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CHAPTER 14A

POLLUTANT DISCHARGE ELIMINATION SYSTEM

Authority

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

Source and Effective Date

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

Executive Order No. 66(1978) Expiration Date

The expiration date for Chapter 14A, Pollutant Discharge Elimination System, was extended by gubernatorial directive from February 5, 2002 to February 5, 2004. See: 34 N.J.R. 1022(c).

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 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Appendix F, Values for Determination of NJPDES Permit Toxic Effluent Limitations, was repealed by R.1993 d.59, effective February 1, 1993.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Subchapter 12, Requirements for a Treatment Works Approval, was repealed by R.1994 d.278, effective June 6, 1994.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).

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

SUBCHAPTER 1. ABBREVIATIONS, ACRONYMS, AND DEFINITIONS

7:14A-1.1 Abbreviations and acronyms

(a) As used in this chapter, the following abbreviations and acronyms shall have the following meaning:

- “ACR” means acute to chronic ratio.
- “BAT” means best available technology.
- “BCT” means best conventional technology.
- “BOD” means biochemical oxygen demand.
- “BPJ” means best professional judgment.
- “BPT” means best practical control technology.
- “BMP” means best management practices.
- “BR” means baseline report.
- “C1” means Category One waters.
- “C2” means Category Two waters.
- “CBOD” means carbonaceous biochemical oxygen demand.
- “CI” means confidence interval.
- “CCC” means the criteria continuous concentration.
- “CERCLA” means Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.
- “CFR” means the Code of Federal Regulations.
- “CMC” means the criteria maximum concentration.
- “COD” means chemical oxygen demand.
- “CPO” means chlorine produced oxidants.
- “CSO” means combined sewer overflow.
- “CV” means coefficient of variation.
- “CWA” means the Federal Act or the Clean Water Act.
- “CWEA” means the Clean Water Enforcement Act, P.L. 1990, c.28; N.J.S.A. 58:10A-1 et seq.
- “DAC” means Discharge Allocation Certificate.
- “DEP” means the New Jersey Department of Environmental Protection.
- “DGW” means Discharge to Ground Water.
- “DLA” means delegated local agency.
- “DMR” means Discharge Monitoring Report.
- “DOC” means dissolved organic carbon.
- “DRBC” means the Delaware River Basin Commission.

- “DSW” means Discharge to Surface Water.
- “DTW” means domestic treatment works.
- “ECRA” means Environmental Cleanup Responsibility Act.
- “EC50” means the median effective concentration resulting in at least 50 percent mortality to the test species.
- “EDP” means effective date of permit.
- “ERP” means enforcement response plan.
- “FSOD” means first stage oxygen demand.
- “FW” means freshwater.
- “GIS” means Geographic Information System.
- “GPD” means gallons per day.
- “GWQS” means the Ground Water Quality Standards as defined in N.J.A.C. 7:9-6.
- “IC” means the inhibition concentration.
- “IPP” means industrial pretreatment program.
- “ISRA” means Industrial Site Recovery Act.
- “ITW” means industrial treatment works.
- “IWMF” means industrial waste management facility.
- “kg/day” means kilograms per day.
- “LA” means load allocation.
- “LC50” means the median lethal concentration resulting in at least 50 percent mortality to the test species.
- “LLAMA” means Letter of Land Application Management Approval.
- “LTA” means long term average effluent concentration.
- “MA1CD10” means the minimum average one day flow with a statistical recurrence interval of ten years.
- “MA30CD5” means the minimum average 30 consecutive day flow with a statistical recurrence interval of five years.
- “MA7CD10” means the minimum average seven consecutive day flow with a statistical recurrence interval of 10 years.
- “MCL” means maximum contaminant level.
- “MDL” means method detection level.
- “MF” means membrane filter technique.
- “MGD” means million gallons per day.
- “mg/L” means milligrams per liter.
- “ml/L” means milliliters per liter.
- “MOA” means Memorandum of Agreement.
- “MOU” means Memorandum of Understanding.
- “MPN” means most probable number.
- “MRF” means Monitoring Report Form.
- “MSWLF” means a municipal solid waste landfill as defined in 40 CFR part 258.2.
- “NBOD” means nitrogenous biochemical oxygen demand.
- “NCCW” means non-contact cooling water.
- “N.J.A.C.” means New Jersey Administrative Code.
- “NJPDES” means the New Jersey Pollutant Discharge Elimination System.
- “N.J.S.A.” means New Jersey Statutes Annotated.
- “NOAEC” means no observed adverse effect concentration.
- “NOEC” means no observable effect concentration.
- “NPDES” means the National Pollutant Discharge Elimination System.
- “NT” means non-trout waters.
- “OEP” means the Office of Environmental Planning.
- “PL” means the general surface water classification applied to Pinelands Waters.
- “POTW” means publicly owned treatment works.
- “PPSNC” means pretreatment program significant non-compliance.
- “PQL” means practical quantification level.
- “PVSC” means Passaic Valley Sewerage Commissioners.
- “RCRA” means Resource Conservation and Recovery Act.
- “RFA” means Request For Authorization under a general NJPDES permit.
- “SC” means the general surface water classification applied to coastal saline waters.

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

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

“SESCP” means soil erosion and sediment control plan.

“SIC” means Standard Industrial Classification.

“SIU” means significant indirect user.

“SNC” means significant non-compliance.

“SOD” means sediment oxygen demand.

“SSMP” means Statewide Sludge Management Plan.

“TDS” means total dissolved solids.

“TKN” means total Kjeldahl nitrogen.

“TM” means trout maintenance.

“TMDL” means total maximum daily load.

“TOC” means total organic carbon.

“TP” means trout production.

“TSD” means the USEPA Technical Support Document (See USEPA TSD).

“TSS” means total suspended solids.

“TTO” means total toxic organics.

“TUA” means toxic units acute.

“TUC” means toxic units chronic.

“TWA” means Treatment Works Approval.

“TWTDS” means treatment works treating domestic sewage.

“UIC” means Underground Injection Control program.

“ug/L” means micrograms per liter.

“USEPA” means the United States Environmental Protection Agency.

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

“USDA” means the United States Department of Agriculture.

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

“USDW” means underground source of drinking water.

“USGS” means United States Geological Survey.

“USNRC” means the United States Nuclear Regulatory Commission.

“UST” means underground storage tank.

“VOC” means volatile organic compounds.

“WET” means whole effluent toxicity.

“WLA” means wasteload allocation.

“WQBEL” means water quality based effluent limitation.

“WQM plan” means Water Quality Management plan.

“WSC” means Written Statement of Consent.

7:14A-1.2 Definitions

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

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

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

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

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

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

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

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

“Adequate conveyance capacity” means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Bimonthly” means occurring every two months.

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

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

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

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

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

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

“Biweekly” means occurring every two weeks.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“col/100 mL” means the coliform colonies per 100 milliliters.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Daily” means every calendar day including weekends and holidays.

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

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

“Day” means an operating day or 24-hour period.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Information necessary to determine the identity, amount, frequency, concentration, temperature, or other characteristics (to the extent related to water quality) of any pollutant which has been discharged by the source (or of any pollutant resulting from any discharge from the source), or any combination of the foregoing;
2. Information necessary to determine the identity, amount, frequency, concentration, temperature, or other characteristics (to the extent related to water quality) of the pollutants which, under an applicable standard or limitation, the source was authorized to discharge (including, to the extent necessary for such purpose, a description of the manner or rate of operation of the source); and
3. A general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).
4. Notwithstanding 1 through 3 above, the following information shall be considered to be “effluent data” only to the extent necessary to allow the Department to disclose publicly that a source is (or is not) in compliance with an applicable standard or limitation, or to allow the Department to demonstrate the feasibility, practicability, or attainability (or lack thereof) of an existing or proposed standard or limitation:
 - i. Information concerning research, or the results of research, on any product, method, device, or installation (or any component thereof) which was produced, developed, installed, and used only for research purposes; and
 - ii. Information concerning any product, method, device, or installation (or any component thereof) designed and intended to be marketed or used commercially but not yet so marketed or used.

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

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

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

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

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

“Existing discharge” means a permitted discharge which is not a new source.

“Existing injection well” means an injection well other than a new injection well.

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

“Existing uses” means the following:

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

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

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

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

1. The BOD₅ and TSS effluent concentrations consistently achievable through proper operation and maintenance of the treatment works exceed the minimum level of the effluent quality set forth in N.J.A.C. 7:14A-12;

2. A trickling filter or waste stabilization pond is used as the principal process; and

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

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

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

“Feed crops” means crops produced primarily for consumption by animals.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Hazardous pollutant" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Interference" means:

1. Inhibiting or disrupting the operation of a DTW or its treatment processes so as to contribute to, or cause a violation of any condition of a State or Federal permit;

2. Discharging industrial process wastewater which, in combination with existing domestic flows, is of such quantity and/or quality as to exceed the treatment process design capacity; or

3. Preventing the use or disposal of sludge produced by the DTW in accordance with Section 405 of the Federal Act, the Federal Resource Conservation and Recovery Act (42 U.S.C. §§ 3251 et seq.), the Federal Clean Air Act (42 U.S.C. §§ 7401 et seq.), the Federal Toxic Substances Control Act (15 U.S.C. §§ 2601 et seq.), the Marine Protection, Research and Sanctuaries Act (33 U.S.C. §§ 1401 et seq. and 16 U.S.C. §§ 1431 et seq.), Sections 2, 4 and 6 of the State Act, and any regulations, criteria, or guidelines developed pursuant thereto, including, but not limited to, N.J.A.C. 7:14A-20, and the Statewide Sludge Management Plan.

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

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

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

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

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

"Landfill" see sanitary landfill.

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

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

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

"Large municipal separate storm sewer system" means all municipal separate storm sewers that are either:

1. Located in an incorporated place with a population of 250,000 or more as determined by the latest Decennial Census by the Bureau of Census. See 40 CFR Part 122, Appendix F (As of May 5, 1997, Newark is listed); or

2. Located in the counties listed in 40 CFR Part 122, Appendix H (As of May 5, 1997, no New Jersey counties are listed), except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties; or

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

i. Physical interconnections between the municipal separate storm sewers;

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

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

iv. The nature of the receiving waters; and

v. Other relevant factors; or

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

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

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

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

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

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

“Level of pollutant control actually achieved” means:

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

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

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

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

“Liner” means a continuous layer of soil or synthetic material which restricts the downward or lateral escape of any waste, waste constituents, or leachate. For the purposes of N.J.A.C. 7:14A-20, a liner shall have a hydraulic conductivity of 1x10(E-7) centimeters per second or less.

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

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

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

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

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

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

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

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

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

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

“Major facility” means:

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

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

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

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

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

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

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

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

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

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

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

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

1. Located in an incorporated place with a population of 100,000 or more but less than 250,000, as determined by the latest Decennial Census by the Bureau of Census (40 CFR Part 122, Appendix G) (As of May 5, 1997, only Elizabeth, Jersey City, and Paterson are listed); or

2. Located in the counties listed in 40 CFR 122.26 Appendix I, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties (As of May 5, 1997, no New Jersey counties are listed); or

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

- i. Physical interconnections between the municipal separate storm sewers;
- ii. The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in paragraph 1 above;
- iii. The quantity and nature of pollutants discharged to waters of the United States;
- iv. The nature of the receiving waters; or
- v. Other relevant factors; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or

other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States;

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

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

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

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

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

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

“New discharger” means any building, structure, facility, or installation:

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

This definition includes an indirect user which commences discharging into waters of the State after August 13, 1979. It also includes any existing mobile point source (other than an offshore or coastal oil and gas exploratory drilling rig) such as a seafood processing rig, seafood processing vessel, or aggregate plant, that begins discharging at a site for

which it does not have a permit; and any offshore or coastal mobile oil and gas exploratory drilling rig or coastal mobile oil and gas development drilling rig that commences the discharge of pollutants after August 13, 1979, at a site for which it is not covered by an individual or general permit and which is located in an area determined by the Department in the issuance of the final permit to be an area of biological concern. In determining whether an area is an area of biological concern, the Department shall consider the factors specified in 40 CFR 125.122(a)(1) through (1).

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

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

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

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

1. After promulgation of standards of performance under Section 306 of the Federal Act which are applicable to such source;
2. After proposal of standards of performance in accordance with Section 306 of the Federal Act, which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within 120 days of their proposal; or
3. After the publication of the Pretreatment Standards under Section 307(c) of the Act which will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:
 - i. The building, structure, facility or installation is constructed at a site at which no other source is located;
 - ii. The building, structure, facility or installation totally replaces the process or production equipment that cause the discharge of pollutants at an existing source; or
 - iii. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

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

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

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

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

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

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

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

"No observable effect concentration" or "NOEC" means the maximum effluent concentration which results in no observable effect for the evaluated end-point. The NOEC is usually determined as the next lower tested concentration than the concentration which results in the lowest observable effect as compared to the controls. For discharge permits where the limitation is expressed as an NOEC, the results shall be reported as the calculated IC₂₅ and shall be considered equivalent to the observed NOEC.

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

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

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

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

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

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

"Non-hazardous waste" means a solid waste which is not a hazardous waste.

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

"Nonpoint source" means:

1. Any man-made or man-induced activity, factor, or condition, other than a point source, from which pollutants are or may be discharged;

2. Any man-made or man-induced activity, factor, or condition, other than a point source, that may temporarily or permanently change any chemical, physical, biological, or radiological characteristic of waters of the State from what was or is the natural, pristine condition of such waters, or that may increase the degree of such change; or

3. Any activity, factor, or condition, other than a point source, that contributes or may contribute to water pollution.

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

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

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

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

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

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

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

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

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

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

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

"Overland flow" means the controlled discharge, by spraying or other means, of pollutants onto sloping land with maintained vegetation where a proportion of the wastewater may appear as runoff. Overland flow is also the movement of pollutants across the surface of the land where infiltration may occur.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Pond” see the definition for lake.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Reservoir" see the definition for lake.

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

"Residual land application site" means the site used for land application of residual.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Designed or used for collecting or conveying stormwater;

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

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

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

- 1. For effluent limitations for pollutants that are measured by concentration or mass, except for whole effluent toxicity;
 - i. Violations of an effluent limitation that is expressed as a monthly average;
 - (1) By 20 percent or more for a hazardous pollutant; and
 - (2) By 40 percent or more for a nonhazardous pollutant;
 - ii. Violations of an effluent limitation that is expressed as a daily maximum or daily minimum without a monthly average;
 - (1) By 20 percent or more of the average of all of the daily maximum or minimum values for hazardous pollutant; and
 - (2) By 40 percent or more of the average of all of the daily maximum or minimum values for a nonhazardous pollutant;

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

- i. For any violation of an LC₅₀ or a NOEC limit when, upon subtracting the toxicity test result from the whole effluent toxicity limit, the difference is as follows:

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

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

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

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

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

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

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

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

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

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

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

“Sewage authority” see sewerage entity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- i. The user is subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N;

- ii. The user’s average volume of process wastewater exceeds 25,000 gallons per day;

- iii. The amount of BOD, COD or Suspended Solids in the industrial process wastewater discharge exceeds the mass equivalent of 25,000 gallons per day of the domestic waste of the affected local agency;

- iv. The volume of industrial process wastewater in the discharge exceeds five percent or more of the average daily dry weather flow of the local agency;

- v. The user’s discharge of process wastewater contributes, five percent or more of the daily mass loading of any of the pollutants listed in N.J.A.C. 7:14A-4, Appendix A Tables II through V;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"State" means the State of New Jersey.

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

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

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

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

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

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

“Stormwater discharge associated with industrial activity” means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Suspended Solids" see "total suspended solids".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Toxicity test" see "bioassay".

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

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

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

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

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

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

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

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

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

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

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

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

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

“Ultimate sludge management alternative” means the final management of sludge at a facility or operation such that no additional permit or approval actions are required for further processing or movement.

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

“Underground injection” means a well injection.

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

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

i. Currently supplies drinking water for human consumption; or

ii. Contains fewer than 10,000 mg/1 total dissolved solids; and

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

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

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

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

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

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

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

“Variance” means any mechanism or provision under Sections 301 or 316 of the Federal Act or under 40 CFR Part 125, or in the applicable “effluent limitations guidelines” which allows modification to or waiver of the generally applicable effluent limitation requirements or time deadlines of the Federal Act. This includes provisions which allow the establishment of alternative limitations based on fundamentally different factors or on Section 301(c), 301(g), 301(h), 301(i), or 316(a) of the Federal Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Zone of saturation” means saturated zone.

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".

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.

(b) The intent of these rules is to:

1. Restore, enhance, and maintain the chemical, physical, and biological integrity of the waters of the State;
2. Protect public health and safety;
3. Protect potable water supplies;
4. Safeguard fish and aquatic life and scenic and ecological values;
5. Enhance the domestic, municipal, recreational, industrial, agricultural and other uses of water; and
6. Prevent, control, and abate water pollution.

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

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

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

Case Notes

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

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

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

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.

7:14A-2.2 Liberal construction and severability

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

(b) If any subchapter, section, subsection, provision, clause, or portion of this chapter or the application thereof to any person is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the subchapter, section, subsection, clause, portion, or application directly involved in the

controversy in which such judgment shall have been rendered and it shall not affect or impair the remainder of this chapter or the application thereof to other persons.

7:14A-2.3 Incorporation by reference

(a) The requirements applicable to the NJPDES program of the Federal Clean Water Act (33 U.S.C. §§ 1251 et seq.), the Federal Safe Drinking Water Act (42 U.S.C. §§ 300F et seq.), the State Act, and all Federal regulations cited in this chapter, including, but not limited to, 40 CFR Parts 110, 122, 123, 124, 125, 129, 133, 136, 144, 258, 264, 403, and National Pretreatment Standards in 40 CFR chapter I, subchapter N, and including all amendments and supplements thereto, are incorporated into this chapter by reference unless the context clearly indicates otherwise. A copy of the Federal Act, the State Act, or any Federal regulation cited in this chapter may be obtained at the State Library.

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

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

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

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

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

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

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

1. Discharge of pollutants to surface and ground waters;

2. A discharge from an indirect user;
3. The land application of municipal wastewaters and/or industrial wastewaters, including, but not limited to, spray irrigation, overland flow, and infiltration-percolation lagoons;
4. The discharge from facilities under the jurisdiction of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.;
5. The storage of any liquid or solid pollutant, in a manner designed to keep it from entering the waters of the State;
6. The discharge of pollutants into wells;
7. Discharges from concentrated animal feeding operations as specified in N.J.A.C. 7:14A-2.13;
8. Discharges from concentrated aquatic animal production facilities as specified in N.J.A.C. 7:14A-2.14;
9. Discharges from aquaculture projects;
10. Discharges from silvicultural point sources;
11. Discharges of stormwater to surface waters, including discharges through storm sewers, as set forth in N.J.A.C. 7:14A-11.5;
12. Discharges from site remediation projects;
13. The treatment, storage or disposal of hazardous waste which is not regulated by the Hazardous Waste Management Regulations, N.J.A.C. 7:26; and
14. Those treatment works treating domestic sewage, or residual use or disposal practices, pursuant to Section 405(d) of the Federal Act and Sections 4 and 6 of the State Act, including, but not limited to, the land application of residual.

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

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

7:14A-2.5 Exemptions

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

1. Any direct discharge of sewage from vessels, effluent from properly functioning marine engines, laundry,

shower, and galley sink wastes, or any other discharge incidental to the normal operation of a vessel. This exemption does not apply to the following:

7:14A-2.9 Enforcement action

(a) Any permit noncompliance constitutes a violation of the State and Federal Acts or other authority of this chapter and is grounds for enforcement action, permit suspension,

revocation, revocation and reissuance, modification, or for denial of a permit renewal application.

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



1. It shall not be a defense in an enforcement action for a permittee that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

2. Upon the reduced capacity, loss, or failure of the treatment facility, a permittee shall, to the extent necessary to maintain compliance with its permit, control production or all discharges or both until the facility is restored or an alternative method of treatment is provided.

(c) For all discharges to surface water, except toxic effluent standards and prohibitions imposed under Section 307 of the Federal Act or Section 4 or 7 of the State Act and "standards for sewage sludge use or disposal" under Section 405(d) of the Federal Act, compliance with a permit during its term constitutes compliance, for purposes of enforcement, with Subtitle C of RCRA, with Sections 301, 302, 306, 307, 318, 403, and 405 of the CWA.

(d) Compliance with a permit condition which implements a particular "standard for sewage sludge use or disposal" shall be an affirmative defense in any enforcement action brought for a violation of that "standard for sewage sludge use or disposal" pursuant to Sections 309 and 405 of the CWA.

7:14A-2.10 Subpoenas

The Department may issue subpoenas requiring attendance and testimony under oath of witnesses before, or the production of documents or information, in whatever form stored or recorded, to him or her or to a representative designated by the Commissioner. Service of a subpoena shall be by certified mail or personal service. A person receiving a request for information pursuant to a subpoena shall comply with the provisions in N.J.A.C. 7:14A-2.11(d).

7:14A-2.11 Duty to provide information

(a) When the Department has reason to believe that a person has, or may have, information relevant to a discharge or potential discharge of a pollutant, that person shall, upon receipt of written notice from the Department, provide information regarding the discharge or potential discharge to the Department. Such persons include, but are not limited to, any persons having generated, treated, transported, stored, or disposed of the pollutant, or any persons having arranged for the transportation, storage, treatment or disposal of such pollutant. The following information shall be provided to the Department:

1. The nature, extent, source, and location of the discharge, or potential discharge;
2. Identification of the nature, type, quantity, source, and location of the pollutant or pollutants;
3. The identity of, and other relevant information concerning, the generator or transporter of the pollutant, or

any other person subject to liability for the discharge or potential discharge; and

4. The ability of any person liable, or potentially liable, for the discharge, or potential discharge, to pay for, or perform, the cleanup and removal, including the availability of appropriate insurance coverage.

(b) (Reserved)

(c) Information requested by the Department shall be provided in the form and manner prescribed by the Department, which may include documents or information in whatever form stored or recorded. Any failure to submit information requested by the Department listed in (a) above shall constitute a violation of this chapter.

(d) A person receiving a request for information made pursuant to (a) above, or pursuant to a subpoena issued pursuant to N.J.A.C. 7:14A-2.10, shall:

1. Be required to conduct a diligent search of all documents in his or her possession, custody, or control, and to make reasonable inquiries of present and past employees who may have knowledge or documents relevant thereto;

2. Have a continuing obligation to supplement the information if additional relevant information is discovered, or if it is determined that the information previously provided was false, inaccurate, or misleading; and

3. Grant the Department access, at reasonable times, to any vessel, facility, property, or location to inspect and copy all relevant documents or, at the Department's request, copy and furnish to the Department all such documents.

(e) A person shall allow an authorized representative of the Department, upon the presentation of credentials, to:

1. Enter upon a person's premises, for purposes of inspection, sampling, copying or photographing where:

- i. A discharge source or regulated facility or activity is or might be located; or
- ii. In which monitoring equipment or records required by a permit are kept;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of a NJPDES permit;

3. Inspect, at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under a NJPDES permit; and

4. Sample or monitor, at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Federal or State Acts, any substances or parameters at any location.

(f) Where a permittee becomes aware that any relevant facts have not been submitted in a permit application, or request for authorization, or that incorrect information has been submitted in a permit application, request for authorization, or in any report to the Department, the permittee shall promptly submit such facts or information within 10 days of the time the permittee becomes aware of the correct information.

(g) A person providing information pursuant to this section or N.J.A.C. 7:14A-2.10, may assert a claim of confidentiality pursuant to N.J.A.C. 7:14A-18.3.

