan
 - 7. Maximizing Treatment at the Existing POTW Treatment Plant
 - 8. Implementation Schedule
 - 9. Post-Construction Compliance Monitoring Program
- III. Coordination With State Water Quality Standards
 - A. Overview
 - B. Water Quality Standards Reviews
- IV. Expectations for Permitting Authorities
 - A. Overview
 - B. NPDES Permit Requirements
 - 1. Phase I Permits—Requirements for Demonstration of the Nine Minimum Controls and Development of the Long-Term CSO Control Plan
 - 2. Phase II Permits—Requirements for Implementation of a Long-Term CSO Control Plan
 - 3. Phasing Considerations
- V. Enforcement and Compliance
 - A. Overview
 - B. Enforcement of CSO Dry Weather Discharge Prohibition
 - C. Enforcement of Wet Weather CSO Requirements
 - 1. Enforcement for Compliance With Phase I Permits
 - 2. Enforcement for Compliance With Phase II Permits
 - D. Penalties

List of Subjects in 40 CFR Part 122

Water pollution control

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq*

Dated: April 8, 1994

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Combined Sewer Overflow (CSO) Control Policy

I. Introduction

A. Purpose and Principles

The main purposes of this Policy are to elaborate on EPA's National Combined Sewer Overflow (CSO) Control Strategy published on September 8, 1989 at 54 FR 37370 (1989 Strategy) and to expedite compliance with the requirements of the Clean Water Act (CWA). While implementation of the 1989 Strategy has resulted in progress toward controlling CSOs, significant water quality risks remain.

(c) In lieu of the parameter BOD₅ and the levels of the effluent quality specified in (b) above, the parameter CBOD₅ may be substituted as follows:

1. The monthly average value shall not exceed 25 mg/L;
2. The weekly average value shall not exceed 40 mg/L; and
3. The monthly average value for percent removal shall not be less than 85 percent.

(d) Chemical oxygen demand (COD) or total organic carbon (TOC) may be substituted for BOD₅ or CBOD₅ when a long-term BOD₅ or CBOD₅:COD or BOD₅ or CBOD₅:TOC correlation is demonstrated whereby a permittee submits data which indicates that a different BOD₅ or CBOD₅:COD or BOD₅ or CBOD₅:TOC ratio would be more appropriate. In the absence of data to establish a long term correlation, the BOD₅:COD ratio shall be assumed to be 1:2 and the BOD₅:TOC ratio shall be assumed to be 1:1.

(e) The minimum level of effluent quality attainable by secondary treatment in terms of the parameter TSS, except as provided in N.J.A.C. 7:14A-12.3 is as follows:

1. The monthly average value shall not exceed 30 mg/L;
2. The weekly average value shall not exceed 45 mg/L; and
3. The monthly average value for percent removal shall not be less than 85 percent.

(f) The pH shall be maintained within the limits of 6.0 to 9.0 standard units unless the facility demonstrates that:

1. Inorganic chemicals are not added to the wastewater as part of the treatment process; and
2. Contributions from industrial sources do not cause the pH of the effluent to be less than 6.0 or greater than 9.0.

7:14A-12.3 Secondary treatment special considerations

(a) This section identifies special considerations applicable to effluent limitations for BOD₅ or CBOD₅ and TSS percentage removal or, for facilities receiving waste from certain industrial categories, relief in terms of less stringent BOD₅ or CBOD₅ and TSS concentration levels when the level of treatment required is more stringent than the minimum treatment requirements specified in N.J.A.C. 7:14A-12.2.

(b) For domestic treatment works receiving less concentrated influent wastewater from combined sewer systems during wet weather, the Department may remove, or impose a less stringent, BOD₅ or CBOD₅ and TSS percent removal requirement than specified in N.J.A.C. 7:14A-12.2(b)3, (c)3 or (e)3. For such treatment works, any attainable percentage removal level shall be defined on a case-by-case basis.

(c) For domestic treatment works receiving less concentrated influent wastewater from combined sewer systems during dry weather, the Department shall remove, or impose a less stringent, BOD₅ or CBOD₅ and TSS percent removal requirement than specified in N.J.A.C. 7:14A-12.2(b)3, (c)3 or (e)3 if the permittee satisfactorily demonstrates that:

1. The treatment works is consistently meeting, or will consistently meet its permit effluent concentration limits, but the percent removal requirements cannot be met due to less concentrated influent wastewater. In such case an applicant shall demonstrate compliance with effluent limitations consistently achievable through proper operation and maintenance, as defined in N.J.A.C. 7:14A-1.2;

2. To meet the percent removal requirements, the treatment works would have to achieve significantly more stringent effluent limitations, as defined in N.J.A.C. 7:14A-1.2, than would otherwise be required by the concentration-based standards and associated loadings; and

3. The less concentrated influent wastewater does not result from either excessive infiltration or clear water industrial discharges (for example, non-contact cooling water discharges or other discharges which do not contain pollutants in sufficient quantities to otherwise be of concern) during dry weather periods. If the less concentrated influent wastewater is the result of clear water industrial discharges, then the treatment works must control such discharges in accordance with 40 CFR 403.

(d) For domestic treatment works receiving less concentrated influent wastewater from a separate sewer system, the Department shall remove, or impose a less stringent, BOD₅ or CBOD₅ and TSS percent removal requirement than specified in N.J.A.C. 7:14A-12.2(b)3, (c)3 or (e)3, if the permittee satisfactorily demonstrates that:

1. The treatment works is consistently meeting, or will consistently meet, its permit effluent concentration limits but the percent removal requirements cannot be met due to less concentrated influent wastewater. In such case an applicant shall demonstrate compliance with effluent limitations consistently achievable through proper operations and maintenance as defined in N.J.A.C. 7:14A-1.2;

2. To meet the percent removal requirements, the treatment works would have to achieve significantly more stringent limitations as defined in N.J.A.C. 7:14A-1.2, than would otherwise be required by the concentration-based standards; and

3. The less concentrated influent wastewater is not the result of excessive inflow/infiltration.

(e) For domestic treatment works receiving industrial waste from certain industrial categories, the average monthly values for BOD₅, or CBOD₅ and TSS specified in N.J.A.C. 7:14A-12.2(b)1, (c)1 or (e)1 shall be made less stringent provided that:

1. The permitted discharge of BOD₅ or CBOD₅ and TSS from the domestic treatment works, attributable to the industrial category, would not be greater than that which would be permitted under sections 301(b)(1)(A)(i), 301(b)(2)(E) or 306 of the Federal Act if such industrial category were to discharge directly to surface water; and

2. The flow or loading for BOD₅ or CBOD₅ and TSS introduced to the domestic treatment works by the industrial category exceeds 10 percent of the design flow or loading of the domestic treatment works. When such an adjustment is made, the weekly average value for BOD₅ or CBOD₅ and TSS specified in N.J.A.C. 7:14A-12.2(b)2, (c)2 or (e)2 shall be adjusted proportionately.

(f) When requesting special consideration for any of the discharges described in (b), (c) and (d) above, an applicant shall submit, as part of the request, all demonstrations specified in the applicable subsection and, in addition, the following:

1. The BOD₅, or CBOD₅, and TSS percent removal requested, as applicable, and whether the request is for seasonal or year round relief;

2. If the discharge is also regulated by another regulatory agency (for example, Delaware River Basin Commission, Interstate Sanitation Commission, a brief written statement from that regulatory agency that the agency has no objection to the request for special consideration;

3. At a minimum, 24 consecutive months of influent and effluent data sampled at monthly intervals for BOD₅ or CBOD₅ and TSS concentration, as well as percentage removal, presented in summary form unless the Department determines otherwise. Pollutant data for BOD₅ or CBOD₅ and TSS shall be sampled in accordance with the methods and procedures described in the applicable permit. Data collected during periods of upsets, bypasses, operational errors or other unusual conditions shall be excluded. The data shall contain, at a minimum, the following information:

i. The parameter value in mg/L for influent (concentration only) and effluent (concentration and percent removal);

ii. The date on which each sample was taken;

iii. The effluent flow at time of each sample;

iv. The weather conditions at time of each sampling (for example, raining or dry);

v. The total population served; and

vi. The total amount of flow attributable to major industrial and commercial users contributing greater than 50,000 gallons per day each;

4. All permit limit exceedences;

5. For combined sewer systems only, the number of combined sewer overflow points and an estimation, with basis, of what percentage of the total collection system is combined; and

6. Any other data that the Department deems appropriate to make an accurate determination on the merits of the request.

(g) When requesting special consideration for the discharge under (e) above, an applicant shall submit all applicable demonstrations specified in (e)1 and 2 above, and, in addition, the following:

1. If the discharge is also regulated by another regulatory agency (for example, Delaware River Basin Commission, Interstate Sanitation Commission), a brief written statement from that regulatory agency that the agency has no objection to the request for special consideration;

2. The adjustment requested; and

3. Any other data that the Department deems appropriate to make an accurate determination on the merits of the request.

(h) The following domestic treatment works are not eligible to request special consideration under this section:

1. Any domestic treatment works which cannot provide satisfactory demonstrations as required pursuant to (b) through (e) above, as applicable; and

2. Any domestic treatment works subject to the requirements of another regulatory agency (for example, Delaware River Basin Commission, Interstate Sanitation Commission) that has not received a written statement from that agency that it has no objection to the request.

7:14A-12.4 Minimum BOD₅ effluent standards

(a) For direct discharges to surface water for which BOD₅ or CBOD₅ water quality based effluent limitations based upon water quality studies acceptable to the Department have not been developed but are required under N.J.A.C. 7:9B-1.5 or 1.6, the minimum treatment requirements for BOD₅ specified in (b) below shall apply except when more stringent effluent limitations are required by:

1. Section 301 or 306 of the Federal Act;

2. The Delaware River Basin Commission or the Interstate Sanitation Commission, as applicable.

(b) The minimum BOD₅ treatment requirements are as listed in the following table:

Watershed Type	Receiving Water Classification	BOD ₅ Maximum (Monthly/ Weekly Avg.)	Discharge
Atlantic Coastal Plain	FW2, SE1 SC	15/22.5 mg/L 30/45 mg/L	All Domestic or Domestic combined with industrial All
Delaware River Basin	Tributaries classified as	25/37.5 mg/L	

Watershed Type	Receiving Water Classification	BOD ₅ Maximum (Monthly/ Weekly Avg.)	Discharge
	FW2, SE1, SE2 Main stem, all zones	As set forth in the Water Quality Standards for the Delaware River Basin; Resolution 67-7 of the DRBC; April 26, 1967 and subsequent revisions	All
Hackensack River Basin	FW2, SE1, SE2, SE3	30/45 mg/L	All
Passaic River Basin (including Newark Bay)	FW2, SE2, SE3	25/37.5 mg/L 30/45 mg/L	All All
Wallkill River Basin	FW2	15/22.5 mg/L	All

(c) In applying the minimum treatment requirements contained in (b) above, the following substitutions may be made:

1. For industrial treatment works, TOC or COD may be substituted for BOD₅ when a long-term BOD₅:COD or BOD₅:TOC correlation has been demonstrated. In the absence of data to establish a long term correlation, the BOD₅:COD ratio shall be assumed to be 1:2 and the BOD₅:TOC ratio shall be assumed to be 1:1. If subsequent data are submitted which indicate that a different BOD₅:COD or BOD₅:TOC ratio would be more appropriate, a written request shall be submitted to the Department; and

2. For industrial or domestic treatment works, CBOD₅ may be substituted for BOD₅ as follows:

i. With prior approval of each regulatory agency with jurisdiction over the discharge, when applicable, if the effluent standard for BOD₅ is $30/45$ mg/L, a CBOD₅ effluent standard of $25/40$ mg/L, as allowed for in N.J.A.C. 7:14A-12.2(c)1 and 2, may be substituted; or

ii. With prior approval of each regulatory agency with jurisdiction over the discharge, when applicable, if the effluent standard for BOD₅ is other than $30/45$ mg/L, CBOD₅ may be substituted for BOD₅ when a long term BOD₅:CBOD₅ correlation has been demonstrated. When a request for a substitution of CBOD₅ for BOD₅ is made, the applicant shall submit data demonstrating the appropriate BOD₅:CBOD₅ correlation. The correlation demonstration shall consist of a minimum of 12 BOD₅ and CBOD₅ analyses of split samples obtained at a frequency of twice per month, subject to the following restrictions:

(1) For limitations applicable year round, or for limitations applicable during warm weather (for example, May through October), the samples shall be obtained during the months of May through October.

(2) For limitations applicable during cold weather (for example, November through April), the samples shall be obtained during the months of November through April.

(3) The monthly and weekly BOD₅ effluent limitations shall be recalculated as CBOD₅ monthly and weekly effluent limitations using the approved correlation factor.

(d) Direct discharges to surface water from industrial treatment works shall be exempt from the minimum BOD₅ effluent standards in (b) above, when:

i. Statistically valid data indicate that the maximum projected BOD₅ concentration is consistently below the applicable effluent standard; or

ii. The Department determines that, based on wastewater generating activities, no potential exists for the discharge to add BOD₅, COD or TOC.

7:14A-12.5 Disinfection

(a) All wastewater that could contain pathogenic organisms such as fecal coliform and/or enterococci organisms shall be subject to continuous year round disinfection prior to discharge into surface waters.

(b) The State effluent standard for fecal coliform organisms is as follows:

1. The monthly geometric mean shall not exceed 200 colonies/100 mL; and

2. The weekly geometric mean shall not exceed 400 colonies/100 mL.

7:14A-12.6 Foam

(a) DSW dischargers are prohibited from discharging foam or causing foaming of the receiving water that:

1. Forms objectionable deposits on the receiving water;
2. Forms floating masses producing a nuisance;
3. Produces objectionable color or odor; or
4. Interferes with a designated use of the waterbody.

(b) Foaming of the receiving waterbody caused by natural conditions shall not be considered a violation of the standard in (a) above.

(c) For discharges with submerged outfalls, the Department may take into consideration the location, depth and the dispersion characteristics of the discharge in deciding whether or not to include the provisions of (a) above in the permit.

7:14A-12.7 Phosphorus effluent standards (Reserved)

7:14A-12.8 Oil and grease effluent standards

(a) The requirements of this section, N.J.A.C. 7:14A-12.9 and 12.10 apply to direct discharges of oil and grease to surface water, and indirect discharges of petroleum based oil and grease to a domestic treatment works, except as specifically exempted in N.J.A.C. 7:14A-12.10. Indirect users

shall comply with any local agency standards for nonpetroleum based oil and grease.

(b) (Reserved)

(c) Direct dischargers to surface waters shall limit the oil and grease effluent content so that such effluent does not:

1. Exhibit a visible sheen;
2. Exceed an average monthly discharge limitation of 10 mg/L; and
3. Exceed a concentration of 15 mg/L in any single sample.

(d) Indirect users discharging petroleum based oil and grease shall meet the following petroleum hydrocarbon effluent standards except where the control authority has determined that more stringent effluent limitations apply:

1. The average monthly discharge limitation shall not exceed 100 mg/L; and
2. The concentration in any single sample shall not exceed 150 mg/L.

(e) (Reserved)

(f) If a direct discharger only discharges petroleum based oil and grease, the Department may specify in the permit that compliance with the oil and grease effluent standards in (c) above may be monitored using the petroleum hydrocarbons analytical method.

7:14A-12.9 (Reserved)

7:14A-12.10 Petroleum hydrocarbon exemptions

(a) Indirect users shall be exempted from the petroleum hydrocarbon standards specified at N.J.A.C. 7:14A-12.8(d), provided the following requirements are met:

1. The DTW into which the indirect user discharges submits a request for the exemption indicating it meets all of the following criteria:

- i. The discharge from the domestic treatment works has met a 10 mg/L average and 15 mg/L maximum limitation for oil and grease for each of the reporting periods during the preceding 12 months, as determined by the Department;
- ii. The sludge disposal option currently utilized or planned by the domestic treatment works considers petroleum hydrocarbons a beneficial constituent; and
- iii. The DTW shows that the costs for oil and grease removal at its plant are in proportion to the other operation and maintenance costs of the plant.

2. The Department shall have 90 days to review the request for the exemption and make a tentative decision to approve or deny the request. If additional information from the applicant is required, the 90 day period may be extended. The Department shall public notice the tentative decision.

7:14A-12.11 Toxic effluent standards

(a) (Reserved)

(b) (Reserved)

(c) (Reserved)

(d) For discharges to surface water from site remediation projects, the chemical specific toxic pollutant effluent standards are set forth in N.J.A.C. 7:14A-12 Appendix B, incorporated herein by reference.

(e) For new sources, new discharges or expanded direct discharges to surface water, the chemical specific toxic pollutant effluent standards are set forth in N.J.A.C. 7:14A-12 Appendix C, incorporated herein by reference.

APPENDIX A (RESERVED)

APPENDIX B

EFFLUENT STANDARDS FOR SITE REMEDIATION PROJECTS

Parameter	Effluent Standards			
	FW-2 Waters		SC, SE Waters	
	<u>monthly average</u>	<u>daily maximum</u>	<u>monthly average</u>	<u>daily maximum</u>
Volatile Compounds				
Acrolein		100		100
Acrylonitrile		50		50
Benzene		7	37	136
Bromoform		8.6	29	58
Carbon Tetrachloride		6	8.8	
Chlorobenzene	15	28	15	28
Chlorodibromomethane		8.2		14
Chloroethane	104	268	104	268

Parameter	Effluent Standards			
	FW-2 Waters		SC, SE Waters	
	monthly average	daily maximum	monthly average	daily maximum
Chloroform		11.4	21	46
Dichlorobromomethane		5		12
1,1-Dichloroethane	22	59	22	59
1,2-Dichloroethane		3	68	211
1,1-Dichloroethylene		6	16	25
1,2-Dichloropropane	153	230	153	230
1,3-Dichloropropylene	10	20	29	44
Ethylbenzene	32	108	32	108
Methyl Bromide	20	40	20	40
Methyl Chloride	86	190	86	190
Methylene Chloride		9.4	40	89
1,1,2,2-Tetrachloroethane		10		10
Tetrachloroethylene		16	22	56
Toluene	26	80	26	80
1,2-Trans-Dichloroethylene	21	54	21	54
1,1,1-Trichloroethane	21	54	21	54
1,1,2-Trichloroethane		12	21	54
Trichloroethylene		5.4	21	54
Vinyl Chloride		10	104	268
Acid Compounds				
2-Chlorophenol	31	98	31	98
2,4-Dichlorophenol	39	112	39	112
2,4-Dimethylphenol	18	36	18	36
4,6-Dinitro-O-Cresol		60	78	277
2,4-Dinitrophenol	71	123	71	123
2-Nitrophenol	41	69	41	69
4-Nitrophenol	72	124	72	124
Pentachlorophenol		30		30
Phenol	15	26	15	26
2,4,6-Trichlorophenol		20		20
Base Neutral Compounds				
Anthracene	22	59	22	59
Benzidine		50		50
Benzo (a) Anthracene		10		10
Benzo (a) Pyrene		20		20
Benzo(b)fluoranthene		10		10
Benzo (k) Fluoranthene		20		20
Bis (2-Chloroethyl) Ether		10		10
Bis (2-Chloroisopropyl) Ether	301	757	301	757
Bis (2-Ethylhexyl) Phthalate		36	59	118
Butyl Benzyl Phthalate		24		24
Chrysene		20		20
Dibenzo (a,h) Anthracene		20		20
1,2-Dichlorobenzene	77	163	77	163
1,3-Dichlorobenzene	31	44	31	44
1,4-Dichlorobenzene		28		28
3,3'-Dichlorobenzidine		60		60
Diethyl Phthalate	81	203	81	203
Dimethyl Phthalate	19	47	19	47
Di-N-Butyl Phthalate	27	57	27	57
2,4 Dinitrotoluene		10		18.2
2,6-Dinitrotoluene	255	641	255	641
Fluoranthene	25	68	25	68
Fluorene	22	59	22	59
Hexachlorobenzene		10		10
Hexachlorobutadiene		10	20	49
Hexachlorocyclopentadiene	240	480		1800
Hexachloroethane	19	38	21	54
Indeno (1,2,3-cd) Pyrene		20		20
Isophorone		20		20
Naphthalene	22	59	22	59
Nitrobenzene	17	34	27	68

Parameter	Effluent Standards			
	FW-2 Waters		SC, SE Waters	
	monthly average	daily maximum	monthly average	daily maximum
N-Nitrosodimethylamine		20		20
N-Nitrosodiphenylamine		20		20
Phenanthrene	22	59	22	59
Pyrene	25	67	25	67
1,2,4-Trichlorobenzene	68	140	68	140
Pesticides				
Aldrin		0.04		0.04
Alpha-BHC		0.02		0.02
Beta-BHC	0.137	0.274	0.46	0.92
Gamma-BHC (Lindane)		0.08		0.03
Chlordane		0.2		0.2
4,4'-DDT ²		0.06		0.06
4,4'-DDE ²		0.04		0.04
4,4'-DDD ²		0.04		0.04
Dieldrin ²		0.03		0.03
Alpha-Endosulfan		0.02		0.02
Beta-Endosulfan		0.04		0.04
Endosulfan Sulfate	0.93	1.86	2	4
Endrin ³		0.04		0.04
Endrin Aldehyde	0.76	1.52	0.81	1.62
Heptachlor		0.02		0.02
Heptachlor Epoxide		0.4		0.4
Toxaphene ³		1		1
Metals and Cyanide				
Arsenic	50	100	50	100
Cadmium	50	100	50	100
Chromium	50	100	50	100
Copper	50	100	50	100
Iron	1000	2000	1000	2000
Lead	50	100	50	100
Mercury		1		1
Nickel	72	144	50	100
Selenium	50	100	50	100
Silver	25	50	25	50
Zinc	100	200	100	200
Cyanide	100	200	100	200
Dioxin				
2,3,7,8-Tetrachlorodibenzo-p-Dioxin		0.01		0.01
PCBs ²				
PCBs-1242, 1254, 1221, 1232, 1248, 1260, 1016		0.5		0.5
all units in µg/L				

1—for manufacturers: 10 µg/L daily maximum and 50 µg/L instantaneous maximum for applicators: 10 µg/L daily maximum and 25 µg/L instantaneous maximum

2—for manufacturers and formulators—discharge prohibited

3—for manufacturers: 1.5 µg/L daily maximum, 7.5 µg/L instantaneous maximum for formulators: discharge prohibited

