

CHAPTER 14A

POLLUTANT DISCHARGE ELIMINATION SYSTEM

Authority

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

Source and Effective Date

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

Chapter Expiration Date

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

Chapter Historical Note

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

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

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

Appendix F, Values for Determination of NJPDES Permit Toxic Effluent Limitations, was repealed by R.1993 d.59, effective February 1, 1993.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

Subchapter 12, Requirements for a Treatment Works Approval, was repealed by R.1994 d.278, effective June 6, 1994.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

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

Pursuant to Executive Order No. 66(1978), Subchapter 22, Treatment Works Approvals, Sewer Bans, Sewer Ban Exemptions; and Subchapter

23, Technical Requirements for Treatment Works Approval Applications, of Chapter 14A were readopted as R.1997 d.107, effective February 5, 1997. See: Source and Effective Date. As a part of R.1997 d.107, effective May 5, 1997, Subchapter 1, General Information, was repealed and a new Subchapter 1, Abbreviations, Acronyms, and Definitions, was adopted; Subchapter 2, General Requirements for the NJPDES Permit, was repealed and a new Subchapter 2, General Program Requirements, was adopted; Subchapter 3, Additional Requirements Applicable to Discharges to Surface Water (DSW), was repealed and a new Subchapter 3, Determination of Permit Fees, was adopted; Subchapter 4, Additional Requirements for an Industrial Waste Management Facility, was repealed and a new Subchapter 4, Permit Application Requirements, was adopted; Subchapter 5, Additional Requirements for Underground Injection Control Program (UIC), was repealed; Subchapter 6, Additional Requirements for Discharges to Groundwater (DGW), was repealed and a new Subchapter 6, Conditions Applicable to All NJPDES Permits, was adopted; Subchapter 7, Procedures for Decision Making, was repealed and a new Subchapter 7, Requirements for Discharges to Ground Water (DGW), was adopted; Subchapter 8, Public Comment and Notice Procedures, was repealed and a new Subchapter 8, Additional Requirements for Underground Injection Control (UIC) Program, was adopted; Subchapter 9, Specific Procedures Applicable to Discharges to Surface Water (DSW), was repealed and a new Subchapter 9, Ground Water Monitoring Requirements for Sanitary Landfills, was adopted; Subchapter 10, Filing Requirements For NJPDES Permits, was repealed and a new Subchapter 10, Ground Water Monitoring Requirements for Hazardous Waste Facilities, was adopted; Subchapter 11, Public Access to Information and Requirements for Department Determination of Confidentiality, was repealed and a new Subchapter 11, Procedures and Conditions Applicable to NJPDES-DSW Permits, was adopted; Subchapter 12, Effluent Standards Applicable to Direct Discharges to Surface Water and Indirect Discharges to Domestic Treatment Works was adopted; Subchapter 13, Additional Requirements For DTWS, Local Agencies and Their Users, was repealed and a new Subchapter 13, Effluent Limitations for DSW Permits, was adopted; Subchapter 14, Oil and Grease Effluent Limitations, was repealed and a new Subchapter 14, Monitoring Frequency Requirements Applicable to DSW and SIU Permits, was adopted; Subchapter 15, Procedures for Decision Making—NJPDES Permit Processing Requirements; Subchapter 16, Transfer, Modification, Revocation and Reissuance, Renewal, Suspension, and Revocation of Existing Permits; Subchapter 17, Procedures for Decision Making—Adjudicatory Hearings and Stays of Permit Conditions; Subchapter 18, Public Access to Information and Requirements for Determination of Confidentiality; Subchapter 19, Pretreatment Program Requirements for Local Agencies; Subchapter 20, Standards for the Use or Disposal of Residual; and Subchapter 21, Requirements for Indirect Users, were adopted; and Appendix A, Average Ambient Water Temperature; Appendix B, Permit Application Testing Requirements; Appendix C, Criteria for Determining a Concentrated Animal Feeding Operation; Appendix D, Criteria for Determining a Concentrated Aquatic Animal Production Facility; Appendix E, Primary Industry Categories; Appendix G, Modified Equation for Determining "Area of Review"; and Appendix H, Schedule of Monitoring, were repealed.

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

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

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

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

The expiration date of Chapter 14A, Pollutant Discharge Elimination System, was extended by gubernatorial directive from February 5, 2004 to February 5, 2006. See: 36 N.J.R. 1191(b).

Research Note

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

Law Review And Journal Commentaries

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. For a given pollutant parameter, the 95th percent value for the 30-day average effluent quality achieved by a treatment works in a period of at least two years, excluding values attributable to upsets, bypasses, operational errors, or other unusual conditions; and
2. A seven-day average value equal to the product of the value derived under paragraph 1 of this definition, multiplied by 1.5.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Zone of saturation” means saturated zone.

Administrative correction.

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

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

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

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

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

Administrative corrections.

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

Administrative correction.

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

Administrative corrections and changes.

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

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).

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

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

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

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

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

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

SUBCHAPTER 2. GENERAL PROGRAM REQUIREMENTS

7:14A-2.1 Purpose and scope

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

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

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

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

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

2. The Department determines that:

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

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

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

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

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

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

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

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

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

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

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

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

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

1. It is a significant contributor of pollution to the waters of the State. In making this determination the Department shall consider the following factors:
 - i. The location and quality of the receiving waters of the State;
 - ii. The holding, feeding, and production capacities of the facility;
 - iii. The quantity and nature of the pollutants reaching waters of the State; and
 - iv. Other relevant factors.

SUBCHAPTER 3. DETERMINATION OF PERMIT FEES

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

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

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

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

3. A" 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 the Treasury
Division of Revenue
PO Box 417
Trenton, New Jersey 08625-0417

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

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

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

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

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

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

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

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

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

(3) The charges are false or duplicative: or

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

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

(1) An employee's hourly salary rate:

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

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

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

(1) A copy of the bill;

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

(3) A list of specific fee charges contested:

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

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

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

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

(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:

<u>Rating</u>	<u>Status</u>
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:

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

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

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

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

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

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

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

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

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

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

<u>Rating</u>	<u>Waste Type</u>
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)liii above.

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

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

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

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

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

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

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

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

(i) (Reserved)

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

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

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

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

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

Table I
RISK CATEGORIES

Risk Factor 100	101	102	103	104	105
SURFACE WATER					
TDS	TSS	Tin	Styrene	Arsenic	Lead
Chloride	Phosphorus	Aluminum	Nickel	Beryllium	Mercury
Sulfate	Phtahalic	Antimony	Copper	Asbestos	Cadmium
Fluoride	Acid	Barium	Silver	Acid fraction compounds	Chromium-hex
Iron	Sulfide	Chromium-trivalent	Cobalt	Base-Neutral Compounds	Pesticides
	Molybdenum	Oil & Grease	Ammonia	Volatile Organics	PCBs
	Bismuth	Surfactants	Cyanide		PBB
	Manganese	N(nitrite, nitrate)	Selenium		
	Zinc	Kjeldhal. diss.			

Permit Fee Category ¹	Min Fee Code	Minimum Fee
19. Residuals—Food Processors/WTPs ³ Individual Permit	RFP	\$3,800
20. Residuals—Category Z Individual Permit ⁴	RTZ	\$1,800
21. Residuals—General Permit (ZG and 4G)	RTG	\$450
22. Residuals—Category 04 Individual Permit ⁵	RPH	\$700
23. Residuals—Land Application General Permit (unless otherwise listed)	RSG	\$750
24. Significant Indirect User (SIU) (Pretreatment)	SIU	\$5,450
25. Landfills operating or terminated after January 1, 1982 without an approved closure plan	⁶	\$2,500
26. Terminated Landfills properly closed or closed prior to January 1, 1982	⁶	\$500.00
27. Emergency Permit issued pursuant to N.J.A.C. 7:14A-6.14	⁷	

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

²For a domestic or industrial facility issued an individual NJPDES Discharge to Groundwater permit, the minimum fee is \$5,950 for the first five years of that permit, and \$2,400 if the permit is renewed or administratively continued. All other domestic or industrial facilities issued an individual NJPDES Discharge to Groundwater permit shall be assessed a minimum fee of \$2,400.

³WTPs refer to potable water treatment plants.

⁴Refers to a Residuals Transfer Facilities individual permit.

⁵Refers to a Residuals—Reed Beds individual permit.

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

⁷Fee based on category for type of discharge.

Administrative correction.

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

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

Public Notice: NJPDES Annual Fee Report, FY 1997.

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

Public Notice: NJPDES Annual Fee Report, FY 1998.

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

Public Notice: NJPDES Annual Fee Report, FY 1999.

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

Public Notice: NJPDES Annual Fee Report, FY 2000.

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

Public Notice: NJPDES Annual Fee Report, FY 2001.

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

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

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

Rewrote the section.

Administrative correction.

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

Public Notice: NJPDES Annual Fee Report, FY 2002.

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

Public Notice: NJPDES Annual Fee Report, FY 2003.

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

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

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

Rewrote (j).

Public Notice: NJPDES Annual Fee Report, FY 2004.

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

Administrative change.

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

Public Notice: NJPDES Annual Fee Report, FY2005.

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

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

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

Case Notes

DEP could issue discharge permit to owner of closed landfill, only if Department had substantial evidential basis for believing that landfill actually was discharging pollutants that might flow or drain into State’s waters. *V. Concrete Co. v. Department of Environmental Protection*, 115 N.J. 1, 556 A.2d 761 (1989).

Fee structure for pollutant discharge elimination system permits issued under Water Pollution Control Act did not have to be determined on a permit-specific cost-related basis; graduated fee schedule proportional to the deleterious impact of the permittee’s discharge was

reasonable; use of a bioassay factor in determining toxicity and calculating the NJPDES fees was neither arbitrary nor unreasonable. *GAF Corp. v. New Jersey Dep’t of Environmental Protection*, 214 N.J.Super. 446, 519 A.2d 931 (App.Div.1986).

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

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

SUBCHAPTER 4. PERMIT APPLICATION REQUIREMENTS

7:14A-4.1 Purpose and scope

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

7:14A-4.2 Application requirements

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

(b) Once an applicant has complied with N.J.A.C. 7:14A-4.3(a)13, requiring submittal of the application to the local

agency or sewerage entity and municipality, the applicant shall submit two copies of all NJPDES permit applications to:

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

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

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

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

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

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

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

- i. Otherwise required under (e)4 below;
- ii. The existing permit is a general permit that provides for automatic renewal of authorization when that general permit is renewed (see N.J.A.C. 7:14A-6.13(d)9), or that provides for retroactive renewal of authorization after a new request for authorization is submitted or granted under the renewed general permit; or

iii. The existing permit is an individual permit where:

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

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

4. (Reserved)

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

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

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

Administrative correction.

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

Amended N.J.A.C. references.

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

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

Rewrote (e)1.