7:14A-2.12 Ambient water quality studies

(a) Ambient water quality studies may be required to develop TMDLs in accordance with N.J.A.C. 7:15-7. Where such studies are necessary, the ambient water quality sampling and data analysis and interpretation may be performed by the Department, affected cities or municipalities, permittees, or other interested parties.

(b) Ambient studies consist of water quality and/or biological studies and shall be used to supplement the Department's ongoing sampling programs. Where the data necessary to make a determination of effluent limitations have already been collected and analyzed by the Department, or are anticipated to be collected and analyzed prior to the determination of effluent limitations, duplicative studies shall not be required. Where the data do not exist and/or are incomplete, the Department may require the permittee or the applicant to undertake any and all studies that it determines necessary to determine permit limits and conditions. Such studies may include but are not limited to dilution analysis/mixing zone studies (including stream design flows), dissolved oxygen studies, effluent characterizations, studies to demonstrate compliance with the ocean discharge criteria, antidegradation analysis, in-stream water quality studies to develop water quality based effluent limitations, and biological, nutrient, and toxics impact analysis, along with related quality assurance/quality control project plan requirements in accordance with 40 C.F.R. 30.503.

7:14A-2.13 Specific criteria for concentrated animal feeding operations

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

(b) An animal feeding operation shall be considered concentrated if either (b)1 or 2 are met:

1. More than the numbers of animals specified in any of the following categories are confined:

i. 1,000 slaughter and feeder cattle;

ii. 700 mature dairy cattle (whether milked or dry cows);

iii. 2,500 swine each weighing over 25 kilograms (approximately 55 pounds);

iv. 500 horses;

v. 10,000 sheep or lambs;

vi. 55,000 turkeys;

vii. 100,000 laying hens or broilers (if the facility has continuous overflow watering);

viii. 30,000 laying hens or broilers (if the facility has a liquid manure handling system);

ix. 5,000 ducks; or

x. 1,000 animal units; or

2. More than the number and types of animal set forth in (b)2i through x below are confined, and pollutants are discharged into waters of the State, or directly into waters of the State which originate outside of and pass over, across, or through the facility or otherwise come in contact with the animals confined in the operation.

i. 300 slaughter or feeder cattle;

ii. 200 mature dairy cattle (either milked or dry cows);

iii. 750 swine each weighing over 25 kilograms (approximately 55 pounds);

iv. 150 horses;

v. 3,000 sheep or lambs;

vi. 16,500 turkeys;

vii. 30,000 laying hens or broilers (if the facility has continuous overflow watering);

viii. 9,000 laying hens or broilers (if the facility has a liquid manure handling system);

ix. 1,500 ducks; or

x. 300 animal units.

3. An animal feeding operation shall not be considered a concentrated animal feeding operation as defined above if such animal feeding operation discharges only in the event of a 25 year, 24-hour storm event.

(c) Any animal feeding operation 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 animal feeding operation to obtain a permit upon determining that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SUBCHAPTER 3. DETERMINATION OF PERMIT FEES

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

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

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

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

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

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

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

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

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

New Jersey Department of 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.

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

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

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

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

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

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

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

(2) The Sum of Minimum Fees is the total amount of minimum fees to be paid by all dischargers in the category of discharge.

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

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

iii. The minimum fee is a base cost to which the product of the Environmental Impact and the Rate identified under (a)9i and ii above is added. The minimum fee for any permit category is calculated by using the following formula and rounding to the nearest \$50.00 increment:

Minimum Fee = $\frac{\text{Hours} \times \text{Cost Per Hour}}{5}$, where:

Hours = Total hours allocated by the Department on the administration, including permit issuance, inspection and data management, of the permit per facility over a five year period in each category.

Cost Per Hour = Total personnel cost per hour, including fringe benefits and indirect costs.

The minimum fees are set forth in Table III below. For any new or revised category of discharge, the Department shall calculate a minimum fee and shall list it in the Annual NJPDES Fee Schedule Report for public comment under (b) below.

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

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

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

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

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

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

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

(1) A breakdown of the program by account title;

(2) An estimate of the amount of fees that will be collected; and

(3) The current year's fee schedule.

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

(1) A list of permits issued;

(2) A list of facilities inspected;

(3) A list of administrative orders and administrative consent orders issued by the Department (by type of order and discharge involved); and

(4) A summary of variance request activities under Section 316 of the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.).

v. A list of all minimum fees calculated in accordance with (a)9iii above, and the basis for any new or revised minimum fee.

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

i. In the New Jersey Register and one newspaper of general circulation; and

ii. By mailing a copy of the Report to each NJPDES applicant/permittee the Department identifies as subject to a NJPDES annual fee.

3. The Department shall publish a Notice of Adoption of the Annual NJPDES Fee Schedule Report, which shall include a summary of the public comments and Department responses. Upon publication of this Notice of Adoption in the New Jersey Register, any adopted new or revised minimum fee(s) identified in the Notice of Adoption shall be incorporated into Table III as an administrative change.

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

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

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

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

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

(2) 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.

ii. Heat Load is the average mBTU's (million British Thermal Units) per hour of the effluent discharged. Where Heat Load is not reported in mBTU's per hour, the Department shall estimate the Heat Load using the calculated difference between the influent and effluent temperature (in degrees celsius) multiplied by the amount (in million gallons per day) of effluent discharged and a unit conversion factor of 0.6255. The Department shall use an average influent temperature of 5.57 degrees celsius during the period November to April and 18.87 degrees celsius during the period May to October.

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

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

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

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

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

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

Environmental Impact = (Risk x Quantity x Groundwater Rating Factor) where:

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

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

ii. Quantity is the average daily volume in millions of gallons discharged by the permittee for the monitoring period selected by the Department in (a)7 above. Where quantity is unavailable or is unknown, the Department shall assign a default quantity of 0.002 million gallons per day for discharges from domestic treatment works and a default quantity of 0.001 million gallons per day for other discharges.

iii. Groundwater Rating Factor is one tenth of the sum of the Groundwater Monitoring Status Factor, the Aquifer Factor, Groundwater Use Factor and Permeability Rating where:

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

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

Rating Status
 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>Percent Use</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 contamination 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:

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

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

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

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

Environmental Impact = (Total Pollutant Load)

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

(1) 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 \$200.00 shall be paid by check or money order, payable to "Treasurer, State of New Jersey," and submitted to the soil conservation district along with each request for authorization submitted under that permit. The soil conservation district shall forward all such checks and money orders to the State Soil Conservation Committee in the Department of Agriculture, which shall cause such checks and money orders to be deposited to the credit of the State. The soil conservation district shall not certify any request for authorization that is not accompanied by this fee.

(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 Chloride Sulfate Fluoride Iron	TSS Phosphorus Phtahalic Acid Sulfide Molybdenum Bismuth Manganese Zinc	Tin Aluminum Antimony Barium Chromium-trivalent Oil & Grease Surfactants N(nitrite, nitrate & Total) Oxidizable Matter Petroleum Hydrocarbons	Styrene Nickel Copper Silver Cobalt Ammonia Cyanide Selenium	Arsenic Beryllium Asbestos Acid fraction compounds Base-Neutral Compounds Volatile Organics	Lead Mercury Cadmium Chromium-hex Pesticides PCBs PBB
INDIRECT USERS					
BOD TSS COD Oil & Grease	TDS Iron Antimony Bismuth Tin Manganese Inorganic Sulfur Compounds	1,1 Dichloroethylene Copper Zinc Chromium-Trivalent Barium Cyanide Dimethyl phthalate Surfactants Petroleum Hydrocarbons	Nickel Silver Asbestos Cobalt Selenium Benzene 1,2-Dichloroethane Chloroform Ethylbenzene 1,2,4-Trichlorobenzene	Beryllium 1,1,1-Trichloroethane Lead Arsenic Bis(2-ethylhexyl)phthalate Dichlorodifluoromethane Trichlorofluoromethane Total Toxic Organics** Volatile Organics* TVOS as in	Carbon Tetrachloride Mercury Cadmium Chromium, hex Total Pesticides PCBs Dioxin

Total Toxic Metals**
 Nitrogen Compounds/
 Ammonia
 Phenols

Naphthalene
 Vinyl Chloride
 Base Neutral
 Compounds*
 Acid Extractable
 Compounds
 1,1,2,2-
 Tetrachloroethane
 Bromoethane
 1,2-Dichloropropane
 1,1-Dichloroethane
 1,1,2-Trichloroethane
 Dichlorobenzene
 Di-n-butyl Phthalate
 Anthracene
 Tetrachloroethylene
 Pentachlorophenol
 Butyl Benzyl phthalate
 Di-n-octyl Phthalate

N.J.A.C. 7:27-17.3**
 Chlorobenzene
 Toluene
 1,2-Trans-Dichloroethylene
 Trichloroethylene

* Unlisted
 ** Not Itemized

Table II
 FORMATION RATINGS

<u>System</u>	<u>Formation</u>	<u>Potential</u>	<u>Points</u>	
Quarternary Pleistocene	Glacial drift			
	Mercer, Middlesex	Poor	2	
	Other Counties	Mod to Very Good	10	
	Cape May	Moderate to Good	8	
	Pennsauken	Moderate to Minor	6	
Tertiary Pleistocene Pleistocene Miocene Eocene	Bridgeton	Moderate to Minor	6	
	Beacon Hill	Poor	2	
	Cohansey	Very Good	10	
	Kirkwood	Good to Moderate	8	
	Piney Point	Minor	4	
	Shark River	None	1	
	Manasquan	Poor	2	
	Vincentown	Poor to Good	8	
	Hornerstown	None to Poor	2	
	Cretaceous	Tinton	None to Poor	2
Red Bank		None to Minor	4	
Navesink		None to Poor	2	
Mount Laurel		Moderate	6	
Wenonah		Minor	4	
Marshalltown		None to Poor	2	
Englishtown		Good to Moderate	8	
Woodbury		None	1	
Merchantville		None	1	
Raritan-Magothy		Very Good	10	
Triassic		Watchung	Minor	4
		Diabase	Minor	4
		Brunswick	Minor to Good	8
	Locketong	Poor	2	
	Stockton	Moderate to Good	8	
	Border Conglomerates	Minor	4	
	Devonian	Skunnemunk	Poor	2
Bellvale		Poor to Minor	4	
Cornwall/Pequanac		Poor	2	
Kanouse		Poor	2	
Marcellus		Poor	2	
Onondaga		Moderate	6	
Schoharie		Minor	4	
Esopus		Poor	2	
Oriskany (includes Glenerie and Port Ewen)		Poor	4	
Becraft (Minisink)		Poor	2	
New Scotland		Minor	4	
Kalkberg (Stormville)		Minor	4	
Coeymans		Minor	4	
Silurian		Manlius	Minor	4
		Rondout	Minor	4
	Decker	Minor	4	
	Bossardville	Minor	4	

System	Formation	Potential	Points
Ordovician	Poxono Island	Minor	4
	High Falls	Minor	4
	Longwood	Minor	4
	Shawangunk and Green Pond	Poor	2
	Jacksonberg	Minor	4
Cambrian	Ontelaunee	Minor	4
	Epier	Minor	4
	Rickenback	Moderate	6
	Allentown Upper	Minor	4
Precambrian	Allentown Lower	Moderate to Very Good	10
	Leithsville	Very Good	10
	Hardystown	Poor	2
	Franklin	Minor to Moderate	6
	Crystalline Rocks	Minor to Moderate	6

Table III

Minimum Fees

Permit Fee Category ¹	Min Fee Code	Minimum Fee
1. Major DSW Domestic Treatment Works (DTW)—Individual Permit	MMJ	\$6,400
2. Minor DSW Domestic Treatment Works (DTW)—Individual Permit	MMI	\$2,400
3. Combined Sewer Overflow—Individual Permit Component or General Permit	CSO	\$5,400
4. Major Industrial DSW—Individual Permit	IMJ	\$5,700
5. Minor Industrial DSW—Individual Permit	IMI	\$2,400
6. General Permit—Industrial DSW, DGW, or both (unless otherwise listed)	IGN	\$1,300
7. Industrial Stormwater—Individual Permit	IST	\$2,350
8. Stormwater—Basic Industrial General Permit (5G2)	SBG	\$500.00
9. DGW—Initial Individual Permit ²	GWN	\$3,950
10. DGW—Renewed or Continued Individual Permits ²	GWE	\$1,600
11. DGW—General Permit (I1 and I2)	GGN	\$500.00
12. DGW—General Permit (T1)	GT1	\$300.00
13. DGW—Operating Landfill Individual Permit	LND	\$3,950
14. Residuals Use or Disposal Operations (unless otherwise listed)	RES	\$6,700
15. Residuals—Food Processors/WTPs ³ Individual Permit	RFP	\$2,550
16. Residuals—Category Z Individual Permit ⁴	RTZ	\$1,600
17. Residuals—General Permit (ZG and 4G)	RTG	\$400.00
18. Residuals—Category 04 Individual Permit ⁵	RPH	\$650.00
19. Residuals—Land Application General Permit (unless otherwise listed)	RSG	\$500.00
20. Significant Indirect User (SIU) (Pretreatment)	SIU	\$3,600
21. Landfills operating or terminated after January 1, 1982 without an approved closure plan	6	\$2,500
22. Terminated Landfills properly closed or closed prior to January 1, 1982	6	\$500.00

Permit Fee Category¹

23. Emergency Permit issued pursuant to N.J.A.C. 7:14A-6.14

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 \$3,950 for the first five years of that permit, and \$1,600 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 \$1,600.

³WTPs refer to potable water treatment plants.

⁴Refers to a Residuals Transfer Facilities individual permit.

⁵Refers to a Residuals—Reed Beds individual permit.

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

⁷Fee based on category for type of discharge.

Administrative correction.

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

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

Public Notice: NJPDES Annual Fee Report, FY 1997.

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

Public Notice: NJPDES Annual Fee Report, FY 1998.

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

Public Notice: NJPDES Annual Fee Report, FY 1999.

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

Public Notice: NJPDES Annual Fee Report, FY 2000.

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

Public Notice: NJPDES Annual Fee Report, FY 2001.

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

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

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

Rewrote the section.

Administrative correction.

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

Public Notice: NJPDES Annual Fee Report, FY 2002.

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

Public Notice: NJPDES Annual Fee Report, FY 2003.

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

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).

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:

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

1. Any person proposing a new facility or activity, which requires a NJPDES permit pursuant to N.J.A.C. 7:14A-2.4 and is not exempt pursuant to N.J.A.C. 7:14A-2.5, shall submit an application at least 180 days before the date on which the activity is proposed to commence, unless an alternative date has been established by the Department. Facilities proposing a new discharge of stormwater associated with industrial activity shall submit an application 180 days before that facility intends to commence industrial activity which may result in a discharge of stormwater associated with that industrial activity. Construction activities discharging stormwater as described under subparagraph 1x of the definition of "stormwater discharge associated with industrial activity" in N.J.A.C. 7:14A-1.2 shall submit applications at least 90 days before the date on which construction is to commence.

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

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

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

(1) The permittee has been notified by the Department prior to submitting a renewal application pursuant to N.J.A.C. 7:14A-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.

7:14A-4.3 Application information requirements

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

1. The activities conducted by the applicant which require it to obtain a NJPDES permit including a brief description of the nature of the business, project, facility, or activity;
2. The name, mailing address, and location of the facility for which the application is submitted;
3. Up to four SIC codes which best reflect the principal products or services provided by the facility;
4. The expiration date of the existing permit or proposed start up date for a new source or for a new discharge or activity;

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

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

- i. Operating entities of the treatment works;
- ii. Owners of the land or property; and
- iii. Licensed operators of the treatment works;

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

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

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

- i. Hazardous Waste Management program under RCRA;
- ii. NJPDES permits or Treatment Works Approvals under the State or Federal Acts;
- iii. UIC program under N.J.A.C. 7:14A-8;
- iv. Prevention of Significant Deterioration (PSD) program under the Clean Air Act;
- v. Nonattainment program under the Clean Air Act;
- vi. National Emission Standards for Hazardous Pollutants (NESHAPS) preconstruction approval under the Clean Air Act;
- vii. Ocean dumping permits under the Marine Protection Research and Sanctuaries Act;
- viii. Dredge or fill permits under Section 404 of the Federal Act; and
- ix. Other relevant environmental permits, including Federal and State permits, such as stream encroachment or wetlands permits;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Administrative correction.

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

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

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

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

In (a)23, changed N.J.A.C. reference.
Administrative change.
See: 32 N.J.R. 1796(a).

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

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

1. An effluent guideline promulgated under Section 304 of the Federal Act, reported in the units used in the applicable effluent guideline;

2. A new source performance standard promulgated under Section 306 of the Federal Act, reported in the units used in the applicable new source performance standard; or

3. A toxic and pretreatment standard promulgated under Section 307 of the Federal Act reported in the units used in the standard.

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

1. Where the Department has determined two or more outfalls to have substantially identical effluents, the Department will allow the applicant to report that the quantitative data from testing one outfall also applies to the other substantially identical outfall or outfalls.

2. When quantitative data for a pollutant are required, the applicant shall collect a sample of effluent and analyze it for the pollutant in accordance with analytical methods approved under 40 C.F.R. Part 136 or N.J.A.C. 7:18.

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

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

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

3. An effluent characterization shall be submitted as follows:

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

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

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

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

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

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

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

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

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

vi. For all sampling data required under this section, all levels must be reported or estimated as concentration and as total mass, except for flow, pH, acute and chronic whole effluent toxicity, and temperature. The applicant must complete and submit the influent and effluent characteristics found as Item IV of USEPA Form 2E or Items V and VI of USEPA Form 2C (forms provided by the Department) by providing quantitative data on the appropriate USEPA form only for the pollutants listed that the applicant knows or has reason to believe are present no later than two years after commencement of discharge. However, the applicant need not complete those portions of Item IV of Form 2E or Item V of Form 2C requiring tests which the applicant has already performed and reported under the discharge monitoring requirements of an existing NJPDES permit. For POTWs (and DTWs), the applicant shall complete and submit the influent and effluent characteristics required under this section using USEPA Standard Form A (Section II, items 14, 15 and 17).

4. Each applicant with processes in one or more primary industrial category contributing to a discharge shall report quantitative data for the following pollutants in each outfall containing process wastewater:

i. The organic toxic pollutants in the fractions designated in Table I of Appendix A (i.e. volatile, acid, base/neutral, or pesticide) for the applicant's industrial category or categories unless the applicant qualifies as a small business under N.J.A.C. 7:14A-4.3(c). Table II of N.J.A.C. 7:14A-4 Appendix A lists the organic toxic pollutants in each fraction. The fractions result from the sample preparation required by the analytical procedure which uses gas chromatography/ mass spectrometry. A determination that an applicant falls within a particular industrial category for the purposes of selecting fractions for testing is not conclusive as to the applicant's inclusion in that category for any other purposes; and

ii. The pollutants listed in Table III of Appendix A (the toxic metals, cyanide, and total phenols).

5. An applicant for an individual NJPDES permit is expected to know or have reason to believe that a pollutant is present in an effluent based on an evaluation of the expected use, production, manufacturing of an intermediate or final product or byproduct, or storage of the pollutant, or on any previous analyses for the pollutant. (For example, any pesticide manufactured by a facility may be expected to be present in contaminated stormwater runoff from the facility.) Applicants shall report the presence of known pollutants as follows:

i. An applicant shall indicate whether it knows or has reason to believe that any of the pollutants in Table IV of Appendix A (certain conventional and nonconventional pollutants) is discharged from each outfall. If an applicable effluent limitations guideline either directly

limits the pollutant or, by its express terms, indirectly limits the pollutant through limitations on an indicator, the applicant shall report quantitative data. For every pollutant discharged which is not so limited in an effluent limitations guideline, the applicant shall either report quantitative data or briefly describe the reasons the pollutant is expected to be discharged;

ii. An applicant shall indicate whether it knows or has reason to believe that any of the pollutants listed in Table II or Table III of Appendix A (the toxic pollutants and total phenols) for which quantitative data are not otherwise required under (b)3 above, is discharged from each outfall. For every pollutant expected to be discharged in a concentration of 10 $\mu\text{g/L}$ or greater the applicant shall report quantitative data. Each applicant shall report daily maximum, daily average, and the source of information for each pollutant it knows or has reason to believe to be present or if the application is limited by an effluent limitations guideline or new source performance standard either directly or indirectly through limitations or an indicator pollutant: all pollutants in Table IV of Appendix A (certain conventional and nonconventional pollutants). For acrolein, acrylonitrile, 2,4-dinitrophenol, and 4,6-dinitro-o-cresol (2-methyl-4,6 dinitrophenol), where any of these pollutants are expected to be discharged in concentrations of 100 $\mu\text{g/L}$ or greater, the applicant shall either submit quantitative data or briefly describe the reasons the pollutants are expected to be discharged. An applicant qualifying as a small business under N.J.A.C. 7:14A-4.3(c) is not required to analyze for pollutants listed in Table II of Appendix A (the organic toxic pollutants); and

iii. For new discharges, each applicant must report estimated daily maximum, daily average and source of information for the following pollutants if it knows or has reason to believe that they will be present in the discharge from any outfall:

(1) The pollutants listed in Table III of Appendix A (the toxic metals, total cyanide, and total phenols); and

(2) The organic toxic pollutants in Table II of Appendix A (except bis (2-chloromethyl) ether, dichlorofluoromethane and trichlorofluoromethane). This requirement is waived for applicants who qualify as small businesses under N.J.A.C. 7:14A-4.3(c).

6. An applicant shall indicate whether it knows or has reason to believe that any of the pollutants in Table V of Appendix A (certain hazardous substances and asbestos) are discharged from each outfall. For every pollutant expected to be discharged, the applicant shall briefly describe the reasons the pollutant is expected to be discharged, and report any quantitative data it has for any pollutant. For new sources and new dischargers, no quantitative estimates are required at time of application submittal, unless they are already available. However, no

later than two years after commencement of discharge from a proposed facility, the applicant for a permit for a new source or new discharge shall submit the quantitative data; and

7. An applicant shall report qualitative data, generated using a screening procedure not calibrated with analytical standards, for 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) if it:

i. Uses or manufactures 2,4,5-trichlorophenoxy acetic acid (2,4,5,-T)(CAS #93-76-5); 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5,-TP)(CAS #93-72-1); 2-(2,4,5-trichlorophenoxy) ethyl, 2,2-dichloropropionate (Erbon)(CAS #136-25-4); O,O-dimethyl O-(2,4,5-trichlorophenyl) phosphorothioate (Ronnel)(CAS #299-84-3); 2,4,5-trichlorophenol (TCP)(CAS #95-95-4); or hexachlorophene (HCP)(CAS #70-30-4); or

ii. Knows or has reason to believe that TCDD is, may be, or will be present in an effluent.

7:14A-4.5 Specific technical application requirements for direct discharges to surface water

(a) N.J.A.C. 7:14A-12 Appendix C includes the effluent standards for new sources, including new or expanded discharges or activities. The effluent standards for new dischargers are effluent limitations developed using water quality assumptions applicable to a pollutant that is known to be in the applicant's effluent. An applicant may request effluent limitations based on the effluent standards for a new discharge in lieu of conducting site specific water quality studies. Applicants for individual NJPDES permits for new sources or new discharges directly discharging to surface water, shall submit one of the following:

1. A complete application in accordance with the requirements of N.J.A.C. 7:14A-4.2 and 4.3, including a request to include one or more of the effluent standards listed in N.J.A.C. 7:14A-12 Appendix C as the effluent limitation(s) for each pollutant present in the applicant's discharge or activity. The applicant shall specify the specific pollutants where imposition of the effluent standards as effluent limitations are requested. By requesting the imposition of effluent standards listed in N.J.A.C. 7:14A-12 Appendix C as effluent limitations, an applicant shall be deemed to have waived its rights to contest the N.J.A.C. 7:14A-12 Appendix C effluent standards for each effluent limitation requested. The Department may determine that imposition of the effluent standards as effluent limitations are appropriate for specific pollutants and in that case shall exempt the applicant from completing detailed water quality studies for those pollutants; or

2. A complete application without a request for use of the effluent standards. Where the applicant does not request the effluent standards as provided at (a)1 above, the applicant shall submit all water quality studies which the Department determines are appropriate for the specific discharge.