APPENDIX C

EFFLUENT STANDARDS FOR NEW SOURCES, NEW DISCHARGES OR EXPANDED DIRECT DISCHARGES

Parameter	Facility Flow < 7Q 10 & Large Tidal				Facility Flow > 7Q 10 & Small Tidal			
	FW2 Waters		SE, SC Waters		FW2 Waters		SE, SC Waters	
	monthly average	daily maximum	monthly average	daily maximum	monthly average	daily maximum	monthly average	daily maximum
Volatile Compounds								
Acrolein		100		100		100		100
Acrylonitrile		50		50		50		50
Benzene		24	37	136		7	37	136
Bromoform	29	58	29	58		8.6	29	58
Carbon Tetrachloride		6	18	38		6		8.8

Parameter	Facility Flow < 7Q 10 & Large Tidal FW2 Waters				Facility Flow > 7Q 10 & Small Tidal FW2 Waters			
	monthly average	daily maximum	monthly average	daily maximum	monthly average	daily maximum	monthly average	daily maximum
Chlorobenzene	15	28	15	28	15	28	15	28
Chlorodibromomethane		14		14		8.2		14
Chloroethane	104	268	104	268	104	268	104	268
Chloroform	21	46	21	46		11.4	21	46
Dichlorobromomethane		5.4		12		5		12
1,1-Dichloroethane	22	59	22	59	22	59	22	59
1,2-Dichloroethane		7.6	68	211		3	68	211
1,1-Dichloroethylene	16	11.4	16	25		6	16	25
1,2-Dichloropropane	153	230	153	230	153	230	153	230
1,3-Dichloropropene	29	44	29	44		20	29	44
Ethylbenzene	32	108	32	108	32	108	32	108
Methyl Bromide	20	40	20	40	20	40	20	40
Methyl Chloride	86	190	86	190	86	190	86	190
Methylene Chloride	40	89	40	89		9.4	40	89
1,1,2,2-Tetrachloroethane		10		10		10		10
Tetrachloroethylene	22	56	22	56		16	22	56
Toluene	26	80	26	80	26	80	26	80
1,2-Trans-Dichloroethylene	21	54	21	54	21	54	21	54
1,1,1-Trichloroethane	21	54	21	54	21	54	21	54
1,1,2-Trichloroethane	21	54	21	54		12	21	54
Trichloroethylene	21	54	21	54		5.4	21	54
Vinyl Chloride	20	40	104	268		10	104	268
Acid Compounds								
2-Chlorophenol	31	98	31	98	31	98	31	98
2,4-Dichlorophenol	39	112	39	112	39	112	39	112
2,4-Dimethylphenol	18	36	18	36	18	36	18	36
4,6-Dinitro-O-Cresol	78	277	78	277		60	78	277
2,4-Dinitrophenol	71	123	71	123	71	123	71	123
2-Nitrophenol	41	69	41	69	41	69	41	69
4-Nitrophenol	72	124	72	124	72	124	72	124
Pentachlorophenol		30		30		30		30
Phenol	15	26	15	26	15	26	15	26
2,4,6-Trichlorophenol		42	65	130		20		20
Base Neutral Compounds								
Anthracene	22	59	22	59	22	59	22	59
Benidine ¹		50		50		50		50
Benzo (a) Anthracene		10		10		10		10
Benzo (a) Pyrene		20		20		20		20
Benzo(b)fluoranthene		10		10		10		10
Benzo (k) Fluoranthene		20		20		20		20
Bis (2-Chloroethyl) Ether		10	14	28		10		10
Bis (2-Chloroisopropyl) Ether	301	757	301	757	301	757	301	757
Bis (2-Ethylhexyl) Phthalate	103	279	103	279		36	59	118
Butyl Benzyl Phthalate		24		24		24		24
Chrysene		20		20		20		20
Dibenzo (a,h) Anthracene		20		20		20		20
1,2-Dichlorobenzene	77	163	77	163	77	163	77	163
1,3-Dichlorobenzene	31	44	31	44	31	44	31	44
1,4-Dichlorobenzene		28		28		28		28
3,3'-Dichlorobenzidine		60	60		60		60	
Diethyl Phthalate	81	203	81	203	81	203	81	203
Dimethyl Phthalate	19	47	19	47	19	47	19	47
Di-N-Butyl Phthalate	27	57	27	57	27	57	27	57
2,4 Dinitrotoluene		10	91	182		10		18.2
2,6-Dinitrotoluene	255	641	255	641	255	641	255	641
1,2-Diphenylhydrazine (as Azobenzene)	0.4	0.8	5.4	10.8	0.04	0.08	0.54	1.08
Fluoranthene	25	68	25	68	25	68	25	68
Fluorene	22	59	22	59	22	59	22	59
Hexachlorobenzene		10		10		10		10
Hexachlorobutadiene	20	49	20	49		10	20	49
Hexachlorocyclopentadiene		1800		1800	240	480		1800
Hexachloroethane	21	54	21	54	19	38	21	54
Indeno (1,2,3-cd) Pyrene		20		20		20		20
Isophorone		20		20		20		20
Naphthalene	22	59	22	59	22	59	22	59
Nitrobenzene	27	68	27	68	17	34	27	68
N-Nitrosodimethylamine		20	73	146		20		20
N-Nitrosodiphenylamine		20		20		20		20

Parameter	Facility Flow < 7Q 10 & Large Tidal FW2 Waters SE, SC Waters				Facility Flow > 7Q 10 & Small Tidal FW2 Waters SE, SC Waters			
	monthly average	daily maximum	monthly average	daily maximum	monthly average	daily maximum	monthly average	daily maximum
Phenanthrene	22	59	22	59	22	59	22	59
Pyrene	25	67	25	67	25	67	25	67
1,2,4-Trichlorobenzene	68	140	68	140	68	140	68	140
Pesticides								
Aldrin ²		0.04		0.04		0.04		0.04
Alpha-BHC	0.0391	0.0782	0.131	0.262		0.02		0.026
Beta-BHC	1.4	2.8	4.6	9.2		0.28	0.46	0.92
Gamma-BHC (Lindane)		0.38		0.32		0.037		0.125
Chlordane		0.2		0.2		0.2		0.2
4,4'-DDT 2		0.06		0.06		0.06		0.06
4,4'-DDE 2		0.04		0.04		0.04		0.04
4,4'-DDD 2		0.04		0.04		0.04		0.04
Dieldrin 2		0.03		0.03		0.03		0.03
Alpha-Endosulfan	0.22	0.44		0.068		0.092		0.02
Beta-Endosulfan	0.22	0.44		0.068		0.092		0.02
Endosulfan Sulfate	9.3	18.6	20	40	0.93	1.86	2	4
Endrin ³		0.04		0.04		0.04		0.04
Endrin Aldehyde	7.6	15.2	8.1	16.2		1.52		1.62
Heptachlor		0.02		0.02		0.02		0.02
Heptachlor Epoxide		0.4		0.4		0.4		0.4
Toxaphene ³		1		1		1		1
Metals								
Antimony	140	280				28		
Arsenic		8		8		8		8
Cadmium		4	43	86		4		15.2
Chromium, hexavalent	50	100	50	100	50	100	50	100
Chromium, total		32	409	818		16	41	82
Copper		18.4		10		10		10
Iron	1500	3000	1500	3000	1500	3000	1500	3000
Lead		21	69.5	139		10		13.9
Mercury		1		1		1		1
Nickel	720	1440	67.9	136	72	144		13.6
Selenium	20	40	300	600		10		
Silver		2.4		4.6		2		2
Thallium	17	34	62.2	124.4		10		12.4
Zinc	65	130	95	190		65	47.5	95
Cyanide		44		40		40		40
Total PCB's ²		0.5		0.5		0.5		0.5
Dioxin								
2,3,7,8-Tetrachlorodibenzo-p-Dioxin		0.01		0.01		0.01		0.01
Whole Effluent Chronic IC ₂₅ (% effluent)		> = 50		> = 50		> = 100		> = 100
all units in µg/L								

1—for manufacturers: 10 µg/L daily maximum and 50 µg/L instantaneous maximum for applicators: 10 µg/L daily maximum and 25 µg/L instantaneous maximum

2—for manufacturers and formulators—discharge prohibited

3—for manufacturers: 0.1 µg/L daily maximum, 0.5 µg/L instantaneous maximum for formulators: discharge prohibited

SUBCHAPTER 13. EFFLUENT LIMITATIONS FOR DSW PERMITS

7:14A-13.1 Purpose and scope

This subchapter sets forth the procedures the Department will use in imposing numeric or non-numeric effluent limitations in DSW permits.

7:14A-13.2 Types of effluent limitations

(a) Each DSW permit shall include conditions meeting the following requirements, as applicable:

1. Technology based limitations determined in accordance with N.J.A.C. 7:14A-13.3 and 13.4. Technology based limitations include secondary treatment standards for DTWs, effluent limitations guidelines, and case-by-case limitations developed through a best professional judgment analysis. Applicability criteria are at N.J.A.C. 7:14A-13.3(b);

i. For DTWs, effluent limitations based on secondary treatment as defined at 40 CFR 133 and incorporated into N.J.A.C. 7:14A-12;

ii. For dischargers other than DTWs, effluent limits requiring:

(1) Effluent limitations based on the best practicable control technology currently available (BPT);

7:14A-13.5 Determination of the reasonable potential to cause an excursion above the SWQS as a basis for requiring inclusion of water quality based effluent limitations

(a) Water quality based effluent limitations shall control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants, including whole effluent toxicity) which are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above the Surface Water Quality Standards.

(b) When determining whether a discharge causes, has the reasonable potential to cause, or contributes to an instream excursion above any Surface Water Quality Standard the Department shall evaluate and consider existing controls on point and nonpoint sources of pollution, the variability of the pollutant or pollutant parameter in the effluent, the sensitivity of the test species to toxicity testing (when evaluating whole effluent toxicity), and, where appropriate, the available dilution of the effluent in the receiving water.

(c) The dilution of the effluent in the receiving water shall be determined in accordance with N.J.A.C. 7:9B-1.5(c)4.

(d) A separate determination of reasonable potential shall be made for each pollutant or pollutant parameter of interest (either conventional, nonconventional, or toxic pollutants, including acute and chronic whole effluent toxicity) that is or may be discharged from the facility. These determinations shall be based on a WLA or site specific allocation.

(e) The discharge shall be determined to cause an excursion above the Surface Water Quality Standards if the maximum reported effluent concentration, considering the criteria averaging period, for the pollutant of interest is greater than the WLA or the site specific allocation for that pollutant.

(f) The discharge shall be determined to contribute to an excursion above the Surface Water Quality Standards if the maximum reported effluent concentration, considering the criteria averaging period, for the pollutant of interest when considered collectively with other discharges to the receiving water is greater than the WLA determined for that pollutant.

(g) The discharge shall be determined to have the reasonable potential to cause an excursion above the Surface Water Quality Standards if the maximum projected effluent concentration is greater than the WLA or site specific allocation determined for that discharge for that pollutant or pollutant parameter. The maximum projected effluent concentration shall be calculated in accordance with the USEPA TSD, as amended and/or supplemented, unless the permittee demonstrates for a given pollutant of interest that

none of the methods in the TSD are applicable and that an alternative statistical method more accurately estimates the maximum projected effluent concentration.

(h) Where an effluent concentration is directly caused by a documented facility upset, or other unusual event which has been identified and appropriately remedied by the permittee, data collected during the period of upset may be eliminated when making a determination of reasonable potential. Data no longer representative of effluent quality because of process modification or pollution prevention activities undertaken shall not be used when making a determination of reasonable potential.

(i) (Reserved)

(j) (Reserved)

(k) When the Department determines that a discharge does not cause, have reasonable potential to cause, or contribute to an excursion above the water quality standards for a specific pollutant or pollutant parameter, or that data are insufficient to make such a determination:

1. Except as specified in (k)1i through iii below, water quality based effluent limitations shall not be required for that pollutant or pollutant parameter.

i. Where the discharge is in compliance with an existing water quality based effluent limitation and the permittee provides treatment for the limited pollutant or pollutant parameter, the reissued permit shall include a water quality based effluent limitation for the affected pollutant or pollutant parameter unless the permittee demonstrates to the satisfaction of the Department that a water quality based limitation is no longer required and that the existing effluent quality is anticipated to be maintained.

ii. When the Department determines in accordance with (k)1i above that a water quality based effluent limitation is not required for the reissued permit, the fact sheet for the reissued permit shall include a summary of effluent data for the pollutant or pollutant parameter, a justification for eliminating the effluent limitation, and a determination that eliminating the effluent limitation is not anticipated to cause or contribute to an exceedance of the surface water quality standards.

iii. When the Department determines in accordance with (k)1i above that a water quality based effluent limitation is not required for the reissued permit, the discharge permit shall be reopened and modified to include water quality based effluent limitations if the effluent quality changes so as to cause, contribute, or have the reasonable potential to cause or contribute to an excursion above the Surface Water Quality Standards.

iv. The Department shall consider, at a minimum, the following factors when making a determination regarding reasonable potential for discharges with existing water quality based effluent limitations:

- (1) The permit compliance history for the facility, including the compliance history for the specific pollutant or pollutant parameter and any permit conditions related to the pollutant or pollutant parameter;
- (2) The reliability of the treatment process; and
- (3) The ratio between the permitted or actual effluent flow and the base flow of the receiving water;

2. Effluent limitations other than water quality based limitations may be required for the pollutant or pollutant parameter in accordance with N.J.A.C. 7:14A-13.3; and

3. The Department may determine that monitoring for specific pollutant or pollutant parameters shall be included in the permit.

(l) When the Department is unable to determine for one or more pollutants or pollutant parameters of interest whether the discharge from a particular facility will cause, have the reasonable potential to cause, or contribute to an excursion above a Surface Water Quality Standard, the permit for that facility shall include effluent monitoring requirements for each pollutant or pollutant parameter where such a determination cannot be made. The discharge permit shall be reopened and modified to include water quality based effluent limitations if subsequent monitoring demonstrates that the discharge causes, contributes, or has the reasonable potential to cause or contribute to an excursion above the Surface Water Quality Standards.

(m) For a facility that discharges any pollutant which is present in the process intake water, the Department may, on a site specific basis, determine that the discharge does not cause, have reasonable potential to cause, or contribute to an excursion above the water quality standards in accordance with the following:

1. (Reserved)
2. (Reserved)
3. The discharge shall meet the following conditions:

i. The source for all of the intake water shall be the receiving water body. Hydrologically connected waterbodies may be determined to be the same waterbody if the water is completely mixed within a reasonable distance of the outfall location and if the chemical characteristics of the waterbodies are essentially identical. Chemical characteristics may be evaluated on a parameter by parameter basis. For discharges where the intake water is attributed to more than one source, this condition may be applied to the proportion of the intake water attributable to the receiving water or hydrologically connected waterbody;

ii. The discharge shall not contribute any additional mass of the pollutant of interest to the process intake water. This determination shall be based on a statistically rigorous analysis of intake water and outfall data that is representative of various operating conditions and influences over time and demonstrates that there is no significant difference at the 99th percent probability level between the intake concentrations and loadings and the outfall concentrations and loadings. For a DTW, this condition shall be deemed to be met if there is no significant difference at the 99th percent probability level between the intake concentrations and loadings of the public drinking water supply in the area served and the effluent concentrations and loadings. Where the source water is attributed to more than one water supply source, this condition may be applied to the proportion of the source water attributable to the receiving water or hydrologically connected waterbody;

iii. The discharger shall not chemically or physically alter the intake water to cause an adverse impact to the receiving stream for any pollutant of interest in the process intake water;

iv. The pollutant shall not accumulate at the outfall location or at the edge of the mixing zone in such a way as to increase the concentration of the pollutant. The Department may require submission of an acceptable mixing zone study to satisfy this requirement; and

v. The timing and/or location of the discharge shall not cause adverse impacts in the receiving waterbody that would not have occurred if the pollutant had remained in the waterbody.

4. The permit shall include the necessary monitoring conditions to ensure continuing compliance with the conditions listed in (m)3 above.

5. The discharge permit shall be reopened and modified to include water quality based effluent limitations if subsequent monitoring demonstrates that the discharge causes, contributes, or has the reasonable potential to cause or contribute to an excursion above the surface water quality standards at N.J.A.C. 7:9B.

6. The permit fact sheet shall include a description of the treatment process and specific reasons for making the determination that the discharge does not cause, have reasonable potential to cause or contribute to a excursion above the water quality standard for the pollutants or pollutant parameters subject to this subsection.

7. For any pollutant or pollutant parameter where the conditions listed in (m)3 above cannot be met, reasonable potential shall be determined in accordance with (d) through (k) above.

8. For site remediation projects, reasonable potential shall be determined in accordance with this subsection only for pollutants not subject to remediation.

7:14A-13.6 Calculation of water quality based limitations

(a) When the Department determines pursuant to N.J.A.C. 7:14A-13.5 that a discharge causes, has the reasonable potential to cause, or contributes to an excursion above a Surface Water Quality Standard, a water quality based effluent limitation for each pollutant or pollutant parameter including WET, shall be determined in accordance with the USEPA TSD, as amended and/or supplemented, unless the permittee demonstrates that none of the methods in the TSD are applicable and that an alternative method will result in a water quality based effluent limitation that ensures compliance with the Surface Water Quality Standards.

7:14A-13.7 Determination of water quality based effluent limitations based on narrative criteria

(a) Where the Department has not established a numerical water quality criterion for a specific chemical pollutant but has determined that such a pollutant is present in an effluent at a concentration that causes, has the reasonable potential to cause, or contributes to an excursion or potential excursion above a narrative criterion in the Surface Water Quality Standards, the Department shall:

1. Establish effluent limitations using a calculated numeric criterion utilizing the best available scientific information and developed in accordance with N.J.A.C. 7:9B-1.6(c)4iii; or

2. Establish effluent limitations on a surrogate parameter (for example, whole effluent toxicity) for the pollutant interest, in accordance with N.J.A.C. 7:14A-13.10, provided:

- i. The permit identifies which pollutants are intended to be controlled by the use of the effluent limitation;

- ii. The fact sheet sets forth the basis for the limit, including a finding that compliance with the effluent limit on the surrogate parameter will result in controls on the pollutant of concern which are sufficient to attain and maintain applicable Surface Water Quality Standards;

- iii. The permit requires the effluent and ambient monitoring necessary to show that during the term of the permit the limit on the surrogate parameter continues to attain and maintain applicable Surface Water Quality Standards; and

- iv. The permit shall be reopened and limitations on the base parameters included therein if the limits on the surrogate parameter no longer attain and maintain applicable Surface Water Quality Standards.

7:14A-13.8 Calculation of effluent limitations using existing effluent quality

(a) Effluent limitations based on existing effluent quality shall be calculated according to the following procedure:

1. The maximum projected effluent concentration shall be calculated in accordance with the statistical method contained in the USEPA TSD, as amended and/or supplemented, unless the permittee demonstrates that the method in the TSD is not applicable and that an alternative statistical method more accurately estimates the maximum projected effluent concentrations.

- i. The following conditions apply:

- (1) If at least 10 data points are available, a site specific coefficient of variation shall be determined.

- (2) If fewer than 10 data points are available, the permit shall require monitoring and include a reopener clause to include existing effluent quality limitations based on 10 or more data points.

- (3) The 95 percent confidence interval and the 95 percent probability basis shall be used.

- ii. Effluent data generated during a documented facility upset, or other unusual event which has been identified and appropriately remedied by the permittee, may be eliminated when determining effluent limitations based on existing effluent quality;

2. The maximum daily limitation shall be set equal to the maximum projected effluent concentration; and

3. The average monthly limitation shall be calculated from the maximum daily limitation according to the procedure described in N.J.A.C. 7:14A-13.6, using the sampling frequency required in the discharge permit. If the required sampling frequency is once per month or less, an average monthly limitation may be eliminated for that pollutant or pollutant parameter.

(b) Where an interim effluent limitation is required in accordance with N.J.A.C. 7:14A-13.11 for the time period prior to the effective date of a final effluent limitation, limitations reflecting existing effluent quality shall be calculated in accordance with (a) above.

7:14A-13.9 Seasonal effluent limitations

(a) Seasonal water quality based effluent limitations for continuous discharges may be developed in accordance with the following:

1. The permittee shall submit the necessary water quality studies that address any effects or potential effects on nutrient cycling and potential or actual adverse biological impacts in other waterbody segments related to nutrients.

2. The seasonal limitations shall be developed from a seasonal TMDL or a seasonal site specific allocation for the specific pollutant(s) or pollutant parameter(s) which addresses critical conditions applicable to each season for which an effluent limitation is requested.

3. Seasonal water quality based effluent limitations shall be developed only for the following parameters and

groups of parameters and only insofar as the warm weather limitations cannot be achieved due to decreases in biological treatment efficiency during cold weather:

- i. Parameters affecting dissolved oxygen dynamics in the receiving stream;
 - ii. Nutrients, including phosphorus and nitrogen; and
 - iii. Ammonia-N, to protect against toxic effects in the receiving water.
4. Except as specified at (a)5 below, seasonal water quality based effluent limitations shall be developed for two seasons in each year.
5. Seasonal WLAs or site specific allocations may be developed for shorter periods of time including more than two seasons, when the United States Geological Survey provides a reliable estimate of applicable stream design flows from a gauging station located in the vicinity of the discharge location.

7:14A-13.10 Surrogate effluent limitations

(a) Surrogate limitations may be included in a discharge permit in accordance with the following:

1. The permittee shall submit a written request to the Department which includes the specific parameter(s) to be used as a surrogate and specifically lists the base parameter(s) for which the surrogate parameter is requested;
2. The request shall include a detailed report demonstrating that the requested surrogate parameter is a reliable, precise and accurate surrogate. This report shall include, at a minimum, effluent data demonstrating the relationship, including the value(s) of the surrogate parameter(s) corresponding to the limitation(s) for the base parameter(s), between the proposed surrogate(s) and the parameters for which the surrogate is requested;
3. Where the Department approves the use of a surrogate, the fact sheet for the draft permit shall set forth the basis for the limit, including a finding that compliance with the effluent limit for the surrogate parameter shall result in controls on the pollutant of interest which are sufficient to attain the applicable effluent limitations. The permit shall identify which pollutants are intended to be controlled by the use of the surrogate limitation;
4. If the permit includes a limitation for the surrogate parameter(s) with a basis separate from the use of the parameter as a surrogate, the surrogate limitation(s) may be included in addition to any limitation for the surrogate parameter based on technology, water quality concerns, or effluent standards;

5. Where an effluent limitation is being imposed on a delegated local agency in accordance with N.J.S.A. 58:10A-7b(3) for categorical or other pollutants, the permittee may request the use of surrogate parameters in accordance with the following additional requirements:

- i. Where a delegated local agency has requested that whole effluent toxicity be considered as the surrogate parameter for a limitation calculated for a toxic pollutant, the Department may presume that, subsequent to the effective date of the whole effluent toxicity limitation, compliance with the water quality based whole effluent toxicity limitation satisfies the report submittal requirements specified in (a)2 above;

- ii. Upon its determination that the requested surrogate parameter is an appropriate and reliable surrogate, the Department shall include in the discharge permit effluent limitations for both the surrogate parameter(s) and the base parameter(s). Compliance with the base parameter(s) shall be determined based on compliance with the surrogate parameter; and

- iii. The permit shall require that, if the surrogate parameter is exceeded, the effluent limitations covered by the surrogate shall become effective upon notification by the Department, unless the permittee demonstrates that the base parameters were not exceeded at the time that the surrogate parameter was exceeded. The permit may also include procedures for re-establishment of the use of a surrogate parameter;

6. The permit shall require the monitoring necessary to demonstrate that during the term of the permit the limit on the surrogate parameter continues to attain and maintain applicable effluent limitations. The permit shall require monitoring of the surrogate parameter and may also require monitoring of the base parameter(s) covered by the surrogate parameter;

7. The permit shall be reopened and modified to include limitations on the base parameter(s) if the Department determines that the surrogate parameter(s) no longer ensure attainment of the applicable effluent limitations for the base parameter(s); and

8. The Department, upon its own initiative, may include a limitation for a surrogate parameter irrespective of a request by the affected permittee provided the fact sheet sets forth the basis for the limit, including a finding that compliance with the effluent limit on the surrogate parameter will result in controls on the pollutant of concern that are sufficient to attain the applicable effluent limitations and the permit conditions in (a)5 and 6 above are satisfied.