7:14A-4.3 Application information requirements

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

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

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

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

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

1. Effective performance based upon treatment levels for which the treatment works was designed;
2. Adequate funding;
3. Effective management;
4. Adequate operator staffing and training;
5. Regularly scheduled inspection and maintenance programs; and
6. Adequate laboratory and process controls including appropriate quality assurance procedures as described in 40 CFR Part 136 and applicable State laws and rules.

(b) Any permittee who operates a treatment works shall satisfy the licensing requirements of the "Water Supply and Wastewater Operators Licensing Act," N.J.S.A. 58:11-64 et seq., and promulgated pursuant thereto. This subsection requires the operation of back-up or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the NJPDES permit or where required by applicable law or regulation.

(c) All permittees shall submit written verification to the Department that an operation and maintenance manual for the treatment works, including related appurtenances and collection system, has been or will be completed by the effective date or a compliance date included in a new or renewed NJPDES permit issued subsequent to May 5, 1997. A permittee does not need to submit the operation and maintenance manual to the Department, unless specifically directed to do so. When the Department directs a permittee to submit the operation and maintenance manual, the Department shall state the reasons for requiring the submittal in a letter requesting the submittal. In the case of a NJPDES permit for stormwater discharges or separate storm sewers which expressly exempts permittees from this provision, the exemption shall apply only to the discharge authorized by the permit. Any affected permittee shall comply with the following operation and maintenance manual requirements:

1. The operation and maintenance manual shall be made available for inspection upon request by an authorized representative of the Department.
2. The operation and maintenance manual shall be amended whenever there is a change in the treatment works design, construction, operations or maintenance which substantially changes the treatment works operations and maintenance procedures.
3. An operation and maintenance manual shall describe, at a minimum, the following:
 - i. Operator and staff responsibilities;
 - ii. Staff guidance for emergency situations;
 - iii. Identification of NJPDES permit requirements and the obligation to meet these requirements;

- iv. Operating procedures including a detailed description of each major treatment unit/process with relationship to related units, safe operating procedure for normal operation, including common operating problems, safe operating procedures for operating during emergency conditions, and any fail-safe features;
- v. A program of regularly scheduled inspection and maintenance; and
- vi. An emergency plan in accordance with (d) below.

(d) An emergency plan shall be included as part of the operation and maintenance manual, except for those operations issued permits under N.J.A.C. 7:14A-20.

1. When a person has prepared an emergency plan required by regulations other than this chapter, such plans or plan and any amendments necessary to meet the requirements of this section will satisfy the requirements of this section provided the plan is labeled to identify the requirements listed in this section.

2. An emergency plan shall be amended whenever:
 - i. There is a modification, including expansion, of the treatment works; or
 - ii. Any other conditions related to the plan have changed.

3. The emergency plan shall be designed to ensure effective operation of the treatment works under emergency conditions, and shall consist, at a minimum, of the following elements:

- i. A vulnerability analysis which shall estimate the degree to which the treatment works would be adversely affected by each type of emergency situation which could reasonably be expected to occur, including but not limited to those emergencies caused by natural disaster, civil disorder, strike, sabotage, faulty maintenance, negligent operation or accident;

(1) The vulnerability analysis shall include, but is not limited to, an estimate of the effects of such an emergency upon the following:

- (A) Power supply;
- (B) Communication;
- (C) Equipment;
- (D) Supplies;
- (E) Personnel;
- (F) Security; and
- (G) Emergency procedures to be followed.

ii. An evaluation of the possible adverse effects on public health and the environment due to such an emergency; and

iii. An emergency operation plan for ensuring, to the maximum extent possible, uninterrupted treatment works operation and a manual of procedures for the implementation of such plan, including procedures for the notification of any appropriate regulatory agency, affected water supply purveyors, and any other municipal authority or agency. The plan and manual shall address each of the emergency situations described in the vulnerability analysis.

4. The Department shall not individually review and approve an emergency plan as part of the permit issuance process. The Department's decision not to review and approve an emergency plan shall not exempt a person from liability for violations arising from an emergency situation. A person shall take all necessary actions to mitigate the damage to the waters of the State arising from an emergency situation. Such actions shall not be limited by the emergency operating plan and the operation and maintenance manual.

5. Failure to have on file any part of the operation and maintenance manual in compliance with (c) above and failure to implement the emergency plan pursuant to this subsection shall each constitute a violation of this chapter.

6. In emergency situations, a permittee shall implement the requirements of the emergency plan to the fullest extent possible. In addition, any conditions of the emergency plan that the permittee can implement prior to an emergency situation to reduce the potential for an emergency situation, shall be implemented.

(e) A municipality or sewerage authority who is not a permittee (for example, does not have a direct surface or groundwater discharge) but who owns and operates a treatment works used only for the collection or transportation of domestic sewage is not required to prepare an operations and maintenance manual. However, the municipality or sewerage authority shall be responsible for the proper operation and maintenance of that treatment works. The criteria for proper operations and maintenance and an emergency plan pursuant to (a) and (d) above, may be used as a guideline and implemented as applicable.

7:14A-6.13 General permits

(a) The Department shall issue a general permit to authorize a category of surface water, ground water, or indirect discharges, residual use or disposal practices, or facilities within a geographic area, described in (b) below, except those otherwise eligible for authorization but which are authorized pursuant to individual permits or other general permits. The area shall correspond to existing geographic or political boundaries, such as:

1. Designated planning areas under Sections 208 and 303 of the Federal Act and Section 5 of the "New Jersey Water Quality Planning Act", N.J.S.A. 58:11A-1 et seq.;
2. Sewer districts or sewerage agencies;
3. City, county, or State political boundaries;
4. State highway systems;
5. Standard metropolitan statistical areas as defined by the Office of Management and Budget;
6. Urbanized areas as designated by the Bureau of Census according to criteria in 39 FR 15202 (May 1, 1974); or
7. Any other appropriate division or combination of boundaries.

(b) A general permit may be written to regulate within the area described in (a) above, either:

1. Stormwater discharges;
2. Non-contact cooling water discharges;
3. Combined sewer overflows; or
4. A category of discharges other than those listed in (b)1 through 3 above, if they all:
 - i. Involve the same or substantially similar types of operations;
 - ii. Discharge the same type of wastes or engage in similar residual use or disposal practices;
 - iii. Require the same or similar effluent limitations, operating conditions, or standards for residual use or disposal;
 - iv. Require the same or similar monitoring; and
 - v. In the opinion of the Department, are more appropriately controlled under a general permit than under individual permits.

(c) General permits may be issued, modified, revoked and reissued, suspended, or revoked in accordance with applicable requirements of N.J.A.C. 7:14A-15, 16 and 17. The Department shall publish in the New Jersey Register a notice of administrative change revising the list of general permits in the table below to reflect any of these general permit actions. The list in this table is for informational purposes only. The Department advises prospective applicants to obtain a copy of the most recent general permit list from the Department's Division of Water Quality at PO Box 029, Trenton, New Jersey 08625, or from the Division's website (<http://www.state.nj.us/dep/dwq>). A copy of any general permit on the list may be obtained from the same address.

<u>NJPDES Permit No.</u>	<u>Category</u>	<u>Name of General Permit</u>
NJ0108308	II	Stormwater Basins at Sanitary Landfills

<u>Discharge Type</u>	<u>Year Issued</u>
DGW	2001

<u>NJPDES Permit No.</u>	<u>Category</u>	<u>Name of General Permit</u>	<u>Discharge Type¹</u>	<u>Year Issued</u>
NJ0108642	I2	Filter Backwash Water from Potable Water Treatment Plants	DGW	2003
NJ0130281	T1	Existing Sanitary Septic Systems	DGW	2003
NJ0142051	LSI	Lined Surface Impoundment	DGW	2004
NJ0138631	R8	Concentrated Animal Feeding Operation (CAFO)	DGW/DSW	2003
NJ0107671	SM	Scrap Metal Stormwater	DGW/DSW	1999
NJ0088315	5G2	Basic Industrial Stormwater	DGW/DSW	2002
NJ0141852	R9	Tier A Municipal Stormwater	DGW/DSW	2004
NJ0141861	R10	Tier B Municipal Stormwater	DGW/DSW	2004
NJ0141879	R11	Public Complex Stormwater	DGW/DSW	2004
NJ0141887	R12	Highway Agency Stormwater	DGW/DSW	2004
NJ0088323	5G3	Construction Activity Stormwater	DSW	2002, modified in 2004
NJ0108456	CPM	Concrete Products Manufacturing Stormwater	DGW/DSW	2003
NJ0134791	R5	Newark Airport Complex Stormwater	DSW	2000
NJ0132721	R4	Hot Mix Asphalt Producers	DGW/DSW	2004
NJ0070203	CG	Non-contact Cooling Water	DSW	2000
NJ0102709	B4B	Groundwater Petroleum Product Clean-up	DSW	2003
NJ0105023	CSO	Combined Sewer Overflow	DGW	2000
NJ0128589	B6	Swimming Pool Discharges	DSW	1998
NJ0132933	BG	Hydrostatic Test Water	DSW	1999
NJ0134511	B7	Construction Dewatering	DSW	1999
NJ0105767	EG	Land Application Food Processing Residuals	RES	2003
NJ0132519	ZG	Residuals Transfer Facilities	RES	1999
NJ0132501	4G	Residuals—Reed Beds	RES	2002

¹ Acronyms identifying "Discharge Type" have the following meanings:

DGW	Discharge to Groundwater
DSW	Discharge to Surface Water
RES	Residual Use or Disposal

(d) An authorization under a general permit shall be obtained as follows:

1. Except as provided in (d)7 and 8 below, persons seeking authorization under a general permit shall submit to the Department a written request for authorization. A person who fails to submit a request for authorization in accordance with the terms of the permit is not authorized to discharge under the terms of the general permit unless:

i. The general permit, in accordance with (d)7 below, contains a provision that a request for authorization is not required; or

ii. The Department notifies a person that the discharge is authorized by a general permit in accordance with (d)8 below.

2. The contents of the request for authorization shall be specified in the general permit and shall require the submission of information necessary for adequate program implementation, including, at a minimum, the legal name and address of the owner and operating entity, the facility name and address, type of facility or discharges, the receiving surface or ground water(s) or DTW, and the certification required under (d)3 below. Unless the general permit specifies otherwise, the request for authorization shall include all of the forms, information, signatures,

and certification(s) that this chapter requires to be included in an application for a NJPDES permit. The request for authorization shall also include any other certification specified in the general permit.

3. In addition to the information required under (d)2 above, the request for authorization shall include, when specified in the general permit, a certification that arrangements have been made for publication, in a daily or weekly newspaper within the area affected by the facility, of a notice which states that a request for authorization under a general permit has been submitted pursuant to N.J.A.C. 7:14A-6.13(d). This notice shall also identify the general permit under which authorization is sought, the legal name and address of the owner and operating entity or, the facility name and address, type of facility or discharges, and the receiving surface or ground water(s) or DTW. Each general permit shall set forth the form of notice appropriate to that general permit.

4. General permits shall specify the deadlines for submitting requests for authorization and the date(s) when a person is authorized to discharge under the permit.