(b) Applicants with an individual NJPDES permit for existing discharges or activities shall submit a complete renewal application in accordance with N.J.A.C. 7:14A-2.7. Where additional water quality information is necessary, the Department shall require water quality studies as provided in N.J.A.C. 7:14A-2.12(a).

7:14A-4.6 Additional application requirements for significant indirect users

(a) In addition to the requirements of N.J.A.C. 7:14A-4.3, the application for an individual NJPDES-SIU permit shall include the information required under:

1. N.J.A.C. 7:14A-4.4(a)1 and 3; and
2. N.J.A.C. 7:14A-4.4(b)1,2,3i(1-2),3i(4-7),3iii, and 4 through 7.

(b) In addition to the requirements listed in N.J.A.C. 7:14A-4.4, applicants for an individual SIU permit shall submit the following:

1. A list of potential discharges, with a description of the expected levels and the reasons for any discharges of pollutants which the applicant knows or has reason to believe will exceed two times the value required to be reported in accordance with N.J.A.C. 7:14A-4.4(b)1, 2, 3i(1) and (2), 3i(4) through (7), 4 through 7, for a period of five years commencing with the date of the application;
2. For new, expanded, or changed (in nature of pollutants discharged) SIU discharges only, consent from the affected local agency and owner of the applicable wastewater conveyance system(s), certifying that the discharge is acceptable. This consent shall be in the form of a letter or Form WQM-003 (available from the Department). This is the same form required by N.J.A.C. 7:14A-22.6; and
3. An indication of the ultimate discharge point of all building floor drains, including the path through the facility collection system.

7:14A-4.7 Additional application requirements for Discharges to Ground Water

In addition to the requirements of N.J.A.C. 7:14A-4.2 and 4.3, an applicant for a NJPDES-DGW permit shall submit the information required in N.J.A.C. 7:14A-7, 8, 9 and 10.

7:14A-4.8 Additional application requirements for specific DSW discharges

(a) For new or existing concentrated animal feeding operations, in addition to the application information requirements contained in N.J.A.C. 7:14A-4.2 and 4.3, an application shall include the following information:

1. The type and number of animals in open confinement and housed under roof;

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

SUBCHAPTER 6. CONDITIONS APPLICABLE TO
ALL NJPDES PERMITS

7:14A-6.1 Purpose and scope

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

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

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

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

1. A permittee shall comply with all the conditions of the NJPDES permit;
2. The discharge of any pollutant not specifically regulated in the NJPDES permit or listed and quantified in the NJPDES application or request for authorization shall constitute a violation of the permit, unless the permittee can prove by clear and convincing evidence that the discharge of the unauthorized pollutant did not result from any of the permittee's activities which contribute to the generation of its wastewater.
3. A permittee shall not attain any concentration limitation by dilution. (For example, no permittee shall increase the use of process water or cooling water or otherwise attempt to dilute a discharge as a partial or complete substitute for adequate treatment to attain permit limitations or water quality standards).
4. Even if the permit has not yet been modified to incorporate the requirement, a permittee shall comply with the following within the time provided in the specified regulations that establish the following:
 - i. Applicable effluent standards or prohibitions established under Section 307(a) and (c) of the Federal Act for toxic pollutants; and
 - ii. Standards for sewage sludge use or disposal established under Section 405(d) of the Federal Act and N.J.A.C. 7:14A-20.
5. A permittee shall take all reasonable steps to minimize or prevent any activity in violation of its permit

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

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

7. A permit shall not authorize any injury to persons or property or invasion of other private rights, or any infringement of Federal, State or local law or regulations;

8. A permit is not transferable to any person except after written notice in accordance with N.J.A.C. 7:14A-16.2.

9. All permittees with discharges that flow through an outfall pipe, unless such outfall pipe is completely and continuously submerged, or is not assigned a Discharge Serial Number (DSN), shall notify the Department that a tag to mark the location of the pipe has been or will be installed on the pipe by the effective date of the permit, or by May 5, 1998, whichever is sooner.

i. The outfall tag shall be:

(1) Legible;

(2) Located as near to the end of the outfall pipe as possible;

(3) Made of a durable material such as metal; and

(4) Maintained on a regular basis, such as cleaned and inspected to ensure that the tag is properly attached.

ii. The outfall tag shall display, at a minimum, the following information:

(1) The name of the facility where the discharge originates;

(2) The NJPDES permit number;

(3) The NJDEP Hotline phone number; and

(4) The Discharge Serial Number for that particular outfall;

10. When the Department reopens the permit by modification or revocation and reissuance, it shall do so, at a minimum, for the following:

i. Any discharger within a primary industrial category, as listed in N.J.A.C. 7:14A-4 Appendix A, Table 1, if an applicable standard or limitation is promulgated under Sections 301(b)(2) (C) and (D), 302, 304(b)(2), or 307(a)(2), (b), (c) or (d) of the Federal Act and that effluent standard or limitation is more stringent than any effluent limitation in the permit or controls a pollutant or pollutant parameter not limited in the permit;

ii. Any permit issued to a treatment works treating domestic sewage or residual-only facilities, to incorporate any applicable standard for residual use or disposal promulgated under section 405 (d) of the Federal Act

or N.J.A.C. 7:14A-20, and the standard for residual use or disposal is more stringent than any requirements for residual use or disposal in the permit, or controls a pollutant or practice not limited in the permit;

iii. All dischargers, to incorporate any applicable effluent standard or any effluent limitation, including any effluent standards or effluent limitations to control the discharge of any toxic pollutants or pollutant parameters such as acute or chronic whole effluent toxicity, or chemical specific toxic parameters, requirements related to toxicity reduction or to implement a TMDL or watershed management plan adopted in accordance with N.J.A.C. 7:15-7, when the effluent standard or limitation is more stringent than any effluent limitation in the permit or controls a pollutant or pollutant parameter not limited in the permit; and

iv. DTWs, to incorporate the applicable pretreatment program conditions as approved by the Department;

11. The permittee shall take such corrective actions as required under the Federal and State Acts, and other relevant provisions of law, including, at a minimum, accelerated and/or additional types of monitoring, temporary repairs, ceasing discharge, or where ceasing discharge is not possible, other measures to mitigate the effects of violating its NJPDES permit;

12. If a permittee wishes to continue an activity regulated by a NJPDES permit after the expiration date of the permit, the permittee must comply with the reapplication procedures listed in N.J.A.C. 7:14A-4;

13. All permittees must comply with the noncompliance reporting requirements of N.J.A.C. 7:14A-6.10 for any noncomplying discharge listed in N.J.A.C. 7:14A-6.10(a); and

14. A permittee shall furnish to the Department, within a reasonable timeframe specified by the Department, any information which the Department may request to determine whether cause exists for issuing, modifying, revoking and reissuing, or revoking a discharge permit, or to determine compliance with a NJPDES permit. The permittee shall also furnish to the Department, upon request, copies of records required to be kept by the permit.

(b) When applicable, NJPDES-DSW permits shall include the following conditions:

1. Implementation of best management practices to control or abate the discharge of pollutants, when:

i. Authorized under Section 304(e) of the Federal Act for the control of toxic pollutants and hazardous substances from ancillary activities (40 CFR Part 125, Subpart K);

ii. Numeric effluent limitations are infeasible; or

iii. The practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the State and Federal Acts;

2. For existing manufacturing, commercial, mining, and silvicultural discharges and reserach facilities, a notification level different from the notification level of N.J.A.C. 7:14A-11.3(a)1, upon a petition from the permittee or on the Department's initiative. A notification level established pursuant to this paragraph will not exceed the level which can be achieved by the technology-based treatment requirements appropriate to the permittee under 40 CFR 125.3(c); and

3. Any conditions imposed in grants or loans made to DTWs by the Administrator under Sections 201 and 204 of the Federal Act or by the Department which are reasonably necessary for the achievement of any conditions of the permit.

Administrative correction.

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

In (a)9, changed "May 5, 1997" to "May 5, 1998".

Case Notes

Defendant, owner of smelting and metal recycling facility, failed to establish bypass defense to action for violation of permit due to discharge of untreated water following heavy rainfall; owner's failure to notify DEP within 24 hours of violation precluded it from asserting upset defense. *Public Interest Research Group v. U.S. Metals Refining Co.*, 681 F.Supp. 237 (D.N.J.1987).

Before warrantless inspection of pervasively regulated business will be deemed reasonable, there must be constitutionally adequate substitute for warrant. *State v. Bonaccorso*, 227 N.J.Super. 159, 545 A.2d 853 (L.1988).

Department of Environmental Protection inspectors' warrantless inspections were reasonable. *State v. Bonaccorso*, 227 N.J.Super. 159, 545 A.2d 853 (L.1988).

Entry by Department of Environmental Protection inspectors was reasonable and fell within open fields exception to warrant requirement. *State v. Bonaccorso*, 227 N.J.Super. 159, 545 A.2d 853 (L.1988).

Requirement that entry be reasonable in terms of its time, place and manner was implicit in statute empowering Department of Environmental Protection to enter any premises in which discharge source was or might be located. *State v. Bonaccorso*, 227 N.J.Super. 159, 545 A.2d 853 (L.1988).

Landfill operator violated permit and Water Pollution Control Act by failing properly to take samples and submit monitoring reports and by failing to timely submit permit renewal application. *Department of Environmental Protection v. James H. James, Inc.*, 93 N.J.A.R.2d (EPE) 13.

Failure by landfill owner to install off-site ground water monitoring wells; defenses of estoppel and impossibility. *Division of Water Resources v. Southern Ocean Landfill, Inc.* 92 N.J.A.R.2d (EPE) 91.

7:14A-6.3 Establishing permit conditions

(a) In addition to conditions required in all permits for all programs pursuant to N.J.A.C. 7:14A-6.2, the Department shall establish conditions in permits for the individual programs, as required on a case-by-case basis.

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.

NJPDES Permit No.	Category	Name of General Permit	Discharge Type1	Year Issued
NJ0108308	I1	Stormwater Basins at Sanitary Landfills	DGW	2001
NJ0108642	I2	Filter Backwash Water from Potable Water Treatment Plants	DGW	1996
NJ0130281	T1	Existing Sanitary Septic Systems	DGW	1998
NJ0107671	SM	Scrap Metal Stormwater	DGW/DSW	1999
NJ0088315	5G2	Basic Industrial Stormwater	DSW	1997
NJ0088323	5G3	Construction Activity Stormwater	DSW	1997

NJPDES Permit No.	Category	Name of General Permit	Discharge Type1	Year Issued
NJ0108456	CPM	Concrete Products Manufacturing Storm-water	DSW	1995
NJ0134791	R5	Newark Airport Complex Stormwater	DSW	2000
NJ0070203	CG	Non-contact Cooling Water	DSW	2000
NJ0102709	B4B	Groundwater Petroleum Product Clean-up	DSW	1998
NJ0105023	CSO	Combined Sewer Overflow	DSW	2000
NJ0128589	B6	Swimming Pool Discharges	DSW	1998
NJ0132993	BG	Hydrostatic Test Water	DSW	1999
NJ0134511	B7	Construction Dewatering	DSW	1999
NJ0105767	EG	Land Application Food Processing Residuals	RES	1998
NJ0132519	ZG	Residuals Transfer Facilities	RES	1999

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, 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 (l) below, petition the Department to take action under this subsection. An individual NJPDES permit or another general permit may be required when:

1. There is evidence that the permittee may be a significant contributor of pollutants. In making this determination, the Department may consider the location of the discharge, facility, or activity, the size of the discharge or activity, the quantity and nature of pollutants, the quality of the receiving waters, and other relevant factors;

2. The permittee is not in compliance with the conditions of the general permit;

3. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants;

4. Effluent limitation guidelines are promulgated for the activity authorized by the general permit;

5. A Water Quality Management Plan containing different requirements applicable to the permittee is adopted;

6. Circumstances have changed since the time of authorization or the request for authorization such that the discharge is no longer appropriately controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized activity is necessary;

7. The Department acquires new information indicating that the permittee otherwise is not eligible for the general permit according to terms specified in the general permit; or

8. New standards for residual use or disposal are promulgated for the residual use and disposal practice covered by the general permit.

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

1. The notice shall include:

i. A brief statement of the reasons for the determination that an individual permit or authorization under a different general permit is necessary;

ii. An application form or the applicable request for authorization form;

iii. A statement setting a time for the permittee to file the application or the applicable request for authorization; and

iv. A statement that on the effective date of the individual NJPDES permit or on the date of the permittee's authorization under another general permit, the individual permittee's authorization under the general permit shall automatically terminate.

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

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

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

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

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

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

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

Office of Legal Affairs
 Department of Environmental Protection
 401 East State Street
 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).

7:14A-6.14 Emergency permits

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

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

1. An imminent and substantial endangerment to human health or the environment will result unless an emergency permit is granted;

2. A substantial and irretrievable loss of oil or gas resources will occur unless an emergency permit is granted to a Class II well under UIC program; and

i. Timely application for a regular permit could not practicably have been made; and

ii. The injection will not result in the movement of fluids into underground sources of drinking water; or

3. A substantial delay in production of oil or gas resources will occur unless an emergency permit is granted to a new Class II well under the UIC program, and the authorization will not result in the movement of fluids into an underground source of drinking water.

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

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

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

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

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

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

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

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

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

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

- iv. The monitoring and applicable reporting requirements which is required.
- 4. The Department may immediately suspend or revoke the emergency permit at any time following a determination that such action is appropriate to protect human health and the environment.
- 5. The Department shall publish, along with the emergency permit, a public notice of the emergency permit pursuant to N.J.A.C. 7:14A-15.10, including:
 - i. The name and address of the office granting the emergency authorization;
 - ii. The name and location of the permitted facility;
 - iii. A brief description of the wastes involved;
 - iv. A brief description of the action authorized and reasons for authorizing it; and
 - v. The duration of the emergency permit.
- 6. The Department shall issue an emergency permit regarding injections only after a complete NJPDES permit application has been submitted. The emergency permit shall only be effective until final action is taken on the NJPDES permit application.
- 7. The Department shall condition the emergency permit regarding injection under the UIC program in any manner that the Department determines is necessary to ensure that the injection shall not result in the movement of fluids into an underground source of drinking water.
- 8. The Department shall incorporate in the emergency permit, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of this chapter and 40 CFR Parts 264 and 266.

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

7:14A-6.15 Residuals management

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

- 1. Section 405 of the Federal Act governing the disposal of sludge from treatment works treating domestic sewage;
- 2. The Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and the Solid Waste Management Rules, N.J.A.C. 7:26;
- 3. The Sludge Quality Assurance Regulations, N.J.A.C. 7:14C;
- 4. The Statewide Sludge Management Plan promulgated pursuant to the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.; and
- 5. The provisions concerning disposal of sewage sludge and septage in sanitary landfills set forth at N.J.S.A. 13:1E-42 and the Statewide Sludge Management Plan.

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

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

Amended by R.1999 d.164, effective May 17, 1999.
See: 31 N.J.R. 200(a), 31 N.J.R. 1320(a).
In (a)3, changed N.J.A.C. reference.

7:14A-6.16 Pretreatment requirements for local agencies

(a) Pretreatment program requirements for local agencies included, where applicable, in a NJPDES permit shall meet the requirements of 40 CFR Part 403 and N.J.A.C. 7:14A-19. In addition, a permit for a delegated local agency shall include effluent limits for all pollutants listed under the USEPA Categorical Pretreatment Standards, adopted pursuant to 33 U.S.C. § 1317, and such other pollutants for which effluent limits have been established for a permittee discharging into the municipal treatment works of the delegated local agency, except those categorical or other pollutants that the delegated local agency demonstrates to the Department are not discharged above detectable levels by the local agency. The NJPDES permit may authorize the use by a delegated local agency of surrogate parameters in accordance to N.J.A.C. 7:14A-13.10, for categorical and other pollutants discharged from the local agency, except that if a surrogate parameter is exceeded, the permit shall include effluent limits for each categorical or other pollutant for which the surrogate parameter was used, for such period of time as may be specified in the permit.

(b) Sewage sludge use or disposal practices shall be required as a condition of the permit to a local agency, to monitor and report results with a frequency dependent on the nature and effect of the sewage sludge use or disposal practice. This frequency of monitoring and reporting shall be specified in N.J.A.C. 7:14A-20, but in no case shall be less than once per year.

7:14A-6.17 Adjustment of DSW limitations for alternative disposal of pollutants

(a) When part of a discharger's process wastewater is not being directly discharged into surface waters of the State or contiguous zone because it is disposed into a well, into a DTW, or by land application thereby reducing the flow or level of pollutants being discharged into surface waters of the State, applicable effluent standards or limitations for the discharge in a NJPDES permit shall be adjusted to reflect the reduced raw waste resulting from such disposal.

(b) Effluent limitations and standards in the permit shall be calculated by one of the following methods:

1. If none of the waste from a particular process is discharged into waters of the State, and effluent limitation guidelines provide separate allocations for waste from that process, all allocations for the process shall be eliminated from calculation of permit effluent limitations or standards;

2. In all cases other than those described in (b)1 above, effluent limitations shall be adjusted by multiplying the effluent limitation guidelines to the total waste stream by the amount of wastewater flow to be treated and discharged into surface waters of the State and dividing the result by the total wastewater flow. Effluent limitations and standards so calculated may be further adjusted under 40 CFR Part 125, Subpart D, to make them more

stringent if discharges to wells, DTWs, or by land application change the character or treatability of the pollutants being discharged to receiving waters.

i. This method may be algebraically expressed as:

$$(1) P = E \times N/T$$

(where: P is the permit effluent limitation,

E is the limitation derived by applying effluent guidelines to the total waste stream,

N is the wastewater flow to be treated and discharged to surface waters of the State, and

T is the total wastewater flow).

(c) Subsection (a) above shall not apply to the extent that promulgated effluent limitation guidelines:

1. Control concentrations of pollutants discharged but not mass; or

2. Specify a different specific technique for adjusting effluent limitations to account for well injection, land application, or disposal into DTWs.

(d) Subsection (a) above does not alter a discharger's obligation to meet any more stringent requirements established under this chapter.

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

7:14A-7.1 Purpose

This subchapter establishes NJPDES permit requirements for persons who discharge pollutants to ground waters of the State. The purpose of the NJPDES discharge to ground water permit is to restore, enhance, and maintain the ground water quality of the State, in accordance with N.J.S.A. 58:10A-1 et seq. and the Ground Water Quality Standards (GWQS) in N.J.A.C. 7:9-6.

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

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

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

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

7:14A-7.3 Scope and applicability

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

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

1. Surface impoundments;
2. Spray irrigation;
3. Overland flow;
4. Infiltration/percolation lagoons;
5. Residuals surface impoundments;
6. Injection wells; and
7. Land disposal of dredge spoils.

(c) Persons responsible for discharges to ground water from sanitary landfills as provided for in N.J.A.C. 7:26 shall conduct ground water monitoring in accordance with N.J.A.C. 7:14A-9.

(d) Persons responsible for discharges to ground water from hazardous waste facilities as defined in N.J.A.C. 7:26G, 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 ground water permit:

1. Discharges from single family residential subsurface sewage disposal systems that are designed, constructed, installed and operated in compliance with the Realty Improvement Sewerage and Facilities Act, N.J.S.A. 58:11-23 et seq., and Standards for Individual Subsurface Sewage Disposal Systems, N.J.A.C. 7:9A;
2. Return flows from irrigated agriculture;
3. Discharges that occurred prior to May 5, 1997, except existing permitted discharges identified in N.J.A.C. 7:14A-7.2(c); and

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

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

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

1. Discharges to ground water from underground injection activities that are eligible for a permit-by-rule under N.J.A.C. 7:14A-8.5;
2. Discharges to ground water from activities associated with the flushing or cleaning of potable water mains and fire water systems, including hydrants and sprinklers;
3. Discharges to ground water from activities associated with the development of potable water wells;
4. Discharges to ground water from activities associated with the development and sampling of monitoring wells in accordance with a NJPDES permit; and
5. Except when the Department is remediating a contaminated site as defined in N.J.A.C. 7:26C-1.3, discharges to ground water, from wells which test aquifers, not to exceed 30 calendar days, for the purpose of obtaining hydrogeologic data.

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

1. The Department is remediating a contaminated site as defined in N.J.A.C. 7:26C-1.3, pursuant to the rules at N.J.A.C. 7:14B implementing the Underground Storage of Hazardous Substances Act (N.J.S.A. 13:1K-6 et seq.), the requirements of the Industrial Site Recovery Act (N.J.S.A. 13:1K-6 et seq.), or when the owner or operator of a contaminated site is conducting remediation under Department oversight, or the requirements of the Spill Compensation and Control Act (N.J.S.A. 58:10-23.11), or the Procedures for Department Oversight of the Remediation of Contaminated Sites at N.J.A.C. 7:26C; and
2. The person is in receipt of written approval from the Department.
3. The following ground water discharges are authorized by permit-by-rule under this subsection:
 - i. Discharges to ground water, not to exceed 90 calendar days, from pilot treatment plants to obtain engineering design data;
 - ii. Discharges related to in situ biotreatability studies where the discharge will not exceed 180 calendar days from the first date of discharge;

5. The statistical method shall account for data below the limit of detection with one or more statistical procedures that are protective of human health and the environment. Any practical quantitation level (PQL) as defined in N.J.A.C. 7:9-6 that is used in the statistical method shall be the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions that are available to the facility.

6. If necessary, the statistical method shall include procedures to control or correct for seasonal and spatial variability as well as temporal correlation in the data.

(d) When conducting a leak detection monitoring program, the permittee shall determine whether or not there is a statistically significant increase over background water quality values for each parameter or constituent required in the permit.

1. In determining whether a statistically significant increase has occurred, the permittee shall compare the ground water quality of each parameter or constituent at each compliance point monitoring well designated pursuant to the permit to the background water quality value of that constituent, according to the statistical procedures and performance standards specified under this section.

2. Within the period of time specified in the NJPDES discharge to ground water permit, and after completing sampling and analysis, the permittee shall determine whether there has been a statistically significant increase over background water quality at each monitoring well.

(e) When conducting an attenuation monitoring program, the permittee shall determine whether the discharge complies with the ground water constituent standards for the classification area established pursuant to N.J.A.C. 7:9-6.

1. In determining whether the discharge complies with the ground water constituent standards for the classification area, the permittee shall compare the ground water quality of each parameter or constituent at each compliance point monitoring well designated pursuant to the permit to the background water quality value of that constituent, according to the statistical procedures and performance standards specified under this section.

2. Within the period of time specified in the NJPDES discharge to ground water permit, and after completing sampling and analysis, the permittee shall determine whether there has been a statistically significant contravention of the ground water quality standards.