7:14A-13.11 Interim effluent limitations

(a) Interim limits may be established for any pollutant or pollutant parameter where a final limit is required in accordance with N.J.A.C. 7:14A-13.6 and where a compliance schedule is included in the discharge permit to allow the permittee to come into compliance with the effluent limitation.

(c) All monitoring shall be performed in accordance with the monitoring requirements contained in N.J.A.C. 7:14A-6.5 and monitoring results submitted to the Department on forms as specified by and available from the Department.

7:14A-14.2 Monitoring frequency requirements for direct surface water discharges

(a) A monitoring schedule for parameters included in a DSW permit shall be established as provided in Tables 14-1 through 14-4 below. Tables 14-2 and 14-4 establish monitoring frequencies for parameters in DSW permits that are either monitored and limited, or monitored only. Tables 14-1 and 14-3 establish monitoring frequencies in DSW permits that are monitored and limited.

Table 14-1

Toxic Metals and Organic Compounds and Whole Effluent Toxicity Monitoring Frequency Requirements Applicable to Industrial Facilities

Parameter	All Major Facilities	All Minor Facilities
Toxic Metals ⁽²⁾ and Cyanide	1/Month ((G) for cyanide) ((C) for toxic metals) ⁽¹⁾	1/Month ((G) for cyanide) ((C) for toxic metals) ⁽¹⁾
Toxic Organic Compounds ⁽³⁾	1/Month ((G) for volatile organic compounds) ((C) for all other compounds) ⁽¹⁾	1/Quarter ((G) for volatile organic compounds) ((C) for all other compounds) ⁽¹⁾
Whole Effluent Toxicity	1/Quarter	1/Quarter

Footnotes:

C = Composite sample.

G = Grab sample.

(1) For composite sampling, the applicable composite time period will be specified in the permit.

(2) A full listing of all toxic metals can be found in N.J.A.C. 7:14A-4, Appendix A, Table III.

(3) A full listing of all toxic organic compounds can be found in N.J.A.C. 7:14A-4, Appendix A, Table II.

Table 14-2

Conventional and Non-Conventional Parameters Monitoring Frequency Requirements Applicable to Industrial Facilities

Parameter	All Major Facilities	All Minor Facilities
COD, DOC, TOC, BOD, CBOD, NBOD, Dissolved Oxygen, TSS, TDS, FSOD, Settleable Solids	1/Month (G) ⁽¹⁾	1/Month (G) ⁽¹⁾
Phosphorus, Nitrogen (all forms), Oil and Grease and/or Petroleum Hydrocarbons, Alkalinity, Hardness	2/Month (C or G) ^(1, 2)	1/Month (G) ^(1, 2)
pH, Temperature	2/Month (G)	1/Month (G)
CPO: (if used or added)	1/Week (G)	1/Month (G)
(if not used or added)	1/Month (G)	1/Quarter (G)
Bacterial Indicators	1/Month (G)	1/Month (G)

Table 14-4

Conventional and Nonconventional Parameters Monitoring Frequency Requirements Applicable to Domestic Treatment Works

Parameter	Effluent Flow (MGD)							
	<0.05	0.05 - 0.1	>0.1 - 0.5	>0.5 - 1.0	>1.0 - 5.0	>5.0 - 10	>10 - 15	> 15.00
BOD, CBOD, NBOD, FSOD, TOC, COD, TSS, TDS, Phosphorus, Nitrogen (all forms), Alkalinity, Hardness, Color, and any other parameter that can be composite sampled	1/month (G)	2/month 4 hr (C)	2/month 6 hr (C)	3/month 6 hr (C)	1/week 24 hr (C)	2/week 24 hr (C)	3/week 24 hr (C)	1/day 24 hr (C)
Dissolved Oxygen	1/month	2/month	2/month	3/month	1/week	2/week	3/week	1/day

Footnotes:

C = Composite sample.

G = Grab sample.

(1) Grab samples shall be collected for the parameters listed below except that composite samples shall be collected when the frequency of monitoring is greater than 1/month. When composite samples are required, the composite time period will be specified in the permit.

i. Chemical oxygen demand (COD);

ii. Biochemical oxygen demand (BOD), including CBOD, NBOD, and FSOD;

iii. Total or dissolved organic carbon (TOC or DOC);

iv. Solids, including total suspended solids (TSS) and total dissolved solids (TDS);

v. All nutrients, including ammonia-N, total kjeldhal nitrogen, nitrite, nitrate, and phosphorus fractions; and

vi. Alkalinity or hardness.

(2) Grab samples shall be collected for the following parameters:

i. Temperature;

ii. pH;

iii. Chlorine produced oxidants (CPO);

iv. Dissolved oxygen;

v. Settleable solids;

vi. Oil and grease and/or petroleum hydrocarbons; and

vii. Bacterial indicators, including fecal coliform, total coliform, streptococci, or enterococci

Table 14-3

Toxic Metals and Organic Compounds and Whole Effluent Toxicity Monitoring Frequency Requirements Applicable to Domestic Treatment Works

Parameter	All Major Facilities	All Minor Facilities
Toxic Metals ⁽¹⁾ and Cyanide	1/Month ((G) for cyanide) (24 hr (C) for Toxic Metals)	1/Month ⁽³⁾
Toxic Organic Compounds ⁽²⁾	1/Month ((G) for volatile organic compounds) (24 hr (C) for all other compounds) ⁽³⁾	1/Quarter ((G) for volatile organic compounds)
Whole Effluent Toxicity	1/Quarter	1/Quarter

Footnotes:

C = Composite sample.

G = Grab sample.

(1) A full listing of all toxic metals can be found in N.J.A.C. 7:14A-4, Appendix A, Table III.

(2) A full listing of all organic toxic compounds can be found in N.J.A.C. 7:14A-4, Appendix A, Table II.

(3) For cyanide sampling, grab samples shall be taken. The required sample type (based on flow in MGD) for toxic metals and all toxic organic compounds, except volatile organic compounds, for minor facilities is:

i. Grab sample for a flow less than 0.05 MGD;

ii. Four-hour composite sample for a flow of 0.05 up to and including 0.1 MGD;

iii. Six-hour composite sample for a flow greater than 0.1 up to and including 1.0 MGD.

Parameter	Effluent Flow (MGD)							
	<0.05	0.05 - 0.1	>0.1 - 0.5	>0.5 - 1.0	>1.0 - 5.0	>5.0 - 10	>10 - 15	> 15.00
pH, CPO, Settleable solids,	(G)	(G)	(G)	(G)	(G)	(G)	(G)	(G)
Temperature	1/day	1/day	1/day	1/day	2/day	3/day	3/day	6/day
Bacterial Indicator	(G)	(G)	(G)	(G)	(G)	(G)	(G)	(G)
(limit imposed)	1/month	1/month	2/month	2/month	4/month	8/month	8/month	1/day
Bacterial Indicator	(G)	(G)	(G)	(G)	(G)	(G)	(G)	(G)
(no limit imposed)	1/month	1/month	1 month	1 month	1 month	1 month	1 month	1 month
Oil and Grease	(G)	(G)	(G)	(G)	(G)	(G)	(G)	(G)
(any petroleum based	1/month	1/month	2/month	2/month	1/week	2/week	2/week	2/week
component)	(G)	(G)	(G)	(G)	(G)	(G)	(G)	(G)
Oil and Grease	1/quarter	1/quarter	1/quarter	1/quarter	1/month	1/month	2/month	2/month
(no petroleum based	(G)	(G)	(G)	(G)	(G)	(G)	(G)	(G)
component)								

Footnotes: C = Composite sample. G = Grab sample.

(b) The monitoring frequency for any parameter or group of parameters will be increased for a specific discharger if the Department determines that increased monitoring frequency is appropriate based on factors such as effluent variability, non-compliance history, or other site specific factors. The Department shall describe the reasons for the increased monitoring in the draft permit fact sheet.

(c) The monitoring frequency for any parameter or group of parameters will be decreased when:

1. An existing discharge permit specifies less frequent monitoring than is specified in this section, the reduced monitoring frequency will be continued in the renewed permit provided the discharger has demonstrated consistent compliance with the specified parameters;

2. A permit specifies conditions for monitoring frequency reduction and the permittee complies with all conditions; or

3. A permittee requests a reduction in compliance monitoring frequency during the time that the permittee is engaged in a watershed TMDL study in cooperation with the Department and/or other dischargers and the Department considers the change warranted. The monitoring frequency reduction will be effected as a major modification of the discharge permit in accordance with N.J.A.C. 7:14A-16.4(b)7xi. This provision does not affect the Department's authority to require ambient monitoring as part of the permit application or as a permit condition.

(d) Notwithstanding any reduction in monitoring frequency established pursuant to (c) above, whenever a Discharge Monitoring Report shows that an effluent limitation has been exceeded, the applicable monitoring frequency shall be adjusted as follows:

1. A permittee shall adjust monitoring to monthly for serious violations in accordance with N.J.A.C. 7:14A-6.8(c).

2. For violations which are not serious violations the permittee shall, upon written notice from the Department, resume the monitoring frequency established immediately preceding the frequency reduction and reporting schedule unless the permittee can demonstrate to the satisfaction of the Department that the exceedence was caused by an upset, bypass or laboratory error as provided for in N.J.A.C. 7:14A-6.11.

(e) General permits and individual stormwater discharge permits are exempt from the requirements of this section unless the fact sheet for the draft general or stormwater discharge permit contains a summary of the basis for imposing monitoring in accordance with N.J.A.C. 7:14A-15.8(a)4.

7:14A-14.3 Monitoring frequency requirements for NJPDES-SIU permits

(a) This section establishes monitoring requirements for SIU permits issued by the Department. Monitoring frequency for each parameter shall be determined based on the following factors:

1. The permittee's compliance history;

2. The impact of the discharge on the receiving local agency's treatment process, discharge and/or sludge quality or potential for endangerment to public health or to the local agency employee's health or safety;

3. The volume (or mass) of the discharge(s);

4. Production variations (variability of the discharge); and

5. Any Federal or local requirements regarding significant indirect users.

(b) Monitoring frequency shall be reduced if a permittee submits a written request to the Department demonstrating that compliance for the affected parameter(s) has been achieved for a minimum period of one year. Monitoring frequency shall be reduced as follows:

1. From weekly to monthly;

2. From twice monthly to monthly;

3. From monthly to quarterly; or

4. From quarterly to semi-annually.

(c) Notwithstanding (b) above, in accordance with 40 CFR 403.12(g), whenever a permittee becomes aware of a permit violation, the permittee shall resample within one month unless the monitoring schedule established in the permit requires sampling sooner, in which case the permittee shall resample in accordance with such monitoring schedule. Upon written notice from the Department, the permittee shall resume the former, more frequent monitor-

ing and reporting schedule unless the permittee demonstrates that the exceedence was caused by an upset, bypass or laboratory error as provided for in N.J.A.C. 7:14A-6.11.

Case Notes

Permittee strictly liable under water pollution control law for failure to comply with reporting requirements of pollutant discharge permit. NJDEPE v. Dri-Print Foils, Inc., 96 N.J.A.R.2d (EPE) 52.

Department of Environmental Protection was required to present findings during renewal process for national pollutant discharge elimination system permit, a quasi-judicial procedure possessing some, but not all, elements of traditional adjudicatory proceeding. Matter of Issuance of a Permit by Dept. of Environmental Protection to Ciba-Geigy Corp., 120 N.J. 164, 576 A.2d 784 (1990).

Review of NPDES was inhibited by failure of Department of Environmental Protection (DEP) to make required findings on certain issues. Matter of Issuance of a Permit by Dept. of Environmental Protection to Ciba-Geigy Corp., 120 N.J. 164, 576 A.2d 784 (1990).

7:14A-15.9 Administrative record for the draft permit

(a) The provisions of a draft permit shall be based on the administrative record as defined in this section.

(b) For preparing a draft permit under N.J.A.C. 7:14A-15.6, the administrative record shall consist of:

1. The application, if required, and any supporting data furnished by the applicant;
2. The draft permit;
3. The statement of basis pursuant to N.J.A.C. 7:14A-15.7 or fact sheet pursuant to N.J.A.C. 7:14A-15.8;
4. All documents cited in the statement of basis or fact sheet; and
5. Other documents contained in the supporting file for the draft permit.

(c) Any of the materials described at (b) above that are readily available in the offices of the Department or are published and generally available need not be physically included in the administrative record provided a specific reference to such materials is made in the fact sheet or statement of basis.

Case Notes

Department of Environmental Protection (DEP) must find that diminution in water quality below level necessary to support designated use advances important economic or social development in area in which waters are located and should adequately describe such interest. Matter of Issuance of a Permit by Dept. of Environmental Protection to Ciba-Geigy Corp., 120 N.J. 164, 576 A.2d 784 (1990).

7:14A-15.10 Public notice of permit actions and public comment period

(a) The Department, or the applicant upon authorization by the Department, shall publish public notice pursuant to (e) below for the following:

1. Issuance of a draft permit under N.J.A.C. 7:14A-15.6;
2. Scheduling of a public hearing under N.J.A.C. 7:14A-15.12; and
3. Reopening or extension of the public comment period under N.J.A.C. 7:14A-15.14, except that when the comment period is extended for 15 days or less, public notice of the extension shall be limited to an oral or

written notice to the applicant and to those persons who commented on the draft permit.

(b) The Department shall not publish a public notice seeking public comment for the following:

1. Denial of request for permit modification, revocation and reissuance, suspension, or revocation under N.J.A.C. 7:14A-16.3(d)1. Written notice of the denial shall be provided to the applicant and to the permittee;
2. Issuance of a minor permit modification under N.J.A.C. 7:14A-16.5; or
3. Activation of the terms and conditions of a suspended permit previously subject to public notice in accordance with this section.

(c) The Department, or the applicant upon authorization by the Department, shall publish pursuant to (e) below public notice, as approved by the Department, according to the following schedule:

1. For draft permits and reopening or extension of the public comment period under (a)1 and 3 above, at least 30 days prior to the end of the public comment period. When public notice is published in:
 - i. One or more newspapers and the DEP Bulletin, the comment period shall close no sooner than 30 days after the last newspaper publication; or
 - ii. Only the DEP Bulletin, the comment period shall close no sooner than 30 days after publication.
2. For a public hearing under (a)2 above, 30 days prior to the public hearing.

(d) The Department may describe more than one type of discharge or permit action in a public notice. Public notice of the public hearing and draft permit may be combined and published concurrently.

(e) To publish public notice of the activities described in (a) above, the Department or the applicant authorized by the Department pursuant to (c) above shall:

1. Mail a copy of the approved public notice to the following persons:
 - i. The applicant (except for those general permits for which there is no applicant);
 - ii. Federal and State agencies that have issued or are required to issue a RCRA, UIC, Prevention of Significant Deterioration (or other permit under the Clean Air Act), NJPDES, Section 404 of the Federal Act, or residual management permit;
 - iii. Federal and State agencies that have jurisdiction over fish, shellfish, wildlife resources, coastal zone management plans, the State Advisory Council on Historic Preservation, State Historic Preservation Officers, and

other appropriate government authorities, including any affected states;

iv. Any State agency responsible for areawide waste management or water quality plan development under Sections 208(b)(2), 208(b)(4), or 303(e) of the Federal Act and the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service;

v. Any State or local agency having authority under State law with respect to construction or operation of the facility;

vi. Any user identified in the permit application of a privately owned treatment works;

vii. The mayor and governing body of the municipality where the facility is located or proposed to be located and with a request that the mayor or governing body distribute copies of the public notice to other appropriate governmental units;

viii. Sewerage entity (or local agency for an SIU permit); and

ix. Persons on a mailing list that:

(1) Includes those who request to be on such mailing list; and

(2) Includes those persons affected by the permit action.

2. For a facility classified as major, a general permit or a permit for land application of residuals which includes a notification plan pursuant to N.J.A.C. 7:14A-20.7(a)3, in addition to (e)1 above, publish the approved public notice in a daily or weekly newspaper within the area affected by the facility or activity; and

3. The Department shall publish notice of all permit modifications in the DEP Bulletin as follows:

i. For a major modification to permits classified as minor or significant minor, the public notice shall contain the information in (f) below;

ii. For a major modification to a permit classified as major, the notice shall consist of only the facility name and NJPDES permit number, the proposed modification(s), the name of the newspaper(s) where the public notice will appear and the name and telephone of the Department staff person assigned to the permit action; and

iii. For a minor modification to a permit for a facility classified as major, minor or significant minor, the notice shall consist of only the information required in (e)3ii above except for providing the name of the newspaper(s) where the public notice will appear.

(f) The approved public notice shall include the following information:

1. The name and address of the applicant or permittee and, if different, of the facility and/or activity regulated by the permit, except for those general permits for which there is no applicant;

2. A brief description of the business conducted at the facility or activity described in the permit, permit application, or draft permit;

3. A general description of the location of each existing or proposed discharge point, the name of the receiving water and, where applicable, a general description of the residual use and/or disposal practice(s) and the location of each treatment works treating domestic sewage, and residual use or disposal sites known at the time of permit application. For draft general permits, this requirement may be satisfied by a map or description of the permit area;

4. The name and address of the office within the Department to which a person can make a written request to view the administrative record and the times and place at which the record will be open for public inspection, and the name of the Department staff person who is processing the permit action to whom a person can make a written request for copies;

5. A brief description of the comment procedures required by N.J.A.C. 7:14A-15.11 and 15.12 including:

i. The date, time and place of any scheduled public hearing;

ii. A statement of the procedures by which to request a hearing (unless a hearing has already been scheduled) and other procedures by which a person may participate in the final permit decision process; and

iii. The opening and closing date of the comment period, including a statement that comments shall be postmarked by the closing date; and

6. Any additional information considered by the Department to be necessary or appropriate.

(g) In addition to the information described at (f) above, the Department shall include the following information in the public notice for a public hearing scheduled pursuant to N.J.A.C. 7:14A-15.12:

1. The date of any previous public notice relating to the permit;

2. The date, time and place of the public hearing; and

3. A brief description of the nature and purpose of the public hearing, including the applicable rules and procedures.

(h) In addition to the public notice described in (f) above, the Department shall mail to all persons identified in (e)1i through v above a copy of the fact sheet or statement of basis, and, upon written request, the permit application and the draft permit.

7:14A-15.11 Public comments and requests for public hearing

(a) During the public comment period established under N.J.A.C. 7:14A-15.10, any person may submit written comments on a draft permit based upon significant and relevant issues and data.

(b) If a public hearing has not already been scheduled, a person may request a public hearing on a draft permit for which public notice has been published pursuant to N.J.A.C. 7:14A-15.10. A request for a public hearing shall be in writing and shall state the nature of the significant and relevant issues proposed to be raised in the hearing and why these issues cannot be adequately expressed other than at a public hearing.

7:14A-15.12 Public hearings

(a) The Department shall hold a public hearing if there is or may be a significant degree of public interest in favor of holding a public hearing. The Department may hold a public hearing if it determines that a hearing is likely to clarify one or more legal and/or factual issues on a draft permit and that oral testimony is essential to adequately express all issues and concerns.

(b) Public hearings shall be conducted in a non-adversarial manner wherein a person shall be afforded an opportunity to submit oral or written statements and data concerning the draft permit.

(c) The Department may set reasonable limits upon the time allowed for oral comments at the public hearing and may also require the submission of written statements.

(d) The Department shall extend the public comment period established pursuant to N.J.A.C. 7:14A-15.10 to the close of any public hearing held pursuant to this section. The Department may also extend the comment period beyond the public hearing by so stating at the hearing.

(e) If a permittee has requested to arrange for a public hearing and the Department determines that a public hearing is warranted based on (a) above, it shall be the sole responsibility of the applicant to secure the use of an adequate facility to hold the public hearing and to obtain any ancillary services associated with the public hearing including, but not limited to, a stenographer and/or tape recording. The location, time and date of the public hearing shall be mutually acceptable to the Department and the applicant.

(f) When a permittee arranges the public hearing, it shall provide the Department with two copies of the public hearing transcript at no charge to the Department.

(g) The Department shall make available for public inspection a written transcript of the public hearing. A copy

of the transcript will be sent, on request, for a reasonable fee for copying.

7:14A-15.13 Obligation to raise issues and provide information during the public comment period

Any applicant or permittee or person interested in being considered a party to an action pursuant to N.J.A.C. 7:14A-17.3 who believes that any action under N.J.A.C. 7:14A-15.10(a) is inappropriate shall raise all reasonably ascertainable issues and submit, in writing to the Department by certified mail (return receipt requested), or by other means which provides verification of the date of delivery to the Department all such reasonably ascertainable arguments and factual grounds supporting them, including all supporting materials, by the close of the public comment period. If an applicant or permittee or any person fails to raise any reasonably ascertainable issues within the public comment period, the right to raise or contest any such issues in any subsequent adjudicatory hearing or appeal shall be deemed to have been waived. All supporting materials shall be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or consist of State or Federal statutes and regulations, USEPA documents of general applicability, or other generally available reference materials. Commenters shall make any supporting material incorporated by reference available at the request of the Department.

7:14A-15.14 Reopening of the public comment period

(a) Upon its determination that any data, information or argument submitted during the comment period raises significant legal and/or factual issues that are likely to affect the final decision on the permit, the Department shall take one or more of the following actions:

1. Prepare a new draft permit, appropriately modified, pursuant to N.J.A.C. 7:14A-15.6;
2. Prepare a revised statement of basis under N.J.A.C. 7:14A-15.7, or a revised fact sheet pursuant to N.J.A.C. 7:14A-15.8, and reopen the comment period under (a)3 below; or
3. Reopen or extend the comment period to give a person the opportunity to comment on the data, information or arguments so submitted.