5. General permits shall specify whether a person that has submitted a complete and timely request for authorization in accordance with the general permit, and that is

eligible for authorization under the permit, is authorized to discharge in accordance with the permit either upon:

- i. Receipt of the request for authorization by the Department, after a waiting period specified in the general permit, where applicable;
- ii. On a date specified in the general permit; or
- iii. Upon the person's receipt of notification of authorization by the Department.

6. Authorization may be suspended, revoked, or denied in accordance with (j) through (m) below. The Department shall publish in the DEP Bulletin, or other similar DEP publication, a quarterly report of each authorization issued under a general permit.

7. Discharges from DTWs, combined sewer overflows, municipal separate storm sewer systems, primary industrial facilities, and stormwater discharges associated with industrial activity shall submit a request for authorization to the Department. Other discharges may, at the discretion of the Department, be authorized under a general permit without submission of a request for authorization where the Department finds that a request for authorization requirement is inappropriate. The Department shall provide in the public notice of the general permit the reasons for not requiring a request for authorization. In making such a finding, the Department shall consider:

- i. The type of discharges;
- ii. The expected nature of the discharges;
- iii. The potential for toxic and conventional pollutants in the discharges;
- iv. The expected volume of the discharges;
- v. Other means of identifying discharges authorized by the permit; and
- vi. The estimated number of discharges to be authorized by the permit.

8. The Department may notify a person that the discharge is authorized by a general permit, even if the person has not submitted a request for authorization. A person so notified may nonetheless request an individual permit under (i) below.

9. A general permit may provide for automatic renewal of authorization when that general permit is reissued, provided the discharge authorized under the general permit continues to be eligible. If such a general permit requires a request for authorization under (d)1 above, the most recently submitted request for authorization is also a timely and complete request for authorization under the reissued permit (for any permittee who had authorization under the permit immediately prior to the effective date of the reissued permit), and the Department shall issue a notice of renewed authorization to the permittee.

i. If the permittee is aware that any information in that most recently submitted request for authorization is no longer true, accurate, and/or complete, the permittee shall provide the correct information to the Department within 90 days after that effective date, if the permittee has not done so already.

ii. A permittee whose authorization is renewed under this paragraph may request to be excluded from the reissued general permit in accordance with (g) below, and may also request a stay of the application to that permittee of any conditions of the reissued permit in accordance with N.J.A.C. 7:14A-17.6.

(e) The Department may require any permittee authorized by a general permit to apply for and obtain an individual NJPDES permit or seek and obtain authorization under another general permit. Also, any person may, in accordance with the procedures set forth at (f) below, petition the Department to take action under this subsection. An individual NJPDES permit or another general permit may be required when:

1. There is evidence that the permittee may be a significant contributor of pollutants. In making this determination, the Department may consider the location of the discharge, facility, or activity, the size of the discharge or activity, the quantity and nature of pollutants, the quality of the receiving waters, and other relevant factors;
2. The permittee is not in compliance with the conditions of the general permit;
3. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants;
4. Effluent limitation guidelines are promulgated for the activity authorized by the general permit;
5. A Water Quality Management Plan containing different requirements applicable to the permittee is adopted;
6. Circumstances have changed since the time of authorization or the request for authorization such that the discharge is no longer appropriately controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized activity is necessary;
7. The Department acquires new information indicating that the permittee otherwise is not eligible for the general permit according to terms specified in the general permit; or
8. New standards for residual use or disposal are promulgated for the residual use and disposal practice covered by the general permit.

(f) To require any permittee authorized by a general permit to apply for an individual NJPDES permit or seek authorization under another general permit as provided in (e) above, the Department shall notify the permittee in writing, as follows:

1. The notice shall include:
 - i. A brief statement of the reasons for the determination that an individual permit or authorization under a different general permit is necessary;
 - ii. An application form or the applicable request for authorization form;
 - iii. A statement setting a time for the permittee to file the application or the applicable request for authorization; and
 - iv. A statement that on the effective date of the individual NJPDES permit or on the date of the permittee's authorization under another general permit, the individual permittee's authorization under the general permit shall automatically terminate.

2. The Department may grant additional time for application for an individual permit or request for authorization, upon request by the permittee. If a permittee fails to submit in a timely manner an application form or request for authorization form required by the Department under this subsection, the permittee's authorization under the general permit will be automatically revoked at the end of the day specified for submitting the application form or request for authorization form.

(g) Any permittee authorized by a general permit may request to be excluded from authorization under the general permit by applying for an individual NJPDES permit or for another general permit. The permittee shall submit an application under N.J.A.C. 7:14A-4.1, or a request for authorization for the other general permit (if required under (d) above), with reasons supporting the request. A request for an individual permit shall be processed under N.J.A.C. 7:14A-15, 16, and 17. A request for another general permit shall be processed under this section and the terms of the other general permit. The request shall be granted by the issuing of any individual permit, or by the issuing of authorization under the other general permit, if the reasons cited by the permittee are determined to be adequate to support the request.

(h) When a permittee authorized by a general NJPDES permit is issued an individual NJPDES permit for the authorized discharge, or obtains authorization for that discharge under another general permit, the permittee's authorization under the general permit is automatically revoked on the effective date of the individual permit or on the date of the permittee's authorization under another general permit, whichever the case may be. When an individual NJPDES permit is denied to a permittee authorized by a general permit, or the permittee is denied authorization under another general permit, the permittee's author-

ization under the general permit is automatically revoked on the date of such denial, unless otherwise specified by the Department.

(i) If a permittee's discharge is excluded from a general permit solely because that discharge already is authorized by an individual permit or authorization under another general permit, the permittee may request that the individual permit or authorization be revoked or modified, as appropriate, and that the discharge be authorized by a general permit identified in that request. The permittee shall submit a request for revocation or modification, with reasons supporting the request, to the Department. The permittee shall submit any request for revocation or modification of an individual permit under N.J.A.C. 7:14A-16, and that request shall be processed under N.J.A.C. 7:14A-15, 16 and 17. If the Department revokes or modifies the individual permit or authorization, and if authorization under a general permit is issued, after the permittee submits any request for authorization required under (d) above, the permittee shall be authorized under the general permit. In reviewing such requests, the Department may consider:

1. The location of the discharge;
2. The size of the discharge or activity;
3. The quantity and nature of pollutants reaching the surface or ground waters of the State;
4. The quality of the receiving waters;
5. Antibalancing requirements in N.J.A.C. 7:14A-13.19, if applicable; and
6. Any other factors the Department considers relevant to determining whether the discharge is best regulated under one permit or the other.

(j) The Department may suspend or revoke a permittee's authorization under a general permit for causes specified in N.J.A.C. 7:14A-16.6. Such suspension or revocation of authorization is a type of permit suspension or revocation under N.J.A.C. 7:14A-16.6. A requirement pursuant to (f) above that a permittee apply for an individual permit or seek authorization under another general permit is not a revocation within the meaning of N.J.A.C. 7:14A-16.6, even if the permittee's authorization is eventually revoked in favor of an individual permit or another general permit, or is automatically revoked under (f)2 above, as a result of the permittee's failure to submit in a timely manner an application form or request for authorization form.

(k) If the Department directs the permittee to apply for an individual permit or seek authorization under another general permit, the permittee may ask the Department to reconsider its decision by sending a letter to the Commissioner within 30 days of the issuance of the initial decision. The letter shall be sent to:

Office of Legal Affairs
 Department of Environmental Protection
 401 East State Street
 P.O. Box 402
 Trenton, NJ 08625-0402

Both the envelope and the letter shall clearly indicate that it is a "REQUEST FOR RECONSIDERATION OF GENERAL PERMIT DETERMINATION." The Commissioner may act on the request with 60 days; if the Commissioner fails to take any action the request shall be deemed denied. In no event shall an order from the Department directing a permittee to apply for an individual permit or seek authorization under another general permit (or a denial of a request to reconsider that order) be deemed final agency action.

(l) The following requirements apply to petitions filed under (e) above:

1. Any petition shall state clearly and concisely:
 - i. The name, address, and telephone number of the petitioner;
 - ii. The petitioner's interest in the petition (including any organizational affiliations and any economic interest);
 - iii. The name and address of the permittee whose authorization could be affected by the petition;
 - iv. The number of the permit under which that permittee is authorized; and
 - v. The reasons why the petition should be granted (including any citations to any relevant legal authority).
2. The petitioner shall serve the petition on both the Department and the permittees whose authorization could be affected by the petition.
3. The permittees whose authorization could be affected shall have 30 days from the date the petition was served to respond to the petition. Any response shall be served on both the Department and the petitioner. The Department thereafter may in its discretion seek further information relevant to the petition.
4. The Department shall determine whether to grant the petition based upon materials submitted in accordance with this subsection and based upon the criteria set forth in (e) above. The Department shall notify both the petitioner and the permittees whose authorization is affected by the petition of the Department's determination.
5. Either party may ask the Department to reconsider its decision regarding a petition by sending a letter to the Commissioner within 30 days of the issuance of the initial decision. The letter shall be sent to the Department's Office of Legal Affairs, at the address listed above, and both the envelope and the letter shall clearly indicate that it is a "REQUEST FOR RECONSIDERATION OF PETITION DETERMINATION." The Commissioner may act on the request within 60 days; if the Commissioner fails to take any action the request shall be deemed denied. It shall be considered final agency action where the ultimate outcome of the agency proceedings is that the petition is denied by the Commissioner.

(m) The following requirements apply to denial of requests for authorization:

1. The Department shall deny a request for authorization if it determines that the subject discharge is not eligible for the general permit for which the person has requested authorization.
2. The Department may deny a request for authorization if it determines that the discharge is not appropriately regulated under the relevant general permit because of:
 - i. Its location;
 - ii. The size of the discharge or activity;
 - iii. The quantity and nature of pollutants reaching the waters of the State;
 - iv. The quality of the receiving waters; or
 - v. Other relevant factors.
3. If the Department denies a request for authorization, it shall notify the person of that denial in writing. A person whose request for authorization has been denied may ask the Department to reconsider its decision by sending a letter to the Commissioner within 30 days of the issuance of the initial denial. The letter shall be sent to the Department's Office of Legal Affairs, at the address listed above, and both the envelope and the letter shall clearly indicate that it is a "REQUEST FOR RECONSIDERATION OF GENERAL PERMIT DETERMINATION." The Commissioner may act on the request within 60 days; if the Commissioner fails to take any action the request shall be deemed denied. In no event shall a denial of a request for authorization, or a request to reconsider that denial, be deemed final agency action.

(n) An authorization may be transferred to a new permittee in accordance with the requirements for an automatic transfer at N.J.A.C. 7:14A-16.2(d).

(o) With the consent of the permittee, the Department shall revoke an authorization to discharge under a general permit without following the procedures set forth in N.J.A.C. 7:14A-15.6, if the discharge has ceased.

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

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

Rewrote (c).

Petition for Rulemaking.

See: 35 N.J.R. 2954(a), 4136(b).