7:14A-7.8 Required response to contravention of ground water quality standards

(a) To address any contravention of the ground water quality standards that occurs while a discharge to ground water permit is in effect, each permit shall specify the

following measures for the permittee to undertake as appropriate:

1. That the permittee shall notify the Department as provided in the permit, including the nature and extent of the contravention, followed by confirmation in writing, by certified mail within a time frame set forth in the permit, after the Department receives information obtained according to N.J.A.C. 7:14A-7.6(b)4;

2. That the permittee shall install additional wells at additional locations to determine the extent of the ground water contamination attributable to the regulated discharge;

3. That the permittee shall provide additional pretreatment of the discharge to improve its quality by decreasing pollutant concentration;

4. That the permittee shall expand disposal areas onto additional land areas to reduce or minimize the impact of the discharge;

5. That the permittee shall take any other action necessary to comply with the ground water quality standards;

6. That the permittee shall reduce or cease the discharge; and

7. That the permittee shall implement the responses within the time frame required by the permit.

(b) In addition to the requirements of (a) above, any person responsible for a discharge that contravenes the Ground Water Quality Standards as specified in the discharge to ground water permit may be subject to the requirements of N.J.A.C. 7:26C.

7:14A-7.9 General requirements for applications for discharge to ground water permit

(a) In addition to the information required pursuant to N.J.A.C. 7:14A-4.3, an applicant for a NJPDES Discharge to Ground Water permit shall submit information to the Department as follows:

1. All dischargers shall submit the information required pursuant to (d) below, except when, after consultation with the Department during pre-application conferences, it is determined that the information is not necessary to develop permit conditions for the facility.

(b) Submission of information as required under this section shall not exempt the applicant from compliance with any other permit application requirements which apply to the discharge to ground water site, to any treatment system of which the discharge to ground water site is a component, or to any other existing or proposed discharges at the facility.

(c) Pre-application conferences with the Department concerning the information required pursuant to (d) below are recommended.

(d) The following information shall be submitted in the application for the Discharge to Ground Water permit pursuant to (a) above:

1. Project related information as follows:

- i. A description of the facility;
- ii. The nature of the establishment; and
- iii. The total floor area of all structures on site and their maximum occupancy where necessary to determine the daily volume of discharge;

2. Pollutant characteristics as follows:

- i. The origin and daily volume of discharge;
- ii. The degree of pretreatment of the discharge;
- iii. Characteristics of the quality of the discharge.

(1) Unless otherwise approved by the Department, all analyses or estimates shall include the following parameters at a minimum:

- (A) Ammonia nitrogen (NH₃-N);
- (B) Nitrate nitrogen (NO₃-N);
- (C) Total Kjeldahl nitrogen (TKN);
- (D) Biochemical oxygen demand (BOD);
- (E) Chemical oxygen demand (COD);
- (F) Total dissolved solids (TDS);
- (G) Suspended solids (SS);
- (H) pH;
- (I) Calcium (Ca);
- (J) Magnesium (Mg);
- (K) Sodium (Na);
- (L) Phosphorus (P);
- (M) Fecal coliform bacteria;
- (N) Grease and oil;
- (O) Metals;
- (P) Base/neutral compounds;
- (Q) Acid extractable compounds;
- (R) Volatile organics; and
- (S) Pesticides.

(2) Dependent on the nature of the facility as described in accordance with (d)1 above, base/neutral compounds, acid extractable compounds, volatile organics and pesticides shall be analyzed for as required pursuant to N.J.A.C. 7:14A-4 Appendix A; and

iv. The compatibility of the wastewater with onsite soil conditions and vegetation (if any) shall be substantiated by the applicant;

3. Site related information as follows:

- i. The present tax lot and block, municipality and county in which the facility is located or is proposed to be located;
- ii. A general plan to scale showing at a minimum the location of the discharge to ground water with respect to the following within one half mile of the boundaries of discharge to ground water site:

- (1) Property boundaries;
- (2) Roadways;
- (3) Existing and proposed land use of discharge to ground water site and surrounding areas;
- (4) Adjacent property ownership and all dwellings and buildings of human use or occupancy;
- (5) Surface waters, including, but not limited to, perennial and intermittent streams, lakes, ponds and reservoirs; and
- (6) Mines (surface and subsurface) and quarries;

iii. Topographic (two foot contour intervals), geologic and soils (USDA) maps of the discharge to ground water site and surrounding area sufficient to define conditions and evaluate probable impacts of the discharge to ground water.

iv. A plot plan to scale showing:

- (1) The discharge to ground water area;
- (2) Property boundaries;
- (3) Roadways;
- (4) Pre-treatment facilities;
- (5) Storage facilities;
- (6) All conveyance and distribution piping;
- (7) Any sinkholes, gullies or soil erosional features (natural or man-made) within the discharge to ground water site which divert drainage from or through the facility property;
- (8) Existing monitor and piezometer wells;
- (9) Water supply wells including the depth of the screened interval and yield;
- (10) A wellhead protection area certified by the Department;
- (11) Soil borings, test pits and hydraulic conductivity tests;
- (12) All wetlands and buffer zones; and

(13) All areas subject to flooding within the five-, 10- and 25-year storm events; and

v. A well inventory of the area within one half mile of the boundaries of the discharge to ground water indicating the depth of all existing domestic, municipal and industrial supplies. Yields of all wells exceeding 100,000 gallons per day or 70 gallons per minute shall be indicated on a location map or key map;

4. Soils and geologic evaluation as follows:

i. A sufficient number of borings shall be made of the disposal site to characterize and verify the subsurface conditions beneath the site with respect to the types of material, uniformity, depth to bedrock, and ground water elevations. When, in the judgment of the Department, the number of borings is not sufficient to adequately describe the geologic formations and ground water flow patterns below the disposal site, in regard to potential contaminant migration paths, supplemental borings or geophysical methods will be required;

ii. Data obtained from borings shall be collected by standard undisturbed soil sampling techniques for engineering properties, and split spoon sampling or standard penetration tests for classification. Samples shall be collected and classified continuously for the first 20 feet of boring and at five foot intervals thereafter;

iii. All borings shall extend to a minimum depth of 20 feet unless specified by the Department. The Department shall require deeper borings in areas in which 20 feet is not sufficient to describe the geologic formations and ground water flow patterns in regard to the potential contaminant migration paths;

iv. Logs shall be submitted for each boring, regarding rock and soil conditions encountered. Each log shall include a soil or rock description in accordance with recognized standard methods (USDA, Unified or Burmeister Soil Classification System; Rock Quality Description System), depth of individual soil or rock strata, water levels encountered, blow counts, depth of soil tests and dates. All depths described within the boring logs shall be correlated to New Jersey Geodetic Control Survey Datum;

v. A sufficient number of test pits necessary to characterize all soil series within the discharge to ground water site shall be excavated. Each test pit log shall describe each recognizable soil horizon or substratum for depth and thickness, soil color using the Munsell System of Classification (including abundance, size and contrast of mottling where present), soil texture using the USDA Soil Textural Classification System, an estimation of the volume of coarse fragment (where present), soil structural class and soil consistency;

vi. A determination of depths to seasonal high water table specifying the methodology used to make the determination; and

vii. A description of the physiographic region and geologic formation(s) into which pollutants are discharged. Site specific geology including, but not limited to, bedrock outcrop, strike and dip of sedimentary formations and foliation trend and dip angles of igneous and metamorphic rocks, faults, joint and fracture trends in bedrock including dip angles, trend direction of solution channels in karst topography, saprolite development, clay lenses or fragipans, perched water tables or any other geologic features which may impede the treatment and/or disposal of pollutants shall be described;

5. Hydrogeologic evaluation as follows:

i. A determination of ambient or background ground water quality shall be required for the parameters listed in (d)2iii(1) above. The well used to characterize background water quality shall be located where unaffected, or if not possible where least impacted, by the discharge. Data shall be provided to show that background water quality wells are located in the same hydrologic units as the wells subsequently used to monitor the impact of the discharge;

ii. A representative determination of background ground water quality shall be made for all parameters specified in (d)2iii(1) above. A minimum of five samples shall be collected over a time period which is representative of spatial or seasonal variations in quality. The arithmetic mean and variance shall be determined for each respective parameter concentration by pooling the measurements in samples;

iii. Ground water samples shall be collected within 18 months before the date of receipt by the Department of the application for a permit under this section from well(s) located hydraulically upgradient from the discharge to ground water;

iv. A sufficient number of tests shall be performed in order to characterize onsite hydrogeologic characteristics, including, but not limited to, horizontal hydraulic conductivity, ground water flow velocity and hydraulic gradient. Where, in the judgment of the Department, the information submitted is insufficient to adequately evaluate the hydrogeologic characteristics of the site, supplemental tests or methods may be required; and

v. Ground water contour maps shall be submitted depicting both initial piezometric conditions and ground water flow conditions resulting from the growth and/or decay of ground water mound(s) induced by the discharge to ground water. For facilities which have surface impoundments, the ground water contour map for the facility would not need to depict ground water recharge characteristics associated with surface impoundments. Ground water elevations shall be based upon synoptic well data collected within 18 months of the date of receipt by the Department of an application for a permit under this section; and

6. Engineering information as follows:

i. Engineering plans and specifications for the entire project, describing the proposed treatment process(es) and facilities, storage facilities (if necessary), conveyance systems, disposal facilities, equipment specifications, capacities and all related engineering and operational data;

ii. Description of the method by which compliance with Ground Water Quality Standards are to be achieved; and

iii. A calculation of the surface run-off across the discharge to ground water site prepared using a 25-year storm, with estimates of the effect of such run-off on wastewater treatment, storage, disposal, and on erosion, flooding and related details.

7:14A-7.10 Additional requirements for applications for NJPDES-DGW permits for surface impoundments

(a) In addition to the general requirements for applications for discharge to ground water permits in N.J.A.C. 7:14A-7.9, an applicant for a NJPDES Discharge to Ground Water permit for a surface impoundment shall submit to the Department the information as required in this section.

(b) Surface impoundments with both a primary liner and a secondary liner, as defined in N.J.A.C. 7:14A-1.2, which cover all surrounding earth likely to be in contact with the waste or leachate and which incorporate the use of a leachate collection system located between the liners designed to monitor for any failure of the primary liner and collect all leachate that may pass through as a result of primary liner failure, may pursue the monitoring style in N.J.A.C. 7:14A-7.6(d)1.

(c) Surface impoundments which treat, store, or dispose of hazardous waste shall comply with the requirements of N.J.A.C. 7:26G. Any surface impoundment that is not a solid waste facility pursuant to N.J.A.C. 7:26, shall comply with the provisions of this subchapter.

(d) Information shall be submitted concerning the resistance to oxidation and sunlight exposure of the wastewater to be impounded. Information shall also be submitted as to the physical and chemical compatibility of the liner material with on-site soils and the wastewater constituents.

Administrative correction.

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

Amended N.J.A.C. references.

7:14A-7.11 Additional requirements for applications for NJPDES-DGW permits for spray irrigation

(a) In addition to the general requirements for applications for discharge to ground water permits in N.J.A.C. 7:14A-7.9, an applicant for a NJPDES Discharge to Ground Water permit for spray irrigation systems shall submit to the Department the information as required in this section.

(b) In addition to the soils evaluation requirements in N.J.A.C. 7:14A-7.9(d)4, soil pH, cation exchange capacity, percent base saturation, exchangeable sodium percentage and electrical conductivity shall be analyzed for each horizon within the soil column for each soil series within the discharge to ground water area.

(c) Climate related information, reported on a monthly basis, including, but not limited to, total precipitation, total snowfall, mean number of days with precipitation exceeding 0.10 and 0.50 inches, mean temperature, mean daily maximum and minimum temperatures and mean number of days with mean temperature less than 32 degrees Fahrenheit. All data shall be collected from the nearest National Weather Service weather station, for the 10 year period preceding the date of receipt by the Department of the application for a permit under this section.

(d) A description of the proposed cover crop and natural vegetation, including, but not limited to, nutrient requirements, length of growing season, water tolerance and sensitivity to wastewater constituents being land applied as well as a detailed long term vegetation or crop management program, including use or disposal of the crop.

7:14A-7.12 Additional requirements for applications for NJPDES-DGW permits for overland flow

(a) In addition to the general requirements for applications for discharge to ground water permits in N.J.A.C. 7:14A-7.9, an applicant for a NJPDES Discharge to Ground Water permit by overland flow shall submit to the Department the information as required in this section.

(b) In addition to the soils evaluation requirements in N.J.A.C. 7:14A-7.9(d)4, soil pH, cation exchange capacity, percent base saturation, exchangeable sodium percentage and electrical conductivity shall be analyzed for each horizon within the soil column for each soil series within the discharge to ground water area.

(c) Climate related information, reported on a monthly basis including but not limited to total precipitation, total snowfall, mean number of days with precipitation exceeding 0.10 and 0.50 inches, mean temperature, mean daily maximum and minimum temperatures and mean number of days with mean temperature less than 32 degrees Fahrenheit. All data shall be collected from the nearest National Weather Service weather station, for the 10 year period preceding the date of receipt by the Department of the application for a permit under this section.

(d) A description of the proposed cover crop and natural vegetation, including, but not limited to, nutrient requirements, length of growing season, water tolerance and sensitivity to wastewater constituents being land applied, as well as a detailed long term vegetation or crop management program, including use or disposal of the crop.

7:14A-7.13 Additional requirements for applications for NJPDES-DGW permits for infiltration/percolation lagoons

(a) In addition to the general requirements for applications for discharge to ground water permits in N.J.A.C. 7:14A-7.9, an applicant for a NJPDES Discharge to Ground Water permit by infiltration/percolation lagoons shall submit to the Department the information as required in this section.

(b) Climate related information, reported on a monthly basis including but not limited to total precipitation, total snowfall, mean number of days with precipitation exceeding 0.10 and 0.50 inches, mean temperature, mean daily maximum and minimum temperatures and mean number of days with mean temperature less than 32 degrees Fahrenheit. All data shall be collected from the nearest National Weather Service weather station, for the 10 year period preceding the date of receipt by the Department of the application for a permit under this section.

(c) A description of the proposed cover crop or natural vegetation within the lagoon area and a detailed long term vegetation or crop management program, including use or disposal of the crop.

7:14A-7.14 Additional requirements for applications for NJPDES-DGW permits for residual surface impoundments

(a) In addition to the general requirements for applications for discharge to ground water permits in N.J.A.C. 7:14A-7.9, an applicant for a NJPDES Discharge to Ground Water permit for a residual surface impoundment shall submit to the Department the information as required in this section.

1. A description of residual characteristics as follows:
 - i. The origin and volume of residual;
 - ii. Dated analysis of the residual on a mg/kg dry weight basis, including all constituents required to be analyzed in accordance with the Sludge Quality Assurance Regulations (SQAR), N.J.A.C. 7:14C; 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. 7:9-6. The Ground Water Protection Program shall identify and discuss the monitoring system to be employed pursuant to N.J.A.C. 7:14A-7.6(b) in consideration of the following:
 - i. With the exception of facilities which qualify for the monitoring style in N.J.A.C. 7:14A-7.6(d)1, the maximum leachate concentration of the dredge spoils shall be determined by subjecting an adequate number of samples to leaching tests. The determination of what constitutes an adequate number of samples shall be in accordance with a statistical method, as described in N.J.A.C. 7:14A-7.7 above. Leaching tests shall be performed according to the methods described by the U.S. Army Corps of Engineers, Waterways Experiment Station (WES), or other test approved by the Department.
 - ii. With the exception of facilities which qualify for the monitoring style in N.J.A.C. 7:14A-7.6(d)1, the leachate volume shall be estimated using the Hydrologic Evaluation of Landfill Performance (HELP) Model, EPA/600/9-94/xxx, U.S. Environmental Protection Agency Risk Reduction Engineering Laboratory, Cincinnati, OH.
 - iii. When the results of (b)3i and ii above indicate that the quality of the leachate shall exceed the ground water quality standards, the plan shall include a ground water flow and solute transport model that can demonstrate that the annual discharge of contaminants in the leachate will not result in contravention of the ground water quality standards; and
4. A closure/post closure care plan, that describes in detail:
 - i. The final cover to be used;
 - ii. A program to maintain the berms and dikes;
 - iii. Plans to maintain or control vegetation; and
 - iv. Plans to limit access using fences, and gates, etc.; and
 - v. A financial plan that describes in detail how the closure improvements shall be maintained for 30 years.

SUBCHAPTER 8. ADDITIONAL REQUIREMENTS FOR UNDERGROUND INJECTION CONTROL (UIC) PROGRAM

7:14A-8.1 Purpose and scope

(a) This subchapter establishes a system of controls to ensure that underground injection practices do not endanger underground sources of drinking water (USDWs). The goal of this subchapter is preventive. The Department's policy is to liberally interpret and enforce this subchapter to prevent the contamination of the State's ground water resources.

(b) This subchapter regulates the disposal of wastes by well injection as well as the underground storage of fluids (including gases) which have been emplaced by means of an injection well and the injection of water. Paragraph (b)1 below sets forth examples of the underground injection activities regulated under this subchapter. All injection wells are divided into five classifications, which are set forth at N.J.A.C. 7:14A-8.2.

1. The following injection wells are among the injection activities regulated under this subchapter:

- i. Any injection well located on a drilling platform within the State's territorial waters;
- ii. Any well, including any dug hole, that is deeper than its largest surface dimension, where the principal function of the well is emplacement of fluids;
- iii. Any septic system, disposal bed, seepage pit, or cesspool used by a generator of hazardous waste, or by an owner or operator of a hazardous waste management facility to dispose of fluids containing hazardous waste;
- iv. Any one subsurface disposal system or multiple subsurface disposal systems, on a single property, for which the aggregate sanitary wastewater design flow is in excess of 2000 gpd, calculated in accordance with the minimum standards for average facilities listed in the Department's Standards for Individual Subsurface Sewage Disposal Systems, at N.J.A.C. 7:9A-7.4; and
- v. Any injection well used to inject industrial wastes, including but not limited to drywells, leaching fields, septic systems, and seepage pits.

2. The following injection activities are not regulated under this subchapter;

- i. Any injection well located on a drilling platform or other site that is beyond the State's territorial waters;
- ii. Any single family residential subsurface sewage disposal system that is designed, constructed, installed and operated in compliance with the Realty Improvement Sewerage and Facilities Act, N.J.S.A. 58:11-23 et seq., and the Department's Standards for Individual Subsurface Sewage Disposal Systems, N.J.A.C. 7:9A, where applicable;

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 standard temperature and pressure for the purpose of storage.

7:14A-8.2 Classification of injection wells

(a) Injection wells are classified as Class I, II, III, IV or V, as follows:

1. Class I wells are:

i. Wells used by generators of hazardous wastes or owners or operators of hazardous waste management facilities, or by any other person, to inject hazardous waste beneath the lowermost formation containing an underground source of drinking water; and

ii. Other industrial or municipal disposal wells which inject fluids beneath the lowermost formation containing an underground source of drinking water.

2. Class II wells inject fluids:

i. Which are brought to the surface in connection with conventional oil or natural gas production;

ii. For enhanced recovery of oil or natural gas; or

iii. For storage of hydrocarbons which are liquid at standard temperature and pressure.

3. Class III injection wells are used in processes to extract minerals or energy, including:

i. Mining of sulfur by the Frasch process;

ii. Solution mining of minerals, including sodium chloride, potash, phosphate, copper, uranium and any other minerals which can be mined by this process;

iii. In-situ combustion of fossil fuel, with the term "fossil fuel" including coal, tar sands, oil shale and any other fossil fuel which can be mined by this process; and

iv. Wells used in the recovery of geothermal energy to produce electric power, but not including wells used in heating or aquaculture, which fall under Class V.

4. Class IV injection wells are used by generators of hazardous wastes or of radioactive wastes, by owners or operators of hazardous waste management facilities, by owners or operators of radioactive waste disposal sites, or by any other person to dispose of hazardous wastes or radioactive wastes into or above a formation which, within

two miles of the well bore, contains an underground source of drinking water (USDW).

5. Class V injection wells are injection wells not included in Class I, II, III or IV. Examples of Class V wells include:

i. Air conditioning return flow wells used to return the water used for heating or cooling in a heat pump;

ii. Cooling water return flow wells used to inject water previously used for cooling;

iii. Drainage wells used to drain storm runoff into a subsurface formation, except as regulated under Class IV;

iv. Recharge wells used to replenish the water in an aquifer;

v. Salt water intrusion barrier wells used to inject water into a fresh water aquifer to prevent the intrusion of salt water into the fresh water;

vi. Sand backfill wells used to inject a mixture of water and sand, mill tailings or other solids into mined-out portions of subsurface mines;

vii. All septic systems or other subsurface sewage disposal systems other than those excluded under N.J.A.C. 7:14A-8.1(b)2ii;

viii. Subsidence control wells (not used for the purpose of oil or natural gas production) used to inject fluids into a non-oil or gas producing zone to reduce or eliminate subsidence associated with the overdraft of fresh water; and

ix. Geothermal wells and ground water heat pumps used in heating and aquaculture.

7:14A-8.3 Prohibition of unauthorized injection

Any underground injection is prohibited, except pursuant to a permit-by-rule under N.J.A.C. 7:14A-8.5, or pursuant to an individual UIC permit under N.J.A.C. 7:14A-8.8. The construction of any well required to have a permit (including, where applicable, a well permit) under this subchapter is prohibited until such the permit-by-rule is approved or an individual UIC permit is issued.

7:14A-8.4 Prohibition of movement of fluid into underground sources of drinking water

(a) No permit-by-rule or individual permit shall be approved or issued under this subchapter in the following circumstances:

1. Where a Class I, II or III well may cause or allow movement of any contaminant into underground sources of drinking water; or

2. Where a Class IV or V well may cause or allow movement of fluid containing any contaminant into underground sources of drinking water, and the presence of that contaminant may adversely affect the health of persons.

(b) For Class I, II and III wells, and any Class IV well allowed under N.J.A.C. 7:14A-8.7(b), if any monitoring indicates the movement of injection or formation fluids into underground sources of drinking water, the Department shall prescribe such additional requirements for construction, corrective action, operation, monitoring, or reporting (including closure of the injection well) as are necessary to control or prevent such movement. These additional requirements shall be imposed by modifying the permit in accordance with N.J.A.C. 7:14A-2.12, or the permit shall be terminated under N.J.A.C. 7:14A-2.13 if cause exists, or appropriate enforcement action shall be taken if the permit has been violated.

(c) For Class V wells, if at any time the Department learns that a Class V well may cause a violation of the State primary drinking water rules under N.J.A.C. 7:10, or any Ground Water Quality Standards under N.J.A.C. 7:9-6, the Department shall:

1. Require the owner or operator of the injection well to obtain an individual UIC permit; and
2. Order the owner or operator of the injection well to take such actions (including, where required, closure of the injection well) as may be necessary to prevent the violation and/or take enforcement action.

(d) Whenever the Department finds that a Class V well may otherwise be adversely affecting the health of persons, the Department may prescribe such actions as may be necessary to prevent the adverse effect, including any action authorized under (c) above.

(e) Notwithstanding any other provision of this section, the Department shall take emergency action upon receipt of information that a contaminant is present in or is likely to enter an underground source of drinking water that presents an imminent and substantial endangerment to the health of persons.

7:14A-8.5 Authorization of injection into Class V wells by permit-by-rule

(a) An owner or operator of any of the Class V injection wells described at (a)1 or 2 below shall be deemed to have a permit-by-rule for such injection wells provided such person submits the inventory information required pursuant to (c) below and thereafter receives written approval for such injection well from the Department. Such approval shall include any limitations necessary to ensure compliance with applicable ground water quality, surface water quality or cleanup requirements.