(b) Comments filed during the reopened or extended comment period shall be limited to the relevant legal and/or factual issues that prompted the reopening or extension of the comment period. The public notice under N.J.A.C. 7:14A-15.10 shall define the scope of the reopened or extended comment period.

(c) The Department shall publish public notice of any of the actions specified at (a) above in accordance with N.J.A.C. 7:14A-15.10, except when the comment period is

reopened or extended for 15 days or less, in which case, the Department shall provide only the applicant and all persons who commented on the draft permit with oral or written notice of the reopened or extended public comment period.

7:14A-15.15 Final permit decision and issuance and effective date of a permit

(a) The Department shall issue a final permit decision after the close of the public comment period. The Department also shall notify, in writing, the applicant or permittee and each person who submitted written comments or requested notice of the final permit decision. This notification shall include reference to the procedures provided to the applicant or permittee and persons other than the applicant or permittee for contesting the Department's decision on a permit.

(b) A final permit shall not become effective until 30 days from receipt by the permittee of the permit except when:

1. An effective date is not specified in the permit but the permit specifies that the permittee may request the establishment of the effective date at a subsequent time;
2. A later effective date is specified in the permit; or
3. The Department has received no comment from persons other than the permittee on the draft permit and an immediate effective date is requested by the permittee, in writing, and the Department concurs.

(c) After the issuance of a final permit decision:

1. A treatment works approval, if required by N.J.A.C. 7:14A-22.3, shall be obtained.
2. The permittee or any other person considered a party to the action under N.J.A.C. 7:14A-17.3 may request an adjudicatory hearing to contest the final permit decision in accordance with N.J.A.C. 7:14A-17.2.

7:14A-15.16 Response to comments

(a) The Department shall specifically respond to comments concerning draft permits from persons, including comments from affected states, by issuing a response to comments document at the time that a final permit decision is issued. The document shall:

1. State what action the Department has taken on the final permit or permit decision;
2. Specify which provisions, if any, of the draft permit have been changed in the final permit, and the reasons for the change. The Department shall make only those changes which do not destroy the value of the original fact sheet or statement of basis; and
3. Briefly describe and respond to all significant and relevant comments on the draft permit raised during the public comment period, or during any public hearing.

(b) A person may arrange to review the response to comments document by telephoning the Department's Bureau of Central Services and Property Management at (609) 292-0400.

7:14A-15.17 Administrative record for the final permit

(a) The Department shall base final permit decisions made pursuant to N.J.A.C. 7:14A-15.15 on the administrative record, which shall consist of the following:

1. The administrative record for the draft permit under N.J.A.C. 7:14A-15.9;
2. All comments received during the public comment period established under N.J.A.C. 7:14A-15.10 including any extension or reopening under N.J.A.C. 7:14A-15.14;
3. The tape or transcript of any public hearing(s) held under N.J.A.C. 7:14A-15.12;
4. Any written materials submitted at any public hearing held under N.J.A.C. 7:14A-15.12;
5. The response to comments document prepared under N.J.A.C. 7:14A-15.16 and any new material placed in the record under that section;
6. Other documents contained in the supporting file for the permit; and
7. The final permit.

(b) Any of the materials described at (a) above that are readily available in the offices of the Department or are published and generally available need not be physically included in the administrative record provided a specific reference to such materials is made in the fact sheet or statement of basis.

(c) A person may arrange to review the administrative record by telephoning the Department's Bureau of Central Services and Property Management at (609) 292-0400.

APPENDIX A

GUIDE TO THE NJPDES PERMIT PROCESSING REQUIREMENTS

Appendix A is designed to assist a new applicant, or permittee in following the permit procedural requirements set out in this chapter. An applicant should read the full text of the regulations before applying for a permit.

The flow chart outlines a sequence of events directed by arrows and is divided into two sections as follows:

Section 1—Application Procedures

Section 1 outlines the actions leading to a permit application and the Department's administrative review of the application. The key items in this section are that prior to a permit application an applicant shall have:

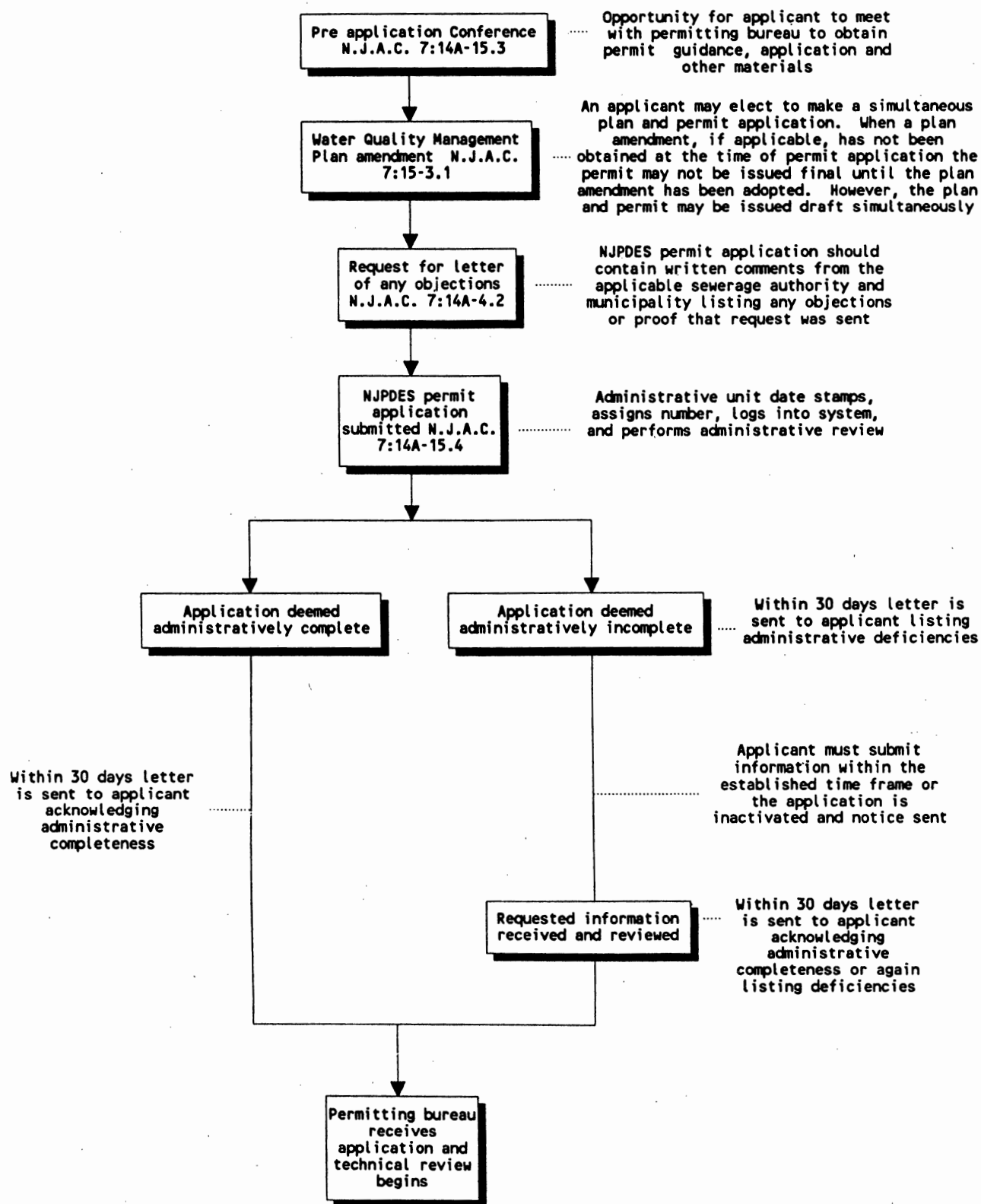
1. Received a determination of consistency (unless submitting a concurrent permit and plan amendment application) pursuant to N.J.A.C. 7:14A-15.4(b) in accordance with the Statewide Water Quality Management Planning Rules at N.J.A.C. 7:15; and

2. Requested a letter of comment or objections from the municipality or sewerage authority pursuant to N.J.A.C. 7:14A-4.2.

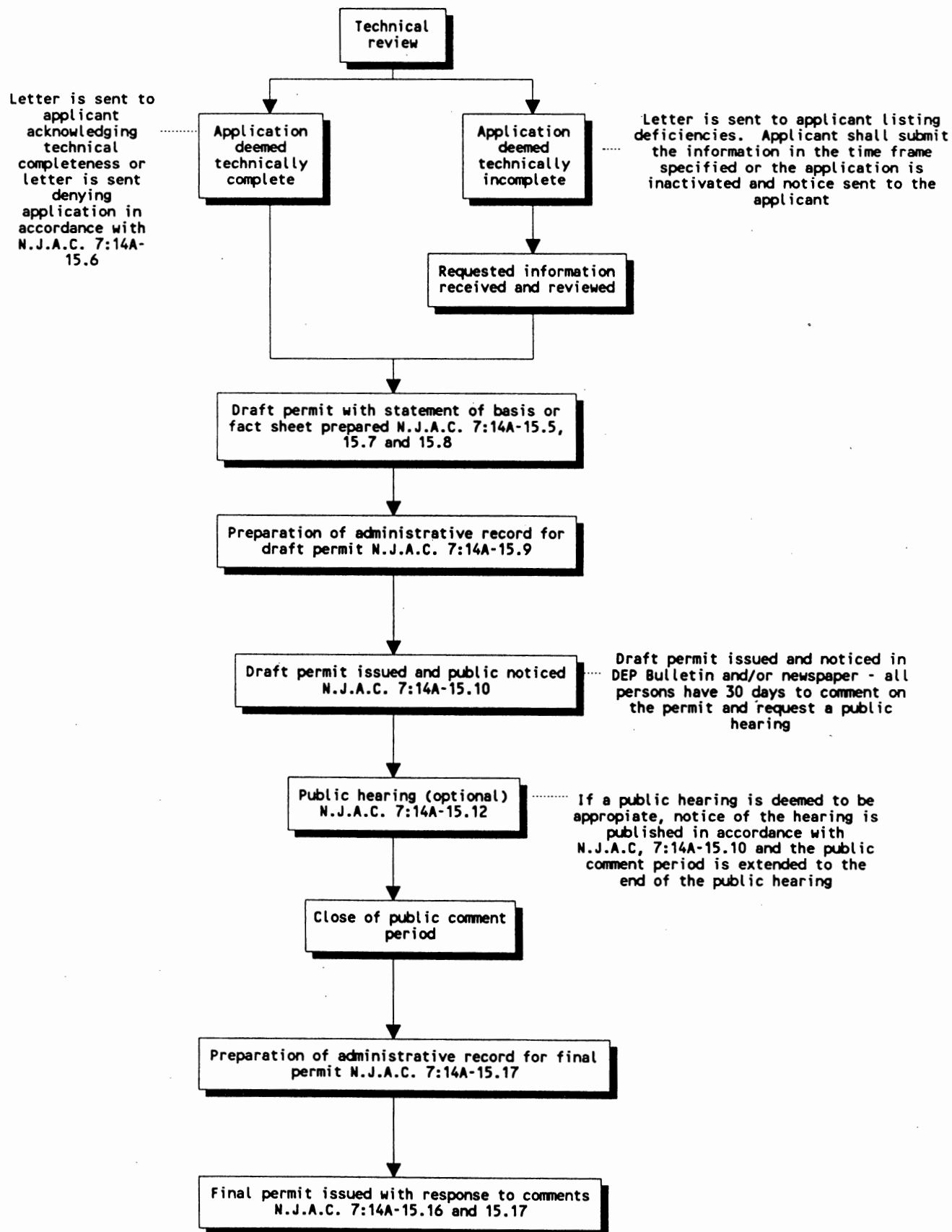
Section 2 outlines the steps in the technical review of the permit application, how a permit will be prepared and publicly noticed for comment, and how a final permit decision will be issued. The key item in this section is the public comment period (N.J.A.C. 7:14A-15.10). Unless issues are raised during this period they may not be adjudicated during the hearing process if the applicant appeals the Department's final decision on the permit.

Section 2—Permit Decision Process

Application Procedures



Permit Decision Process



SUBCHAPTER 16. TRANSFER, MODIFICATION, REVOCATION AND REISSUANCE, RENEWAL, SUSPENSION, AND REVOCATION OF EXISTING PERMITS

7:14A-16.1 Purpose and scope

This subchapter sets forth the causes for and the procedures governing the transfer, modification, revocation and reissuance, renewal, suspension, and revocation of existing NJPDES permits. Specific procedures governing authorizations issued under general permits are set forth at N.J.A.C. 7:14A-6.13.

7:14A-16.2 Transfer of a permit

(a) A permittee shall not transfer a NJPDES permit to any person except after due notice to the Department in accordance with (b) or (d) below.

(b) To identify a new owner or operator, a permit may be transferred:

1. As a major modification or revocation and reissuance if one or more causes at N.J.A.C. 7:14A-16.4 are identified;
2. As a minor modification with changes identified at N.J.A.C. 7:14A-16.5; or
3. As an automatic transfer under (d) below.

(c) (Reserved)

(d) Any permit shall be automatically transferred to a new permittee if:

1. The current permittee provides written notice to the Department by certified mail or by other means which provides verification of the date of delivery to the Department of the proposed transfer at least 30 days prior to the proposed transfer date. This notice shall include the following:
 - i. The name of the current owner and the address of facility;
 - ii. The name and address of the new owner or owners and operator;
 - iii. The permit number;
 - iv. The names of the principal officer or officers responsible for the facility operation and maintenance under the new operator identified under (d)1ii above;
 - v. The names and current telephone numbers of persons upon whom legal process can be served;

vi. A notarized statement signed by the new principal officer identified in (d)1iv above stating that he or she has read the permit and certifies, pursuant to N.J.A.C. 7:14A-4.9, that he or she shall abide by all the conditions of the permit and that production levels, products generated, rates of discharge, and discharge characteristics shall remain unchanged; and

vii. A written agreement between the current permittee and new permittee which includes a specific date for transfer of permit responsibility between the current permittee and new permittee; and

2. The Department does not issue a response letter in accordance with N.J.A.C. 7:14A-16.3(c) to notify the current permittee and the new permittee, within 30 days of receipt of notice of the proposed transfer provided the permittee complies with the requirements in (d)1 above. The Department shall incorporate the name of the new permittee into the permit as a minor modification in accordance with N.J.A.C. 7:14A-16.5.

7:14A-16.3 Procedures for the modification, revocation and reissuance, renewal, suspension, or revocation of a permit

(a) An existing permit shall be modified, revoked and reissued, renewed, suspended, or revoked for cause as specified at N.J.A.C. 7:14A-16.4 through 16.6, as applicable, either at the request of the permittee, or a person, or upon the Department's initiative.

(b) Any request under (a) above shall be submitted in accordance with the following procedures:

1. The request shall be in writing;
2. The request shall contain facts and reasons supporting the request, including a specific reference to the applicable cause(s) under N.J.A.C. 7:14A-16.4 through 16.6;
3. A person submitting the request shall also identify the environmental, aesthetic, or recreational interest which is or may be affected by the permit action;
4. A permittee requesting a modification for a less stringent effluent limitation or standard shall comply with any outstanding fee, penalty or fine requirements contained in N.J.S.A. 58:10A-6(k); and
5. The Department shall request additional information that is necessary to process the request as follows:
 - i. For a permit modification, the submission of an updated permit application to support the request for modification in accordance with N.J.A.C. 7:14A-4.2.
 - ii. For a renewal or revocation and reissuance, submission of a new permit application in accordance with N.J.A.C. 7:14A-4.2 except for applicants for renewals issued a notice of eligibility for expedited renewal in accordance with (h) below.

(d) If a request for an adjudicatory hearing is granted, the contested permit conditions shall not be affected unless a stay has been granted pursuant to N.J.A.C. 7:14A-17.6. A request for a hearing and a request for a stay may be combined into one request document.

(e) The Department, if it denies a hearing request in whole or in part, shall briefly state the reasons for such denial. Such denial shall be considered a final agency action.

7:14A-17.5 Notice for and conduct of an adjudicatory hearing

(a) The Department shall provide public notice that an adjudicatory hearing has been granted by mailing a copy of the notice to:

1. The applicant(s) or permittee(s);
2. All commenters on the draft permit;
3. All persons who testified at the public hearing, if held; and
4. All persons who requested an adjudicatory hearing or who requested to be considered a party to the action.

(b) All adjudicatory hearings held pursuant to this subchapter shall be governed by the New Jersey Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(c) The burden of proof in an adjudicatory hearing shall be on the applicant for the hearing to demonstrate that the permit condition is ultra vires, unreasonable, or not supported by the administrative record.

7:14A-17.6 Stays of contested permit conditions

(a) The Department's grant of a request for an adjudicatory hearing shall not automatically stay any contested permit condition(s). A permittee shall submit a written request to the Department, by certified mail, or by other means which provides verification of the date of delivery to the Department seeking a stay of any of the following:

1. Any permit condition where the permittee has requested an adjudicatory hearing, in accordance with N.J.A.C. 7:14A-17.2(a), to contest the specific permit condition;
2. Any permit condition where the permittee has requested a major modification or revocation and reissuance, in accordance with N.J.A.C. 7:14A-16.4, to alter the specific permit condition; or
3. The application to the permittee of any condition of a general permit where the permittee has requested to be excluded from that general permit, in accordance with N.J.A.C. 7:14A-6.13(g), to obtain a permit condition different from the specific permit condition.

(b) A stay shall not be requested or granted for the initial permit issued to a new source, new discharger, or a recommencing discharger. Where such an initial permit is being adjudicated, the permittee shall either discharge in accordance with the initial permit or not discharge until final agency action is taken with respect to the contested conditions of the permit.

(c) In its request for a stay under (a)1 above, a permittee shall, for each permit condition at issue, submit a written evaluation with appropriate documentation which describes:

1. The permittee's ability to comply with the permit condition(s) using existing treatment facilities. For effluent limitations, the permittee shall summarize the past 24 months of discharge data and indicate the level of pollutant control actually achieved as defined at N.J.A.C. 7:14A-1.2. If no past effluent data are available, the permittee shall procure and submit the results of at least one sample;

2. The permittee's ability to comply with the permit condition(s) by implementing low cost short-term modifications to the existing treatment facility if it is demonstrated in (c)1 above, that the permit conditions cannot be achieved using existing facilities. Examples of short-term modifications include, but are not limited to, treatment process modifications, chemical addition, pollution abatement/prevention and change of products generated. The evaluation shall also include the cost for the implementation of such short-term modification(s);

3. The level of pollutant control actually achieved as defined at N.J.A.C. 7:14A-1.2 using short-term modifications if the evaluations in (c)1 and 2 above demonstrate that the permittee is unable to achieve permit compliance. For effluent limitations, the permittee shall indicate the maximum treatment levels consistently achievable;

4. The cost to comply with permit conditions if the evaluations in (c)1 and 2 above demonstrate that the permittee is unable to achieve permit compliance using existing facilities and/or short-term modifications. This evaluation may also include a demonstration of any negative economic impacts that the cost to achieve permit compliance will have on the permittee (for example, the need to close, relocate, or reduce production) and to the community (for example, the loss of jobs or loss of tax base); and

5. Environmental impacts, if any, that granting a stay will have on the receiving waterbody.

(d) If the Department determines that the information submitted pursuant to (c) above is deficient, it shall inform the permittee of its determination and establish a time limit for resubmission. If the permittee does not submit the information requested or in the time period specified, the Department shall:

1. Deny the stay request; or

2. Make a final decision based upon whatever information has been submitted.

(e) The Department may grant a stay request, in whole or in part, based upon consideration of the following:

1. For a stay of permit conditions pursuant to (a)1 above, where the permittee has been granted an adjudicatory hearing to contest a specific permit condition(s), the Department, in its evaluation, shall consider:

i. The pollution source and its impact upon the affected ecosystem(s);

ii. The level of pollutant control actually achieved as defined at N.J.A.C. 7:14A-1.2 by the existing treatment facility;

iii. The degree and extent that short-term treatment alternatives including their cost may be applied to the existing treatment facility and what treatment level improvements may result from these alternatives; and

iv. The cost to achieve total compliance with permit conditions, including the degree and extent of any negative economic impacts on the permittee and the community in relation to the environmental impacts that will result from not achieving compliance with permit conditions.

2. For a stay of permit conditions pursuant to (a)2 above, where the permittee has requested a major modification or a revocation and reissuance of the existing permit to alter a specific permit condition, the Department shall grant a stay, without the need to request an adjudicatory hearing, if it makes a preliminary determination that a major modification or revocation and reissuance of the existing permit is appropriate but the Department cannot process the modification or revocation and reissuance request in a timely manner; and

3. For a stay of the application of conditions of a general permit pursuant to (a)3 above, where the permittee has requested to be excluded from that general permit to obtain a permit condition different than the specific permit condition, the Department shall grant a stay, without the need to request an adjudicatory hearing, if it makes a preliminary determination that exclusion from that general permit is appropriate but the Department cannot process the request to be excluded from the general permit in a timely manner.

(f) When a stay is granted, a permittee shall comply with the conditions of the existing permit which are not stayed and all other interim conditions as established in (g) below. The Department reserves the right to withdraw a stay or alter the terms and conditions of a stay at any time for lack of good faith compliance efforts by the permittee or if the Department subsequently determines that the environment is being impacted to such a degree that an alteration(s) to the stayed conditions is necessary.

(g) Where the Department grants a stay request, the stay decision may include interim conditions, as follows:

1. Interim permit conditions or interim effluent limitations developed in accordance with the considerations in (e) above, or in accordance with N.J.A.C. 7:14A-13.11;

2. Interim conditions by which the stayed permit conditions are phased into effect; and

3. For a stay pending an adjudicatory hearing, the interim conditions shall not be less stringent than the conditions in the existing permit unless it is demonstrated that the existing permit conditions were developed in error and a modification is justified.

(h) In granting or denying a stay, the Department shall:

1. Detail in writing the specific permit conditions that are stayed, if any; and

2. Include the reasons for granting or denying the stay.

(i) The Department may, upon its own initiative, issue a stay of a permit condition where it determines based on the considerations in (e) above that a stay is appropriate.

(j) A person who has requested an adjudicatory hearing in accordance with N.J.A.C. 7:14A-17.2 may also request a stay provided notice of the request is also provided to the permittee. The Department may grant a stay requested by a person if it is demonstrated that issuance of the permit was based upon a substantial error(s) in interpretation of the enabling legislation or interpretation of the applicable rules. The Department shall deny a request for a stay if the person fails to meet the criteria for consideration as a party to the action under N.J.A.C. 7:14A-17.3.