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

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

In (c), rewrote table; in (d)7, added "municipal separate storm sewer systems,".

Administrative change.

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

7:14A-6.14 Emergency permits

(a) Under the specified circumstances listed in (b) below, the Department may issue an emergency permit, except for a DSW, to allow the discharge of pollutants, where such discharge is unpermitted or the discharge consists of pollutants not covered by an effective permit.

SUBCHAPTER 7. REQUIREMENTS FOR DISCHARGES TO GROUND WATER (DGW)

7:14A-7.1 Purpose

This subchapter establishes NJPDES permit requirements for persons who discharge pollutants to ground waters of the State. The purpose of the NJPDES discharge to ground water permit is to restore, enhance, and maintain the ground water quality of the State, in accordance with N.J.S.A. 58:10A-1 et seq. and the Ground Water Quality Standards (GWQS) in N.J.A.C. 7:9C.

Administrative correction.
See: 37 N.J.R. 4245(a).

7:14A-7.2 Requirement to discharge in compliance with a valid NJPDES permit

(a) Persons responsible for discharges to ground water shall comply with all applicable NJPDES regulations.

(b) Except as otherwise provided in N.J.A.C. 7:14A-7.4 and 7.5, no person shall discharge to ground water prior to obtaining a discharge to ground water permit.

(c) All discharges to ground water permits existing on May 5, 1997 shall continue in full force and effect until renewed or terminated in accordance with the provisions of this chapter.

7:14A-7.3 Scope and applicability

(a) Persons responsible for discharges to ground water shall comply with all the requirements of this subchapter, except those persons listed under (c), (d), and (e) below, and in N.J.A.C. 7:14A-7.4.

(b) Persons responsible for the activities, pollution sources, or regulated units listed at (b)1 through 7 below shall comply with the requirements of this subchapter. Persons responsible for discharges not listed below are not exempt from the requirement to obtain a discharge to ground water permit. The list is intended only to be illustrative and is not exhaustive:

1. Surface impoundments;
2. Spray irrigation;
3. Overland flow;
4. Infiltration/percolation lagoons;
5. Residuals surface impoundments;
6. Injection wells; and
7. Land disposal of 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. 7:26G, shall conduct ground water monitoring in accordance with N.J.A.C. 7:14A-10.

(e) Persons responsible for discharges to ground water associated with land application of residual shall comply with N.J.A.C. 7:14A-20.

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

7:14A-7.4 Exemptions

(a) Persons responsible for the following discharges are exempt from the requirement to obtain a discharge to groundwater permit:

1. Discharges from single family residential subsurface sewage disposal systems that are designed, constructed, installed and operated in compliance with the Realty Improvement Sewerage and Facilities Act, N.J.S.A. 58:11-23 et seq., and Standards for Individual Subsurface Sewage Disposal Systems, N.J.A.C. 7:9A;

2. Return flows from irrigated agriculture;

3. Discharges that occurred prior to May 5, 1997, except existing permitted discharges identified in N.J.A.C. 7:14A-7.2(c);

4. Any discharge not to exceed 60 calendar days and in compliance with the instructions of a Department on-scene coordinator or remedial project manager pursuant to 40 CFR 300 (the National Oil and Hazardous Substances Contingency Plan) or 33 CFR 153.10(e) (Pollution by Oil and Hazardous Substances), and the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11; and

5. The following stormwater discharges, if such discharges are not through underground injection regulated under N.J.A.C. 7:14A-8, and do not require a permit under N.J.A.C. 7:14A-24.2(a)9:

- i. Stormwater discharges from municipal separate storm sewers that are not identified under N.J.A.C. 7:14A-25.2(a) or (b);

- ii. Stormwater discharges from residential areas (including residential streets, parking lots, easements, and open space), or from commercial areas (other than areas of high pollutant loading), unless N.J.A.C. 7:14A-25.2(a) or (b) requires the operating entity to apply for a NJPDES permit for the discharge. For purposes of this subparagraph and N.J.A.C. 7:14A-8.5(b) 9 and 24.2(c)3, high pollutant loading areas are commercial areas where solvents and/or petroleum products are loaded/unloaded, stored, or applied; commercial areas where pesticides are loaded and/or unloaded or stored; commercial areas where hazardous materials are expected to be present in greater than "reportable quantities" as defined by the

USEPA at 40 C.F.R. 302.4; commercial areas where recharge would be inconsistent with a Department approved remedial action work plan or landfill closure plan; and commercial areas where the risk for spills of toxic material is high, such as gas stations and vehicle maintenance facilities; and

iii. Stormwater discharges from animal feeding operations that do not require NJPDES permits under N.J.A.C. 7:14A-2.5(d) or 2.13.

Amended by R.2004 d.47, effective February 2, 2004.
See: 35 N.J.R. 169(a), 35 N.J.R. 1331(a), 36 N.J.R. 813(a).
In (a), added 5.

7:14A-7.5 Authorization of discharges to ground water by permit-by-rule

(a) Any person responsible for any of the following discharges to ground water is deemed to have a permit-by-rule:

1. Discharges to ground water from underground injection activities that are eligible for a permit-by-rule under N.J.A.C. 7:14A-8.5;

2. Discharges to ground water from activities associated with the flushing or cleaning of potable water mains and fire water systems, including hydrants and sprinklers;

3. Discharges to ground water from activities associated with the development of potable water wells;

4. Discharges to ground water from activities associated with the installation, development and sampling of monitoring wells in accordance with a NJPDES permit or, for activities not included in a NJPDES permit, in accordance with the Technical Requirements for Site Remediation, including, but not limited to, the requirements of N.J.A.C. 7:26E-3.7(c)2 and 6.4(d)3; and

5. Discharges to ground water from wells, other than discharges that occur during the course of a remediation pursuant to (b)3 below, that occur during aquifer tests for the purpose of obtaining hydrogeologic data, provided that such discharges do not exceed 30 calendar days in duration.

(b) Any person responsible for the discharges to ground water listed in (b)3i through vii below is deemed to have a permit-by-rule if the discharge occurs when:

1. A contaminated site, as defined in N.J.A.C. 7:26C-1.3, is being remediated pursuant to the rules at N.J.A.C. 7:14B implementing the Underground Storage of Hazardous Substances Act (N.J.S.A. 13:1K-6 et seq.), the requirements of the Industrial Site Recovery Act (N.J.S.A. 13:1K-6 et seq.), the requirements of the Spill Compensation and Control Act (N.J.S.A. 58:10-23.11), or the Procedures for Department Oversight of the Remediation of Contaminated Sites at N.J.A.C. 7:26C; and

2. The person is in receipt of written approval of the discharge from the Department;

3. The following ground water discharges are authorized by a permit-by-rule under this subsection:

i. Discharges to ground water, not to exceed 180 calendar days, from pilot treatment plants to obtain engineering design data;

ii. Discharges to ground water related to biotreatability studies where the discharge will not exceed 180 calendar days;

iii. Discharges to ground water, not to exceed 30 calendar days, from wells to test aquifers for the purpose of obtaining engineering and hydrogeologic design data;

iv. Discharges to ground water, not to exceed 180 calendar days, from any other facility or equipment associated with engineering studies, remedial action selection, or design studies and associated monitoring;

v. Discharges to ground water to remediate contamination from discharges of heating oil as defined at N.J.A.C. 7:14A-1.2, at a residential building of four units or less;

vi. Discharges to ground water, not to exceed 180 calendar days, related to dewatering at a contaminated site or regulated underground storage tank facility; and

vii. Discharges to ground water, other than those listed in (b)3i through vi above, that occur during the course of a site remediation that is being conducted in accordance with the Technical Requirements for Site Remediation, N.J.A.C. 7:26E, including the requirements of N.J.A.C. 7:26E-6.1 and 6.3(c).

(c) The Department shall invalidate any permit-by-rule under this section and require any person responsible for the discharge for which the permit-by-rule had been approved to apply for and obtain an individual discharge to ground water permit if:

1. The discharge is likely to contravene the ground water quality standards at N.J.A.C. 7:9C;

2. The discharge may result in violation of the Surface Water Quality Standards at N.J.A.C. 7:9B.

Amended by R.2005 d.222, effective July 5, 2005.

See: 37 N.J.R. 405(a), 37 N.J.R. 2499(a).

In (a), rewrote 4 and 5; rewrote (b).

Administrative correction.

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

7:14A-7.6 Ground Water Protection Program (GWPP)

(a) Each discharge to ground water permit, except those identified in N.J.A.C. 7:14A-7.3(c), (d) and (e), and those permitted by rule pursuant to N.J.A.C. 7:14A-7.5, shall include an approved Ground Water Protection Program to ensure that the discharge does not contravene the ground

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. 7:14C; 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. 7:26G. 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. 7:14A-7.10.

Administrative correction.

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

Amended N.J.A.C. references.

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

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

In (a)1ii, changed N.J.A.C. reference.

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. 7:9C. 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.

Administrative correction.
See: 37 N.J.R. 4245(a).

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;
- iii. Any hole which is not used for emplacement of fluids underground;
- iv. Any injection into a pre-constructed tank for the purpose of storage of fluids. Owners or operators of these injection wells may be subject to the Underground Storage Tank rules at N.J.A.C. 7:14B; and
- v. Injection wells used for injection of hydrocarbons which are pipeline quality and are gases at

3. The sewage sludge leachate collection system for a closed surface disposal site that has a liner and sewage sludge leachate collection system shall be operated and maintained for a minimum of five years after the Department approves closure of the surface disposal site. Leachate from a closed surface disposal site that has a liner and sewage sludge leachate collection system shall be collected and shall be disposed in accordance with applicable requirements for a minimum of five years after the Department approves closure of the surface disposal site;

4. When a final cover is placed on a surface disposal site at closure, the concentration of methane gas in air in any structure within the surface disposal site shall not exceed 25 percent of the lower explosive limit for methane gas and the concentration of methane gas in air at the property line of the surface disposal site shall not exceed the lower explosive limit for methane gas for a minimum of five years after the Department approves closure of the surface disposal site;

5. The owner of a surface disposal site shall provide written notification to the subsequent owner of the site that sewage sludge was placed on the land. As part of closure of the surface disposal site, a detailed description of the surface disposal site shall be recorded, along with the deed, with the appropriate county recording office. The description shall include the quantity and quality of sewage sludge disposed, a map indicating the location and depth of sewage sludge on the site, the depth and type of cover material (if applicable), the dates the surface disposal site was in use and all such other information as may be of interest to potential landowners, and shall remain in the legal record of the property in perpetuity;

6. A food crop, a feed crop, or a fiber crop shall not be grown on a closed surface disposal site, unless the owner/operator of the surface disposal site demonstrates to the Department that through management practices public health and the environment will be protected from any adverse effects of pollutants in sewage sludge when crops are grown;

7. Animals shall not be grazed on a closed surface disposal site, unless the owner/operator of the surface disposal site demonstrates to the Department that through management practices public health and the environment will be protected from any adverse effects of pollutants in sewage sludge when animals are grazed;

8. The operating entity must implement a ground water monitoring program in compliance with N.J.A.C. 7:9C; and

9. Public access to a closed surface disposal site shall be restricted for a minimum of five years after the Department approves closure of the surface disposal site.