1. When the Department is remediating a contaminated site as defined in the Underground Storage Tanks rules at N.J.A.C. 7:26C-1.3, or an owner or operator of a contaminated site is conducting remediation under Department oversight pursuant to the rules at N.J.A.C. 7:14B, the requirements of the Industrial Site Recovery Act (N.J.S.A. 13:1K-6 et seq., as amended), 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 is in receipt of a written approval from the Department pursuant to this subsection, the following underground injection activities are authorized by permit-by-rule:

i. Underground injection discharges from pilot treatment plants for the purpose of obtaining engineering design data where the discharge shall not last more than 90 days from the first date of discharge;

ii. Underground injection discharges from wells to test aquifers for the purpose of obtaining engineering design data where the discharge shall not last more than 30 days from the first date of discharge;

iii. Underground injection discharges from any other facility or equipment from monitoring, engineering, remedial alternatives analysis, or design studies necessary to evaluate a contaminated site where the discharge shall not last more than 90 days from the first date of discharge, and

iv. Underground injection discharges to ground water to remediate contamination caused by leaking underground storage tanks at private residences not subject to provisions of the Underground Storage of Hazardous Substances Act, N.J.S.A. 58:10A-21 et seq.

2. Any owner or operator of a Class V underground injection well who has submitted the inventory information, as stated in (c) below, prior to May 5, 1997.

(b) An owner or operator of any of the Class V injection wells described in (b)1 through 7 below is deemed to have a permit-by-rule under this subsection if the owner or operator complies with the applicable requirements specified in this subsection.

1. Subsurface sewage disposal systems, other than those excluded under N.J.A.C. 7:14A-8.1(b)2, 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 the Department's Standards for Individual Subsurface Sewage Disposal Systems, N.J.A.C. 7:9A, where applicable;

2. Injection wells used as a component of closed loop heat pump systems constructed according to any well permit condition(s)/standards adopted pursuant to N.J.S.A. 58:4A-4.1 et seq. All closed loop systems shall contain only fluids that are allowable under conditions of such well permit, and are leak proof such that the only discharge is heat content;

3. Injection wells used as components of an open loop heat pump system constructed in accordance with all applicable well construction requirements of N.J.A.C. 7:10-12. Any such injection well shall discharge water into the same aquifer from which the water was drawn and with a quality that is the same as the ambient ground water, except for heat content;

4. Air conditioning or cooling water return flow injection wells that are constructed in accordance with all applicable well construction requirements of N.J.A.C. 7:10-12 that discharge water into the same aquifer from which the water was drawn and with a quality that is the same as the ambient ground water, except for heat content;

5. Underground injection of swimming pool filter backwash water and water softener backwash water into seepage pits, when the activity is conducted in accordance with N.J.A.C. 7:14A-8.18;

6. Underground injection wells associated with the feasibility or engineering design studies necessary to obtain or comply with a water supply allocation permit pursuant to N.J.A.C. 7:19 or NJPDES permit pursuant to this chapter; and

7. Underground injection of stormwater runoff from the roofs of buildings, so long as the roofs are devoid of pollutant sources and devices (for example, motors, tanks, drums) that contain pollutants).

(c) The owner or operator of a Class V injection well shall submit inventory information to the Department at the address indicated in (i) below within 90 days of a notification by the Department. Notification shall be a public notice in a local newspaper or in the New Jersey Register, or a written request. The inventory information shall consist, at a minimum, of the following information:

1. The well drilling permit number, where applicable;
2. The facility name and location;
3. The name and address of the legal contact;
4. The ownership of the facility;
5. The nature and type of injection well(s);
6. The operating status of injection well(s); and
7. The type, quantity and quality of discharge.

(d) The Department will notify pursuant to (e) below any owner or operator of any Class V injection well authorized by rule pursuant to this section to apply for and obtain an individual UIC permit if:

1. The injection well is no longer a Class V well;
2. The protection of underground sources of drinking water (USDW) requires that the injection shall be subject to requirements such as corrective action, monitoring and

reporting, or operation not required by the permit-by-rule;

3. The injection well is likely to adversely affect the existing or potential use of the aquifer; or

4. The discharge is presumed to contravene the Ground Water Quality Standards in N.J.A.C. 7:9-6

(e) The Department shall notify in writing the owner or operator of a Class V injection well required pursuant to (d) above to apply for and obtain an individual UIC permit. The notice shall include a brief statement of the reasons for the decision, an application form, a statement setting a time by which the owner or operator must file the permit application, and a statement that upon the effective date of the individual UIC permit the permit-by-rule under which the activity had been approved shall no longer apply.

(f) Any owner or operator of a Class V injection well approved under a permit-by-rule pursuant to this section may request to be excluded from the authorization by applying for an individual UIC permit. The owner or operator shall submit an application pursuant to N.J.A.C. 7:14A-8.8, with reasons supporting the request, to the Department. The Department shall not issue a permit for an injection well which is in violation of any other applicable statutes or regulations.

(g) Any approval for a Class V injection well under a permit-by-rule pursuant to this section shall expire upon the effective date of an individual UIC permit issued pursuant to N.J.A.C. 7:14A-8.8 for such injection well.

(h) The owner or operator of a Class V injection well approved under a permit-by-rule pursuant to this section is prohibited from injecting into the well:

1. Upon the effective date of denial of an application;
2. Upon failure to submit inventory or application information in a timely manner pursuant to this section;
3. Upon failure to comply with a request for information in a timely manner pursuant to this section;
4. Upon failure to comply with the provisions of an enforcement action;
5. Upon notification by the Department to cease injection.

(i) Inventory information required pursuant to (c) above shall be submitted to:

Department of Environmental Protection
 Underground Injection Control Coordinator
 CN 029
 Trenton, New Jersey 08625

7:14A-8.6 Identification of underground sources of drinking water

The Department may identify (by narrative description, illustrations, maps, or other means) and shall protect as an underground source of drinking water, all aquifers or parts of aquifers which meet the definition of an "underground source of drinking water" in N.J.A.C. 7:14A-1.2. Even if an aquifer has not been specifically identified by the Department as such, it is an underground source of drinking water if it meets the definition in N.J.A.C. 7:14A-1.2.

7:14A-8.7 Prohibition and elimination of underground injection of hazardous and radioactive wastes

(a) Except as provided at (b) below, any underground injection of hazardous wastes or radioactive wastes is prohibited. This specifically prohibits the operation of Class IV injection wells, and prohibits hazardous and radioactive wastes from being injected into Class I injection wells.

(b) The Department may, at its discretion, authorize the construction and/or operation of a Class IV or Class I well to inject ground water that has been treated and is being reinjected into the same formation from which it was drawn. The Department's implementation of this injection activity shall be pursuant to provisions for cleanup of releases under CERCLA, or RCRA, as described in 40 C.F.R. 144.13(c), or when conducted under Department oversight pursuant to the Underground Storage Tanks rules at N.J.A.C. 7:14B, the Industrial Site Recovery Act (N.J.S.A. 13:1K 6 et seq., as amended), or the Procedures for Department Oversight of the Remediation of Contaminated Sites at N.J.A.C. 7:26C. These injection activities shall generally be conducted to alleviate a situation posing a substantial danger to public health or safety or when necessitated by public health or environmental considerations (for example, when injection wells are used as a component of a ground water remediation program).

(c) Abandonment and closure of any injection well that is injecting, or has ever injected, hazardous wastes (including Class IV and Class I injection wells) shall be performed in compliance with all applicable Department regulations for remediation of contaminated sites including the Procedures for Department Oversight of the Remediation of Contaminated Sites (N.J.A.C. 7:26C).

7:14A-8.8 Authorization by permit

(a) Any underground injection well not authorized by a permit-by-rule in accordance with N.J.A.C. 7:14A-8.5 requires a UIC permit in accordance with this section.

(b) An application for an individual UIC permit shall be submitted in accordance with N.J.A.C. 7:14A-4. An application for a well-drilling permit, if applicable, shall be submitted in accordance with N.J.S.A. 58:4A-4.1, along with the application for a UIC permit.

(c) The information required by the Department for a UIC permit application for a Class I, II, III or V injection well is listed in N.J.A.C. 7:14A-8.17.

7:14A-8.9 Additional conditions applicable to Class I, II, III and V UIC permits

(a) The following conditions, in addition to those set forth in N.J.A.C. 7:14A-2.5, apply to all UIC permits for Class I, II, III and V injection wells, and shall be incorporated into these UIC permits either expressly or by reference. If incorporated by reference, a specific citation to this subchapter shall be given in the permit.

1. The permittee does not need to comply with certain provisions of N.J.A.C. 7:14A-6.10 when such noncompliance is authorized by a temporary emergency permit under N.J.A.C. 7:14A-6.14.

2. The permittee shall maintain records concerning the nature and composition of injected fluids in accordance with the requirements of N.J.A.C. 7:14A-6.6.

3. In addition to N.J.A.C. 7:14A-6.7, Notice requirements for facility alterations and additions, a new injection well shall not commence injection until construction is complete, the permittee has submitted the well report as required under N.J.S.A. 58:4A-4.1, where applicable, or has submitted notice of completion of construction to the Department; and

i. The Department has inspected or otherwise reviewed the new injection well and determined that it is in compliance with the conditions of the permit; or

ii. The permittee has not received notice from the Department of its intent to inspect or otherwise review the new injection well within 20 days of the date of the well report or the notice of completion of construction submitted to the Department pursuant to (a)3 above, in which case prior inspection or review is waived and the permittee may commence injection.

4. The following shall be included as information which shall be reported within two hours under N.J.A.C. 7:14A-6.10:

i. Any monitoring or other information which indicates that any contaminant may cause an endangerment to a potable supply well; and

ii. Any noncompliance with a permit condition or malfunction of the injection system which may cause fluid migration into a potable supply well.

5. The following information shall be reported within 24 hours under N.J.A.C. 7:14A-6.10:

i. Any monitoring or other information which indicates that any contaminant may cause an endangerment to a USDW other than as described at (a)4i above; and

ii. Any noncompliance with a permit condition or malfunction of the injection system which may cause fluid migration into or between USDWs other than as described at (a)4ii above.

6. The permittee shall submit written notice to the Department at least 180 days before conversion or abandonment of the well. With the notice, the permittee shall submit a revised plugging and abandonment plan updated as appropriate in compliance with N.J.A.C. 7:14A-8.10(a)5 and 8.12(d).

7:14A-8.10 Establishing UIC permit conditions

(a) In addition to the conditions established under N.J.A.C. 7:14A-6.3, each UIC permit is to include conditions meeting the following requirements, when applicable:

1. Construction requirements as set forth in N.J.A.C. 7:14A-8.13, 8.14 or 8.15. Existing wells shall achieve compliance with such requirements according to a compliance schedule established as a permit condition. The owner or operator of a proposed new injection well shall submit plans for testing, drilling, and construction as part of the permit application. Construction shall not commence until a permit has been issued containing construction requirements (see N.J.A.C. 7:14A-8.3 and N.J.S.A. 58:4A-4.1). New wells shall be in compliance with these requirements prior to commencing injection operations. Changes in construction plans during construction shall be approved by the Department as minor modifications pursuant to N.J.A.C. 7:14A-16.5A. No such changes shall be physically incorporated into construction of the well prior to receipt of written approval of the modification from the Department;

2. Corrective or preventive action as set forth in N.J.A.C. 7:14A-8.11 and 8.12(b);

3. Operating requirements as set forth in N.J.A.C. 7:14A-8.13, 8.14 or 8.15. The permit shall establish any maximum injection volumes and/or pressures necessary to ensure that fractures are not initiated in the confining zone, that injected fluids do not migrate into any underground source of drinking water, that formation fluids are not displaced into any underground source of drinking water, and to ensure compliance with the operating requirements in N.J.A.C. 7:14A-8.13, 8.14 or 8.15;

4. Monitoring and reporting requirements as set forth in N.J.A.C. 7:14A-8.13, 8.14 or 8.15. The permittee shall be required to identify types of tests and methods used to generate the monitoring data;

5. A permit for any Class I, II, III or V well, or any Class IV well allowed under N.J.A.C. 7:14A-8.7, shall include conditions to ensure that plugging and abandonment of the well will not allow the movement of fluids either into an underground source of drinking water or from one underground source of drinking water to another. Each applicant for a UIC permit shall submit a plan for plugging and abandonment, taking into account the

requirements of N.J.A.C. 7:14A-8.17(a). The plan shall meet, at a minimum, the requirements of N.J.A.C. 7:9-9, Sealing of Abandoned Wells, where applicable. Where the plan meets the requirements of this section the Department shall incorporate the plan into the permit as a condition. Where the Department determines that the permittee's plan is inadequate, the Department shall require the applicant to revise the plan, prescribe conditions meeting the requirements of this section, or deny the application. For purposes of this section, temporary intermittent cessation of injection operations is not abandonment. Cessation of injection operations for a period of three years or more constitutes abandonment. The improper maintenance of a well may constitute abandonment of that well in accordance with N.J.S.A. 58:4A-4.1;

6. For Class I hazardous waste injection wells, the Department shall require the permittee to maintain financial responsibility and resources, in the form of a performance bond or other equivalent form of financial assurance in accordance with 40 C.F.R. Subpart F, 144.60 through 144.70, to guarantee the closing, plugging, and abandonment of the underground injection operation in a manner prescribed by the Department. In lieu of an individual performance bond, a permittee may furnish a bond or other equivalent form of financial guarantee approved by the Department covering all of the permittee's injection wells in the State;

7. A permit for any Class I, II or III well, or for any Class IV well allowed under N.J.A.C. 7:14A-8.7, or injection project which lacks mechanical integrity shall include, and for any Class V well, will include a condition prohibiting injection operations until the permittee shows to the satisfaction of the Department pursuant to N.J.A.C. 7:14A-8.12(c) that the well has mechanical integrity; and

8. The Department shall impose on a case-by-case basis such additional conditions as are necessary to prevent the migration of fluids into underground sources of drinking water.

7:14A-8.11 Corrective or preventive action

(a) Applicants for Class I, II or III injection well permits, or for any Class IV well allowed under N.J.A.C. 7:14A-8.7, shall identify the location of all known wells within the injection well's area of review as specified in N.J.A.C. 7:14A-8.12 which penetrate the injection zone. For wells which are improperly sealed, completed, or abandoned, the applicant shall submit a plan consisting of such steps or modifications as are necessary to prevent movement of fluid into underground sources of drinking water ("corrective or preventive action"). Where the plan is adequate, the Department shall incorporate it into the permit as a condition. Where the Department determines that the permittee's plan is inadequate pursuant to N.J.A.C. 7:14A-8.12(b), the Department shall:

1. Require the applicant to revise the plan;
2. Prescribe a plan for corrective or preventive action as a condition of the permit; or
3. Deny the application.

(b) Requirements for corrective or preventive action are as follows:

1. For an existing injection well, the permit requiring corrective action shall include a compliance schedule for implementing any corrective action required pursuant to (a) above to be completed as soon as possible.

2. For a new injection well, the permit shall prohibit injection until all required corrective or preventive action has been taken pursuant to (a) above.

3. Where the Department determines that a more stringent corrective or preventive alternative is not feasible, the Department shall require as a permit condition that injection pressure in the injection zone does not exceed hydrostatic pressure at the site of any improperly sealed, completed, or abandoned well within the area of review, or alternatively, the Department shall require an injection pressure limitation be included as part of the compliance schedule until all other required corrective or preventive action has been taken. The Department shall only approve an injection pressure limitation in satisfaction of the corrective action requirement if the injection pressure limitation will not endanger groundwater resources. The Department reserves the right to deny the application where it determines that the corrective or preventive plan is inadequate.

4. For Class III wells only, the Department shall consider the overall effect of the project on the hydraulic gradient in potentially affected USDWs and the corresponding changes in potentiometric surface(s) and flow direction(s) rather than the discrete effect of each well. If the Department determines that corrective action is not necessary, the monitoring program required pursuant to N.J.A.C. 7:14A-8.15(c)2 shall be designed to verify the validity of such determination.

7:14A-8.12 General operating criteria and construction standards

(a) The area of review for each injection well or each field, project or area of the State shall be determined according to either (a)1 or 2 below. The Department strongly encourages owners and operators of injection wells to provide the Department with data concerning which method is most appropriate for each geographic area or field.

1. The zone of endangering influence shall be that area, the radius of which is the lateral distance from an injection well, field or project, in which the pressures in the injection zone may cause the migration of the injection and/or formation fluid into an underground source of drinking water. Computation of the zone of endangering influence must be based upon the parameters listed below and must be calculated for an injection time period equal to the expected life of the injection well or pattern. The modified Theis equation in Appendix A, incorporated herein by reference, illustrates one form which the mathematical model may take. This equation is based on the following assumptions:

- i. The injection zone is homogeneous and isotropic;
- ii. The injection zone has infinite areal extent;
- iii. The injection well penetrates the entire thickness of the injection zone;
- iv. The well diameter is infinitesimal compared to "r" when injection time is longer than a few minutes; and
- v. The emplacement of fluid into the injection zone creates instantaneous increase in pressure. Other models, such as those mentioned in the EPA publication Radius of Pressure Influence of Injection Wells (EPA-6/279-170), may be used for different situations encountered in the field or where the model assumptions match those situations more closely, if the Department approves of the model and determines that the model is appropriate.

2. A fixed radius around the well, field or project, of not less than two miles, shall be determined based on the following:

- i. Chemistry of injected and formation fluids;
- ii. Hydrogeology;
- iii. Population and groundwater use and dependence; and
- iv. Historical practices in the area.

3. If the area of review is determined by a mathematical model pursuant to (a)1 above, the permissible radius resulting from such calculation may be less than two miles. Where the radius calculated is significantly less than two miles, however, the Department reserves the right to require the applicant to submit additional information as needed to assess the possible impact of the proposed injection.

(b) In determining the adequacy of corrective action proposed by the applicant under N.J.A.C. 7:14A-8.11 and in determining the additional steps needed to prevent fluid movement into underground sources of drinking water, the Department shall consider the following criteria and factors:

1. The nature and volume of the injected fluids;
2. The nature and native fluids or by-products of injection;
3. The potentially affected population;
4. Geology;
5. Hydrology;
6. The history of the injection operation;
7. Completion and plugging records;
8. The abandonment procedures in effect at the time the well was abandoned; and

- vi. Lithology of injection and confining zones; and
- vii. Type and grade of cement.

3. Appropriate logs and other tests shall be conducted during the drilling and construction of new Class III wells. A descriptive report interpreting the results of such logs and tests shall be prepared by a qualified log analyst and submitted to the Department. The logs and tests appropriate to each type of Class III well shall be determined based on the intended function, depth, construction and other characteristics of the well, availability of similar data in the area of the drilling site and the need for additional information that may arise from time to time as the construction of the well progresses. At a minimum, such logs and tests shall include deviation checks conducted on all holes where pilot holes and reaming are used, at sufficiently frequent intervals to ensure that vertical avenues for fluid migration in the form of diverging holes are not created during drilling.

4. Where the injection zone is a water-bearing formation, the following information concerning the injection zone shall be determined or calculated for new Class III wells:

- i. Fluid pressure;
- ii. Temperature;
- iii. Fracture pressure;
- iv. Other physical and chemical characteristics of the injection zone;
- v. Physical and chemical characteristics of the formation fluids; and
- vi. Compatibility of injected fluids with formation fluids.

5. Where the injection zone is not a waterbearing formation, the information in (b)4 above shall be determined or calculated and submitted to the Department.

6. Where injection is into a formation which contains water with less than 10,000 mg/l total dissolved solids (TDS), monitoring wells shall be completed into the injection zone and into any underground sources of drinking water above the injection zone which could be affected by the mining operation. These wells shall be located so as to detect any excursion of injection fluids, process by-products, or formation fluids outside the mining area or zone. If the operation may be affected by subsidence or catastrophic collapse, the monitoring wells shall be located so that they will not be physically affected.

7. Where injection is into a formation which does not contain water with less than 10,000 mg/l TDS, monitoring requirements may be less stringent.

8. Where the injection wells penetrate an underground source of drinking water (USDW) in an area subject to subsidence or catastrophic collapse monitoring wells shall

be installed into the USDW in sufficient numbers to detect any movement of injected fluids, process by-products or formation fluids into the USDW. The monitoring wells shall be located outside the physical influence of the subsidence or catastrophic collapse.

9. In determining the number, location, construction and frequency of monitoring of the monitoring wells, the following criteria shall be considered:

- i. The population relying on the USDW affected or potentially affected by the injection operation;
- ii. The proximity of the injection operation to points of withdrawal of drinking water;
- iii. The local geology and hydrology;
- iv. The operating pressures and whether a negative pressure gradient is being maintained;
- v. The nature and volume of the injected fluid, the formation water, and the process by-products; and
- vi. The injection well density.

(c) Operating, monitoring, and reporting requirements for Class III wells are as follows:

1. Operating requirements shall, at a minimum, specify that:

- i. Injection pressure at the wellhead shall not exceed a maximum which shall be calculated so as to ensure that the pressure in the injection zone during the injection does not initiate new fractures or propagate existing fractures in the injection zone, initiate fractures in the confining zone, or cause the migration of injection or formation fluids into an underground source of drinking water; and
- ii. Injection between the outermost casing protecting underground sources of drinking water and the well bore is prohibited.

2. Where appropriate, Class III wells may be monitored on a field or project basis rather than an individual well basis by manifold monitoring. Manifold monitoring may be used in cases of facilities consisting of more than one injection well, operating with a common manifold. Separate monitoring systems for each well are not required, provided the owner or operator demonstrates that manifold monitoring is comparable to individual well monitoring. Monitoring requirements shall, at a minimum, include:

- i. Analyses of the injected fluids with sufficient frequency to yield data representative of the fluids' characteristics;
- ii. Installation and use of continuous recording devices to monitor the injection pressure, flow rate and volume;

iii. A demonstration of mechanical integrity pursuant to N.J.A.C. 7:14A-8.12(c) at least once every five years during the life of the well;

iv. Weekly monitoring of fluid level and the parameters chosen to measure water quality in the injection zone; and

v. Quarterly monitoring of wells adjacent to the injection site to detect any migration from the injection zone into a USDW.

(d) Reporting requirements shall, at a minimum, include:

1. Quarterly reports to the Department on monitoring required;

2. Results of mechanical integrity, and any other periodic test required by the Department, reported with the first regular report after completion of the test; and

3. Monitoring may be reported on a project or field basis rather than on an individual well basis where manifold monitoring is used.

7:14A-8.16 Specific operating criteria and construction standards applicable to Class V injection wells

(a) This section establishes the operating criteria and construction standards for Class V wells.

(b) Class V wells shall, at a minimum, be constructed in accordance with the requirements and specifications set forth in N.J.A.C. 7:9 or 7:9A.

1. Well drilling permit requirements:

i. Where applicable, any owner or operator of a new Class V well shall obtain a well drilling permit before the commencement of any construction, in accordance with the Subsurface and Percolating Waters Act, particularly N.J.S.A. 58:4A-4.1. Information and applications for a well permit may be obtained from:

Bureau of Water Allocation
CN 426
Trenton, New Jersey 08625

2. Where applicable, individual subsurface sewage disposal systems, septic systems, or disposal beds shall be constructed in accordance with N.J.A.C. 7:9A.

3. The following information shall be submitted to the Department with the application for an individual UIC permit for a Class V well:

i. Detailed plans for construction of the injection well, including materials used and geologic or soil characteristics;

ii. Detailed description and analyses of fluids to be injected; and

iii. Description of the method of injection.

(c) Operating requirements for Class V wells are as follows:

1. Injection wells constructed in accordance with N.J.S.A. 58:4A-4.1 shall be maintained in accordance with N.J.A.C. 7:10-12 or any other pertinent regulations, or in accordance with requirements of the individual UIC permit.

2. Septic systems, disposal beds, or other subsurface sewage disposal systems shall be maintained in accordance with N.J.A.C. 7:9A or in accordance with the requirements of the individual UIC permit.