APPENDIX A

GUIDE TO THE NJPDES PERMIT APPEAL AND STAY PROCESS

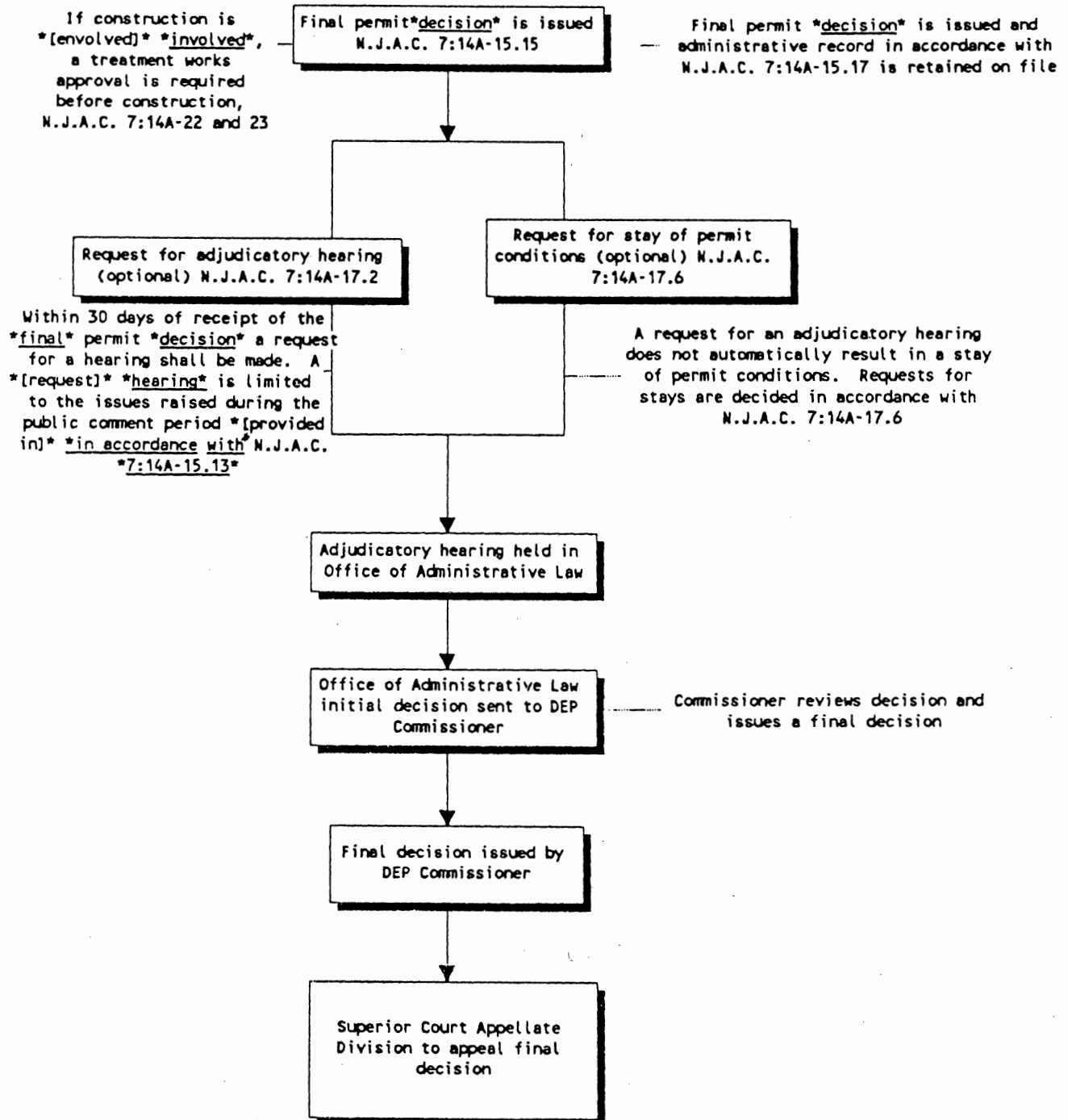
Appendix A is designed to assist a person in following the permit appeal and stay procedures after a permit is issued. An applicant should consult the full text of the regulations when contemplating an appeal and/or stay.

The flow chart outlines a sequence of events, directed by arrows, of the stay procedures for when a final permit is issued. The key items in this section are:

1. A hearing shall be requested within 30 days of receipt of the permit; and

2. A request for a stay may be combined with a hearing request but the request for a stay shall be expressly stated.

Permit Appeal and Stay Process



SUBCHAPTER 18. PUBLIC ACCESS TO INFORMATION AND REQUIREMENTS FOR DETERMINATION OF CONFIDENTIALITY

7:14A-18.1 Public access to information and scope of authority

(a) Except as otherwise provided in section 3 of P.L. 1963, c.73 (N.J.S.A. 47:1A-3), any records, reports or information obtained by the Department, or required to be developed and retained by the permittee as a permit condition pursuant to this chapter, the State Act or section 5 of P.L. 1972, c.42 (N.J.S.A. 58:11-53), including all NJPDES permit applications, documented information concerning actual and proposed discharges, comments received from the public, draft and final NJPDES permits, and related correspondence shall be made available to the public for inspection and duplication at the offices of the Department.

(b) For facilities with NJPDES permits for discharges to ground or surface water but which are otherwise within the jurisdiction of the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 and/or the Hazardous and Solid Waste Amendments of 1984 to that Act, public access to information shall be regulated pursuant to N.J.A.C. 7:26.

7:14A-18.2 Confidentiality

(a) The Department shall protect from disclosure any information, other than effluent data, upon a satisfactory showing by any person that the information, if made public, would divulge methods or processes entitled to protection as trade secrets of such persons. The Department's decision on the claim of confidentiality shall be made in accordance with the substantive criteria listed in N.J.A.C. 7:14A-18.6. The access to any information deemed to be confidential by the Department shall be limited to authorized officers or employees of the Department and the Federal government. For purposes of this subchapter the term "information" shall include records, reports, and any other documents, writings, photographs, sound or magnetic recordings, drawings, or other similar formats by which information has been retrieved or copied.

(b) Included among those items for which claims of confidentiality will be denied are the following:

1. The name and address of any permit applicant, permittee or co-permittee;
2. Permits;
3. Effluent data as defined in N.J.A.C. 7:14A-1.2;
4. For permits under the UIC program, information which concerns the existence, absence, or level of contaminants in drinking water; and

5. Information required by NJPDES permit application forms provided by the Department under N.J.A.C. 7:14A-4. This includes information on the forms themselves and any attachments used to supply information required by the forms.

7:14A-18.3 Procedures for asserting confidentiality

(a) Any person may assert a confidentiality claim regarding information, in whole or in part, by following the procedures set forth in (b) through (f) below.

(b) Any person submitting information to the Department and asserting a confidentiality claim covering any of the information shall submit two sets of documents to the Department. The first set shall contain all information requested by the Department, including any information which the person alleges to be entitled to confidential treatment. The second set, which will go into the public file, shall be identical to the first set except that it shall not contain information which the person alleges to be entitled to confidential treatment. In order to provide the public notice that information has been omitted from the second set under a claim of confidentiality, the second set shall indicate where such deletions have been made.

(c) The top of each page of the first set containing the information which the person alleges to be entitled to confidential treatment shall display the heading "CONFIDENTIAL" in bold type or stamp.

(d) All parts of the text of the first set which the person alleges to be entitled to confidential treatment shall be underscored or highlighted in a clear manner. Translucent ink markers are acceptable for this purpose.

(e) The outside of the envelope containing the first set containing the information which the person alleges to be entitled to confidential treatment shall display the word "CONFIDENTIAL" in bold type on both sides.

(f) The person submitting the sets of information shall send them to the appropriate permitting office by certified mail (return receipt requested), or by other means which provides verification of the date of delivery to the Department.

7:14A-18.4 Fees for a claim of confidentiality

Any person submitting documents to the Department under a claim of confidentiality shall submit a check in the amount of \$250.00 for the first 50 confidential pages and \$1.00 for each page thereafter, to cover the additional costs of processing and protecting the confidential information.

7:14A-18.5 Procedure for confidentiality determinations

(a) Information for which a confidentiality claim has been asserted shall be treated by the Department as entitled to confidential treatment unless and until the Department determines that the information is not entitled to confidential treatment as provided in this section.

(d) If a request for an adjudicatory hearing is granted, the contested permit conditions shall not be affected unless a stay has been granted pursuant to N.J.A.C. 7:14A-17.6. A request for a hearing and a request for a stay may be combined into one request document.

(e) The Department, if it denies a hearing request in whole or in part, shall briefly state the reasons for such denial. Such denial shall be considered a final agency action.

7:14A-17.5 Notice for and conduct of an adjudicatory hearing

(a) The Department shall provide public notice that an adjudicatory hearing has been granted by mailing a copy of the notice to:

1. The applicant(s) or permittee(s);
2. All commenters on the draft permit;
3. All persons who testified at the public hearing, if held; and
4. All persons who requested an adjudicatory hearing or who requested to be considered a party to the action.

(b) All adjudicatory hearings held pursuant to this subchapter shall be governed by the New Jersey Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

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

7:14A-17.6 Stays of contested permit conditions

(a) The Department's grant of a request for an adjudicatory hearing shall not automatically stay any contested permit condition(s). A permittee shall submit a written request to the Department, by certified mail, or by other means which provides verification of the date of delivery to the Department seeking a stay of any of the following:

1. Any permit condition where the permittee has requested an adjudicatory hearing, in accordance with N.J.A.C. 7:14A-17.2(a), to contest the specific permit condition;
2. Any permit condition where the permittee has requested a major modification or revocation and reissuance, in accordance with N.J.A.C. 7:14A-16.4, to alter the specific permit condition; or
3. The application to the permittee of any condition of a general permit where the permittee has requested to be excluded from that general permit, in accordance with N.J.A.C. 7:14A-6.13(g), to obtain a permit condition different from the specific permit condition.

(b) A stay shall not be requested or granted for the initial permit issued to a new source, new discharger, or a recommending discharger. Where such an initial permit is being

adjudicated, the permittee shall either discharge in accordance with the initial permit or not discharge until final agency action is taken with respect to the contested conditions of the permit.

(c) In its request for a stay under (a)1 above, a permittee shall, for each permit condition at issue, submit a written evaluation with appropriate documentation which describes:

1. The permittee's ability to comply with the permit condition(s) using existing treatment facilities. For effluent limitations, the permittee shall summarize the past 24 months of discharge data and indicate the level of pollutant control actually achieved as defined at N.J.A.C. 7:14A-1.2. If no past effluent data are available, the permittee shall procure and submit the results of at least one sample;
2. The permittee's ability to comply with the permit condition(s) by implementing low cost short-term modifications to the existing treatment facility if it is demonstrated in (c)1 above, that the permit conditions cannot be achieved using existing facilities. Examples of short-term modifications include, but are not limited to, treatment process modifications, chemical addition, pollution abatement/ prevention and change of products generated. The evaluation shall also include the cost for the implementation of such short-term modification(s);
3. The level of pollutant control actually achieved as defined at N.J.A.C. 7:14A-1.2 using short-term modifications if the evaluations in (c)1 and 2 above demonstrate that the permittee is unable to achieve permit compliance. For effluent limitations, the permittee shall indicate the maximum treatment levels consistently achievable;
4. The cost to comply with permit conditions if the evaluations in (c)1 and 2 above demonstrate that the permittee is unable to achieve permit compliance using existing facilities and/or short-term modifications. This evaluation may also include a demonstration of any negative economic impacts that the cost to achieve permit compliance will have on the permittee (for example, the need to close, relocate, or reduce production) and to the community (for example, the loss of jobs or loss of tax base); and
5. Environmental impacts, if any, that granting a stay will have on the receiving waterbody.

(d) If the Department determines that the information submitted pursuant to (c) above is deficient, it shall inform the permittee of its determination and establish a time limit for resubmission. If the permittee does not submit the information requested or in the time period specified, the Department shall:

1. Deny the stay request; or
2. Make a final decision based upon whatever information has been submitted.

(e) The Department may grant a stay request, in whole or in part, based upon consideration of the following:

1. For a stay of permit conditions pursuant to (a)1 above, where the permittee has been granted an adjudicatory hearing to contest a specific permit condition(s), the Department, in its evaluation, shall consider:

i. The pollution source and its impact upon the affected ecosystem(s);

ii. The level of pollutant control actually achieved as defined at N.J.A.C. 7:14A-1.2 by the existing treatment facility;

iii. The degree and extent that short-term treatment alternatives including their cost may be applied to the existing treatment facility and what treatment level improvements may result from these alternatives; and

iv. The cost to achieve total compliance with permit conditions, including the degree and extent of any negative economic impacts on the permittee and the community in relation to the environmental impacts that will result from not achieving compliance with permit conditions.

2. For a stay of permit conditions pursuant to (a)2 above, where the permittee has requested a major modification or a revocation and reissuance of the existing permit to alter a specific permit condition, the Department shall grant a stay, without the need to request an adjudicatory hearing, if it makes a preliminary determination that a major modification or revocation and reissuance of the existing permit is appropriate but the Department cannot process the modification or revocation and reissuance request in a timely manner; and

3. For a stay of the application of conditions of a general permit pursuant to (a)3 above, where the permittee has requested to be excluded from that general permit to obtain a permit condition different than the specific permit condition, the Department shall grant a stay, without the need to request an adjudicatory hearing, if it makes a preliminary determination that exclusion from that general permit is appropriate but the Department cannot process the request to be excluded from the general permit in a timely manner.

(f) When a stay is granted, a permittee shall comply with the conditions of the existing permit which are not stayed and all other interim conditions as established in (g) below. The Department reserves the right to withdraw a stay or alter the terms and conditions of a stay at any time for lack of good faith compliance efforts by the permittee or if the Department subsequently determines that the environment is being impacted to such a degree that an alteration(s) to the stayed conditions is necessary.

(g) Where the Department grants a stay request, the stay decision may include interim conditions, as follows:

1. Interim permit conditions or interim effluent limitations developed in accordance with the considerations in (e) above, or in accordance with N.J.A.C. 7:14A-13.11;

2. Interim conditions by which the stayed permit conditions are phased into effect; and

3. For a stay pending an adjudicatory hearing, the interim conditions shall not be less stringent than the conditions in the existing permit unless it is demonstrated that the existing permit conditions were developed in error and a modification is justified.

(h) In granting or denying a stay, the Department shall:

1. Detail in writing the specific permit conditions that are stayed, if any; and

2. Include the reasons for granting or denying the stay.

(i) The Department may, upon its own initiative, issue a stay of a permit condition where it determines based on the considerations in (e) above that a stay is appropriate.

(j) A person who has requested an adjudicatory hearing in accordance with N.J.A.C. 7:14A-17.2 may also request a stay provided notice of the request is also provided to the permittee. The Department may grant a stay requested by a person if it is demonstrated that issuance of the permit was based upon a substantial error(s) in interpretation of the enabling legislation or interpretation of the applicable rules. The Department shall deny a request for a stay if the person fails to meet the criteria for consideration as a party to the action under N.J.A.C. 7:14A-17.3.

APPENDIX A

GUIDE TO THE NJPDES PERMIT APPEAL AND STAY PROCESS

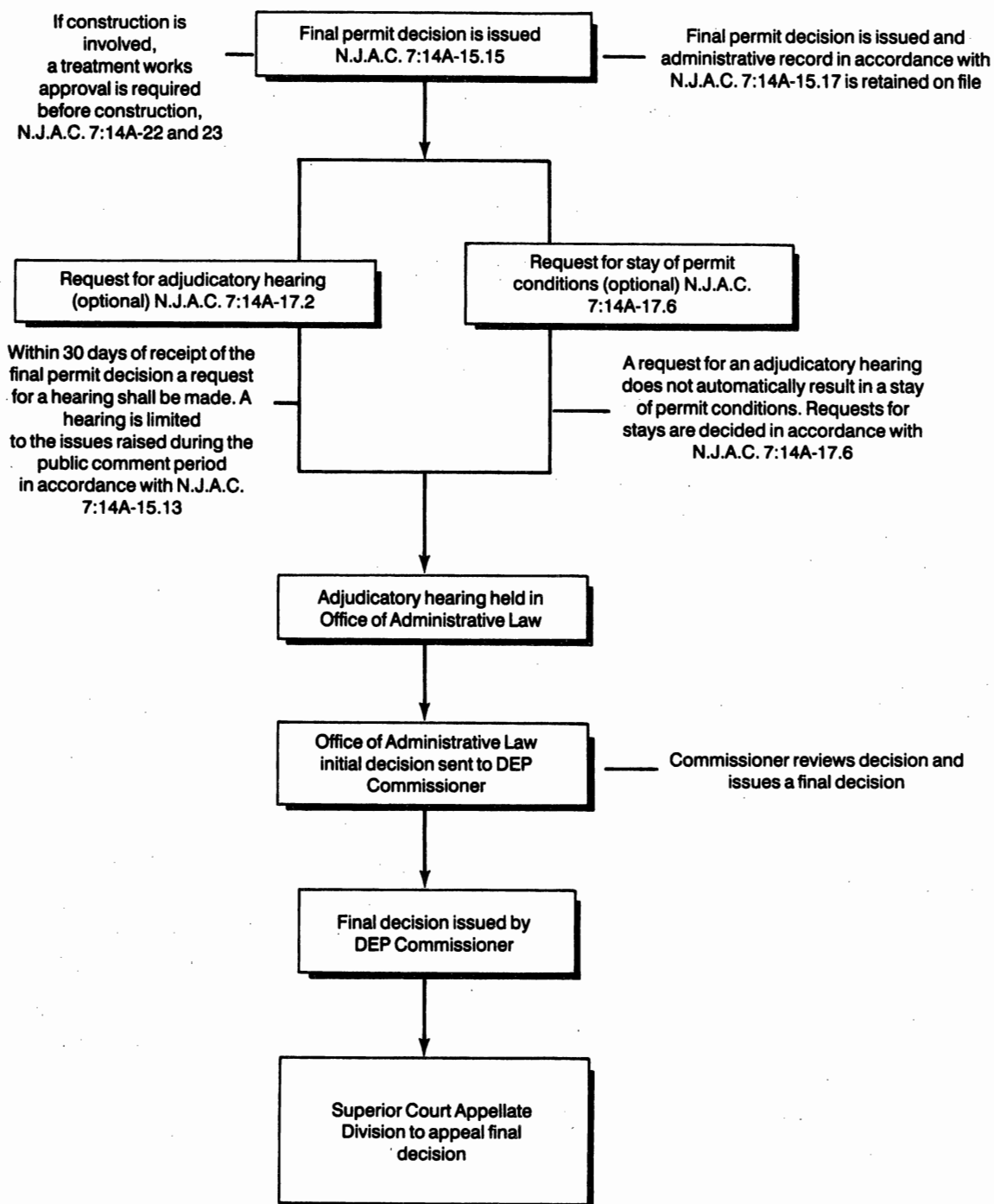
Appendix A is designed to assist a person in following the permit appeal and stay procedures after a permit is issued. An applicant should consult the full text of the regulations when contemplating an appeal and/or stay.

The flow chart outlines a sequence of events, directed by arrows, of the stay procedures for when a final permit is issued. The key items in this section are:

1. A hearing shall be requested within 30 days of receipt of the permit; and

2. A request for a stay may be combined with a hearing request but the request for a stay shall be expressly stated.

Permit Appeal and Stay Process



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

SUBCHAPTER 18. PUBLIC ACCESS TO INFORMATION AND REQUIREMENTS FOR DETERMINATION OF CONFIDENTIALITY

7:14A-18.1 Public access to information and scope of authority

(a) Except as otherwise provided in section 3 of P.L. 1963, c.73 (N.J.S.A. 47:1A-3), any records, reports or information obtained by the Department, or required to be developed and retained by the permittee as a permit condition pursuant to this chapter, the State Act or section 5 of P.L. 1972, c.42 (N.J.S.A. 58:11-53), including all NJPDES permit applications, documented information concerning actual and proposed discharges, comments received from the public, draft and final NJPDES permits, and related correspondence shall be made available to the public for inspection and duplication at the offices of the Department.

(b) For facilities with NJPDES permits for discharges to ground or surface water but which are otherwise within the jurisdiction of the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 and/or the Hazardous and Solid Waste Amendments of 1984 to that Act, public access to information shall be regulated pursuant to N.J.A.C. 7:26G.

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

7:14A-18.2 Confidentiality

(a) The Department shall protect from disclosure any information, other than effluent data, upon a satisfactory showing by any person that the information, if made public, would divulge methods or processes entitled to protection as trade secrets of such persons. The Department's decision on the claim of confidentiality shall be made in accordance with the substantive criteria listed in N.J.A.C. 7:14A-18.6. The access to any information deemed to be confidential by the Department shall be limited to authorized officers or employees of the Department and the Federal government. For purposes of this subchapter the term "information" shall include records, reports, and any other documents, writings, photographs, sound or magnetic recordings, drawings, or other similar formats by which information has been retrieved or copied.

(b) Included among those items for which claims of confidentiality will be denied are the following:

1. The name and address of any permit applicant, permittee or co-permittee;
2. Permits;

3. Effluent data as defined in N.J.A.C. 7:14A-1.2;

4. For permits under the UIC program, information which concerns the existence, absence, or level of contaminants in drinking water; and

5. Information required by NJPDES permit application forms provided by the Department under N.J.A.C. 7:14A-4. This includes information on the forms themselves and any attachments used to supply information required by the forms.

7:14A-18.3 Procedures for asserting confidentiality

(a) Any person may assert a confidentiality claim regarding information, in whole or in part, by following the procedures set forth in (b) through (f) below.

(b) Any person submitting information to the Department and asserting a confidentiality claim covering any of the information shall submit two sets of documents to the Department. The first set shall contain all information requested by the Department, including any information which the person alleges to be entitled to confidential treatment. The second set, which will go into the public file, shall be identical to the first set except that it shall not contain information which the person alleges to be entitled to confidential treatment. In order to provide the public notice that information has been omitted from the second set under a claim of confidentiality, the second set shall indicate where such deletions have been made.

(c) The top of each page of the first set containing the information which the person alleges to be entitled to confidential treatment shall display the heading "CONFIDENTIAL" in bold type or stamp.

(d) All parts of the text of the first set which the person alleges to be entitled to confidential treatment shall be underscored or highlighted in a clear manner. Translucent ink markers are acceptable for this purpose.

(e) The outside of the envelope containing the first set containing the information which the person alleges to be entitled to confidential treatment shall display the word "CONFIDENTIAL" in bold type on both sides.

(f) The person submitting the sets of information shall send them to the appropriate permitting office by certified mail (return receipt requested), or by other means which provides verification of the date of delivery to the Department.