(d) In addition to the requirements of N.J.A.C. 7:14A-4 and 20.6, a surface disposal site closure plan shall include the following minimum information:

1. The approximate date discharge to the surface disposal site ceased;

2. A description of the surface disposal site including approximate acreage, and lateral and vertical extent of the surface disposal site;

3. A discussion of the characteristics of the sewage sludge present in the surface disposal site, including:

i. The origin and volume of the sewage sludge;

ii. Dated quality analyses of the sewage sludge on a mg/kg dry weight basis including analyses of all constituents required to be analyzed in accordance with the Sludge Quality Assurance Regulations (SQAR), N.J.A.C. 7:14C. The number of samples required to be analyzed shall be based on a statistical method as described in the Department's Field Sampling Procedures manual, or as otherwise approved by the Department;

iii. Additional quality analyses may be required if deemed necessary by the Department through evaluation of past SQAR reports or other relevant information, such as information on industrial discharges which might contribute constituents not normally evaluated under the SQAR program for domestic treatment works; and

iv. A discussion, or where applicable, analyses pursuant to 40 CFR 503.25, explaining how pathogen requirements or vector attraction reduction requirements were achieved;

4. A description of the proposed method of closure, including plans for the removal and/or in-situ closure of sewage sludge remaining at the surface disposal site, and an implementation schedule for each component of the closure plan;

5. For in-situ closure proposals, the following information:

i. If the surface disposal site has a liner and sewage sludge leachate collection system, a discussion of how the sewage sludge leachate collection system will be operated and maintained for a minimum of five years;

ii. A description of the system used to monitor for methane gas in the air in any structures within the surface disposal site and in the air at the property line of the surface disposal site for a minimum of five years, where applicable;

iii. A discussion of how public access to the surface disposal site will be restricted for a minimum of five years; and

iv. A calculation of the surface run-off across the surface disposal site shall be prepared using a 24-hour, 25-

year storm event with estimates of the effect of such run-off on treatment capacity, storage capacity, erosion, flooding, impacts on surface water quality and related details;

6. A soil erosion and sediment control plan certified by the local Soil Conservation District in accordance with the Soil Erosion and Sediment Control Act of 1975, or as amended (N.J.S.A. 4:24-39 et seq.), unless such planning is determined inapplicable by an agency with concurrent jurisdiction; and

7. Any other information required by N.J.A.C. 7:14A-7.20 for residual surface impoundment's or residual infiltration-percolation lagoons.

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

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

In (d)3ii, changed N.J.A.C. reference.

Administrative correction.

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

7:14A-20.9 Fact sheet

(a) In addition to the requirements of N.J.A.C. 7:14A-15.8, any fact sheet prepared under this subchapter shall contain the following:

1. Any calculations or other necessary explanation of the derivation of specific conditions or standards for residual use or disposal, including a citation as to the applicable basis or standard for residual use or disposal;

2. When the draft permit contains limitations set on a case-by-case basis pursuant to N.J.A.C. 7:14A-20.5, an explanation of the reasons why such conditions are appropriate;

3. When appropriate, a sketch or detailed description of the location of the regulated activity described in the application; and

4. For a draft permit that includes a notification plan under N.J.A.C. 7:14A-20.7(a)3, a brief description of the conditions of the permit that address approval of land application sites not identified at the time of permit application.

7:14A-20.10 Residual transfer stations

(a) In addition to the information required by N.J.A.C. 7:14A-4 and 20.6, an applicant for a NJPDES permit for a residual transfer station shall submit application information for residual transfer stations required pursuant to the Statewide Sludge Management Plan and the applicable NJPDES Permit Technical Manual adopted pursuant to N.J.S.A. 13:1D-111.

(b) Transfer of residual transport containers directly from vehicle to vehicle, including truck to train, for shipment to a residual management site or facility authorized by the permitting authority, is not considered a residual transfer station under this subchapter provided the following conditions are met:

1. The contents of each residual transport container shall remain in the residual transport container during transfer between vehicles; and

2. The transfer of residual transport containers shall not result in off-site nuisances, including, but not limited to, dust, odor and noise.

7:14A-20.11 Generic residual quality determinations

(a) It shall be the responsibility of the person who prepares residual to ensure that all residual accepted for processing is compatible with the applicable residual quality limitations.

(b) A person who prepares residual to be applied to the land may accept a residual which does not meet the residual quality limitations of 40 CFR 503.13 provided the residual is to be blended with other residual and the final residual to be applied to the land meets the appropriate pollutant limits under 40 CFR 503.13, subject to the following:

1. Written Department approval pursuant to (c) below is required to accept sewage sludge for blending from domestic treatment works sources not known at the time of permit application where the median or mean pollutant concentration (based on a 12 month moving mean and median) for the source exceeds the residual quality limitations imposed on the person who prepares the residual pursuant to 40 CFR 503.13; and

2. Written Department approval pursuant to (c) below is required to accept residual from industrial treatment works sources not known at the time of permit application regardless of quality.

(c) The following information shall be submitted in order to obtain a generic residual quality determination:

1. For requests to process specific residuals, information shall be provided on the characteristics of the residual and analyses conducted in accordance with N.J.A.C. 7:14A-20.7(a)1 for the previous 12 month period, which shall be analyzed for mean, median and range for each parameter; and

2. For blending requests, a process schematic shall be provided on how complete blending of residuals will be achieved as well as technical documentation on achievement of residual quality limitations pursuant to 40 CFR 503.13 (including mass balance calculations).

SUBCHAPTER 21. REQUIREMENTS FOR INDIRECT USERS

7:14A-21.1 Purpose and scope

(a) This subchapter:

7:14A-22.11 Modifications and revocations of treatment works approvals

(a) The Department may modify, suspend or revoke a treatment works approval in whole or in part for cause, including, but not limited to:

1. Violation of any term or condition of the treatment works approval;
2. Obtaining a treatment works approval by misrepresentation or failure to disclose fully all relevant facts; or
3. If such treatment works approval is inconsistent with any duly authorized effluent limitation, permit, regulation, statute, or other applicable local, State or Federal law.

(b) The Department shall determine whether any material changes, design or construction alterations, or changes in flow, which occur after the issuance of a treatment works approval permit will require a modification. When assessing the need for a modification, the Department will evaluate how the proposed changes affect the design or conditions of approval of the original permit. Generally a treatment works approval modification is not required for the substitution of units or materials with others that are structurally, hydraulically, and functionally equivalent, except in cases when a detailed engineering review is needed to determine equivalency. Changes in location or unit sizing and capacity, or increases in flow or project scope, will require a modification or a new TWA, as determined by the Department, depending on the magnitude of the change.

(c) Unless such a requirement is specifically waived by the Department, a modification request will generally not be considered, and instead, a new treatment works application will be required for major modifications of the project scope including, but not limited to, the addition of a pumping station or alternate treatment units or processes, significant changes to the collection system and the inclusion of sewage generating structures not covered in the original approval.

1. Requests for modifications shall include the following documents:
 - i. An appropriate fee pursuant to N.J.A.C. 7:1C-1.5;
 - ii. A written request from the applicant stating the nature, scope and reasons for the modification;
 - iii. Revised construction plans and specifications (if applicable);
 - iv. A revised WQM006 Engineer's Report (if applicable);
 - v. A copy of the original treatment works approval permit; and
 - vi. Written consent from the appropriate sewerage authority if the modification will result in an increase in

the project's projected flow, or if the modification requires a change or alteration to the point of connection of the proposed sewer to the existing collection system.

2. The Department will accept permit modification requests only for treatment works approvals that are valid (not expired) at the time that the modification request is submitted to the Department. In addition requests for modification will only be considered for a maximum period of two years following the last construction activity on the treatment works conducted in accordance with the Department's original approval.

7:14A-22.12 Extensions of time for treatment works approvals

(a) Stage II treatment works approvals are valid for an initial period of two years, unless otherwise stated in the approval document. A stage II approval will expire unless building, installing or modifying of the treatment works has begun within the initial approval period stated on the permit, unless the permit is extended pursuant to this subchapter.

(b) At the Department's discretion, a treatment works approval may be extended beyond the original two year approval date, to a maximum period of five years from the original issuance date. Each extension, if granted, will be for a maximum period of one year.

1. A request for an extension of time must be received by the Department prior to the expiration date of the permit and shall include the following:
 - i. An appropriate fee pursuant to N.J.A.C. 7:1C-1.5(b);
 - ii. A written request from the applicant or authorized agent; and
 - iii. Consent for the time extension from the sewerage authority if the sewerage authority has notified the Department, in writing, that all time extension requests under its jurisdiction must be accompanied by the authority's consent.

2. If the extension request is not received by the Department prior to the expiration date of the permit, then in addition to the information required under (b)1 above, the applicant shall also submit written proof of consent for the time extension from the sewerage authority or municipality which owns the receiving treatment plant, and the minimum fee in accordance with N.J.A.C. 7:1C-1.5. In such cases, if the request is approved, the Department will issue the permit extension in the form of a new TWA valid for one year, but extendible up to a maximum of five years from the issuance date of the original approval.

(c) The Department's decision on whether or not to grant a time extension is dependent upon the circumstances which

exist at the time the request is made, including, but not limited to, the status of any sewer connection ban. Generally, the request will be denied if a sewer connection ban is in place and the project does not qualify for a sewer ban exemption pursuant to this subchapter.

(d) The earliest a time extension request will be considered by the Department is one year prior to the permit expiration date.

(e) Once the construction of sewerage facilities is legally initiated, the TWA is considered to be in effect and further time extensions are not required. However, if construction has been interrupted for a period of more than two years, the Department, at its discretion, may revoke the TWA and deny the extension request. The factors to be considered in making such decisions include, but are not limited to, a sewer connection ban or conveyance problem, time span for which construction is interrupted, the status of the construction, and the reasons for construction interruption.

7:14A-22.13 Administrative requirements for wastewater holding tanks (non-industrial)

(a) Wastewater holding tanks for temporary use may be approved by the Department in the following circumstances:

1. Simultaneous or subsequent to the issuance of a Stage II "dry/construct only" treatment works approval issued by the Department pursuant to N.J.A.C. 7:14A-22.9(b)2, for projects located in sewer ban areas; or

2. To serve a proposed project that is located in an area not presently served by sanitary sewers and where a treatment works approval has been issued and a contract has been awarded which contains a scheduled completion date for the construction of downstream facilities necessary for the elimination of the holding tank.

(b) An administrative authority may, pursuant to N.J.A.C. 7:9A-3.12, approve the temporary use of a sewage holding tank for a period of up to 180 days for an existing structure served by a malfunctioning septic system that is causing a public health hazard.