(d) Plugging and abandonment requirements for Class V wells are as follows:

1. Class V wells shall be plugged and abandoned in accordance with the requirements of N.J.S.A. 58:4A-4.1 et seq. and N.J.A.C. 7:9-9, Sealing of Abandoned Wells, where applicable. Cessation of injection operations constitutes abandonment in accordance with the requirements of N.J.S.A. 58:4A-4.1. The improper maintenance of a well may constitute abandonment of that well in accordance with N.J.S.A. 58:4A-4.1. The plugging and abandonment of injection wells constructed or operated in accordance with N.J.A.C. 7:9A are, at a minimum, to be abandoned in accordance with N.J.A.C. 7:9A-12.8.

2. Other Class V wells shall be plugged and abandoned in accordance with the terms of an individual UIC permit. These permit conditions shall include the following conditions:

i. All septic systems, seepage pits, dry wells and cesspools shall be emptied of wastes and removed or filled with gravel, stones, or soil material, in a manner which is acceptable to the administrative authority as defined in N.J.A.C. 7:9A-1;

ii. All influent and effluent lines shall be excavated, removed or sealed such that no leaching of contaminants can occur; and

iii. When components or residuals (for example, gravel filter material, fill material, soil) from an abandoned individual subsurface sewage disposal system are removed from the ground, such components or residuals shall be managed as follows:

(1) Any off site disposal of components and residuals from an abandoned system shall be managed in accordance with the State Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.) and its implementing regulations; and

(2) Onsite management of components and residuals from abandoned systems shall be in a manner which is acceptable to the administrative authority as defined in N.J.A.C. 7:9A-1.

(e) The UIC permit-by-rule authorization for any Class V well which fails to comply with the requirements of this section automatically terminates.

(f) Injection wells that exert a total pressure that exceeds the pressure exerted by the fluid under the influence of gravity at its height above the point of discharge plus the atmospheric pressure, shall be required to follow the standards described for Class I wells.

7:14A-8.17 Additional requirements for applications for individual UIC permits

(a) In addition to the information required to be submitted pursuant to N.J.A.C. 7:14A-4 and 8.8, and after consultation with the Department, an applicant for an individual NJPDES UIC permit for a Class I, II, III or V well shall submit those items in (a)1 through 5 below as required by the Department.

1. For a permit for an existing Class I, II, III and V well to operate or the construction or conversion of a new Class I, II, III and V well:

i. A map showing the injection well(s) for which a permit is sought and the applicable area of review, determined as per N.J.A.C. 7:14A-8.12(a). Within the area of review, the map shall show the number, or name, and location of all producing wells, injection wells, abandoned wells, dry holes, or wells, surface bodies of water, springs, mines (surface and subsurface), quarries, water wells and other pertinent surface features including residences and roads. All wells, reservoirs, and other bodies of water used for public water supply that are within a five mile radius of the injection well shall be indicated. The map shall also show geologic faults, if known or suspected;

ii. A tabulation of data on all wells within the area of review which penetrate into the proposed injection zone. Such data shall include a description of each well's type, geological and geophysical logs, construction, date drilled, location, depth, record of plugging and/or completion, and any additional information the Department may require;

iii. Geologic name(s), maps, and cross sections indicating the general vertical and lateral limits of all underground sources of drinking water within the area of review, their position relative to the injection formation and the direction of water movement, where known, in each underground source of drinking water which may be affected by the proposed injection;

iv. Maps and cross sections detailing the geological structure of the local area;

v. Generalized maps and cross section illustrating the regional geologic setting;

vi. Proposed operating data as follows:

(1) Average and maximum daily rate and volume of the fluid to be injected;

(2) Average and maximum injection pressure; and

(3) Source and analysis of the chemical, physical, radiological and biological characteristics of injection fluids;

vii. Proposed formation testing program to obtain an analysis of the chemical, physical, and radiological characteristics of and other information on the receiving formation;

viii. Proposed stimulation program;

ix. Proposed injection procedure;

x. Engineering drawings of the surface and subsurface construction details of the system;

xi. Any expected changes in pressure, native fluid displacement, direction of movement of injection fluid;

xii. Contingency plans to address all shut-ins or well failures so as to prevent migration of fluids into any underground source of drinking water;

xiii. Plans (including maps) for meeting the monitoring requirements for Class I, II and III wells as specified in this section;

xiv. For wells within the area of review which penetrate the injection zone but are not properly completed or plugged, the corrective action proposed to be taken under N.J.A.C. 7:14A-8.11; and

xv. Construction procedures including a cementing and casing program, logging procedures, deviation checks, and a drilling, testing, and coring program.

2. For the approval of operation of a Class I, II, III and V well:

i. All available logging and testing program data on the well(s);

ii. A demonstration of mechanical integrity pursuant to N.J.A.C. 7:14A-8.12(c);

iii. The actual operating data;

iv. The results of the formation testing program;

v. The actual injection procedure;

vi. The compatibility of injected waste with fluids in the injection zone and minerals in both the injection zone and the confining zone; and

vii. The status of corrective or preventive action on defective wells in the area of review.

3. For the approval of the plugging and abandonment of a Class I, II, III and V well or of a plan for same:

i. The type and number of plugs to be used;

- ii. The placement of each plug including the elevation of the top and bottom;
- iii. The type and grade and quantity of cement to be used;
- iv. The method for placement of the plugs; and
- v. The procedures to be used to meet the requirements of N.J.A.C. 7:14A-8.12(d)3.

4. For Class I, II and III wells, the corrective or preventive action proposed to be taken under N.J.A.C. 7:14A-8.11.

5. For Class V wells which are subsurface disposal systems, other than those regulated under the Standards for Individual Subsurface Sewage Disposal Systems, N.J.A.C. 7:9A, the information set forth at N.J.A.C. 7:14A-7.13.

7:14A-8.18 Specific operating criteria and construction standards applicable to permit by rule authorizations for underground injection into seepage pits

(a) This section sets forth the operating criteria and construction standards for underground injection into seepage pits under a permit-by-rule pursuant to N.J.A.C. 7:14A-8.5(b)5.

(b) Design requirements are as follows:

1. When required to protect against accumulation of fine particles that would impair the proper functioning of the seepage pit, a multiple compartment septic tank shall be designed and constructed in accordance with N.J.A.C. 7:9A-8.2.

2. The percolating area shall be the total outside surface area of the seepage pit lining below the inlet and exclusive of any soil horizons with a percolation rate slower than 40 minutes per inch. The bottom of the seepage pit shall not be counted as part of the percolating area. The minimum percolating area shall be determined from the following table based upon the maximum daily volume of discharge and a weighted average of the percolation or permeability rates of all soil layers exposed in the sidewalls. In no case, however, shall the percolating area be less than 110 square feet.

Minimum Area Required for Seepage Pits, Based on One Gallon Liquid Per Day, and Based on the Percolation Rate of the Soil

Average Percolation Rate (Min/inch)	Minimum Area Per Gallon Per Day (Square feet)
10 or less	0.48
11 to 20	0.72
21 to 30	0.96
31 to 40	1.20
over 40	not acceptable

(c) Construction requirements are as follows:

1. Seepage pits shall be constructed within an excavation affording adequate working space and shall be constructed of stone, brick, cinder, precast concrete or concrete block, or similar material laid dry with open joints where permeable strata have been penetrated, except that if the seepage pit is not of circular construction or if the surrounding ground is subject to cave-in, all horizontal joints shall be mortared so as to prevent structural failure. The following requirements shall be met:

i. All joints above the inlet, in all cases, shall be made watertight;

ii. Before placement of backfill, all sidewall areas shall be scarified; and

iii. The bottom of the seepage pit shall be filled with coarse gravel to a depth of one foot unless the bottom is in a sand or gravel formation.

2. Seepage pits shall be backfilled according to the following procedure:

i. The space between the excavation and the seepage pit wall shall be backfilled with at least three inches of coarse gravel or filter material meeting New Jersey Department of Transportation's standards for coarse aggregate sizes 3, 4 and 24.

ii. Where cinder or concrete blocks are laid with core openings exposed, the space between the excavation and seepage pit wall shall be backfilled with at least six inches of two and one-half inch crushed stone or gravel.

iii. Backfill above the inlet shall be of earth similar to that found at the site which is free from large stones, tree stumps, broken masonry or waste construction material. and shall be thoroughly compacted by hand or mechanical tamping methods. The use of heavy machinery for this purpose is prohibited.

3. Covers shall be constructed of reinforced concrete, shall be a minimum of three inches in thickness, watertight, and shall be designed and constructed so as not to be damaged by any load which is likely to be placed upon them.

4. At least one access opening with a removable, watertight cover and a minimum dimension of 24 inches shall be provided. Access openings shall meet the following requirements:

i. Access shall be adequate to permit pumping out of the pit as well as inspection and maintenance of the inlet;

ii. When the cover of the seepage pit is deeper than 12 inches below finished grade, the access opening shall be extended to within 12 inches of finished grade by means of a concrete riser with cast-iron manhole cover;

iii. When the access opening is below finished grade, a permanent marker at finished grade shall be provided to indicate its location; and

iv. When the access opening is at or above finished grade, the cover shall be bolted, locked or otherwise secured to prevent access by children.

(d) Requirements for the submission of certifications are as follows:

1. Any facility qualifying for this permit by rule shall submit an as-built certification from a New Jersey licensed professional engineer which certifies that the system was designed and constructed in accordance with the requirements of this section. The certification and a NJPDES-1 form shall be submitted within 30 days of the completion of construction to:

NJDEP
 Division of Water Quality
 Bureau of Operational Ground Water Permits
 CN 029
 Trenton, New Jersey 08625

APPENDIX A

EQUATION FOR AREA OF REVIEW

Modified Theis Equation for determining the "area of review" based on the assumption outlined in N.J.A.C. 7:14A-8.12

$$r = \frac{(2.25 \cdot K \cdot H \cdot t)^{0.5}}{s \cdot 10 \cdot X}$$

Where

$$X = \frac{4 \cdot \pi \cdot K \cdot H \cdot h_w - h_{b0} \cdot X \cdot S_p \cdot G_b}{2 \cdot 3 \cdot Q}$$

- r = Radius of endangering influence from injection well (length)
- K = Hydraulic conductivity of the injection zone (length time)
- H = Thickness of the injection zone (length)
- t = Time of injection (time)
- S = Storage coefficient (dimensionless)
- Q = Injection rate (volume/time)
- h_{b0} = Observed original hydrostatic head of injection zone (length) measured from the base of the lowest underground source of drinking water
- h_w = Hydrostatic head of underground source of drinking water (length) measured from the base of the lowest underground source of drinking water
- SpG_b = Specific gravity of fluid in the injection zone (dimensionless)
- π = 3.142 (dimensionless)

ing design of the ground water monitoring system, sampling, parameters and frequency of analyses, evaluation of data, recordkeeping and reporting.

(b) It is essential that the monitoring program provide adequate data over a sufficient period of time to accurately represent conditions and variations of background ground water quality and the hydrologic characteristic of the sanitary landfill. It is essential that the monitoring program be sufficient to ensure protection of ground water resources.

7:14A-9.2 Applicability

(a) The requirements in this subchapter apply to all sanitary landfills, except as provided at (c), (d) and (e) below.

(b) All sanitary landfills shall obtain a NJPDES DGW permit to conduct ground water monitoring as specified in this subchapter.

(c) Ground water monitoring pursuant to N.J.A.C. 7:14A-9.3 through 9.8 will be suspended for a municipal solid waste landfill (MSWLF) if the owner or operator can demonstrate that there is no potential for migration of any hazardous constituents from the MSWLF to the uppermost aquifer during the active life of the unit and the post-closure care period. This demonstration shall be certified by a qualified ground water scientist and approved by the Department and shall be based upon:

1. Site specific field collected measurements, sampling and analysis of physical, chemical, and biological processes affecting the contaminant fate and transport; and
2. Contaminant fate and transport predictions that maximize contaminant migration and consider impacts on human health and environment.

(d) For a sanitary landfill that is not a MSWLF under 40 CFR Parts 257 and 258, the Department may waive the requirement to sample for the complete list of Appendix A parameters when in detection mode, and for the complete list of the 40 C.F.R. 258 Appendix II parameters when in assessment or corrective monitoring mode. When the Department grants such a waiver, based upon the known characteristics of the waste and leachate quality, the contamination potential of the site, or historical permit conditions, the Department shall provide an alternate list of parameters to be monitored that are consistent with those factors. All sanitary landfills remain subject to all other requirements of N.J.A.C. 7:14A-9.3 through 9.8.

(e) The Department shall exempt a sanitary landfill from the requirement to obtain or maintain a NJPDES permit to conduct ground water monitoring as required by this subchapter when a ground water monitoring program equivalent to the provisions of this subchapter or 40 C.F.R. 258, whichever is more stringent, is being conducted pursuant to the requirements of the Industrial Site Recovery Act

SUBCHAPTER 9. GROUND WATER MONITORING REQUIREMENTS FOR SANITARY LANDFILLS

7:14A-9.1 Scope and purpose

(a) This subchapter establishes the requirements for conducting ground water monitoring at sanitary landfills, includ-

(N.J.S.A. 13:1K-6 et seq., as amended), 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.

(f) For the purposes of this subchapter, a "qualified ground water scientist" is a scientist or engineer who has received a baccalaureate or post-graduate degree in the natural sciences or engineering and has sufficient training and experience in ground water hydrology as may be demonstrated by state registration, professional certifications, or completion of accredited university programs that enable the individual to make sound professional judgments regarding ground water monitoring, containment fate transport, and corrective action.

7:14A-9.3 Ground water monitoring system performance standards

(a) A ground water monitoring system shall consist of a sufficient number of wells, installed at appropriate locations and depths, to yield ground water samples from the uppermost aquifer that:

1. Represent the quality of background ground water that has not been affected by leakage. A determination of background ground water quality may include sampling of wells that are not hydraulically upgradient of the solid waste facility area where:

- i. Hydrogeologic conditions do not allow the owner or operator to determine what wells are hydraulically upgradient; or
- ii. Sampling at other wells will provide an indication of background ground water quality that is as representative or more representative than that provided by the upgradient wells; and

2. Represent the quality of ground water passing the relevant point of compliance specified by the Department under N.J.A.C. 7:14A-9.6. The downgradient monitoring system shall be installed at the relevant point of compliance specified by the Department that ensures detection of ground water contamination in the uppermost aquifer. When physical obstacles preclude installation of ground water monitoring wells at the relevant point of compliance, the down-gradient monitoring system may be installed at the closest practicable distance hydraulically down-gradient from the relevant point of compliance specified by the Department that ensures detection of ground water contamination in the uppermost aquifer

(b) The Department shall approve a multiunit ground water monitoring system instead of separate ground water monitoring systems for each MSWLF when the facility has several units, provided the multiunit ground water monitoring system meets the requirement of (a) above and shall be as protective of human health and the environment as individual monitoring systems for each MSWLF, based on the following factors:

1. The number, spacing, and orientation of the sanitary landfills;
2. The hydrogeologic setting;
3. The site history;
4. The engineering design of the sanitary landfills; and
5. The type of waste accepted at the sanitary landfills.

(c) Monitoring wells shall be cased in a manner that maintains the integrity of the monitoring well bore hole. This casing shall be screened or perforated and packed with gravel or sand, where necessary, to enable collection of ground water samples. The annular space (that is, the space between the bore hole and well casing) above the sampling depth shall be sealed to prevent contamination of samples and the ground water. In addition to these general well construction standards, all monitoring wells shall be constructed in accordance with the edition of the Department's "Field Sampling Procedures Manual" applicable at the time of construction, an alternate method approved by the Department, or as set forth in the NJPDES-DGW permit.

1. The owner or operator of a sanitary landfill shall notify the Department that the design, installation, development, and decommissioning of any monitoring wells, piezometers and other measurement, sampling, and analytical devices documentation has been placed in the records maintained by the facility; and
2. The monitoring wells, piezometers, and other measurement, sampling, and analytical devices shall be operated and maintained so that they perform to design specifications for the duration of the monitoring program.

(d) The number, spacing, and depths of monitoring systems shall be:

1. Determined based upon site specific technical information that shall include thorough characterization of:
 - i. Aquifer thickness, ground water flow rate, ground water flow direction including seasonal and temporal fluctuations in ground water flow; and
 - ii. Saturated and unsaturated geologic strata and fill materials overlying the uppermost aquifer, materials comprising the uppermost aquifer, and materials comprising the confining bed defining the lower boundary of the uppermost aquifer including but not limited to: thickness, stratigraphy, lithology, hydraulic conductivity, porosity and effective porosity.

(e) The ground water monitoring system shall perform in accordance with the standards established in this section, and shall consist of a minimum of four monitoring wells, placed such that there is one background quality well, and three hydraulically downgradient wells, located in the uppermost aquifer into which a discharge or leak is likely to occur.

7:14A-10.14 Corrective action program

(a) The owner or operator required to establish a compliance monitoring program under this subchapter shall take corrective action to ensure that hazardous waste facility units are in compliance with the ground water protection standards of N.J.A.C. 7:9-6. The Department shall specify the ground water protection standard in the NJPDES-DGW permit, including:

1. A list of the hazardous constituents identified under N.J.A.C. 7:14A-10.7;
2. Concentration limits under N.J.A.C. 7:14A-10.8 for each of those hazardous constituents;
3. The relevant point of compliance under N.J.A.C. 7:14A-10.9; and
4. The compliance period under N.J.A.C. 7:14A-10.10.

(b) The owner or operator shall implement a corrective action program that prevents hazardous constituents from exceeding their respective concentration limits at the compliance point by removing the hazardous waste constituents or treating them in place. The permit shall specify the specific measures that shall be taken.

(c) The owner or operator shall begin corrective action within a reasonable time period after the ground water protection standard is exceeded. The Department shall specify that time period in the NJPDES-DGW permit. If a NJPDES-DGW permit includes a corrective action program in addition to a compliance monitoring program, the permit shall specify when the corrective action will begin and such a requirement will operate in lieu of N.J.A.C. 7:14A-10.13(i)2.

(d) In conjunction with a corrective action program, the owner or operator shall establish and implement a ground water monitoring program to demonstrate the effectiveness of the corrective action program. Such a monitoring program may be based on the requirements for a compliance monitoring program under N.J.A.C. 7:14A-10.13 and shall be as effective as that program in determining compliance with the ground water protection standard under N.J.A.C. 7:14A-10.6 and in determining the success of a corrective action program under (e) below, where appropriate.

(e) In addition to the other requirements of this section, the owner or operator shall conduct a corrective action program to remove or treat in place any hazardous constituents under N.J.A.C. 7:14A-10.7 that exceed concentration limits under N.J.A.C. 7:14A-10.8 in ground water as specified in (e)1 and 2 below. Corrective action measures under this subsection shall be initiated and completed within a reasonable period of time, as specified in the NJPDES-DGW permit, considering the extent of contamination. Corrective action measures under this subsection may be terminated once the concentration of hazardous constituents under N.J.A.C. 7:14A-10.13 is reduced to levels below their respective concentration limits under N.J.A.C. 7:14A-10.8.

1. Between the compliance point under N.J.A.C. 7:14A-10.9 and the downgradient property boundary; and

2. Beyond the facility boundary where necessary to protect human health and the environment, unless the owner or operator demonstrates to the satisfaction of the Department that, despite the owners or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake such action. The owner or operator is not relieved of all responsibility to clean up a release that has migrated beyond the facility boundary where offsite access is denied. Onsite measures to address such releases shall be determined on a case by case basis.

(f) The owner or operator shall continue corrective action measures during the compliance period to the extent necessary to ensure that the ground water protection standard is not exceeded. If the owner or operator is conducting corrective action at the end of the compliance period, the owner or operator shall continue that corrective action for as long as necessary to achieve compliance with the ground water protection standard. The owner or operator may terminate corrective action measures taken beyond the period equal to the active life of the hazardous waste facility area (including the closure period) if the owner or operator can demonstrate, based on data from the ground water monitoring program under (d) above that the ground water protection standard of N.J.A.C. 7:14A-10.6 has not been exceeded for a period of three consecutive years.

(g) The owner or operator shall report in writing to the Department on the effectiveness of the corrective action program. The owner or operator shall submit these reports semiannually.

(h) If the owner or operator determines that the corrective action program no longer satisfies the requirements if this section, the owner or operator shall, within 90 days after said determination, submit an application for a permit modification to make any appropriate changes to the program.

7:14A-10.15 Application requirements for NJPDES-DGW permits for hazardous waste facilities

Application requirements for hazardous waste facilities are the same as those listed in N.J.A.C. 7:14A-7.9.

7:14A-10.16 Application requirements for NJPDES-DGW permits for hazardous waste facilities with surface impoundments

Application requirements for hazardous waste facility surface impoundments shall be the same as those listed in N.J.A.C. 7:14A-7.10.

7:14A-10.17 Application requirements for NJPDES-DGW permits for hazardous waste facilities with land discharge by infiltration-percolation lagoons

Application requirements for hazardous waste facility land discharge by infiltration-percolation lagoons shall be the same as those listed in N.J.A.C. 7:14A-7.13.

7:14A-10.18 Application requirements for NJPDES-DGW permits for hazardous waste landfills

Application requirements for hazardous waste landfills shall be the same as the requirements for sanitary landfills as described in N.J.A.C. 7:14A-9.12.

SUBCHAPTER 11. PROCEDURES AND CONDITIONS APPLICABLE TO NJPDES-DSW PERMITS

Law Review and Journal Commentaries

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

7:14A-11.1 Purpose and scope

(a) This subchapter sets forth specific conditions and procedures which are applicable only to DSW permits.

(b) The DSW program requires permits for the discharge of pollutants into surface waters of the State from any point source, stormwater discharge associated with industrial activity, and nonpoint sources regulated under N.J.A.C. 7:14A-2.5(d).

Case Notes

Accidental discharge of oil from tanker warranted civil penalties. In re Oriental Republic of Uruguay, 1993, 821 F.Supp. 941.

Application of New Jersey Water Pollution Control Act; intentional or unintentional act. In re Oriental Republic of Uruguay, 1993, 821 F.Supp. 941.

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

7:14A-11.2 Establishing DSW Permit Conditions

(a) In addition to the conditions established under N.J.A.C. 7:14A-6.3, the Department shall include in DSW permits one or more conditions which meet the following requirements, as applicable:

1. Pollutants for which the permittee is required to report noncompliance with an effluent limitation in accordance with N.J.A.C. 7:14A-6.10(a)1 shall be identified and listed in the permit. This list shall include any toxic pollutant or hazardous substance or another appropriate indicator specifically identified as the method to control a toxic pollutant or hazardous substance;

2. In addition to the monitoring requirements contained in N.J.A.C. 7:14A-6.5, to assure compliance with permit limitations, a permittee shall be required to monitor:

i. The mass, or other measurement specified in the permit, for each pollutant limited in the permit;

ii. The volume of effluent discharged from each outfall;

iii. Other measurements as appropriate, including pollutants in internal waste streams addressed at N.J.A.C. 7:14A-13.16(a), pollutants in intake water for net limitations addressed at N.J.A.C. 7:14A-13.4(k); parameters for noncontinuous discharges addressed at N.J.A.C. 7:14A-13.20; pollutants subject to notification requirements at N.J.A.C. 7:14A-11.3(a); and pollutants in sewage sludge, or other monitoring as specified in 40 C.F.R. 503 or as determined to be necessary on a case-by-case basis pursuant to section 405(d)(4) of the CWA; and

iv. In accordance with the test procedures under 40 C.F.R. 136 for the analyses of pollutants having approved methods (unless other test procedures have been specified in the permit), or according to a test procedure specified in the permit for pollutants with no approved methods pursuant to N.J.A.C. 7:14A-6.5(a)2. If more than one method exists for analyzing a pollutant and the Department specifies a particular method in the permit, the Department shall provide the basis for selecting the particular method in the fact sheet for the draft permit in accordance with N.J.A.C. 7:14A-15.8;

3. For stormwater discharges associated with industrial activity that are not subject to an effluent limitation guideline, monitoring requirements shall be established on a case-by-case basis depending upon the nature and effect of the discharge. The permittee shall be required to monitor such discharges in accordance with (a)2 above, or, at a minimum:

i. The permittee shall be required to conduct an annual inspection of the facility to identify areas contributing to a stormwater discharge associated with industrial activity and evaluate whether measures to reduce pollutant loadings identified in a stormwater pollution prevention plan are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed;

ii. The permittee shall be required to prepare a report summarizing the result of the annual inspection conducted under (a)3i above. This report shall be accompanied by an annual certification that the facility is in compliance with its stormwater pollution prevention plan and the permit, except that if there are any incidents of non-compliance, those incidents shall be identified in the certification. If there are incidents of non-compliance, the report shall identify the steps being taken to remedy the non-compliance and to prevent such incidents from recurring. The permittee shall maintain this report and certification for a period of at least five years from the date of the report. This period may be extended by written request from the Department at any time; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7:14A-11.5 Stormwater discharges

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9. A stormwater discharge associated with industrial activity from a nonpoint source shall be required to obtain a NJPDES permit pursuant to (c)1 and (e)1iii below.