7:14A-18.4 Fees for a claim of confidentiality

Any person submitting documents to the Department under a claim of confidentiality shall submit a check in the amount of \$250.00 for the first 50 confidential pages and \$1.00 for each page thereafter, to cover the additional costs of processing and protecting the confidential information.

7:14A-18.5 Procedure for confidentiality determinations

(a) Information for which a confidentiality claim has been asserted shall be treated by the Department as entitled to

confidential treatment unless and until the Department determines that the information is not entitled to confidential treatment as provided in this section.

(c) Nothing in this subchapter shall preclude or deny the right of a local agency to independently implement an IPP or adopt any pretreatment requirements or standards which are more stringent than the requirements in 40 CFR Part 403, 40 CFR chapter I, subchapter N, or the requirements in this subchapter.

7:14A-19.2 Industrial pretreatment program development by local agencies

(a) Any local agency, or combination of treatment works operated by the same local agency, which meets the following criteria shall establish an IPP unless the Department exercises its option to implement the IPP:

1. The treatment works total design flow is greater than five million gallons per day (MGD); and
2. The treatment works receives pollutants from indirect users which pass through or interfere with the operation of the treatment works or are otherwise subject to pretreatment standards.

(b) The Department shall require a local agency, or combination of treatment works operated by the same local agency, with a design flow of five MGD or less to establish an IPP if the nature or volume of industrial influent, treatment process upsets, violations of effluent limitations, contamination of municipal sludge, or other circumstances warrant the establishment of an IPP in order to prevent interference with the treatment works or pass through.

(c) Any local agency required to establish an IPP pursuant to (a) or (b) above shall develop and submit to the Department for approval an IPP in accordance with the requirements of 40 CFR Part 403 and the additional requirements of this subchapter. The local agency required to develop an IPP shall have a pretreatment program compliance schedule incorporated into the NJPDES permit at the time of issuance, re-issuance, or modification of the permit. The compliance schedule shall require the development and submission of an IPP which addresses the requirements of this subchapter no later than one year after receipt of written notification from the Department that such an IPP is required.

7:14A-19.3 Industrial pretreatment program requirements for all local agencies

(a) As specified at N.J.A.C. 7:14A-16.3 and 16.4, the Department may reissue or modify a local agency's NJPDES permit to include IPP requirements as set forth in this subchapter.

(b) All local agencies, including those not required by N.J.A.C. 7:14A-19.2(a) and (b) to establish an IPP, shall comply with the following IPP requirements:

1. All local agencies shall submit a copy of the local sewer use ordinance or rules and regulations, including any amendments, to the Bureau of Pretreatment and

Residuals in the Department at 401 East State Street, CN-029, Trenton, N.J. 08625;

2. All local agencies shall identify and locate indirect users as specified below:

i. All delegated local agencies shall update their inventory of indirect users at a frequency and diligence adequate to ensure proper identification of indirect users subject to pretreatment standards, appropriate characterization of the nature of their discharges, and correct designation of indirect users as categorical, significant/major, or other regulated. This update shall be completed at a minimum frequency of once per year, and shall be included in the 40 CFR 403 Annual Report required under N.J.A.C. 7:14A-19.6(d).

ii. Non-delegated local agencies shall submit an annual report, which consists of a listing of all indirect users which meet the significant indirect user definition in N.J.A.C. 7:14A-1.2;

3. All local agencies shall develop local limits or demonstrate that such limits are not necessary in accordance with N.J.A.C. 7:14A-19.7;

4. Of the amount of any penalty assessed and collected pursuant to an action brought by a local agency in accordance with N.J.S.A. 58:10A-10, 10 percent shall be deposited in the Wastewater Treatment Operators' Training Account established in accordance with N.J.S.A. 58:10A-14.5 and used to finance the cost of training operators of municipal treatment works. The remainder shall be used by the local agency solely for enforcement purposes and for upgrading municipal treatment works; and

5. Except as otherwise provided in N.J.S.A. 47:1A-3, any records, reports, or other information obtained by a local agency pursuant to this paragraph or N.J.S.A. 58:11-53, including any correspondence relating thereto, shall be available to the public. However, upon a showing satisfactory to the local agency by any person that the making public of any record, report, or information, or a part thereof, other than effluent data, would divulge methods or processes entitled to protection as trade secrets, the local agency shall consider such record, report, or information, or part thereof, to be confidential and access thereto shall be limited to authorized officers or employees of the Department, local agency, and the Federal government.

(c) All delegated local agencies (DLAs) shall comply with the following IPP requirements:

1. All DLAs shall notify indirect users of the responsibilities required in the DLA's rules and regulations or sewer use ordinance as soon as possible but no later than 30 days from the determination that such indirect users are subject to regulation under the IPP. This notice shall not preclude the DLA from taking any enforcement action against an indirect user;

2. All DLAs shall issue an IPP permit to indirect users, as required by the DLA's NJPDES permit;

3. All DLAs shall perform compliance monitoring and inspections of indirect users, as required by the DLA's NJPDES permit;

4. All DLAs shall review and respond to violations of an IPP permit or the sewer use ordinance/rules and regulations, within 60 days of receipt of the compliance information generated by indirect users or the DLA;

5. All DLAs shall take enforcement actions based upon indirect users' noncompliance in accordance with the approved Enforcement Response Plan (ERP). In the absence of an approved ERP, the enforcement action shall be taken in accordance with the IPP as approved;

6. All DLAs shall develop and maintain a data management system which includes an indirect user inventory, characterization of the nature of indirect user discharges, compliance status, permit status, and enforcement actions. The DLA shall retain for a minimum of five years records of its monitoring activities and results (whether or not such activities are required by the DLA's NJPDES permit) and shall make such records available to EPA and the Department upon request;

7. All DLAs shall sample their treatment works and sludges as specified below:

i. Perform, at least once per year, an analysis for those priority pollutants listed in N.J.A.C. 7:14A-4, Appendix A, Tables II and III, of the discharge from, and inflow to, the municipal treatment works; and

ii. Perform, at least once per year, a priority pollutant scan on the sludge produced at the municipal treatment works. This analysis must be completed on those parameters listed in the Sludge Quality Assurance Regulations, N.J.A.C. 7:14-4. The sludge samples shall be collected to coincide with the influent and effluent monitoring for priority pollutants required in (c)7i above;

8. All DLAs shall comply with the public participation and notification requirements in N.J.A.C. 7:14A-19.10;

9. All DLAs shall notify their significant indirect users (SIUs) in writing, in accordance with 40 CFR 403.8(f)(2)(iii), of the SIUs' obligation to comply with applicable requirements under Subtitles C and D of the Resource Conservation and Recovery Act (RCRA);

10. All DLAs shall secure and maintain sufficient resources and qualified personnel, in accordance with 40 CFR 403.8(f)(3), to carry out the program implementation procedures described in this subchapter;

11. All DLAs shall submit annual reports required by N.J.A.C. 7:14A-19.6(c) and (d); and

12. Of the penalty amount collected through the issuance of a summons pursuant to N.J.S.A. 58:10A-10.4, 10 percent shall be paid to the municipality or municipalities in which the municipal court retains jurisdiction for use for court purposes, with the remainder to be retained by the DLA.

7:14A-19.4 Enforcement response plan

(a) A delegated local agency shall develop and implement an enforcement response plan in accordance with this section. The plan shall contain detailed procedures describing how a delegated local agency shall investigate and respond to instances of indirect user noncompliance. The plan shall, at a minimum:

1. Describe how the delegated local agency shall investigate instances of noncompliance;

2. Describe the types of escalating enforcement responses the delegated local agency shall take in response to all anticipated types of indirect user violations and the time frames within which responses shall take place;

3. Identify (by title) the official(s) responsible for each type of response;

4. Adequately reflect the delegated local agency's primary responsibility to enforce all applicable pretreatment requirements and standards as detailed in 40 CFR 403.8(f)(1) and (f)(2), and the delegated local agency's approved pretreatment program and amendments; and

5. Contain noncompliance and nature of violation criteria and responses as set forth in the plan contained in Appendix A of this subchapter, incorporated hereby by reference, which denotes the minimum requirements. The delegated local agency shall be in violation of this subsection only if it fails to take action in accordance with the minimum requirements in Appendix A.

(b) A delegated local agency may develop an enforcement response plan in tabular format for easy reference, such as the enforcement response plan set forth in Appendix A.

(c) The enforcement response plan shall be included within the rules and regulations or sewer use ordinance of a delegated local agency.

(d) The enforcement response plan shall include the penalty matrix specified at N.J.A.C. 7:14-8.16(f).

(e) The development of the ERP in accordance with this section shall not preclude a DLA from initiating other available enforcement responses where violations are not specifically identified in the ERP.

(f) All delegated local agencies shall submit to the Department an ERP in accordance with (a) above by November 1, 1997.

7:14A-19.5 Enforcement requirements in an industrial pretreatment program

(a) All delegated local agencies shall, at a minimum, include in their sewer use ordinance or rules and regulations the following enforcement and penalty provisions:

1. The ability to issue an order in accordance with N.J.S.A. 58:10A-10a(1);
2. The ability to bring a civil action, including injunctive relief, in accordance with N.J.S.A. 58:10A-10a(2) and 58:11-55(b);
3. The ability to petition the county prosecutor or Attorney General to bring a criminal action in accordance with N.J.S.A. 58:10A-6.i. and 58:10A-10a(5);
4. The ability to issue a civil administrative penalty in accordance with N.J.S.A. 58:10A-10.5;
5. The ability to bring an action for a civil penalty in accordance with N.J.S.A. 58:10A-10a(4);
6. The ability to issue a summons in accordance with N.J.S.A. 58:10A-10.4;
7. The ability to assess a penalty for each violation that causes a violator to be, or continue to be, a significant noncomplier as defined at N.J.A.C. 7:14-8.2;
8. The ability to assess a penalty for each serious violation as defined at N.J.A.C. 7:14-8.2;
9. The ability to assess a penalty in accordance with N.J.A.C. 7:14-8.16;
10. The ability to assess a penalty for submitting inaccurate or false information in accordance with N.J.A.C. 7:14-8.6; and
11. The ability to assess a penalty for failure to properly conduct monitoring or sampling activities or to submit discharge monitoring reports/self-monitoring reports, or other pretreatment monitoring reports in accordance with N.J.A.C. 7:14-8.9(c), (d) and (e).

(b) All delegated local agencies shall include in their sewer use ordinance or rules and regulations procedural and substantive requirements regarding:

1. Notice of a penalty assessment and notice of the opportunity to request an administrative hearing on the assessment of a civil administrative penalty in accordance with N.J.S.A. 58:10A-10.5;
2. Opportunity to file exceptions, objections, and replies to the head of the delegated local agency in accordance with N.J.S.A. 58:10A-10.6;
3. Issuance of a final decision or order in accordance with N.J.S.A. 58:10A-10.6 and 10.7; and
4. Appeal of a civil administrative penalty, the posting of bond or security, the payment of interest, the collection

of the civil administrative penalty and other procedures in accordance with N.J.S.A. 58:10A-10.8.

7:14A-19.6 Additional requirements for delegated local agencies

(a) Each permitted facility discharging into the municipal treatment works of a delegated local agency, other than a facility discharging only stormwater or non-contact cooling water, shall be inspected by the delegated local agency at least once a year. The Department may also inspect a facility required to be inspected by a delegated local agency. Exemption of stormwater facilities from the provisions of this subsection shall not apply to any permitted facility discharging or receiving stormwater runoff having come into contact with a hazardous discharge site on the Federal National Priorities List adopted by the EPA pursuant to the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq., or any other hazardous discharge site included by the Department on the master list for hazardous discharge site cleanups adopted pursuant to N.J.S.A. 58:10-23.16. An inspection required under this subsection shall be conducted within six months following a permittee's submission of an application for a permit, permit renewal or issuance of a permit for a new facility, except that if for any reason, a scheduled inspection cannot be made, the inspection shall be rescheduled to be performed within 30 days of the originally scheduled inspection or in the case of a temporary shutdown, of resumed operation. Inspections shall include:

1. A representative sampling of the effluent for each permitted facility, except that in the case of facilities that are not major facilities or significant indirect users, sampling pursuant to this paragraph shall be conducted at least once every three years. Collection of a representative sampling is required to complete an inspection but does not necessarily have to be conducted concurrently with the inspection;
2. An analysis of all collected samples by a laboratory certified by the Department;
3. An evaluation of the maintenance record of the permittee's treatment equipment;
4. An evaluation of the permittee's sampling techniques;
5. A random check of written summaries of test results, prepared by the certified laboratory, providing the test results for the immediately preceding 12-month period, signed by a responsible official of the certified laboratory, certifying the accuracy of the test results. This random check can be completed by reviewing the test results at the permitted facility, and/or through review of test results previously submitted by the permitted facility to the delegated local agency;
6. An inspection of the permittee's sample storage facilities and techniques if the sampling is normally performed by the permittee; and

7. An evaluation, at least once every two years, of each significant indirect user (as defined by the delegated local agency) in order to determine the need for a plan to control slug discharges. For purposes of this paragraph, a slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge. If the delegated local agency decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

- i. A description of discharge practices, including non-routine batch discharges;
- ii. A description of stored chemicals;
- iii. Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition at N.J.A.C. 7:14A-21.2, with procedures for follow-up written notification within five days; and
- iv. If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

(b) In addition to the inspection requirements of (a) above, all delegated local agencies shall inspect any permittee which meets the significant noncomplier definition at N.J.A.C. 7:14A-1.2. The inspection under this subsection shall be conducted within 60 days of receipt of the discharge monitoring report or self-monitoring report that initially results in the permittee's being identified as a significant noncomplier. The inspection shall include a random check of written summaries of test results, prepared by the certified laboratory providing the test results for the immediately preceding 12-month period signed by a responsible official of the certified laboratory, certifying the accuracy of the test results. A copy of each summary shall be maintained by the permittee. The inspection shall be for the purpose of determining compliance and shall only be performed once each calendar year. A delegated local agency is not required to make an inspection hereunder if an inspection has been made pursuant to (a) above within six months of the period within which an inspection is required to be conducted under this subsection.

(c) A delegated local agency shall submit a "Clean Water Enforcement Act" (CWEA) annual report to the Department by February 1 of each year. The CWEA annual report shall include, at a minimum, the information under N.J.S.A. 58:10A-14.2, including all supplements and amendments thereto.

(d) In addition to the information required in the CWEA annual report under (c) above, delegated local agencies shall also include the following information in the CWEA annual report:

- i. The number of indirect users which met the significant non-compliance definition during the calendar year and, by the close of the calendar year, had achieved compliance; and
- ii. The number of indirect users which had met the significant non-compliance criteria during the prior reporting year which have achieved compliance in the reporting period for which the annual report is being prepared.

(e) The information required in (c) and (d) above shall be submitted on forms provided by the Department.

(f) All delegated local agencies shall submit to the Department a "40 CFR Part 403" annual report which describes their pretreatment program activities. This report must contain, at a minimum, the information required under 40 CFR 403.12(i), including all supplements and amendments thereto. This report shall be submitted by the date specified in the delegated local agency's NJPDES permit.

7:14A-19.7 Development of local limits by local agencies

(a) All local agencies shall perform a headworks analysis in order to develop local limits or demonstrate that local limits are not necessary. The headworks analysis and, if necessary, development of local limits shall:

1. Be conducted in accordance with the Guidance Manual on the Development and Implementation of Local Discharge Limitations under the Pretreatment Program (December 1987, USEPA Office of Water Enforcement), including all supplements and amendments thereto; and

2. Ensure compliance with the following minimum environmental protection criteria:

- i. The numerical effluent limitations in the local agency's NJPDES permit;
- ii. The local agency's process inhibition and upset criteria;
- iii. The local agency's worker health and safety protection criteria;
- iv. The sludge quality criteria for a chosen method(s) of sludge management; and
- v. The limitations in the local agency's Air Pollution Control permit, where applicable.

(b) Prior to initiation of any headworks analysis and development of local limits under (a) above, all delegated local agencies shall submit a work plan to the Department, for review and approval with conditions if necessary, which outlines the tasks and time frames in the development of a headworks analysis and local limits. At a minimum, this plan shall include the parameters to be sampled, the sampling locations within the treatment plant and the collection system, and a schematic diagram of the treatment plant showing sampling locations.

(c) When proposing and adopting local limits, all delegated local agencies shall comply with the public notice and hearing requirements of N.J.A.C. 7:14A-19.10(a).

(d) All delegated local agencies shall submit a written technical evaluation of the need to revise local limits whenever:

1. There are any changes in the applicable sludge quality criteria or effluent limitations, or there is a significant change in the nature of indirect user contributions to the local agency's influent; or
2. The local agency's NJPDES permit renewal application is due.

(e) The written technical evaluation required under (d) above shall include the following:

1. A listing of all existing local limits and the limiting factor by which each local limit was established;
2. The date that the existing local limits were established;
3. A description of any changes in Federal or State regulations, environmental protection criteria, plant design, operational criteria, or any significant change in the nature of industrial contributions which may require the reevaluation of local limits through the completion of a headworks analysis;
4. A description of the local agency's compliance history over the previous five years, with respect to compliance with effluent limitations, sludge quality, plant inhibition or upset, and worker health and safety; and
5. A statement from the local agency as to whether or not local limits need to be revised based on the information gathered under (e)1 through 4 above.

(f) The Department shall review the written technical evaluation submitted under (d) above and, if necessary, require the local agency to revise the local limits in accordance with (a) above.

7:14A-19.8 Requirements for issuance of IPP permits by delegated local agencies

(a) All delegated local agencies shall issue an IPP permit to:

1. Any SIU as defined in N.J.A.C. 7:14A-1.2 or as defined in the delegated local agency's sewer use ordinance or rules and regulations; and

2. Any other indirect user when effluent limitations and other conditions are to be imposed on that user, at the discretion of the local agency.

(b) The delegated local agency shall include the following requirements in all IPP permits:

1. All permit requirements established in N.J.S.A. 58:10A-6f; and
2. All permit requirements for IPP/SIU permits established in 40 CFR 403.8(f)(1)(iii)(A) through (E).

(c) Prior to approving any proposed new indirect user IPP permits, proposed renewed indirect user IPP permits, or proposed major modifications to any existing indirect user IPP permit, all delegated local agencies shall comply with the public notice and hearing requirement of N.J.A.C. 7:14A-19.10(e).

(d) All delegated local agencies shall include in their sewer use ordinance or rules and regulations the following permit issuance requirements:

1. Procedural and substantive requirements regarding written applications for IPP permits and indirect user authorizations to discharge. The application form must require the submission of full information as to the quantity, character, and composition of the proposed discharge;

2. Procedural requirements for the issuance, renewal, modification, suspension, revocation of IPP permits or indirect user authorizations. The procedures must include notice, opportunity to comment, and opportunity to request a public hearing on all draft IPP permits. The DLA shall issue a response-to-comments document at the time that a final permit is issued. The response-to-comments document shall:

- i. State the action the DLA has taken on the final permit;
- ii. Specify which provisions, if any, of the draft permit have been changed in the final permit, and the reasons for any such change; and
- iii. Briefly describe and respond to all relevant comments on the draft permit raised during the public comment period, or during the public hearing, if any;

3. The requirement that no IPP permit shall be issued, renewed, or modified by a delegated local agency so as to relax any effluent limitation unless the IPP permittee or applicant has complied with the requirements of N.J.S.A. 58:10A-6k.

7:14A-19.9 Modifications of an industrial pretreatment program

(a) All delegated local agencies shall provide written notice to the Department regarding all substantial and non-substantial IPP modifications, as defined under 40 CFR 403.18.

(b) For non-substantial modifications, the delegated local agencies shall include a statement of the basis for the modification, and a copy of the elements of the IPP to be modified.

(c) For substantial modifications, the delegated local agency shall submit:

1. A statement of basis for the proposed modifications;
2. A statement of legal authority in accordance with 40 CFR 403.9(b)(1);
3. Documentation which will allow the Department to identify those parts of the sewer use ordinance or rules and regulations, NJPDES permit, and/or the original program submission, or amendments thereto, which are being modified; and
4. Any other documentation the Department requests during the review of the proposed modifications.

(d) While awaiting a decision from the Department on a request for a substantial modification the delegated local agency shall:

1. Adopt the proposed modifications with the written condition that the modifications shall not become effective and shall not be implemented until the Department has given written approval of the modifications; or
2. Await Departmental approval prior to adopting the modifications.

(e) The Department shall approve or disapprove any proposed modification(s) based on the requirements of 40 CFR 403.8(f), following the procedures in 40 CFR 403.11(b) through (f).

(f) For industrial pretreatment program modifications, all delegated local agencies shall comply with the public notice and hearing requirement of N.J.A.C. 7:14A-19.10(a).

(g) All approved modifications to an IPP shall be incorporated, where applicable, into the delegated local agency's NJPDES permit as a minor modification in accordance with N.J.A.C. 7:14A-16.5.

7:14A-19.10 Public notice requirements for delegated local agencies

(a) All delegated local agencies shall provide public notice and an opportunity for a public hearing for all requests for substantial modification of an industrial pretreatment program following the procedures under 40 CFR 403.11(b). The delegated local agency shall submit to the Department copies of the public notice, all written comments submitted in response to the public notice and public hearing, if conducted, and responses to comments. The Department shall approve or disapprove the modifications following the procedures noted in N.J.A.C. 7:14A-19.9(e).

(b) All delegated local agencies shall provide public notice identifying those indirect users which met the significant noncompliance criteria under 40 CFR 403.8(f)(2)(vii) at any time during the period covered by the delegated local agency's 40 CFR Part 403 Annual Report submitted to the Department pursuant to N.J.A.C. 7:14A-19.6(d). This public notice shall be published in the official daily newspaper designated by the local agency no later than 60 days after the 40 CFR 403 Annual Report due date.

(c) A delegated local agency shall afford an opportunity to the public to comment on a proposed administrative consent order prior to final adoption if the administrative consent order would establish interim enforcement limits that would relax effluent limitations established in a permit or a prior administrative order. The delegated local agency shall provide public notice of the proposed administrative consent order, announce the length of the comment period, which shall be not less than 30 days, commencing from the date of publication of the notice. A notice shall also include a summary statement describing the nature of the violation necessitating the administrative consent order and its terms and conditions; shall specify how additional information on the administrative consent order may be obtained; and shall identify to whom written comments are to be submitted. At least three days prior to publication of the notice, a written notice containing the same information to be provided in the public notice shall be mailed to the mayor and governing body of the municipality and county in which the violation occurred, and to any other persons who have expressed an interest in the public notice, including any other governmental agencies. The delegated local agency shall consider the written comments received during the comment period prior to final adoption of the administrative consent order. Not later than the date that final action is taken on the proposed order, the delegated local agency shall notify each person or group having submitted written comments on the main provisions of the approved administrative consent order and respond to the comments received therefrom.