(c) Wastewater holding tanks as a permanent means of sewage disposal may be approved in the following circumstances:

1. The holding tank will be utilized to eliminate a failed subsurface disposal system which has been certified by the local board of health or the Department to be a health hazard, connection to a domestic treatment works is not possible or practical, and the holding tank will not be utilized for additional sources of wastewater flow resulting from a building expansion, change in use, or other source;

i. For holding tanks to serve a facility with a projected flow of less than 2,000 gallons per day, the applicant shall demonstrate in accordance with N.J.A.C. 7:9A-3.4(d)1 through (d)5, that the existing system was legally constructed and cannot be repaired or rehabilitated and there are no feasible alternatives or substitutes.

ii. For holding tanks to serve a facility with a projected flow of 2,000 gallons or more, in addition to demonstrating that the existing system cannot be repaired or rehabilitated, an amendment to the appropriate wastewater management plan pursuant to N.J.A.C. 7:15-4.3 may be required, unless in accordance with N.J.A.C. 7:15-4.2 the use of the holding tank is mandated by an administrative consent order executed between the Department and the applicant; or

2. The holding tank will be utilized at a marina or dock which serves watercraft that are equipped with marine sanitation devices.

(d) The holding tank shall meet the technical design requirements specified in N.J.A.C. 7:14A-23.5.

(e) The entity identified as the receiving treatment plant for the final treatment and disposal of hauled wastewater shall have sufficient capacity to handle the additional flow and not be subject to a sewer connection ban.

7:14A-22.14 Temporary wastewater hauling/diversion

(a) Wastewater hauling is the removal and transportation of a permitted quantity of wastewater from the headworks of a facility and prior to treatment, by a licensed waste hauler, from a treatment facility which is subject to a sewer ban, to a treatment facility which is not subject to a sewer ban. Wastewater diversion is the re-direction of a permitted quantity of wastewater flow from a collection or conveyance system to an alternate collection system not subject to a sewer connection ban.

1. Flow diversion may be accomplished by constructing various temporary gravity sewers or pumping stations or by modifying an existing collection system so that flows are re-directed to an alternative treatment works.

(b) The temporary use of wastewater hauling/diversion may be approved by the Department simultaneous or subsequent to the issuance of a stage II "dry/construct only" treatment works approval issued by the Department pursuant to N.J.A.C. 7:14A-22.9(b)2, for projects located in sewer ban areas, or if authorized by the Department through an administrative/judicial consent order executed by the applicant and the Department.

7:14A-22.15 Requirements for flow equalization tanks

(a) The use of flow equalization tanks located at the head of treatment plants, regional pumping stations or pre-treatment facilities for the purpose of improving the treatment process is encouraged by the Department, and will be approved providing that all administrative and technical requirements of this subchapter and the technical requirements specified in N.J.A.C. 7:14A-23 are met.

(b) Flow equalization tanks proposed to serve areas with significant future growth potential will not be approved as permanent facilities. The problems associated with existing conveyance capacity in these areas should be addressed through appropriate corrective measures such as repairing, replacing, or upgrading the existing inadequate sewerage systems, controlling inflow and infiltration or other applicable remedies.

(c) In addition to the situation specified in (a) above, flow equalization tanks may be approved for permanent use when the following conditions are satisfied:

1. It is shown that a flow equalization tank is the most appropriate means of providing sewer service to the area under consideration, it is designed as an integral part of the sewage conveyance system and there are no other practical or feasible alternatives, and its use will be on a regional basis (not for individual developments); and

2. The use of the flow equalization tank is to serve areas with severely limited potential for growth and for which the applicant has demonstrated to the Department's satisfaction that the upgrading of the existing downstream conveyance system is not economically feasible due to the limited sources of contributory flow anticipated from future connections in the service area.

(d) To the maximum extent possible, the utilization of flow equalization tanks should be consolidated to accommodate multiple users. In general, the individual use of flow equalization tanks on a project specific basis is discouraged.

(e) As part of the submission of a treatment works application for a permanent flow equalization tank, the owner of the affected collection system shall submit an engineer's report meeting the requirements of N.J.A.C. 7:14A-23.5.

(f) If requested by the applicant, upon receipt of the information referenced in (e) above, the Department will conduct a Stage I review pursuant to N.J.A.C. 7:14A-22.7 and will render a finding as to the acceptability of the proposed permanent flow equalization tank.

(g) Flow equalization tanks may be approved on a temporary basis for the purpose of improving situations when inadequate conveyance capacity exists in a collection system. In such a situation, the eventual elimination of the equalization tank must be assured through either an administrative consent order that contains provisions for the corrective work to enable the elimination of the equalization tank, or through the issuance of a treatment works approval that provides a specific and mandatory schedule for the construction of downstream facilities necessary for the elimination of the equalization tank.

7:14A-22.16 Capacity assurance program

(a) Whenever the committed flow reaches or exceeds 80 percent of the permitted capacity of a treatment works, the participating municipalities and/or sewerage authorities shall submit to the Department a program to be implemented in order to prevent an overloading of their facility or a violation of their NJPDES permit. This program shall include, but is not limited to, the following:

1. Implementation of water conservation measures;
2. Reduction of inflow and infiltration (I/I) where appropriate. Measures shall be taken, to the satisfaction of the Department, which appropriately identify the causes and course of corrective action within a specified time frame;
3. Implementation of measures to maximize treatment plant capacity at a minimum cost;
4. Construction of improvements;
5. Disconnection of roof leaders, sump pumps and other sources of inflow, from sanitary sewer lines and connect into storm sewer lines where storm sewers are available and to the extent feasible;
6. Submission, on a quarterly basis, of a completed WQM007 Form to the Municipal Finance and Construction Element, Bureau of Financing and Construction Permits, PO Box 425, Trenton, New Jersey 08625-0425; and
7. Preparation for the imposition of a self-imposed sewer connection ban, as required by N.J.A.C. 7:14A-22.17, in the event that it is anticipated that additional flows will result in violations of any pollutant parameter limits contained in the plant's NJPDES or NPDES permit.

(b) For treatment plants which are subject to excessive inflow and infiltration to the extent that NJPDES permit limits for flow are occasionally exceeded during wet months, the Department will consider issuing TWAs for additional flow if, in the sewerage authority's opinion, the affected sewage treatment plant can treat flows in excess of its permitted capacity and still maintain compliance with the pollutant limits specified in its NJPDES permit. In addition to the requirements in (a)1 through 7 above, the authority shall submit a detailed technical report demonstrating its findings and providing justification for the issuance of treatment works approvals for additional contributory flows.

1. The detailed technical report referenced in (b) above must contain a discussion of the following issues:
 - i. The extent of inflow and infiltration;
 - ii. Dry weather treatment capacity at the plant;
 - iii. The plant's ability to treat additional flows;
 - iv. Water quality issues;

v. Status of the current NJPDES permit for the plant; and

vi. The effect that such a decision will have upon the discharge limitations contained in future NJPDES permits.

(c) If the participating municipalities and authorities do not comply with (a) above, then the Department may issue a warning notice. A warning notice shall require the sewerage authority or municipality to prepare and submit a program pursuant to N.J.S.A. 58:10A-6(h)(3) and (a) above, within 45 days of receipt of the notice.

(d) Upon approval by the Department of a program submitted pursuant to (a) or (b) above, the sewage authority and participating municipalities shall give public notice of the program in a manner designed to inform local residents, developers, local planning board and other affected persons. Such notice shall include at least the following information:

1. The name, mailing address and telephone number of the owner of the treatment works;
2. The permitted capacity of the treatment works;
3. The committed flow to the treatment works;
4. A statement that the treatment plant is approaching its permitted capacity and the possibility exists that a sewer connection ban will be imposed if the plant is unable to maintain compliance with its discharge limits; and
5. Description of the service area including the participating municipalities.

(e) In the event that the committed flow to a sewage treatment plant is at or above 100 percent of the plant's permitted capacity, and the Department determines that issues involved in (a), (b) or (c) above have not been appropriately addressed and that additional flows above the plant's permitted capacity may result in violations of their NJPDES permit, the Department may cease the further issuance of treatment works approvals for additional flow to the plant. In the event that such a decision is made, the Department, at its discretion, may grant exceptions for projects that require a TWA providing the project meets the sewer ban exemption criteria specified in N.J.A.C. 7:14A-12.22.

(f) Neither this section nor the provisions of N.J.A.C. 7:14A-22.17 shall apply to industrial treatment works that are direct dischargers to the waters of the State.

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

7:14A-22.17 Sewer ban imposition

(a) A sewer connection ban shall be imposed in accordance with this subchapter, when any one of the following events occurs:

1. The downstream sewerage facilities do not have adequate conveyance capacity as defined in N.J.A.C. 7:14A-1.2;

i. If the cause of inadequate conveyance capacity is a one-time overflow occurrence which has been determined to be the result of extreme and unusual precipitation, or equipment malfunction which has been repaired, the owner/operator may notify the Department, Division of Water Quality, in writing within 20 days of the occurrence and request relief from the imposition of the sewer ban.

ii. The Department may require any local agency requesting relief pursuant to this provision to provide additional detailed justification, including, but not limited to, a sewer system capacity analysis and evaluation;

2. For a three month consecutive period, a treatment works has discharged effluent to a surface water which violates the limitations for any of the conventional pollutants, as defined in (b) below, of its NJPDES or NPDES permit, as determined by the arithmetic average of the permit parameters for the period;

3. For a three month consecutive period, a treatment works has discharged effluent to the surface water which violates any non-conventional pollutant of its NJPDES or NPDES permit, as determined by the arithmetic average of the permit parameters for the period, and the sewerage authority or municipality does not meet one of the following requirements for relief from the sewer connection ban imposition:

i. The treatment plant owner has entered into an administrative/judicial consent order with the Department that contains a schedule for the completion of improvements necessary to enable the treatment facility to comply with all the conditions and limitations of its NJPDES permit; or

ii. A treatment works approval permit for the improvements necessary to enable the treatment facility to comply with all conditions and limitations of its NJPDES permit has been issued and a contract for the construction has been awarded; or

4. For a three month consecutive period a treatment works has discharged effluent to ground water which violates any effluent or flow limitations of its NJPDES or NPDES permit, as determined by the arithmetic average of the permit parameters for the period.

(b) For the purpose of the sewer ban imposition and rescission criteria, "conventional pollutant" shall mean NJPDES discharge permit limitations established for oxygen demanding pollutants (BOD, CBOD, NBOD and TBOD), total suspended solids (TSS), pH and bacterial quality indicators (fecal coliform, total coliform, enterococci).

(c) For surface water dischargers, violations of NJPDES or NPDES effluent requirements for flow, percent removal or toxicity shall not require the imposition of a sewer connection ban. In the case of a treatment facility at or above 80 percent of its permitted flow, the facility shall be subject to the provisions of the Capacity Assurance Program specified at N.J.A.C. 7:14A-22.16.

(d) For the purposes of ban imposition and rescission criteria only, if a valid NJPDES permit contains more than one means of measuring an oxygen demanding pollutant (example: CBOD or NBOD or TBOD), then consistent compliance with only one measurement is required.