(b) The following concerns requests for information about stormwater discharges associated with industrial activity:

1. The Department may, by written notice, request any person whom the Department has reason to believe may own or operate a facility with a "stormwater discharge associated with industrial activity" as defined in N.J.A.C. 7:14A-1.2 to either:

i. Declare to the Department that person's intent to obtain a DSW permit for a "stormwater discharge associated with industrial activity"; or

ii. Provide information to the Department that explains why, in that person's judgment, that person is not required to obtain, for property or operations owned or operated by that person, a DSW permit for a "stormwater discharge associated with industrial activity" as defined in N.J.A.C. 7:14A-1.2. Such information may include:

(1) Information about the nature, source, and location of the stormwater discharge from such property or operations (for example, that all of the stormwater soaks into the ground or is discharged to a combined sewer system, or falls for some specified reason outside the definition of "stormwater discharge associated with industrial activity"); or

(2) Relevant information concerning that person (for example, information explaining why that person does not have a duty under N.J.A.C. 7:14A-4.2(c) to obtain a NJPDES permit).

2. A written notice under (b)1 above shall include a statement that such notice was sent pursuant to this subsection and the State Act, and that failure to respond to such notice in the manner required by this subsection is a violation of the State Act. Such notice shall also briefly explain why the Department has reason to believe that person may own or operate a facility with a "stormwater discharge associated with industrial activity" as defined in N.J.A.C. 7:14A-1.2. (For example, one sufficient reason is information indicating that the person may own or operate an establishment classified under a Standard Industrial Classification (SIC) code expressly listed in the definition of "stormwater discharge associated with industrial activity," or a landfill, steam electric power generating plant, treatment works treating domestic sewage, or construction operation that results in the disturbance of land.) Such notice may also require the person's response to be on a form provided by the Department, and to include a certification substantially equivalent to that required in a permit application under N.J.A.C. 7:14A-4.9(d).

3. Upon receipt of a written notice under (b)1 above, the person shall provide a written response in accordance with this subsection within 60 days, unless the notice specifies a longer time period. The Department, in its discretion, may also extend the time allowed for submitting a response for good cause shown.

4. Nothing in (b)1 through 3 above shall exempt any person from any permit application deadline under this section and N.J.A.C. 7:14A-4.2(e), or prevent the Department from making other requests for information under N.J.A.C. 7:14A-2.11 or the State Act.

(c) Permit application requirements for stormwater discharges associated with industrial activity are as follows:

1. Dischargers of stormwater associated with industrial activity from point or nonpoint sources are required to apply for an individual NJPDES permit or request authorization under a final stormwater general NJPDES permit. (This subsection does not apply to discharges of such stormwater from nonpoint sources until November 3, 1997.) Facilities that are required or seek to obtain an individual permit, or any discharge of stormwater which the Director is evaluating for designation under (a)1v above and is not a municipal separate storm sewer shall submit a NJPDES application in accordance with the requirements of N.J.A.C. 7:14A-4 as modified and supplemented by the provisions of the remainder of this subsection and (h) below. Except as provided in (c)1ii, vi and 2 below, applicants for an individual permit for discharges composed entirely of stormwater shall submit the NJPDES-1 Form and the NJPDES-2F Form. Applicants for an individual permit for discharges composed of stormwater and non-stormwater shall submit the NJPDES-1 Form, Form 2C, and the NJPDES-2F Form.

i. Except as provided in (c)1ii through iv, vi and 2 below, the operating entity applying for an individual permit for a stormwater discharge associated with industrial activity subject to this section shall provide the following in the permit application:

(1) A site map showing topography (or indicating the outline of drainage areas covered in the application if a topographic map is unavailable) of the facility, including each of its drainage and discharge structures; the drainage area of each stormwater outfall; each drainage area not served by a stormwater outfall; paved areas and buildings within each drainage area; each area used at present or in the three years prior to the submittal of this application for outdoor storage or disposal of significant materials; each existing structural control measure to reduce pollutants in stormwater runoff; materials loading and access areas; areas where pesticides, herbicides, soil conditioners and fertilizers are applied; each of its hazardous waste treatment, storage or disposal facilities (including each area not required to have a RCRA permit which is used for ac-

cumulating hazardous waste under 40 C.F.R. 262.34); each well where fluids from the facility are injected underground; springs, and other surface water bodies which receive stormwater discharges from the facility;

(2) An estimate of the area of impervious surfaces (including paved areas and building roofs) and the total drainage area of each outfall and of each area not served by an outfall (within a mile radius of the facility) and a narrative description of the following on-site features at the facility: Significant materials that in the three years prior to the submittal of this application (see (c)1i(4) below) have been treated, stored or disposed in a manner to allow exposure to stormwater; method of treatment, storage or disposal of such materials; materials management practices employed, in the three years prior to the submittal of this application (see (c)1i(4) below), to minimize contact by these materials with stormwater runoff; materials loading and access areas; the location, manner and frequency in which pesticides, herbicides, soil conditioners and fertilizers are applied; the location and a description of existing structural and non-structural control measures to reduce pollutants in stormwater runoff; and a description of the treatment the stormwater receives, including the ultimate disposal of any solid or fluid wastes other than by discharge;

(3) A certification that all outfalls (and all drainage areas not served by outfalls) that should contain stormwater discharges associated with industrial activity have been tested or evaluated for the presence of non-stormwater discharges which are not authorized by a NJPDES permit; tests for such non-stormwater discharges may include smoke tests, fluorometric dye tests, analysis of accurate schematics, as well as other appropriate tests. The certification shall include a description of the method used, the date of any testing, and the on-site drainage points that were directly observed during a test;

(4) Existing information regarding significant leaks or spills of toxic or hazardous pollutants at the facility that have taken place within the three years prior to the submittal of this application. For purposes of the preceding sentence, significant leaks or spills at a facility generally include releases of oil or hazardous substances in excess of reportable quantities under Section 311 of the Clean Water Act (see 40 C.F.R. 110.10 and 40 C.F.R. 117.21) or Section 302 of CERCLA (see 40 C.F.R. 302.4). (The information which (c)1i(2) above and this subparagraph requires concerning events in the three years prior to the submittal of the application shall also be provided concerning events in previous years, if the applicant has information concerning such events.);

(5) Quantitative data based on samples collected during storm events and collected in accordance with (h) below from all outfalls (and all drainage areas not served by outfalls) containing a stormwater discharge associated with industrial activity for the following parameters:

(A) Any pollutant limited in an effluent guideline to which the facility is subject;

(B) Any pollutant listed in the facility's NJPDES permit for its process wastewater (if the facility is operating under an existing NJPDES permit);

(C) Oil and grease, pH, BOD₅, COD, TSS, total phosphorus, total Kjeldahl nitrogen, and nitrate plus nitrite nitrogen;

(D) Any information on the discharge required under N.J.A.C. 7:14A-4.4(b)5i, ii and 6;

(E) Measurements or estimates of the maximum flow rate and of the total amount of discharge for the storm event(s) sampled, and the method of flow measurement or estimation; and

(F) The date and duration (in hours) of the storm event(s) sampled, rainfall measurements or estimates of the storm event (in inches) which generated the sampled runoff and the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event (in hours);

(6) In preparing a permit application under (c)1i, both outfalls and drainage areas not served by outfalls shall be regulated in the same manner as "outfalls" for purposes of (c)1i(5)(D) above, (h) below, and N.J.A.C. 7:14A-4.4(b);

(7) Any operating entity for a discharge composed entirely of stormwater is exempt from the requirements of N.J.A.C. 7:14A-4.3(a)17 and 21, and 4.4(a), (b)3i and ii and (b)7; and

(8) Any operating entity for a new source or new discharge (as defined in N.J.A.C. 7:14A-1.2) composed in part or entirely of stormwater shall include estimates for the pollutants or parameters listed in (c)1i(5) above instead of actual sampling data, along with the source of each estimate. Any operating entity for a new source or new discharge composed in part or entirely of stormwater must provide quantitative data for the parameters listed in (c)1i(5) above within two years after commencement of discharge, unless such data has already been reported under the monitoring requirements of the NJPDES permit for the discharge. Any operating entity for a new source or new discharge composed entirely of stormwater is exempt from the requirements of N.J.A.C. 7:14A-4.3(a)17 and 21iii and 4.4(b)3 through 7.

ii. The operating entity for an existing or new stormwater discharge that is associated with construction activity solely under subparagraph 1x of the definition of "stormwater discharge associated with industrial activity" in N.J.A.C. 7:14A-1.2 is exempt from the requirements of (c)1i above and N.J.A.C. 7:14A-4.3(a)11, (a)16 through 24, (c) and (d) and 4.4, and shall not submit the NJPDES-2F Form. Such operating entity shall, if applying for an individual permit, submit the NJPDES-1 Form and provide a narrative description of:

(1) The location and the nature of the construction activity;

(2) The total area of the site and the area of the site that is expected to undergo excavation during the life of the permit;

(3) Proposed measures, including best management practices, to control pollutants in stormwater discharges during construction, including a brief description of applicable State and local erosion and sediment control requirements;

(4) Proposed measures to control pollutants in stormwater discharges that will occur after construction operations have been completed, including a brief description of applicable State or local erosion and sediment control requirements;

(5) An estimate of the runoff coefficient of the site and the increase in impervious area after the construction addressed in the permit application is completed, the nature of fill material and existing data describing the soil or the quality of the discharge; and

(6) The name of the receiving water.

iii. The operating entity for an existing or new discharge composed entirely of stormwater from an oil or gas exploration, production, processing, or treatment operation, or transmission facility is not required to submit a permit application in accordance with (c)1i above, unless the facility:

(1) Has had a discharge of stormwater resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 117.21 or 40 CFR 302.6 at anytime since November 16, 1987; or

(2) Has had a discharge of stormwater resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 110.6 at any time since November 16, 1987; or

(3) Contributes to a violation of a water quality standard.

iv. The operating entity for an existing or new discharge composed entirely of stormwater from a min-

ing operation is not required to submit a permit application in accordance with (c)1i above, unless the discharge has come into contact with, any overburden, raw material, intermediate products, finished product, by-product or waste products located on the site of such operations.

v. Applicants shall provide such other information as the Director may reasonably require under N.J.A.C. 7:14A-4.3(e) to determine whether to issue a permit and may require any facility subject to (c)1ii above to comply with (c)1i above.

vi. Until December 31, 1992, applicants for renewal of a NJPDES permit or for a new or modified NJPDES permit for a stormwater discharge associated with industrial activity were allowed to submit Form 2C rather than Form 2F (and rather than the information required under (c)1i above) if the permit or application addressed all such stormwater discharges.

2. A group application submitted to USEPA under 40 CFR 122.26(c)(2) does not qualify under (c)1 above as an application for an individual NJPDES permit, or as a request for authorization under a NJPDES general permit. However, if a facility was approved by the USEPA as a member of a group application pursuant to 40 CFR 122.26(e)(2) and applies to the Department for an individual NJPDES permit for a stormwater discharge associated with industrial activity, the Department may accept the quantitative data in Part 2 of that group application in lieu of quantitative data collected at the applicant's facility for that stormwater discharge, provided that:

i. The quantitative data in Part 2 of that group application is submitted to the Department by the entity that prepared the group application or by the applicant; and

ii. The USEPA has not informed that entity that the quantitative data in Part 2 that was submitted to the Department is inaccurate or incomplete.

(d) Application requirements for large and medium municipal separate storm sewer discharges, and for a discharge from a municipal separate storm sewer that is designated under (a)1v above, are contained in 40 CFR 122.26(d), which is incorporated into this chapter by reference. Also incorporated into this chapter by reference, for purposes of this subsection only, are the definitions at 40 CFR 122.26(b)(2), (5), (6), and (9) of "illicit discharge," "major municipal separate storm sewer outfall," "major outfall" and "outfall." References to a "NJPDES permit" or "permit" in 40 CFR 122.26(b)(2) and (d) shall be understood to mean a NJPDES permit under this chapter, unless the context clearly indicates otherwise. Applicants for a discharge under this subsection are exempt from the requirements of N.J.A.C. 7:14A-4.3(a)11 and 16 through 24, (c) through (e) and 4.4(a) and (b)3 through 7.

(e) Any operating entity for a discharge required to obtain a permit under (a)1 or 9 above that does not have an effective NJPDES permit authorizing its stormwater discharges shall submit an application for an individual permit or a request for authorization for a general permit in accordance with the following deadlines:

1. Except as provided in (e)1i through vii below, for any "stormwater discharge associated with industrial activity" as defined in N.J.A.C. 7:14A-1.2 which is not authorized by a stormwater general permit, a permit application made pursuant to (c) above, or a request for authorization for a stormwater general permit, shall have been submitted to the Director by April 1, 1993.

i. For any stormwater discharge associated with industrial activity from a facility that is owned or operated by a municipality with a population of less than 100,000 other than an airport, power plant, or uncontrolled sanitary landfill, permit requirements are contained in (g) below.

ii. Facilities that are owned or operated by a municipality and that were rejected by the USEPA as members of part 1 group application under 40 CFR 122.26(e)(2) shall have submitted an individual application or a request for authorization for a general permit no later than 180 days after the date of receipt of the notice of rejection or April 1, 1993, whichever was later.

iii. If the discharge is from a nonpoint source and is not from a point source or identified under (e)1iv below, the permit application or request for authorization shall be submitted by November 3, 1997. No NJPDES permit shall require pollutants in such a discharge to be controlled before November 3, 1997.

iv. If the Department classifies the discharge as a "stormwater discharge associated with industrial activity" under paragraph 2 in the definition of that term in N.J.A.C. 7:14A-1.2, the permit application or request for authorization shall be submitted within 180 days of receipt of written notice of such classification, unless a later submission date is requested and approved by the Department.

v. A group application submitted to USEPA under 40 CFR 122.26(e)(2) does not qualify under this paragraph as an application for an individual NJPDES permit, or as a request for authorization under a NJPDES general permit. If a facility was approved by the USEPA as a member of a group application pursuant to 40 CFR 122.26(e)(2), or if a facility which was a participant of a group application was not approved or rejected by the USEPA pursuant to 40 CFR 122.26(e)(2) by April 1, 1993, the facility shall have either applied for an individual NJPDES permit, or have submitted a written request for authorization under an applicable NJPDES general permit, by October 1, 1993 (except as provided in (e)1i above).

vi. When an individual application for discharges of stormwater is submitted pursuant to (c) above for a facility that already has an individual DSW permit that does not authorize all of those discharges, then that application shall be submitted in the following manner:

(1) If that DSW permit has expired, or is due to expire within 180 days of the submission of that application, then that application shall be submitted as part of the application for renewal of that DSW permit (such submission may supplement a renewal application previously submitted to the Department).

(2) If that DSW permit has not expired and is not due to expire within 180 days of the submission of that application, then that application shall be submitted either as part of the application for renewal of that DSW permit, or in a request under N.J.A.C. 7:14A-16.4 to modify that DSW permit to authorize all of those discharges of stormwater.

vii. For facilities submitting an individual application for a new discharge of stormwater associated with industrial activity, application deadlines are contained in N.J.A.C. 7:14A-4.2(e)1.

2. Any entity whose group application to USEPA pursuant to 40 CFR 122.26(c)(2) and (e)(2) listed New Jersey facilities shall have provided the information in (e)2i and ii below to the Department by December 2, 1992. Any entity whose group application to USEPA included New Jersey facilities shall provide to the Department, within 30 days of the Department's request, a copy of the entire group application or any portion thereof specified by the Department.

i. An identification, by name and location, of all New Jersey facilities participating in the group application, including all facilities that the group or trade association approved as an addition to a group application pursuant to 40 CFR 122.26(e)(2)(v); and

ii. A narrative description summarizing the industrial activities of participants of the group application.

3. Any entity whose group application to USEPA pursuant to 40 C.F.R. 122.26(c)(2) and (e)(2) listed New Jersey facilities shall have provided the information in (e)3i through iii below to the Department within 30 days of the USEPA decision to approve or deny the members of the group application (see 40 C.F.R. 122.26(e)(2)(ii)) or by December 2, 1992, whichever was later. The entity shall also have provided to the Department the information in (e)3i and ii below for any facility that the group or trade association approved as an addition to a group application pursuant to 40 C.F.R. 122.26(e)(2)(v). The entity shall have provided this information within 30 days of the USEPA approval or denial of the addition or by December 2, 1992, whichever was later.

i. An identification, by name and location, of all facilities participating in the group application;

- ii. A copy of the USEPA decision to approve or deny the participating facilities as members of the group application; and
 - iii. A narrative description summarizing the industrial activities of participants of the group application.
4. For any discharge from a large or medium municipal separate storm sewer system, application deadlines are contained in 40 CFR 122.26(e)(3) and (4), which is incorporated into this chapter by reference.
5. A permit application or request for authorization shall be submitted to the Director within 60 days of notice, unless a later submission date is requested and approved by the Director, for:

- i. A stormwater discharge which the Director or the EPA Regional Administrator determines that the discharge contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States (see (a)1v above); and
- ii. A stormwater discharge subject to (c)1v above.

6. Facilities with existing NJPDES permits for stormwater discharges associated with industrial activity shall maintain existing permits. Facilities with permits for stormwater discharges associated with industrial activity which expire on or after May 18, 1992 shall submit a new application in accordance with the requirements of N.J.A.C. 7:14A-4 and (c) above 180 days before the expiration of such permits.

7. The Director shall issue or deny individual permits (or authorization under general permits) for discharges composed entirely of stormwater under this section in accordance with the following schedule:

- i. The Director shall issue or deny individual permits (or authorization under general permits) for stormwater discharges associated with industrial activity no later than April 1, 1994, or for new sources or existing sources which did not submit a complete NJPDES permit application or request for authorization by April 1, 1993, one year after receipt of a complete NJPDES permit application or request for authorization (unless the general permit specifies a shorter time period);
- ii. The Director shall issue or deny permits for large or medium municipal separate storm sewer systems by the deadlines contained in 40 CFR 122.26(e)(7)(ii) and (iii), which are incorporated into this chapter by reference.

(f) The following concerns petitions:

1. Any operating entity for a municipal separate storm sewer system may petition the Director to require a separate NJPDES permit for any discharge into the municipal separate storm sewer system.

2. Any person may petition the Director to require a NJPDES permit for a point source discharge which is composed entirely of stormwater which contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States.

3. The owner of or operating entity for a municipal separate storm sewer system may petition the Director to reduce the Census estimates of the population served by such separate system to account for stormwater discharged to combined sewers as defined by 40 CFR 35.2005(b)(11) that is treated in a publicly owned treatment works. In municipalities in which combined sewers are operated, the Census estimates of population may be reduced proportional to the fraction, based on estimated lengths, of the length of combined sewers over the sum of the length of combined sewers and municipal separate storm sewers where an applicant has submitted the NJPDES permit number associated with each discharge point and a map indicating areas served by combined sewers and the location of any combined sewer overflow discharge point.

4. Any person may petition the Director for the designation of a large or medium municipal separate storm sewer system as defined by paragraph 4 of the definitions of "large municipal separate storm sewer system" or "medium municipal separate storm sewer system" in N.J.A.C. 7:14A-1.2.

5. The Director shall make a final determination on any petition received under this section within 90 days after receiving the petition.

(g) The following concerns discharges composed entirely of stormwater under Section 402(p)(6) of the Federal Act. Any operating entity for a point source required to obtain a permit under (a)8 above shall submit an application for an individual permit, or a request for authorization under a general permit, in accordance with the following requirements.

1. The operating entity shall submit an application or request for authorization in accordance with the following deadlines:

- i. A discharger which the Director determines to contribute to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States shall submit an application or request for authorization to the Director within 180 days of receipt of notice, unless a later submission date is requested and approved by the Director; or

- ii. All other dischargers shall submit an application or request for authorization to the Director no later than August 7, 2001.

2. The operating entity shall submit an application or request for authorization in accordance with the following requirements, unless otherwise modified by the Director:

i. An individual application for non-municipal discharges shall meet the requirements contained in (c)1 above.

ii. Applications for municipal separate storm sewer discharges shall meet the requirements contained in (d) above.

iii. Requests for authorization under a general permit issued by the Director shall meet the requirements contained in N.J.A.C. 7:14A-6.13(d).

(h) When "quantitative data" for a pollutant are required in an individual NJPDES permit application for a stormwater discharge, the applicant shall collect samples in accordance with N.J.A.C. 7:14A-4.4(b) (also see (c)1i(6) above) and the following requirements:

1. All samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inch and at least 72 hours from the previously measurable (greater than 0.1 inch) storm event. Where feasible, the variance in the duration of the event and the total rainfall of the event should not exceed 50 percent from the average or median rainfall event in that area;

2. A flow-weighted composite shall be taken for either the entire discharge or for the first three hours of the discharge as follows:

i. The flow-weighted composite sample for a stormwater discharge may consist of:

(1) Continuous sampling;

(2) A combination of a minimum of three sample aliquots taken in each hour of discharge for the entire discharge; with each aliquot being separated by a minimum period of fifteen minutes; or

(3) A combination of a minimum of three sample aliquots taken for the first three hours of the discharge, with each aliquot being separated by a minimum period of 15 minutes;

ii. Applicants submitting permit applications for stormwater discharges under this section may collect flow-weighted composite samples using different protocols with respect to the time duration between the collection of sample aliquots, subject to the approval of the Department;

iii. A minimum of one grab sample may be taken for stormwater discharges from holding ponds or other impoundments with a retention period greater than 24 hours;

iv. For a flow-weighted composite sample, only one analysis of the composite of aliquots is required;

v. For stormwater discharge samples taken from discharges associated with industrial activities, quantitative data must be reported for the grab sample taken during the first thirty minutes (or as soon thereafter as practicable) of the discharge for all pollutants requiring analysis under (c) above; and

vi. For all stormwater permit applicants taking flow-weighted composites, quantitative data must be reported for all pollutants requiring analysis under (c) above except pH, temperature, cyanide, total phenols, chlorine produced oxidants, oil and grease, fecal coliform, and fecal streptococcus; and

3. The Department may allow or establish appropriate site-specific sampling procedures or requirements, including sampling locations, the season in which the sampling takes place, the minimum duration between the previous measurable storm event and the storm event sampled, the minimum or maximum level of precipitation required for an appropriate storm event, the form of precipitation sampled (snow melt or rain fall), protocols for collecting samples that may differ from protocols for collecting samples under 40 C.F.R. 136, and additional time for submitting data on a case-by-case basis.