(d) The delegated local agency, on its own initiative or at the request of any person submitting written comments pursuant to (c) above, may hold a public hearing on the proposed administrative order or administrative consent order, prior to final adoption if the order would establish interim enforcement limits that would relax for more than 24 months effluent limitations established in a permit or a prior administrative order or administrative consent order. Public notice for the public hearing to be held pursuant to this subsection shall be published not more than 30 and not less than 15 days prior to the holding of the hearing. The hearing shall be held in the municipality in which the violation necessitating the order occurred.

(e) All delegated local agencies shall provide public notice and may hold a public hearing for any proposed new indirect user IPP permits, proposed renewed indirect user IPP permits, proposed revocations of any indirect user IPP permits, or proposed major modifications to any existing indirect user IPP permits.

7:14A-19.11 Penalties for failure to implement or enforce an approved industrial pretreatment program

approved industrial pretreatment program in accordance with N.J.A.C. 7:14-8.17.

The Department may assess a civil administrative penalty for failure to implement or enforce the conditions of an

APPENDIX A**ENFORCEMENT RESPONSE PLAN**Unauthorized DischargesNoncompliance

1. Discharge without a permit (Permit required)

Nature of the Violation

No harm to POTW environment
Harm to POTW/environment
Noncompliance with order to submit application
Failure to submit application prior to 180 days of expiration of current permit
Failure to apply continues after notice by the POTW
Failure to notify in advance of new introductions of pollutants or significant change in existing pollutants

Enforcement Responses

NOV with application form, if needed
Take action to halt activity
Seek penalty
NOV
Seek penalty
NOV with permit application to be modified

Time Frame

60 days
2 days
6 months
60 days
6 months
60 days

PersonnelDischarge Limit Violation

1. Exceedance of local or Federal standard (permit limit)

Individual or monthly non-serious violation

NOV; compliance response/corrective action plan, if needed
Seek penalty

60 days from receipt

Serious violation (individual or monthly)

60 days or notify DEP if enf. will exceed 6 months
Annually, but not later than 60 days after 403 annual report submitted to NJDEP.
6 months or notify DEP if enf. will exceed 6 months

2. Exceedance of local or Federal standard (permit limit) (continued)

Significant Noncompliance (IU meets SNC criteria under 40 CFR Part 403)

Public notice

Significant noncompliance (IU meets SNC criteria in NJWPCA, under N.J.S.A. 58:10A-3.w.)

Seek penalty

Monitoring and Reporting Violations

1. Reporting violation

Late, 5 to 30 days after due date (but complete)

NOV, seek penalty (note: Penalty waived if complete report is received within 10 days of receipt of the NOV)
Public notice and seek penalty

6 months

Late 31 days or more after due date (but complete)

Seek penalty and public notice

6 months

Incomplete for data omission (IU meets SNC criteria under NJWPCA)

6 months

<u>Noncompliance</u>	<u>Nature of the Violation</u>	<u>Enforcement Responses</u>	<u>Time Frame</u>	<u>Personnel</u>
	Incomplete for data omission (IU meets SNC criteria under 40 CFR Part 403).	Seek penalty and public notice	6 months	
	Incomplete for other omissions	NOV	60 days	
	Falsification	Seek penalty or refer to county prosecutor	60 days	
2. Failure to adhere to compliance schedules (in control document, permit, AO/ACO, letter of agreement)	Missed milestone by less than 30 days	NOV, seek penalty (note: penalty may be waived if final compliance is met by due date)	6 months	
	Missed milestone by more than 30 days (IU meets SNC criteria under 40 CFR Part 403)	NOV, seek penalty, public notice (note: penalty may be waived if final compliance is met by due date)	6 months	
	Failure to meet final compliance date	NOV, seek penalty	6 months	
3. Failure to notify	Failure to report spill or changed discharge	NOV; seek penalty where necessary	NOV w/in 60 days of discovery; penalty no later than 6 months of discovery	
4. Failure to monitor correctly	Incorrect sample location, incorrect sample type, incorrect sample collection techniques, or incorrect sample analysis	NOV, with proper re-sampling, including sample analysis	60 days	
5. Failure to report additional monitoring	POTW inspection finds additional files	NOV with request to submit additional monitoring data	60 days	
<u>Other Permit Violations</u>				
1. Wastestreams are diluted to achieve discharge limits	Dilution	NOV, seek penalty	NOV—60 days; penalty—6 months	
2. Continuing failure to halt or prevent a discharge which caused or causes imminent endangerment to human health, welfare, or the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR 403.8(f)(1)(vi)(B)	Refusal to discontinue activity upon notification	Take physical (effective) action or seek court order to halt discharge	2 days max.	
3. Failure to maintain in good working order and properly operate, any facilities or systems of control installed to achieve compliance with the terms and conditions of the permit	Violation of operating requirements	NOV	60 days	
4. Entry denial	Entry denied or consent withdrawn. Copies of records denied	NOV, seek penalty	6 months	
5. Inadequate record keeping	POTW inspector finds files incomplete or missing	NOV	60 days	

SUBCHAPTER 20. STANDARDS FOR THE USE OR DISPOSAL OF RESIDUAL

7:14A-20.1 Purpose

(a) This subchapter establishes:

1. Permit application requirements and standards, which consist of general requirements, pollutant limits, management practices, frequency of monitoring requirements, recordkeeping and operational standards, for residual applied to the land or the land to which residual is applied in conformance with 40 CFR Part 503, unless otherwise specifically stated;
2. Permit application requirements and standards for the closure of sewage sludge surface disposal sites;
3. Permit application requirements and standards for residual transfer stations; and
4. Permit application and case-by-case permitting requirements for residual use and disposal practices consistent with 40 CFR Parts 122, 123 and 124.

7:14A-20.2 Applicability

(a) This subchapter applies to:

1. Any person who prepares residual that is applied to the land, any person who applies residual to the land, residual applied to the land, and the land on which residual is applied;
2. The closure of sewage sludge surface disposal sites; and
3. The operating entity of any treatment works treating domestic sewage, including residual transfer stations, or of any residual-only facility, whether or not the treatment works is otherwise required to obtain a NJPDES permit unless all requirements implementing standards for residual use or disposal applicable to the treatment works are included in a permit issued under the authority of the New Jersey Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., or the New Jersey Air Pollution Control Act, N.J.S.A. 26:26-1 et seq.

(b) The requirements in N.J.A.C. 7:14A-20.7 do not apply when:

1. Bulk material derived from sewage sludge is applied to the land if the sewage sludge from which the bulk material is derived is generated under a NJPDES permit and meets the pollutant concentrations in 40 CFR 503.13(b)3, the Class A pathogen requirements in 40 CFR 503.32(a), and one of the vector attraction reduction requirements in 40 CFR 503.33(b)1 through 8; or
2. A material derived from sewage sludge is sold or given away in a bag or other container to be applied to the land if the sewage sludge from which the material is derived is generated under a NJPDES permit and meets

the pollutant concentrations in 40 CFR 503.13(b)3, the Class A pathogen requirements in 40 CFR 503.32(a), and one of the vector attraction reduction requirements in 40 CFR 503.33(b)1 through 8.

(c) The general requirements in N.J.A.C. 7:14A-20.7(b)1 and the management practices in N.J.A.C. 7:14A-20.7(b)2 do not apply when:

1. Bulk residual is applied to the land, if the bulk residual meets the pollutant concentrations in 40 CFR 503.13(b)3, the Class A pathogen requirements in 40 CFR 503.32(a), and one of the vector attraction reduction requirements in 40 CFR 503.33(b)1 through (8). However, the Department may apply any or all of the general requirements in N.J.A.C. 7:14A-20.7(b)1 and the management practices in N.J.A.C. 7:14A-20.7(b)2 to the bulk residual on a case-by-case basis as described at N.J.A.C. 7:14A-20.5(a)3;

2. Bulk material derived from residual is applied to the land if the derived bulk material meets the pollutant concentrations in 40 CFR 503.13(b)3, the Class A pathogen requirements in 40 CFR 503.32(a), and one of the vector attraction reduction requirements in 40 CFR 503.33(b)1 through (8). However, the Department may apply any or all of the general requirements in N.J.A.C. 7:14A-20.7(b)1 and the management practices in N.J.A.C. 7:14A-20.7(b)2 to the bulk material on a case-by-case basis as described at N.J.A.C. 7:14A-20.5(a)3;

3. Residual is sold or given away in a bag or other container for application to the land if the residual sold or given away in a bag or other container for application to the land meets the pollutant concentrations in 40 CFR 503.13(b)3, the Class A pathogen requirements in 40 CFR 503.32(a), and one of the vector attraction reduction requirements in 40 CFR 503.33(b)1 through (8);

4. A material derived from residual is sold or given away in a bag or other container for application to the land if the derived material meets the pollutant concentrations in 40 CFR 503.13(b)3, the Class A pathogen requirements in 40 CFR 503.32(a), and one of the vector attraction reduction requirements in 40 CFR 503.33(b)1 through (8).

(d) References in this subchapter to 40 CFR Part 122, Part 258, 503.13, 503.15, 503.17(a), 503.32 and 503.33, with the exception of requirements for domestic septage, incorporate such Federal requirements by reference including future supplements and amendments to these requirements. All other references in this subchapter to 40 CFR Part 503 incorporate such Federal requirements by reference as they existed as of May 5, 1997.

(e) Where the Statewide Sludge Management Plan (SSMP) and this subchapter conflict, the provisions of this subchapter shall control.

7:14A-20.3 Relationship to other regulations

(a) This subchapter does not establish:

1. Standards for the firing of residual in an incinerator which receives an air pollution control permit pursuant to N.J.A.C. 7:27;

2. Requirements for the use or disposal of residual determined to be hazardous in accordance with 40 CFR Part 261 and N.J.A.C. 7:26;

3. Requirements for the use or disposal of residual with a concentration of polychlorinated biphenyls (PCBs) equal to or greater than 50 milligrams per kilogram of total solids (dry weight basis) in accordance with 40 CFR Part 761 and N.J.A.C. 7:26;

4. Standards for the co-disposal of residual in a municipal solid waste landfill which receives a permit pursuant to 40 CFR Part 258 or N.J.A.C. 7:26; or

5. Standards for the disposal of residual in a sanitary landfill, as defined at N.J.A.C. 7:26, which receives a permit pursuant to N.J.A.C. 7:26.

7:14A-20.4 Special definitions

The following words and terms have specific meanings when used in this subchapter: "agricultural land," "final cover," "forest," "liner," "lower explosive limit for methane gas," "pasture," "permitting authority," "pollutant limit," "public contact site," "range land" and "runoff." The applicable definitions are set forth at N.J.A.C. 7:14A-1.2.

7:14A-20.5 Establishing limitations, standards and other permit conditions

(a) The Department shall establish conditions in each NJPDES permit for the use or disposal of residual, as required on a case-by-case basis, to provide for and ensure compliance with all applicable requirements of the Federal and State Acts and the regulations promulgated thereunder, as follows:

1. The Department shall include standards for residual use or disposal in each NJPDES permit unless those standards have been included in a permit issued under the appropriate provisions of the New Jersey Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., or the New Jersey Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq. If any applicable standard for residual use or disposal is promulgated and that standard is more stringent than any limitation on the pollutant or practice in the permit, the Department may initiate proceedings under N.J.A.C. 7:14A-16.4 to modify or revoke and reissue the permit to conform to the standard for residual use or disposal.

2. For any permit issued to a treatment works treating domestic sewage or residual-only facility, the Department shall include a reopener clause to allow the incorporation of any applicable standard for residual use or disposal. The Department shall promptly modify or revoke and reissue any permit containing the reopener clause required by this paragraph if an applicable standard for residual use or disposal is more stringent than any requirements for residual use or disposal in the permit, or controls a pollutant or practice not limited in the permit.

3. On a case-by-case basis, the Department may impose requirements for the use or disposal of residual in addition to or more stringent than the requirements in this subchapter when necessary to protect public health or the environment from any adverse effect of the pollutant in the residual. This authority shall include, but not be limited to, the following:

i. The authority to require compliance with pollutant limits for additional constituents which the Department has evidence exceed the range found in sewage sludge produced in the State as determined by the Sludge Quality Assurance Regulations, N.J.A.C. 7:14-4, or which exceed acceptable levels in USEPA's Technical Support Document for Land Application of Sewage Sludge, EPA 822/R-93-001a and 001b, November 1992 or Technical Support Document for Surface Disposal of Sewage Sludge, EPA 822/R-93-002, November 1992, as amended and supplemented;

ii. For bulk residual applied in accordance with N.J.A.C. 7:14A-20.7(h)1, the authority to require compliance with any or all of the general requirements in N.J.A.C. 7:14A-20.7(b)1 and the management practices in N.J.A.C. 7:14A-20.7(b)2 upon the Department's determination that the general requirements or management practices are needed to protect public health and the environment;

iii. For residual applied in accordance with N.J.A.C. 7:14A-20.7(h), the authority to establish additional steps in the treatment of residual to control the release of air contaminants (including, but not limited to, ammonia) consistent with the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq. This additional step shall include, but not be limited to, the requirement to increase the maturity of marketable residual products by achieving additional temperature reduction and moisture reduction; and

iv. For sites where bulk residual is applied under N.J.A.C. 7:14A-20.7(h), the authority to require a permit or a Letter of Land Application Management Approval to be obtained upon the Department's determination that a permit or Letter of Land Application Management Approval is needed to protect public health and the environment.

(b) The Department shall set forth the basis for permit conditions imposed under (a) above in a fact sheet issued pursuant to N.J.A.C. 7:14A-20.9, or, if the requirements are based on site-specific factors, a Letter of Land Application Management Approval issued pursuant to N.J.A.C. 7:14A-20.7(h) for the residual land application site.

(c) Innovative or alternative technologies and systems for residual use or disposal shall be regulated on a case-by-case basis in conformance with the requirements for the technology which most closely resembles the innovative or alternative technology system.

(d) The Department may designate any person subject to the standards for residual use or disposal as a "treatment works treating domestic sewage" or "residual-only facility" as defined by N.J.A.C. 7:14A-1.2, where it is found that a permit is necessary to protect public health and the environment from the adverse effects of a residual or to ensure compliance with the technical standards for residual use or disposal. Any person designated as a "treatment works treating domestic sewage" or "residual-only facility" shall submit an application for a permit under N.J.A.C. 7:14A-4 within 180 days of being notified by the Department that a permit is required. The basis for the Department's decision to designate a person as a "treatment works treating domestic sewage" or "residual-only facility" under this paragraph shall be stated in the fact sheet or statement of basis for the permit.

7:14A-20.6 Environmental assessment

(a) In addition to the information required by N.J.A.C. 7:14A-4, an applicant for a NJPDES permit for residual use or disposal shall submit an environmental assessment for the location where a residual will be prepared to be applied to the land, the location where a residual was placed on a surface disposal site, or the location of any other treatment works treating domestic sewage (TWTDS) or residual-only facility required to obtain a permit pursuant to this subchapter. The magnitude and detail of the environmental assessment shall be determined by the Department and shall be relative to the nature, scale and location of the proposed TWTDS or residual-only facility. Where the permitted activity shall not require the construction of additional infrastructure the Department shall waive this requirement. At a minimum, the environmental assessment shall conform to the environmental assessment requirements of the Department's applicable NJPDES Permit Technical Manual in effect at the time of submission of the assessment and shall include:

1. A written description of facility operations, including volumes of residual to be handled, methods of handling, facility layout, and use or disposal of any end products;
2. An analysis of the impact that the proposed TWTDS or residual-only facility will have on local transportation patterns, drainage and soil characteristics, surface and ground water quality, endangered or threatened wildlife and vegetation, storm water and wastewater collection/treatment capability, water supply capability, ambient acoustical conditions and air quality;
3. A description of how the TWTDS or residual-only facility will conform or conflict with the objectives of any applicable Federal, State, or local land use and/or environmental requirements for areas within two miles of the perimeter of a proposed large facility (residual production equal to or greater than 15,000 metric tons per 365 day period), or within one mile of the perimeter of a proposed small facility (residual production less than 15,000 metric tons per 365 day period); and

4. Where a potential conflict between the TWTDS or residual only-facility and the objectives of land use and/or environmental requirements is identified under (a)3 above, a description of the mitigation efforts to be undertaken to minimize any such conflict.

7:14A-20.7 Land application

(a) In addition to the information required in N.J.A.C. 7:14A-4 and 20.6, an applicant for a NJPDES permit to prepare residual for land application shall submit the following:

1. Information on the characteristics of the residual proposed to be applied, to the extent known at the time that the permit application is submitted, including, but not limited to:

i. The origin and volume of the residual;

ii. A dated analysis of the residual on a mg/kg dry weight basis (or other unit as specified) for the following constituents:

Total solids (percent by weight)

pH (standard units)

Total Kjeldahl nitrogen

Ammonia-nitrogen

Nitrate-nitrogen

Calcium

Potassium

Phosphorus

Arsenic

Cadmium

Copper

Lead

Mercury

Molybdenum

Nickel

Selenium

Zinc

iii. A copy of all reports required to be submitted under the Sludge Quality Assurance Regulations (SQAR), N.J.A.C. 7:14-4, for the previous 12-month period;

iv. Additional quality analyses (including characteristics pursuant to N.J.A.C. 7:26-8) as may be deemed necessary by the Department through evaluation of past SQAR reports or other relevant information, such as information on industrial discharges which might contribute constituents not normally evaluated under the

SQAR program or which may exceed levels identified in USEPA's Technical Support Document for Land Application of Sewage Sludge, EPA 822/R-93-001a and 001b, November 1992.

2. Where the sources of residual to be land applied are not known at the time of permit application, requests for approval to land apply residual shall be submitted in accordance with N.J.A.C. 7:14A-20.11.

3. For bulk residual which does not satisfy the pollutant concentrations in 40 CFR 503.13(b)(3), the Class A pathogen requirements in 40 CFR 503.32(a), or one of the vector attraction reduction options in 40 CFR 503.33(b)(1) through (8), requests for approval to land apply residual shall be submitted in accordance with the following:

i. For each residual land application site identified at the time of permit application, the applicant shall, in accordance with the applicable NJPDES Permit Technical Manual, supply information necessary to determine if the site is appropriate for land application and a description of how the site is or will be managed, including, but not limited to, the following:

(1) A residual land application site evaluation that includes, at a minimum, a description of easements, distances to surface water, distances to drinking water wells, distances to occupied dwellings, depth to ground water, depth to bedrock, slope, soil drainage class, pH, flooding, site soil texture and parent geologic material, and proposed buffer zones;

(2) A written analysis of operational considerations including, at a minimum, crop type, crop end use, residual application methods, whole residual application rates and seasonal limitations;

(3) An original or clear copy of the appropriate Soil Conservation Service Soil Survey Map showing the residual land application site;

(4) An original or clear copy of a 1:24,000 scale (7.5 minute Quadrangle) United States Geological Survey Topographic Map showing the exact location of the residual land application site and indicating the sheet name from which the map portion was taken; and

(5) An original or clear copy of the county tax map showing the location of the residual land application site and the location of any residual storage installations and indicating the sheet name from which the map portion was taken;

ii. Where proposed residual land application sites are not identified at the time of permit application, the applicant shall submit a notification plan for the Department's approval which at a minimum:

(1) Describes the geographical area covered by the plan; and

(2) Describes the form of advance public notice which, at a minimum, will be supplied to all landowners and occupants adjacent to or abutting a proposed residual land application site. This requirement may be satisfied through public notice in a newspaper of local circulation. Notice shall include, at a minimum, the name and address of the permittee, the name and address of the proposed residual land application site, a description of the activities that are proposed to occur at the residual land application site, and the name and address of the Bureau within the Department to which the permittee must submit an application for a Letter of Land Application Management Approval; and

iii. Following issuance of a permit, when a new land application site is proposed, a permittee shall submit an application to the Department for a Letter of Land Application Management Approval, where required pursuant to (h) below. An additional copy of the complete application for a LLAMA shall be simultaneously submitted to the municipal clerk of the municipality(ies) where the residual land application site is located. The application for a LLAMA shall include information necessary to determine if the proposed residual land application site is appropriate for land application and a description of how the site is or will be managed, including, but not limited to, the following:

(1) Information required pursuant to (a)3i above; and

(2) Information necessary for the Department to determine if the request is in conformance with a notification plan approved by the Department pursuant to (a)3ii above.

4. In order for the Department to approve a permit application for the land application of residuals other than sewage sludge, the applicant shall demonstrate, in addition to the requirements of (a)1 through 3 above, the following:

i. That the land application of the residual will benefit soil physical properties, soil fertility and/or cover vegetation;

ii. An understanding of the impacts of the residual on soil fertility, soil physical properties and plant growth; and

iii. That the land application of a particular residual has a scientific basis and has been successfully tested or demonstrated in a field application or pilot program.