(e) In the event that the sewerage authority and/or municipality does not impose the required sewer connection ban, the Department may cease issuing treatment works approval permits, direct the imposition of a sewer connection ban and take other enforcement actions that it deems necessary.

(f) Sewer connection bans in effect and imposed pursuant to N.J.A.C. 7:14A-12.21 shall remain in full force and effect unless specifically allowed to be rescinded by the Department in writing, and in accordance with N.J.A.C. 7:14A-22.18(f).

Amended by R.1997 d.107, effective May 5, 1997.
See: 28 N.J.R. 380(a), 28 N.J.R. 2779(a), 28 N.J.R. 3494(a), 28 N.J.R. 3858(a), 28 N.J.R. 4697(a), 28 N.J.R. 5028(a), 29 N.J.R. 1704(a).
In (a)1, amended N.J.A.C. reference.

7:14A-22.18 Procedures and effective date for the imposition of a sewer connection ban

(a) Within 20 days of the treatment works becoming subject to a ban pursuant to N.J.A.C. 7:14A-22.17, the owner/operator of the subject treatment works shall:

1. Adopt a resolution imposing the sewer connection ban;
2. Cease the further approval of sewer connections to the subject treatment works as of the effective date of the ban;
3. Notify the affected municipalities that they shall cease the issuance of building permits and condition all other approvals which will require or modify a sewer connection, and which has not already obtained a valid treatment works approval issued by the Department.

i. For projects that do not require a treatment works approval and/or sewer ban exemption pursuant to N.J.A.C. 7:14A-22.20, the municipality may issue building permits or other local approvals; and

4. Give notice of the sewer connection ban to the Department, to residents of the area that contributes to the subject treatment works, landowners therein, local planning boards, and other persons or legal entities affected by the ban, within 10 days of adoption of the ban imposition resolution, and at intervals of no more than six

months in a manner reasonably expected to be received by such persons.

(b) Other than in (a)3i above, the affected sewerage authority and participating municipalities shall not issue sewer connection approvals or endorse sewer connection applications for specific projects in the affected area unless the following requirements have been met:

1. A sewer connection ban has been implemented in accordance with this subchapter;
2. Sewer connection ban exemption criteria equivalent to, or more stringent than, those contained in N.J.A.C. 7:14A-22.22 have been adopted; and
3. The sewer connection ban ordinance, or resolution, and the sewer ban exemption for the specific project has been approved by the Department.

(c) Treatment works applications filed with the Department prior to the effective date of the sewer connection ban will be considered for approval provided that at the time of the sewerage authority's certification on the Department's Form WQM003, the receiving treatment works was operating in compliance with all applicable conditions as stated in the WQM003 Form.

(d) When the participating municipalities and/or affected sewerage authorities have failed to comply with (a) and (b) above, the Department shall cease issuing treatment works approvals and may also direct the imposition of a sewer connection ban, issue administrative orders, assess civil administrative penalties, seek judicial relief, or take any other enforcement action it deems necessary.

(e) The effective date for any sewer connection ban required to be imposed by this subchapter shall be 20 days following the date upon which the first of either of the following occurs:

1. The due date of the Discharge Monitoring Report which would indicate non-compliance in accordance with N.J.A.C. 7:14A-22.17; or
2. The date of identification of a lack of adequate conveyance capacity as defined in N.J.A.C. 7:14A-1.2.

(f) The affected sewerage authority or municipality shall apply to the Department for a rescission or modification of a sewer connection ban implemented pursuant to this subchapter at such time as a ban is no longer required in accordance with N.J.A.C. 7:14A-22.17. No ban may be rescinded without written approval from the Department.

Amended by R.1997 d.107, effective May 5, 1997.
See: 28 N.J.R. 380(a), 28 N.J.R. 2779(a), 28 N.J.R. 3494(a), 28 N.J.R. 3858(a), 28 N.J.R. 4697(a), 28 N.J.R. 5028(a), 29 N.J.R. 1704(a).
In (e)2, amended N.J.A.C. reference.

7:14A-22.19 General policy and procedure for sewer connection ban exemptions

(a) Each affected sewage authority, or municipality that owns a treatment works, upon the institution of a connection ban, shall adopt exemption criteria at least as stringent as those included in this subchapter in order to provide relief to persons who qualify for such relief. The burden of proof is upon the applicant for all exemption requests and the Department and each affected sewerage authority shall presume that all applicants have knowledge of the sewer connection ban after the effective date of its imposition.

(b) No exemption shall be granted to any person who subsequently proceeds with a proposed project, without first obtaining all necessary approvals, and thereby increases or creates a self-imposed hardship.

(c) For projects which require a treatment works approval pursuant to N.J.A.C. 7:14A-22.3, a sewer ban exemption approval, if required pursuant to this subchapter, shall be obtained from the Department or delegated agency, prior to filing the treatment works approval application.

(d) Before making a final decision, the Department may request additional documentation or information that is relevant to the project. Failure of the applicant to supply the additional information may serve as a basis for denial of the application.

(e) Water conservation plumbing is required in all instances of new or modified plumbing or piping. Water conservation plumbing is a condition of the exemption and does not constitute the basis for a sewer ban exemption.

(f) An exemption granted for a specific project at a determined location is not transferable to any other project or location, and is only transferable to a new owner providing the location, scope and other relevant conditions of granting the original exemption remain unchanged. Transfers to new owners meeting the requirements of this subsection do not require Department approval.

(g) Projects which have changed in scope or for which the conditions of granting the original exemption have changed are not considered to be exempt. The applicant/owner of such projects shall apply for a new sewer ban exemption in accordance with this subchapter.

7:14A-22.20 Activities which do not require an exemption from the Department

(a) Any project which has proceeded in accordance with a valid stage II and stage III treatment works approval from the Department for the construction and operation of treatment works will not require a sewer ban exemption from the Department provided that construction of the facilities is undertaken in accordance with the Department's approval.

(b) For projects which do not require a treatment works approval pursuant to N.J.A.C. 7:14A-22.4, a sewer ban exemption from the Department is not required provided that the owner/applicant of the project has obtained a building permit prior to the effective date of the sewer connection ban, and is otherwise lawfully entitled to initiate construction in conformance with previously issued valid approvals.

(c) Modifications, additions or deletions to the internal plumbing or piping of any lawfully, pre-existing building will not require a sewer ban exemption provided that:

1. The size of the building will not increase (gross area); and
2. The category and scope of use of the building will remain unchanged in accordance with N.J.A.C. 7:14A-23.3, Projected flow criteria.

(d) The replacement, rehabilitation or modification of existing conveyance and treatment facilities will not require a sewer ban exemption provided that the project does not involve any additional contributory flow, as determined by the Department.

7:14A-22.21 Application procedures for obtaining a sewer connection ban exemption from the Department

(a) The sewerage authority or municipality imposing the ban shall provide the applicant with the following:

1. A copy of the ban exemption regulations contained in N.J.A.C. 7:14-22.18 through 22.22;
2. The Department's ban exemption application form, WFR001, entitled: "Application for Exemption from a Sewer Connection Ban";
3. The effective date of the sewer connection ban; and
4. A copy of the authority's sewer ban exemption criteria.

(b) An applicant requesting an exemption shall submit the Department's application form for an exemption from a sewer connection ban and any other appropriate documentation to the appropriate sewerage authority or municipality, who shall review the request for compliance with the applicable criteria.

(c) If the affected sewerage authority or municipality determines that the applicant meets the criteria specified in N.J.A.C. 7:14A-22.22, or more stringent criteria that may be locally adopted, the authority shall forward the application package and a written letter of consent, to the Department for a final decision, unless the local authority has been delegated the authority to approve exemption requests pursuant to N.J.A.C. 7:14A-22.23.

i. All stormwater discharges from municipal separate storm sewers that the Department designates as "small MS4s that contribute substantially to the pollutant loadings of a physically interconnected municipal separate storm sewer that requires a NJPDES permit" under this subsection, or under N.J.A.C. 7:14A-24.2(a)5, 7 or 9;

ii. All stormwater discharges that are from municipal separate storm sewers, and that are designated under N.J.A.C. 7:14A-24.2(a)7 or 9;

iii. All stormwater discharges that are from municipal separate storm sewers, and that are determined to require a NJPDES permit in response to a petition under N.J.A.C. 7:14A-24.3;

iv. All stormwater discharges whose operating entity is granted a waiver under (d) below, but that are subsequently determined to require a NJPDES permit under (e) below; and

v. All stormwater discharges from municipal separate storm sewers designated by USEPA under 40 C.F.R. 123.35(b).

(b) Each municipality that is assigned to Tier B under N.J.A.C. 7:14A-25.3(a)2, and that operates a small MS4 that discharges to surface water or groundwater, shall apply for the Tier B Municipal Stormwater General Permit under N.J.A.C. 7:14A-25.8.

(c) All stormwater discharges to surface water or groundwater that are from small MS4s but not identified under (a) or (b) above are exempt from the requirement to obtain a NJPDES permit from the Department, except as provided in N.J.A.C. 7:14A-8.3, Prohibition of underground injection.

(d) The duty to obtain a permit under section 402 of the Federal Act (33 U.S.C. § 1342) is waived for all operating entities for each small MS4 that is:

1. Owned or operated by and located in a municipality that is assigned to Tier B under N.J.A.C. 7:14A-25.3(a)2; and

2. Located within an urbanized area as determined by the 2000 Decennial Census by the Bureau of the Census or a subsequent and superseding Decennial Census.

3. This waiver applies solely to stormwater discharges from the small MS4s meeting the criteria at (d)1 and 2 above to surface waters of the State, and is subject to (e) below. This waiver does not exempt any Tier B municipality from the duty to obtain the Tier B Municipal Stormwater General Permit where required under (b) above.

4. The Department shall publish in the New Jersey Register a notice of administrative change revising (as appropriate under this subsection or (e) below) the list of municipalities in the table below, and shall mail notice of such revision to the affected municipality(ies) and coun-

ty(ies). Each notice under this subsection shall identify the reason for the revision. The list in this table is for informational purposes only. Any person may obtain the most current list of municipalities to which the waiver applies and which are assigned to Tier B from the Department's Division of Water Quality, Bureau of Non-point Pollution Control at PO Box 029, Trenton, New Jersey 08625, or from the Division's website (<http://www.state.nj.us/dep/dwq>).