(b) For the land application of residual, the following general requirements and management practices shall apply, unless otherwise specifically stated:

1. In lieu of the general requirements in 40 CFR 503.12:

i. No person shall apply residual to the land except in accordance with the requirements of this subchapter.

ii. No person shall apply bulk residual subject to the cumulative pollutant loading rates in 40 CFR 503.13(b)2 to agricultural land, forest, a public contact site, or a reclamation site if any of the cumulative pollutant loading rates in 40 CFR 503.13(b)2 has been reached.

iii. No person shall apply domestic septage to agricultural land, forest, or a reclamation site except in accordance with (f) below.

iv. The person who prepares bulk residual that is applied to agricultural land, forest, a public contact site, or a reclamation site shall provide the person who applies the bulk residual written notification of information necessary to determine the agronomic rate pursuant to (g) below.

v. The person who applies residual to the land shall obtain information needed to comply with the requirements in this subchapter. In addition, before bulk residual subject to the cumulative pollutant loading rates in 40 CFR 503.13(b)2 is applied to the land, the person who proposes to apply the bulk residual shall comply with the requirements in 40 CFR 503.12(e) and shall also contact the Department to determine whether bulk residual was applied to the site prior to July 20, 1993. The cumulative amount of each pollutant that was applied to the site in the bulk residual and that was required to be tracked by the Department prior to July 20, 1993, shall be used to determine the additional amount of each pollutant which can be applied to the site after July 20, 1993 pursuant to 40 CFR 503.13(a)2i.

vi. When a person who prepares bulk residual provides the bulk residual to a person who applies the bulk residual to the land, the person who prepares the bulk residual shall provide the person who applies the bulk residual notice and necessary information to comply with the requirements of this subchapter.

vii. When a person who prepares residual provides the residual to another person who prepares the residual, the person who provides the residual shall provide the person who receives the residual notice and necessary information to comply with the requirements of this subchapter.

viii. The person who applies bulk residual to the land shall provide the owner or lease holder of the land on which the bulk residual is applied notice and necessary information to comply with the requirements of this subchapter.

ix. Any person who prepares bulk residual in New Jersey that is applied to land in a State other than New Jersey shall provide written notice to the permitting authority for the State in which the bulk residual is proposed to be applied prior to the initial application of

bulk residual to the residual land application site by the applier. Any person who prepares bulk residual out-of-State that is to be applied to land in New Jersey shall provide written notice to the Department prior to the initial application of bulk residual to the residual land application site by the applier. The notice shall include:

(1) The location, by either street address or latitude and longitude, of each residual land application site;

(2) The approximate time period during which bulk residual will be applied to each residual land application site;

(3) The name, address, telephone number, and New Jersey or National Pollutant Discharge Elimination System permit number (if applicable) for the person who prepares the bulk residual;

(4) The name, address, telephone number, and New Jersey or National Pollutant Discharge Elimination System permit number (if applicable) for the person who will apply the bulk residual; and

(5) Out-of-State generators which transport residual into the State of New Jersey to be applied to the land shall also comply with the requirements of (1) below.

x. Any person who prepares bulk residual in New Jersey and applies bulk residual subject to the cumulative pollutant loading rates in 40 CFR 503.13(b)2 to the land outside of the State of New Jersey shall provide written notice to the permitting authority for the State in which the bulk residual will be applied prior to the initial application of bulk residual to a residual land application site by the applier. Any person who applies bulk residual subject to the cumulative pollutant loading rates in 40 CFR 503.13(b)2 to the land in New Jersey shall provide written notice to the Department prior to the initial application of bulk residual to a residual land application site by the applier. The permitting authority or Department shall retain and provide the public with access to the notice. The notice shall include:

(1) The location, by either street address or latitude and longitude, of the land application site; and

(2) The name, address, telephone number, and New Jersey or National Pollutant Discharge Elimination System permit number (if applicable) of the person who will apply the bulk residual.

2. In lieu of the management practices in 40 CFR 503.14:

i. Bulk residual shall not be applied to the land if it is likely to adversely affect a threatened or endangered species listed under Section 4 of the Federal Endan-

gered Species Act, 16 U.S.C. § 1533 or its designated critical habitat.

ii. Bulk residual shall not be applied to agricultural land, forest, a public contact site, or a reclamation site that is flooded, frozen, or snow-covered so that the bulk residual enters a wetland or other waters of the State, as defined in N.J.A.C. 7:14A-1.2, except as otherwise provided in a permit issued pursuant to Section 402 or 404 of the CWA.

iii. Bulk residual shall not be applied to agricultural land, forest, or a reclamation site that is 10 meters or less from waters of the State, as defined in N.J.A.C. 7:14A-1.2, unless otherwise specified by the Department in a permit.

iv. Bulk residual shall be applied to agricultural land, forest, a public contact site, or a reclamation site in accordance with (g) below.

v. Either a label shall be affixed to the bag or other container in which residual that is sold or given away for application to the land, or an information sheet shall be provided to the person who receives residual sold or given away in an other container for application to the land. The label or information sheet shall contain the following information:

(1) The name and address of the person who prepared the residual that is sold or given away in a bag or other container for application to the land;

(2) A statement that application of the residual to the land is prohibited except in accordance with the instructions on the label or information sheet;

(3) The annual whole residual application rate for the residual that does not cause any of the annual pollutant loading rates in Table 4 of 40 CFR 503.13 to be exceeded; and

(4) Additional information as required under (h)4vii below.

(c) The applicable requirements and pollutant limits in 40 CFR 503.13(a) and (b) shall be met.

(d) Residual shall not be applied to the land unless the operational standards for pathogen and vector attraction reduction pursuant to 40 CFR 503.15(a) and (c) are met. Compliance with the operational standards for pathogen reduction is not required for pathogen-free material; however, the Department may impose operational standards for vector attraction reduction on pathogen-free material on a case-by-case basis through a NJPDES permit depending on the physical and chemical characteristics of the material to be land applied.

(e) Foreign material shall be removed from residual prior to the application of residual to the land. Foreign material removed from residual shall be managed in accordance with applicable State and Federal law and regulations.

(f) In accordance with the SSMP, it is the Department's policy that the use of domestic treatment works is the most environmentally sound and controllable method for management of domestic septage. However, the land application of domestic septage shall be permitted on a case-by-case basis where the applicant demonstrates that no reasonable alternative exists, subject to the following requirements:

1. Domestic septage shall not be applied to the land unless, at a minimum, the Class B pathogen reduction requirements pursuant to 40 CFR 503.32(b) and one of the vector attraction reduction requirements in 40 CFR 503.33(b)(1) through (b)(10) are met;

2. Domestic septage must be applied at a whole residual application rate that is equal to or less than the agronomic rate in accordance with (g) below;

3. Domestic septage must be screened through a number 4 mesh screen to remove foreign material;

4. Domestic septage must be certified to be from domestic sources only, analyzed pursuant to (a)1 above and satisfy the pollutant limits in 40 CFR 503.13(a) and (b); and

5. Domestic septage shall be applied to the land only in accordance with one of the land application programs described at (h) below.

(g) Bulk residual shall be applied to the land at a whole residual application rate that is equal to or less than the agronomic rate as specified by the Department in a permit based on best professional judgment unless, in the case of a reclamation site, otherwise approved by the Department.

(h) Residual applied to the land shall conform to one of the following programs based on the level of quality, pathogen reduction and vector attraction reduction achieved:

1. Residual which meets the pollutant concentrations in 40 CFR 503.13(b)(3), the Class A pathogen requirements in 40 CFR 503.32(a), and one of the vector attraction reduction requirements in 40 CFR 503.33(b)(1) through (8) shall be applied only in accordance with the following requirements:

i. The residual shall be monitored, records kept and information reported in accordance with (i), (j) and (k) below;

ii. Residual may be applied in bulk, or sold or given away in a bag or other container;

iii. Residual which is sold, offered for sale, or intended for sale as a fertilizer, soil conditioner or agricultural liming material shall be licensed by the New Jersey Department of Agriculture pursuant to the New Jersey Commercial Fertilizer and Soil Conditioner Act, N.J.S.A. 4:9-15.1 et seq., or the New Jersey Agricultural Liming Materials Act, N.J.S.A. 4:9-21.1 et seq., unless permit conditions for distribution are otherwise established by the Department in accordance with N.J.A.C. 7:14A-20.5; and

iv. Residual shall be labeled or accompanied by instructional literature conforming to the labeling requirements established by the New Jersey Department of Agriculture pursuant to the New Jersey Commercial Fertilizer and Soil Conditioner Act, N.J.S.A. 4:9-15.1 et seq., the New Jersey Agricultural Liming Materials Act, N.J.S.A. 4:9-21.1 et seq., or distribution requirements specified by the Department in a permit.

2. Residual which meets the pollutant concentrations in 40 CFR 503.13(b)(3) and the Class A pathogen requirements in 40 CFR 503.32(a), and which will meet one of the vector attraction reduction requirements in 40 CFR 503.33(b)(9) or (b)(10) shall be applied only in accordance with the following requirements:

i. The residual shall be monitored, records kept and information reported in accordance with (i), (j) and (k) below;

ii. The residual shall be applied in bulk only and shall not be applied to a lawn or home garden;

iii. The general requirements at (b)1 above and the management practices at (b)2 above apply;

iv. A Conservation Plan developed by the USDA-NRCS and approved by the Soil Conservation District or a SESCO (as applicable) shall be obtained and implemented for all residual land application sites (unless such planning is determined inapplicable to the site by an agency with concurrent jurisdiction); and

v. A LLAMA shall be obtained for all residual land application sites pursuant to (a)3iii above prior to the initial application of residual to the residual land application site. The conditions of a LLAMA shall be met by the person who applies residual to a residual land application site.

3. Residual which meets the pollutant concentrations in 40 CFR 503.13(b)(3) and the Class B pathogen requirements in 40 CFR 503.32(b), and which meets one of the vector attraction reduction requirements in 40 CFR 503.33(b)(1) through (8) or which will meet one of the vector attraction reduction requirements in 40 CFR 503.33(b)(9) or (b)(10), shall be applied only in accordance with the following requirements:

i. The residual shall be monitored, records kept and information reported in accordance with (i), (j) and (k) below;

ii. The residual shall be applied in bulk only and shall not be applied to a lawn or home garden;

iii. The general requirements at (b)1 above, the management practices at (b)2 above and the site restrictions at 40 CFR 503.32(b)(5) apply;

iv. A Conservation Plan developed by the USDA-NRCS and approved by the Soil Conservation District or a SESCO (as applicable) shall be obtained and implemented for all residual land application sites (unless such planning is determined inapplicable to the site by an agency with concurrent jurisdiction); and

v. A LLAMA shall be obtained for all residual land application sites pursuant to (a)3iii above prior to the initial application of residual to a residual land application site. The conditions of a LLAMA shall be met by the person who applies residual to a residual land application site.

4. Residual which meets the pollutant concentrations in 40 CFR 503.13(b)(1), the Class A pathogen requirements in 40 CFR 503.32(a), and one of the vector attraction reduction requirements in 40 CFR 503.33(b)(1) through (8) shall be applied only in accordance with the following requirements:

i. The residual must be monitored, records kept and information reported in accordance with (i), (j) and (k) below;

ii. The residual may be applied in bulk, or sold or given away in a bag or other container;

iii. The residual shall not be applied in bulk to a lawn or home garden;

iv. The general requirements at (b)1 above and the management practices at (b)2 above apply;

v. Residual which is sold, offered for sale, or intended for sale as a fertilizer, soil conditioner or agricultural liming material must be licensed by the New Jersey Department of Agriculture pursuant to the New Jersey Commercial Fertilizer and Soil Conditioner Act, N.J.S.A. 4:9-15.1 et seq., or the New Jersey Agricultural Liming Materials Act, N.J.S.A. 4:9-21.1 et seq., unless permit conditions for distribution are otherwise established by the Department in accordance with N.J.A.C. 7:14A-20.5;

vi. Residual sold or given away in a bag or other container shall be labeled or the other container shall be accompanied by instructional literature, conforming to the labeling requirements established by the New Jersey Department of Agriculture pursuant to the New Jersey Commercial Fertilizer and Soil Conditioner Act, N.J.S.A. 4:9-15.1 et seq., the New Jersey Agricultural Liming Materials Act, N.J.S.A. 4:9-21.1 et seq., the labeling or literature requirements of (b)2v above, or other distribution requirements specified by the Department in a permit;

vii. For residual applied in bulk, the cumulative pollutant loading rates in 40 CFR 503.13(b)(2) shall not be exceeded and shall be tracked, recorded and reported in accordance with (i), (j) and (k) below;

viii. Where residual is applied in bulk, a Conservation Plan developed by the USDA-NRCS and approved by the Soil Conservation District or a SESCO (as applicable) shall be obtained and implemented for the residual land application site (unless such planning is determined inapplicable to the site by an agency with concurrent jurisdiction); and

ix. Where residual is applied in bulk, a LLAMA shall be obtained for all residual land application sites pursuant to (a)3iii above prior to the initial application of residual to the residual land application site. The conditions of a LLAMA shall be met by the person who applies residual to a residual land application site.

5. Residual which meets the pollutant concentrations in 40 CFR 503.13(b)(1) and the Class A pathogen requirements in 40 CFR 503.32(a), and which will meet one of the vector attraction reduction requirements in 40 CFR 503.33(b)(9) or (b)(10) shall be applied only in accordance with the following requirements:

i. The residual shall be monitored, records kept and information reported in accordance with (i), (j) and (k) below;

ii. The residual shall be applied in bulk only and shall not be applied to a lawn or home garden;

iii. The general requirements at (b)1 above and the management practices at (b)2 above apply;

iv. The cumulative pollutant loading rates in 40 CFR 503.13(b)(2) shall not be exceeded and shall be tracked, recorded and reported in accordance with (i), (j) and (k) below;

v. A Conservation Plan developed by the USDA-NRCS and approved by the Soil Conservation District or a SESCO (as applicable) shall be obtained and implemented for all residual land application sites (unless such planning is determined inapplicable to the site by an agency with concurrent jurisdiction); and

vi. A LLAMA shall be obtained for all residual land application sites pursuant to (a)3iii above prior to the initial application of residual to the residual land application site. The conditions of a LLAMA shall be met by the person who applies residual to a residual land application site.

6. Residual which meets the pollutant concentrations in 40 CFR 503.13(b)(1) and the Class B pathogen requirements in 40 CFR 503.32(b), and which meets one of the vector attraction reduction requirements in 40 CFR 503.33(b)(1) through (8) or which will meet one of the vector attraction reduction requirements in 40 CFR 503.33(b)(9) or (b)(10) shall be applied only in accordance with the following requirements:

i. The residual shall be monitored, records kept and information reported in accordance with (i), (j) and (k) below;

ii. The residual shall be applied in bulk only and shall not be applied to a lawn or home garden;

iii. The general requirements at (b)1 above, the management practices at (b)2 above and the site restrictions at 40 CFR 503.32(b)(5) apply;

iv. The cumulative pollutant loading rates in 40 CFR 503.13(b)(2) shall not be exceeded and shall be tracked, recorded and reported in accordance with (i), (j) and (k) below;

v. A Conservation Plan developed by the USDA-NRCS and approved by the Soil Conservation District or a SESCO (as applicable) shall be obtained and implemented for all residual land application sites (unless such planning is determined inapplicable to the site by an agency with concurrent jurisdiction); and

vi. A LLAMA shall be obtained for all residual land application sites pursuant to (a)3iii above prior to the initial application of residual to the residual land application site. The conditions of a LLAMA shall be met by the person who applies residual to a residual land application site.

(i) For residual which is to be applied to the land, the frequency of monitoring for the pollutants listed in Table 1, Table 2, Table 3 and Table 4 of 40 CFR 503.13, for the pathogen density requirements in 40 CFR 503.32(a) and 40 CFR 503.32(b)(2) through (b)(4), when applicable, and for the vector attraction reduction requirements in 40 CFR 503.33(b)(1) through (b)(8), when applicable, shall be the frequency specified in Table 1 of 40 CFR 503.16(a) unless otherwise specified below:

1. For sewage sludge, the frequency of monitoring shall be as specified in Table 1 of 40 CFR 503.16(a) or quarterly, whichever is more frequent, except as allowed under (i)2 and 3 below;

2. After any residual has been monitored for two years at the frequency in Table 1 of 40 CFR 503.16(a) or (i)1 above, the permittee may request the Department to reduce the frequency of monitoring as specified in 40 CFR 503.16(a)(2);

3. When a single source of sewage sludge totaling less than 290 metric tons per year (see Table 1 of 40 CFR 503.16(a)) is removed for application to the land no more frequently than three times per year, then monitoring shall be performed at least once prior to each removal;

4. Process parameter monitoring necessary to demonstrate whether any of the pathogen reduction requirements in 40 CFR 503.32(a)(3), (a)(4), (a)(5), (a)(7), (a)(8) and/or 40 CFR 503.32(b)(3) or (b)(4) are met (for example, temperature, time, percent total solids and pH) must be performed each day that the process(es) intended to meet any of the requirements is operated and as often each day as necessary; and

5. Process parameter monitoring necessary to demonstrate whether vector attraction reduction requirements in 40 CFR 503.33(b)(1), (b)(5), (b)(6), (b)(7) and (b)(8) are met (for example, volatile solids, time, temperature, pH and percent total solids) must be performed each day that the process(es) intended to meet any of the requirements is operated and as often each day as necessary.

(j) For residual which is to be applied to the land, recordkeeping shall conform to the requirements of 40 CFR 503.17(a) and the following additional information shall be retained for five years (unless otherwise required by 40 CFR Part 503):

1. Daily records of the sources of residual generated, received and processed as well as the quantity of residual generated, received and processed;

2. If bulk residual does not satisfy the pollutant concentrations in 40 CFR 503.13(b)(3), the Class A pathogen requirements in 40 CFR 503.32(a), or one of the vector attraction reduction options in 40 CFR 503.33(b)(1) through (8), the person who prepares the residual shall keep daily records of the destination of the residual, including, but not limited to, the location, by either street address, lot and block number or latitude and longitude of each site, the quantity of residual delivered and applied to each site, and the whole residual application rate in accordance with (g) above;

3. Where not otherwise specified in 40 CFR 503.17(a), information necessary to demonstrate compliance with the applicable land application program(s) pursuant to (h) above;

4. Records necessary to demonstrate compliance with (i) above; and

5. Records on the quantity and quality of all residual generated and/or received for processing pursuant to the Sludge Quality Assurance Regulations, N.J.A.C. 7:14-4. A 12 month moving mean and median shall be kept for all parameters specified under 40 CFR 503.13.

(k) For the land application of residual the following reporting requirements shall apply in lieu of the reporting requirements of 40 CFR 503.18:

1. The frequency of reporting to the Department of the records kept in accordance with (j) above shall be quarterly; and

2. The frequency of reporting may be reduced by the Department after two years of reporting pursuant to (k)1 above, but in no case shall the frequency of reporting be less than once per year.

(l) Out-of-State generators which transport residual into the State of New Jersey to be applied to the land shall, at a minimum, comply with all applicable requirements for the

land application of residual pursuant to this subchapter and the following additional notice requirements:

1. In order for the Department to determine the applicable requirements under this subchapter, any person who prepares residual out-of-State for land application in New Jersey shall provide notice to the Department at least 120 days prior to the date that person intends to commence operations for the land application of residual. This notice shall, at a minimum, include:

i. Information on each residual land application site as required to be submitted pursuant to (a)3 and (b)1ix above, as applicable;

ii. Copies of those permits and approvals issued by the permitting authority for the state in which the residual is prepared;

iii. The name, address and phone number of a contact for the permitting authority for the state in which the residual is prepared; and

iv. A listing of any brand names under which a marketable residual product will be distributed.

2. In order for the Department to determine the applicable requirements under this subchapter, any person who currently prepares residual out-of-State which is land applied in New Jersey and plans to continue such activities after May 5, 1997 shall provide notice to the Department by August 3, 1997. This notice shall, at a minimum, include:

i. Information on each residual land application site as required to be submitted pursuant to (a)3 and (b)1ix above, as applicable;

ii. Copies of those permits and approvals issued by the permitting authority for the state in which the residual is prepared;

iii. The name, address and phone number of a contact for the permitting authority for the state in which the residual is prepared; and

iv. A listing of any brand names under which a marketable residual product has been or will be distributed.

3. Upon receipt of the notifications pursuant to (l)1 and 2 above, the Department shall notify the person who prepares residual of the applicable requirements of this subchapter.

4. The Department shall waive some or all of the requirements for record keeping and reporting pursuant to (j) and (k) above if equivalent information is already kept and reported to the permitting authority for the out-of-State generator.

(m) See N.J.A.C. 7:14A-20.2(b) and (c) for situations in which the requirements in this section and in (b) above, respectively, do not apply.

7:14A-20.8 Surface disposal of sewage sludge

(a) The storage of sewage sludge for more than six months constitutes surface disposal and is prohibited under this subchapter. However, this prohibition does not apply to sewage sludge that remains on the land for longer than six months when the person who prepares the sewage sludge demonstrates that the land on which the sewage sludge remains is not a surface disposal site. The demonstration shall explain why sewage sludge must remain on the land for longer than six months prior to final use or disposal, discuss the approximate time period during which the sewage sludge shall be used or disposed and provide documentation of ultimate management arrangements. Said demonstration shall be in writing, kept on file by the person who prepares sewage sludge and submitted to the Department upon request.

(b) The owner and/or operator of a sewage sludge surface disposal site that has not implemented a Department approved closure plan prior to May 5, 1997 shall submit a surface disposal site closure plan in accordance with the requirements of (d) below by May 5, 1998.

(c) The operating entity for a closed surface disposal site shall comply with the following management practices:

1. The closure of a surface disposal site shall not restrict the flow of a base flood, unless otherwise approved by the Department under the Flood Hazard Area Control rules, N.J.A.C. 7:13;

2. A closed surface disposal site shall not be located in an unstable area;

3. The sewage sludge leachate collection system for a closed surface disposal site that has a liner and sewage sludge leachate collection system shall be operated and maintained for a minimum of five years after the Department approves closure of the surface disposal site. Leachate from a closed surface disposal site that has a liner and sewage sludge leachate collection system shall be collected and shall be disposed in accordance with applicable requirements for a minimum of five years after the Department approves closure of the surface disposal site;

4. When a final cover is placed on a surface disposal site at closure, the concentration of methane gas in air in any structure within the surface disposal site shall not exceed 25 percent of the lower explosive limit for methane gas and the concentration of methane gas in air at the property line of the surface disposal site shall not exceed the lower explosive limit for methane gas for a minimum of five years after the Department approves closure of the surface disposal site;

5. The owner of a surface disposal site shall provide written notification to the subsequent owner of the site that sewage sludge was placed on the land. As part of closure of the surface disposal site, a detailed description of the surface disposal site shall be recorded, along with the deed, with the appropriate county recording office. The description shall include the quantity and quality of sewage sludge disposed, a map indicating the location and depth of sewage sludge on the site, the depth and type of cover material (if applicable), the dates the surface disposal site was in use and all such other information as may be of interest to potential landowners, and shall remain in the legal record of the property in perpetuity;

6. A food crop, a feed crop, or a fiber crop shall not be grown on a closed surface disposal site, unless the owner/operator of the surface disposal site demonstrates to the Department that through management practices public health and the environment will be protected from any adverse effects of pollutants in sewage sludge when crops are grown;

7. Animals shall not be grazed on a closed surface disposal site, unless the owner/operator of the surface disposal site demonstrates to the Department that through management practices public health and the environment will be protected from any adverse effects of pollutants in sewage sludge when animals are grazed;

8. The operating entity must implement a ground water monitoring program in compliance with N.J.A.C. 7:9-6; and

9. Public access to a closed surface disposal site shall be restricted for a minimum of five years after the Department approves closure of the surface disposal site.

(d) In addition to the requirements of N.J.A.C. 7:14A-4 and 20.6, a surface disposal site closure plan shall include the following minimum information:

1. The approximate date discharge to the surface disposal site ceased;

2. A description of the surface disposal site including approximate acreage, and lateral and vertical extent of the surface disposal site;

3. A discussion of the characteristics of the sewage sludge present in the surface disposal site, including:

- i. The origin and volume of the sewage sludge;

- ii. Dated quality analyses of the sewage sludge on a mg/kg dry weight basis including analyses of all constituents required to be analyzed in accordance with the Sludge Quality Assurance Regulations (SQAR), N.J.A.C. 7:14-4. The number of samples required to be analyzed shall be based on a statistical method as described in the Department's Field Sampling Procedures Manual, or as otherwise approved by the Department;