**Municipalities to which Waiver Applies
and which Are Assigned to Tier B**

Bergen County

Ridgefield Park Village

Rockleigh Borough

Teterboro Borough

Burlington County

Chesterfield Township

Fieldsboro Borough

Springfield Township

Camden County

Pine Valley Borough

Tavistock Borough

Cumberland County

Deerfield Township

Gloucester County

Elk Township

Woolwich Township

Hunterdon County

Bethlehem Township

Bloomsbury Borough

East Amwell Township

Franklin Township

Lebanon Township

Tewksbury Township

Union Township

West Amwell Township

Monmouth County

Interlaken Borough

Upper Freehold Township

Morris County

Harding Township

Salem County

Oldmans Township

Upper Pittsgrove Township

Somerset County

Far Hills Borough

Millstone Borough

Rocky Hill Borough

Sussex County

Andover Borough

Fredon Township

Warren County

Allamuchy Township

Harmony Township

(e) The waiver under (d) above is based on the fact that the small MS4s identified do not have any of the characteristics set forth in (e)1 or 2 below, and based on the presumption that those small MS4s are of such minimal extent and serve such a small population that none of their stormwater discharges have any of the characteristics set forth in (e)3i through iii below. An operating entity to which the waiver applies may subsequently be required to apply for a NJPDES permit under (a) above if circumstances change. The Department shall require any operating entity to which the waiver applies to apply for a NJPDES permit under (a) above for a stormwater discharge from that entity's small MS4 if:

1. The municipality in which the small MS4 is located is reassigned from Tier B to Tier A in accordance with N.J.A.C. 7:14A-25.3(a)1 (for a reason other than the review under this subsection of the operating entity's waiver);

2. That stormwater discharge is identified under (a)4ii, iii or v above (special designations); or

3. Information specific to the small MS4 demonstrates to the Department's satisfaction that the stormwater discharge from the small MS4:

i. Contributes substantially to the pollutant loadings of a physically interconnected MS4 (see (a)4i above) that requires a NJPDES permit under (a) above;

ii. Contains a pollutant(s) for which stormwater controls have been established as part of a USEPA approved or established "total maximum daily load" (TMDL) that addresses the pollutant(s) of concern; or

iii. Requires an individual UIC permit under N.J.A.C. 7:14A-8.5(d).

(f) Whenever a NJPDES permit is required under (a)4 above (special designations), or a municipality is assigned to Tier A under N.J.A.C. 7:14A-25.3(a)1v, the Department shall notify the operating entity in writing of the reasons for such a determination, and shall include instructions on how to apply for a NJPDES permit.

1. If the operating entity applies for an individual NJPDES permit in response to such notice, 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, unless the reason for that determination was a decision made by USEPA under 40 C.F.R. 122.26(a)(9)(i)(C) or (a)(9)(i)(D), or under 40 C.F.R. 123.35(b) or (c).

2. If the operating entity is a municipality that has applied for or received authorization under the Tier B Municipal Stormwater General Permit (see N.J.A.C. 7:14A-25.8), the applicable requirements of N.J.A.C. 7:14A-6.13 shall also be followed.

Administrative change.
See: 36 N.J.R. 2419(a), 4133(a).
Administrative correction.
See: 36 N.J.R. 4823(a), 5441(a).

7:14A-25.3 Assignment of municipalities to Tier A or Tier B

(a) All municipalities are assigned either to Tier A or to Tier B as follows:

1. An entire municipality is assigned to Tier A if that municipality:

i. Is located entirely or partially within an urbanized area as determined by the 2000 Decennial Census by the Bureau of the Census or a subsequent and superseding Decennial Census, and has a population of at least 1,000 within an urbanized area as determined by that Census;

ii. Has a population density of at least 1,000 per square mile, and a population of at least 10,000 as determined by that Census;

iii. Has a stormwater sewer system discharging directly into the salt waters of Monmouth, Ocean, Atlantic, or Cape May counties (using the N.J.A.C. 7:22A-1.4 definitions of "stormwater sewer system" and "salt waters"). A municipality is deemed to have such a system if that municipality is one of the "Affected Municipalities" listed in N.J.A.C. 7:22A Appendix A, unless it is determined in response to a petition under N.J.A.C. 7:22A-3.2(b) or 4.9(b) that N.J.A.C. 7:22A Appendix A erroneously includes or omits the municipality;

iv. Requests Tier A assignment from the Department; or

v. Operates a stormwater discharge(s) identified under N.J.A.C. 7:14A-25.2(a)4 (special designations), provided that the Department determines that such identification warrants assignment of the municipality to Tier A. In making this determination, the Department may consider the following with respect to the identified stormwater discharge(s) and to other stormwater discharge(s) from small MS4(s), if any, operated by the municipality: the location or size of the discharge from the small MS4(s), the quantity and nature of pollutants reaching the water of the State, the quality of the receiving waters, or other relevant factors.

2. Every municipality not assigned to Tier A is assigned to Tier B.

3. The Department shall publish in the New Jersey Register a notice of administrative change revising the list of Tier A and Tier B municipalities in the table below, and shall mail notice of such revision to the affected municipality(ies) and county(ies). Each notice under this paragraph shall identify the reason for the revision. The list in this table is for informational purposes only. Any person may obtain the most current list of such municipalities from the Department's Division of Water Quality, Bureau of Nonpoint Pollution Control at PO Box 029, Trenton, New Jersey 08625, or from the Division's website (<http://www.state.nj.us/dep/dwq>).

	<u>Tier A Municipalities</u>	<u>Tier B Municipalities</u>
Burlington County	Tier A Municipalities All municipalities not listed under Tier B	Tier B Municipalities Bass River Township Chesterfield Township Fieldsboro Borough New Hanover Township North Hanover Township Springfield Township Washington Township Woodland Township Wrightstown Borough
Camden County	All municipalities not listed under Tier B	Pine Valley Borough Tavistock Borough
Cape May County	All municipalities not listed under Tier B	Woodbine Borough
Cumberland County	Bridgeton City Millville City Vineland City All municipalities	All municipalities not listed under Tier A
Essex County Gloucester County	All municipalities not listed under Tier B	None Elk Township South Harrison Township Woolwich Township
Hudson County	All municipalities	None
Hunterdon County	Clinton Town Clinton Township Flemington Borough High Bridge Borough Lebanon Borough Raritan Township Readington Township	All municipalities not listed under Tier A
Mercer County	All municipalities not listed under Tier B	Hopewell Borough
Middlesex County Monmouth County	All municipalities not listed under Tier B	None Interlaken Borough Roosevelt Borough Upper Freehold Township
Morris County	All municipalities not listed under Tier B	Harding Township
Ocean County	All municipalities not listed under Tier B	Plumsted Township
Passaic County	All municipalities	None
Salem County	Carneys Point Township Penns Grove Borough Pennsville Township Pittsgrove Township	All municipalities not listed under Tier A
Somerset County	All municipalities not listed under Tier B	Far Hills Borough Millstone Borough Rocky Hill Borough
Sussex County	Andover Township Byram Township Hopatcong Borough Newton Town Sparta Township Stanhope Borough	All municipalities not listed under Tier A
Atlantic County	All municipalities not listed under Tier B	
Bergen County	All municipalities not listed under Tier B	
Union County	All municipalities	None
Warren County	Alpha Borough	All municipalities not listed under Tier A
	Hammonton Town Mullica Township	
	Ridgefield Park Village Rockleigh Borough Teterboro Borough	

<u>Tier A Municipalities</u> Greenwich Township Hackettstown Town Independence Township Lopatcong Township Mansfield Township Phillipsburg Town Pohatcong Township	<u>Tier B Municipalities</u> listed under Tier A
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Administrative change.
 See: 36 N.J.R. 2419(a), 4133(a).

7:14A-25.4 Deadlines to apply for NJPDES permits for small MS4s

(a) The deadline to apply for a NJPDES permit for all stormwater discharges identified under N.J.A.C. 7:14A-25.2(a) is March 3, 2004, except as provided in (a)1 through 3 below.

1. If notice from the Department is received that a municipality has been reassigned from Tier B to Tier A, or that a special designation has been made under N.J.A.C. 7:14A-25.2(a)4, the deadline is 180 days after receipt of that notice, unless the Department approves a later date.

2. The following is applicable to entities proposing new facilities or activities (for example, new small MS4s, or increasing the number of employees or students) that would result in any stormwater discharges identified under N.J.A.C. 7:14A-25.2(a):

i. General permits for such discharges shall specify deadlines for submitting requests for authorization under such permits.

ii. Entities submitting an individual permit application for such discharges shall submit an application at least 180 days before the date on which the activity is proposed to commence (unless the Department approves a later date), or March 3, 2004, whichever is later.

3. Any entity planning to continue discharging from a small MS4 after the expiration date of its NJPDES permit for that discharge shall comply with N.J.A.C. 7:14A-4.2(e)3. General permits for stormwater discharges from small MS4s shall provide for automatic renewal of authorization when those general permits are renewed (see N.J.A.C. 7:14A-4.2(e)3 and 6.13(d)9).

(b) The deadline for Tier B municipalities to apply for the Tier B Municipal Stormwater General Permit is set forth in N.J.A.C. 7:14A-25.8(b).

Administrative change.
 See: 36 N.J.R. 4033(a).

7:14A-25.5 Applying for a NJPDES permit for a small MS4

(a) All operating entities that are required under N.J.A.C. 7:14A-25.2(a) to apply for a NJPDES permit for stormwater discharges from small MS4s shall submit a request for authorization (RFA) under a general NJPDES permit in accordance with (a)1 below, or an application for an individual NJPDES permit under N.J.A.C. 7:14A-25.9.

1. An operating entity seeking authorization under a general NJPDES permit shall submit to the Department a written RFA. The RFA shall include a certification acknowledging the best management practices and measurable goals specified in the general permit and required by N.J.A.C. 7:14A-25.6, and shall also include information specified in the general permit in accordance with N.J.A.C. 7:14A-6.13(d)2.

(b) All Tier B municipalities that are required under N.J.A.C. 7:14A-25.2(b) to apply for the Tier B Municipal Stormwater General Permit shall submit a request for authorization in accordance with N.J.A.C. 7:14A-25.8(d).

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

7:14A-25.6 Content of NJPDES permits for small MS4s

(a) The NJPDES small MS4 permit shall require at a minimum that the permittee develop, implement, and enforce a stormwater program designed to reduce the discharge of pollutants from the permittee's small MS4 to the maximum extent practicable, to protect water quality, and to satisfy the appropriate water quality requirements of the Federal Act and the State Act. The stormwater program required under a general permit shall include the Statewide Basic Requirements (SBRs) that are listed under (b)1 and (b)3 through 8 below (and that may be set forth in more detail in the NJPDES permit). The stormwater program shall also include any additional measures (AMs) required under (e) below, and any other control or evaluation measures specified in the NJPDES permit. At the permittee's discretion, the stormwater program may also include optional measures (OMs) in accordance with (i) below. Except as provided in N.J.A.C. 7:14A-25.8(e)1 and (g), this section and N.J.A.C. 7:14A-25.7 do not apply to the Tier B Municipal Stormwater General Permit.

1. Best management practice (BMP) requirements are generally the most appropriate form of effluent limitations when designed to satisfy technology-based requirements (including reductions of pollutants to the maximum extent practicable) and to protect water quality. Implementation of BMPs (other than OMs) consistent with the provisions of the stormwater program required pursuant to this section and the provisions of the NJPDES permit required pursuant to N.J.A.C. 7:14A-25.2(a) constitutes compliance with the standard of reducing pollutants to the maximum extent practicable.