(i) The operating entity for a large or medium municipal separate storm sewer system or a municipal separate storm sewer that has been designated by the Department or the Regional Administrator under (a)1v above shall submit an annual report by the anniversary of the date of the issuance of the permit for such system. The report shall include the information required under 40 C.F.R. 122.42(c), which is incorporated into this chapter by reference.

Administrative correction.

See: 29 N.J.R. 3822(a).

Administrative change.

See: 30 N.J.R. 340(a).

Amended by R.2002 d.34, effective January 22, 2002.

See: 33 N.J.R. 3636(a), 34 N.J.R. 595(a).

Deleted (j).

7:14A-11.6 Federal criteria and standards for DSW permits

(a) The following Federal criteria and standards apply to DSW permits:

1. The criteria and standards for the imposition of technology-based treatment requirements in DSW permits shall be as set forth in 40 C.F.R. 125, Subpart A;

2. The criteria for issuance of a permit to aquaculture projects shall be as set forth in 40 C.F.R. 125, Subpart B;

3. The criteria and standards for determining fundamentally different factors shall be as set forth in 40 C.F.R. 125, Subpart D;

4. The criteria and standards for determining alternative effluent limitations for the thermal component of a discharge shall be as set forth in 40 C.F.R. 125, Subpart H;

5. The criteria applicable to cooling water intake structures shall be as set forth in 40 C.F.R. 125, Subpart I, when the USEPA adopts these criteria;

6. The criteria and standards for best management practices for ancillary industrial activities shall be as set forth in 40 C.F.R. 125, Subpart K;

7. The criteria and standards for imposing conditions for the disposal of sewage sludge shall be as set forth in 40 C.F.R. 125, Subpart L; and

8. The criteria for ocean discharges shall be as set forth in 40 C.F.R. 125, Subpart M.

(b) Whenever the provisions elsewhere in this chapter are more stringent than the criteria and standards referenced in this section, the more stringent provisions elsewhere in this chapter shall apply.

Case Notes

State law's removal percent requirement in pollutant discharge elimination system permit not arbitrary or capricious if implementing federal clean water law. *Rahway Valley Sewerage Authority v. New Jersey Department of environmental Protection*, 96 N.J.A.R.2d (EPE) 49.

7:14A-11.7 Variances and modifications under the State and Federal acts

(a) Any discharger may request a variance from effluent limitations by filing a request by the close of the public comment period established pursuant to N.J.A.C. 7:14A-15.10 as follows:

1. A variance under N.J.A.C. 7:9B-1.8 or 1.9 for achieving water quality based effluent limitations. An applicant shall follow the procedures in N.J.A.C. 7:9B-1.8 or 1.9.

2. A variance under Section 316(a) of the Federal Act for the thermal component of any discharge. A copy of the request submitted to USEPA pursuant to 40 C.F.R. 125, Subpart H, shall be submitted simultaneously to the Department as required under 40 C.F.R. 125. Such request shall be determined in accordance with N.J.A.C. 7:14A-11.11.

(b) A discharger which is not a POTW may request a variance from otherwise applicable effluent limitations under any of the following statutory or regulatory provisions within the time period specified in this subsection:

1. A request for a variance based on the presence of fundamentally different factors from those on which the

effluent limitation guideline was based shall be submitted as follows:

i. For a request for a variance from best practicable control technology currently available (BPT), by the close of the public comment period established under N.J.A.C. 7:14A-15.10.

ii. For a request for a variance from best available technology economically achievable (BAT) and/or best conventional pollutant control technology (BCT), by no later than 180 days after the date on which an effluent limitation guideline is published in the Federal Register for a request based on an effluent limitation guideline promulgated on or after February 4, 1987.

iii. Any request for a variance made under this paragraph shall explain how the requirements of 40 C.F.R. 125, Subpart D have been met.

2. A request for a variance from the BAT requirements of Section 301(b)(2)(F) of the Federal Act for non-conventional pollutants (ammonia; chlorine; color; iron; total phenols (4AAP) and any other pollutant which the Administrator lists under Section 301(g)(4) of the Federal Act) pursuant to Section 301(c) of the Federal Act because of the economic capability of the owner or operating entity, or pursuant to Section 301(g) of the Federal Act shall be submitted as follows:

i. For those requests for a variance from an effluent limitation based upon an effluent limitation guideline a requester shall submit:

(1) An initial request to the Regional Administrator and to the Department, stating the name of discharger, the permit number, the outfall number(s), the applicable effluent guideline, and whether the discharger is requesting a Section 301(c) or Section 301(g) modification or both. This request shall be filed not later than 270 days after promulgation of an applicable effluent limitation guideline for guidelines promulgated after December 27, 1977; and

(2) A complete request no later than the close of the public comment period established under N.J.A.C. 7:14A-15.10, demonstrating that the requirements of N.J.A.C. 7:14A-15.13 and the applicable requirements of 40 C.F.R. 125 have been met. Notwithstanding this provision, the complete request under section 301(g) shall be filed 180 days before the Department is required to make a final decision (unless the Department establishes a shorter or longer period).

ii. For those requests for a variance from effluent limitations not based on effluent limitation guidelines, the request need only comply with (b)2i(2) above, and need not be preceded by an initial request under (b)2i(1) above.

3. A request for a modification, under Section 302(b)(2) of the Federal Act, of water quality related

effluent limitations developed by the USEPA under Section 302(a) of the Federal Act shall be submitted by the close of the public comment period established under N.J.A.C. 7:14A-15.10 on the permit for which the modification is being sought.

4. A request for a modification of effluent limitations which are more stringent than the BAT based limitations established in accordance with N.J.A.C. 7:14A-13.4 shall be submitted by the close of the public comment period established under N.J.A.C. 7:14A-15.10 on the permit for which the modification is being sought. For a modification requested under this paragraph, the relief and procedures in N.J.A.C. 7:9B-1.8 or 1.9 shall apply.

(c) Notwithstanding the time period requirements in (a) and (b) above, the Department may send notification before a draft permit is issued under N.J.A.C. 7:14A-15.6 that the draft permit will likely contain limitations which are eligible for variances. In the notice, the Department may require as a condition of consideration of any potential variance request submission a request explaining how the requirements of 40 C.F.R. 125 applicable to the variance have been met and may require submission of such a request within a specified reasonable time after receipt of the notice. The notice may be sent before the permit application has been submitted. The draft or final permit may contain the alternative limitations which may become effective upon granting of the variance.

(d) A discharger who cannot file a complete request required under (a)1, (b)2i(2), 2ii or 4 above may request a one time extension. The extension may be granted or denied at the discretion of the Department. If the extension request is denied, the Department shall state the reason(s) for the denial. An extension shall be limited to:

1. Twelve months for a variance requested under (a)1 or (b)4; or
2. Six months for a variance requested under (b)2i(2) or 2ii.

7:14A-11.8 Decisions on variances

(a) The Department may grant or deny a request for a variance for the thermal component of a discharge under Section 316(a) of the Federal Act.

(b) The Department may deny, forward to the Regional Administrator with a written concurrence, or submit to USEPA without recommendation a completed request for:

1. A variance based on the economic capability of the applicant under Section 301(c) of the Federal Act; and
2. A variance based on water quality related effluent limitations under Section 302(b)(2) of the Federal Act.

(c) The Department may deny or forward to the Regional Administrator with a written concurrence a completed request for:

1. A variance based on the presence of "fundamentally different factors" from those on which an effluent limitation guideline was based; and

2. A variance based on certain water quality factors under section 301(g) of the Federal Act.

(d) The Department shall reopen or revoke and reissue a permit, after final action by the USEPA, for a variance from water quality based effluent limitations under N.J.A.C. 7:9B-1.8 or 1.9.

(e) If the USEPA approves the variance, the Department shall prepare a draft permit incorporating the variance. Any public notice of a draft permit for which a variance or modification has been approved or denied shall identify the applicable procedures for appealing that determination under 40 C.F.R. 124.64, or under N.J.A.C. 7:14A-17.2 if the variance was denied or partially denied by the Department.

7:14A-11.9 Procedures for variances

(a) A request for a variance filed under N.J.A.C. 7:14A-11.7 shall be processed as follows:

1. If, at the time that a request for a variance is submitted, the Department has received an application for issuance or renewal of a permit but has not yet prepared a draft permit, the Department may:

- i. Prepare a draft permit for public notice incorporating the Department's decision on the variance request; or
- ii. If the variance determination will cause significant delay in issuing the permit, separate the variance request from the permit application and process the permit application.

2. If, at the time that a request for a variance is submitted the Department has published public notice of the draft permit but has not issued a final permit decision, the Department may:

- i. Stay administrative proceedings concerning the draft permit and prepare a new draft permit incorporating the Department's decision on the variance request; or
- ii. If the variance determination will cause significant delay in issuing the permit, separate the variance request from the draft permit and issue the final permit decision.

3. If the final permit decision has been issued and a variance request has been separated from a draft permit pursuant to (a)1 or 2 above, the Department may subsequently prepare a new draft permit for public notice incorporating the Department's decision on the variance request.

Administrative correction.
See: 29 N.J.R. 3822(a).

SUBCHAPTER 13. EFFLUENT LIMITATIONS FOR
DSW PERMITS

7:14A-13.1 Purpose and scope

This subchapter sets forth the procedures the Department will use in imposing numeric or non-numeric effluent limitations in DSW permits.

7:14A-13.2 Types of effluent limitations

(a) Each DSW permit shall include conditions meeting the following requirements, as applicable:

1. Technology based limitations determined in accordance with N.J.A.C. 7:14A-13.3 and 13.4. Technology based limitations include secondary treatment standards for DTWs, effluent limitations guidelines, and case-by-case limitations developed through a best professional judgment analysis. Applicability criteria are at N.J.A.C. 7:14A-13.3(b);

i. For DTWs, effluent limitations based on secondary treatment as defined at 40 CFR 133 and incorporated into N.J.A.C. 7:14A-12;

ii. For dischargers other than DTWs, effluent limits requiring:

(1) Effluent limitations based on the best practicable control technology currently available (BPT);



(2) For conventional pollutants, effluent limitations based on the best conventional pollutant control technology (BCT);

(3) For all toxic pollutants, effluent limitations based on the best available technology economically achievable (BAT);

(4) For pollutants which are neither toxic nor conventional pollutants, effluent limitations based on BAT.

2. Water quality based limitations determined in accordance with N.J.A.C. 7:14A-13.6 when the Department has determined that the discharge causes, has the reasonable potential to cause, or contributes to an excursion above the SWQS. Water quality based limitations include limitations based on a TMDL adopted in accordance with N.J.A.C. 7:15-7. Applicability criteria are at N.J.A.C. 7:14A-13.3(a);

3. Limitations based on a WQM Plan adopted in accordance with N.J.A.C. 7:15. Applicability criteria are at N.J.A.C. 7:14A-13.3(d);

4. Limitations based on State effluent standards in accordance with N.J.A.C. 7:14A-12 and N.J.A.C. 7:9-5.7. Applicability criteria are at N.J.A.C. 7:14A-13.3(c); and

5. Limitations based on existing effluent quality and determined in accordance with N.J.A.C. 7:14A-13.8 when the Department determines that such limitations are necessary. Applicability criteria are at N.J.A.C. 7:14A-13.3(e).

7:14A-13.3 Applicability of effluent limitations

(a) DSW permits shall include water quality based effluent limitations or requirements where the Department determines that effluent limitations, guidelines or standards established pursuant to (b) through (e) below are not sufficient to achieve surface water quality standards established pursuant to N.J.A.C. 7:9B, or to attain and maintain a specified water quality through water quality related effluent limitations established pursuant to Section 302 of the Federal Act. In addition:

1. Where the Department determines that a discharge may adversely impact a waterbody with a higher use classification or antidegradation designation downstream of the discharge location, water quality based effluent limitations shall be developed and included in the discharge permit to ensure that the water quality standards applicable to the higher classification or antidegradation designation of the downstream waterbody shall be attained and maintained; and

2. Where the Department determines that a discharge may cause, contribute, or have the reasonable potential to cause an excursion above the surface water quality standards of another state, water quality based effluent limitations shall be developed and included in the discharge permit to ensure that the water quality standards for the

affected waters of the other state shall be attained and maintained.

(b) DSW permits issued for direct discharges of industrial wastewater shall include technology based effluent limitations and standards promulgated under Section 301 of the Federal Act, new source performance standards promulgated under Section 306 of the Federal Act, or case-by-case effluent limitations determined under Section 402(a)(1) of the Federal Act or N.J.A.C. 7:14A-13.4, or a combination, in accordance with N.J.A.C. 7:14A-13.4.

1. Technology based treatment requirements under section 301(b) of the Federal Act represent the minimum level of control that shall be imposed in a permit. Where such technology based limitations are more stringent than other applicable limitations listed at N.J.A.C. 7:14A-13.2, the technology based limitations shall be included in the permit.

2. Technology based treatment requirements may be imposed through one of the following methods:

i. Application of USEPA promulgated effluent limitations developed under section 304 of the Federal Act to dischargers by category or subcategory. A permittee may seek fundamentally different factors variances from these effluent limitations under N.J.A.C. 7:14A-11.5(a)1.

ii. On a case-by-case basis under section 402(a)(1) of the Federal Act, to the extent that USEPA promulgated effluent limitations are inapplicable. The Department shall apply the appropriate factors listed in N.J.A.C. 7:14A-13.4 and shall consider:

(1) The appropriate technology for the category or class of point sources of which the applicant is a member, based on available information; and

(2) Any unique factors relating to the applicant.

iii. Through a combination of the methods in (b)2i and ii above. Where promulgated effluent limitations or guidelines apply only to certain aspects of the discharger's operation, or to certain pollutants, other aspects or activities are subject to regulation on a case-by-case basis in order to carry out the provisions of the Federal or State Act.

iv. Limitations developed under (b)2ii above may be expressed, where appropriate, in terms of toxicity (that is, LC₅₀ or IC₂₅), provided the fact sheet demonstrates that the limits reflect the appropriate requirements.

3. Technology based limitations for new sources may be imposed through one of the following methods:

i. Application of USEPA promulgated new source standards developed under section 304 of the Federal Act to dischargers by category or subcategory.

ii. On a case-by-case basis to the extent that USEPA promulgated effluent limitations are inapplicable or are

not available, the Department shall apply the appropriate factors listed in N.J.A.C. 7:14A-13.4 and shall consider:

(1) The appropriate technology for the category or class of point sources of which the applicant is a member, based on available information; and

(2) Any unique factors relating to the applicant.

(c) DSW permits shall include State effluent standards at N.J.A.C. 7:14A-12 and N.J.A.C. 7:9-5.7 as follows:

1. Secondary treatment standards at N.J.A.C. 7:14A-12.2 are the minimum treatment standard applicable to DTWs for BOD₅, total suspended solids, and pH;

2. State effluent standards at N.J.A.C. 7:14A-12.5 for disinfection, N.J.A.C. 7:14A-12.6 for foam, N.J.A.C. 7:14A-12.8 for oil and grease, and N.J.A.C. 7:9-5.7 for whole effluent toxicity and phosphorus are the minimum treatment standard;

3. State BOD₅ effluent standards at N.J.A.C. 7:14A-12.4 shall be incorporated into DSW permits for discharges into the named waterbodies where the Department has not adopted a TMDL for the waterbody;

4. The Department shall include effluent limitations for site remediation activities equal to the remediation effluent standards listed in N.J.A.C. 7:14A-12 Appendix B for any pollutant or pollutant parameter which either results from any remedial action or is present on-site at a concentration greater than the applicable Surface Water Quality Standards, unless it has been demonstrated to the Department's satisfaction that the pollutant, upon discharge, will not cause, have the reasonable potential to cause, or contribute to an excursion above any applicable Surface Water Quality Standards. The Department may include limitations for additional pollutants or pollutant parameters provided the statement of basis or the permit fact sheet includes a specific rationale for the requirement.

5. State effluent standards for the toxic effluent standards at N.J.A.C. 7:14A-12 Appendix C will be included in a discharge permit for a new source, a new discharge, or an expanded direct discharge in accordance with (c)5i through v below only if the permittee requests such limitations in accordance with N.J.A.C. 7:14A-4.4. A request shall specifically list each pollutant or pollutant parameter for which a limitation based on N.J.A.C. 7:14A-12 Appendix C is requested. The applicant shall not be required to submit a water quality study for any pollutant or pollutant parameter for which the Department determines that limitations based on N.J.A.C. 7:14A-12 Appendix C, when imposed on the discharge, are anticipated to ensure that the surface water quality standards, including antidegradation requirements, will be attained.

i. Limitations based on N.J.A.C. 7:14A-12 Appendix C shall not be used to relax a more stringent existing effluent limitation or standard, including limitations to be applied to the expansion of an existing discharge.

ii. Limitations based on N.J.A.C. 7:14A-12 Appendix C shall be used on a site-specific basis and consideration of the factors listed at (c)5ii(1) through (3) below only for discharges to waterbodies with the following classifications and antidegradation designations as defined in the Surface Water Quality Standards: FW2-NT (Category 2); FW2-TM (Category 2); SE1 (Category 2); SE2 (Category 2); SE3 (Category 2); or SC (Category 2). In no case shall N.J.A.C. 7:14A-12 Appendix C limitations be included in a discharge permit for a discharge to waters classified as FW1; FW2-TP; PL; any Category 1 water; any water with existing active shellfish harvesting activities, any intermittent stream, or immediately upstream or directly into any impoundment

(1) Limitations based on N.J.A.C. 7:14A-12 Appendix C shall be used for discharges to FW2-TM (Category 2) waters only when the Department determines that all Surface Water Quality Standards, including antidegradation requirements, will be attained;

(2) Limitations based on N.J.A.C. 7:14A-12 Appendix C shall be used for new sources or expanded direct discharges discharging to a waterbody only after consideration by the Department of the basis for any effluent limitations in place for existing discharges to the waterbody; and

(3) Limitations based on N.J.A.C. 7:14A-12 Appendix C shall be used for new sources or expanded direct discharges discharging to a waterbody only after consideration by the Department of the potential effects of the discharge on downstream high quality waters or rare or endangered species habitat, the effective dilution at the point of discharge, or any other appropriate site specific factors.

iii. Limitations based on N.J.A.C. 7:14A-12 Appendix C shall not be used where the Department determines that insufficient assimilative capacity is available in the receiving waterbody to allow the proposed discharge and to ensure that the Surface Water Quality Standards will be attained.

iv. When limitations based on N.J.A.C. 7:14A-12 Appendix C are requested by an applicant, the Department shall evaluate existing data to determine, if possible, whether the receiving waterbody is currently attaining the Surface Water Quality Standards. Where the waterbody is not currently attaining the SWQS, for the pollutants for which the N.J.A.C. 7:14A-12 Appendix C effluent limitations are requested, such, effluent limitations shall not be used.

v. Effluent limitations developed in accordance with N.J.A.C. 7:14A-13.4 or 13.6 which are more stringent than the limitations based on N.J.A.C. 7:14A-12 Appendix C shall be imposed when such limitations are developed. Limitations based on N.J.A.C. 7:14A-12 Appendix C which have been imposed on each discharge shall be evaluated as a part of the TMDL process for each pollutant or pollutant parameter.

(d) DSW permits shall include effluent limitations based on a WQM Plan adopted in accordance with N.J.A.C. 7:15 unless limitations based on (a), (b), (c)1, or (c)2 above are more stringent.

(e) DSW permits shall include effluent limitations based on existing effluent quality when the Department determines that an effluent limitation is appropriate for the pollutant or pollutant parameter of interest and a limitation has not been established in accordance with (a) through (d) above.

7:14A-13.4 Establishment of technology based limitations

(a) The discharge permit shall include technology based effluent limitations to control all toxic pollutants which the Department determines are or may be discharged at a level greater than the level which can be achieved by the technology-based requirements appropriate to the permittee under N.J.A.C. 7:14A-13.3(b)2.

(b) The Department may determine that surrogate limitations established in accordance with N.J.A.C. 7:14A-13.10 will provide controls for one or more of the pollutants identified under (a) above.

(c) In setting case-by-case technology based limitations, the following factors shall be considered:

1. For best practicable control technology (BPT) requirements:

- i. The total cost of application of technology in relation to the effluent reduction benefits to be achieved;
- ii. The age of the equipment and facilities involved;
- iii. The process employed;
- iv. The engineering aspects of the application of various types of control techniques;
- v. Process changes; and
- vi. Non-water quality environmental impacts, including energy requirements.

2. For best conventional pollutant control technology (BCT) requirements:

- i. The reasonableness of the relationship between the costs of attaining a reduction in the pollutant(s) and the benefits derived from the pollutant reduction;

- ii. Cost and level of treatment comparisons between DTWs and a class or category of industrial sources;
- iii. The age of the equipment and facilities involved;
- iv. The process employed;

v. The engineering aspects of the application of various types of control techniques;

vi. Process changes; and

vii. Non-water quality environmental impacts, including energy requirements.

3. For best available technology (BAT) requirements for toxic pollutants and non-conventional pollutants:

- i. The age of the equipment and facilities involved;
- ii. The process employed;
- iii. The engineering aspects of the application of various types of control techniques;
- iv. Process changes; and
- v. Non-water quality environmental impacts, including energy requirements.

(d) The Department shall set a permit limit for a conventional pollutant at a level more stringent than the best conventional pollutant control technology, or a limit for a nonconventional pollutant which shall not be subject to modification under Section 301(c) or (g) of the Federal Act, where either (d)1 or 2 below apply. The permit fact sheet required by N.J.A.C. 7:14A-15.8 shall set forth the basis for the limitation, including a finding that compliance with the limitation will result in the BAT level of control of the toxic or hazardous pollutant discharges identified, and a finding that it would be economically or technically infeasible to directly limit the toxic or hazardous pollutant(s).

1. Effluent limitations guidelines specify the pollutant as a surrogate for a toxic or hazardous pollutant; or

2. The limitation reflects the BAT level of control of the discharge of one or more toxic or hazardous pollutants which are present in a waste stream, and a specific BAT limitation upon the toxic or hazardous pollutant(s) is not feasible for economic or technical reasons. The permit shall identify which toxic or hazardous pollutants are intended to be controlled by the use of the limitation.

(e) The Department shall set a permit limit for a conventional pollutant at a level more stringent than best conventional pollutant control technology when:

1. Effluent limitations guidelines specify the pollutant as an indicator for a hazardous substance; or

2. The limitation reflects best available technology level of control of the discharge of one or more hazardous substances which are present in a waste stream, and a specific best available technology limitation upon the hazardous substance(s) is not feasible for economic or

technical reasons. The permit shall identify which hazardous substances are intended to be controlled by the use of the limitation. The statement of basis under N.J.A.C. 7:14A-15.7 or the permit fact sheet required by N.J.A.C. 7:14A-15.8 and 40 CFR Part 124.56 shall set forth the basis for the limitation, including a finding that compliance with the limitation will result in the best available technology level of control of the hazardous substances identified in the discharge, and a finding that it would be economically or technically infeasible to directly limit the hazardous substance(s).

(f) The Department shall not set a more stringent limit under (d) or (e) above if the method of treatment required to comply with the limit differs from that which would be required if the toxic pollutants or hazardous substances controlled by the limitation were limited directly.

(g) Toxic pollutants identified under (d) above shall be subject to the provisions of N.J.A.C. 7:14A-11.2 concerning establishing permit conditions.

(h) (Reserved)

(i) Technology based treatment requirements shall be applied prior to or at the point of discharge.

(j) Technology based treatment requirements cannot be satisfied through the use of non-treatment techniques such as flow augmentation and instream mechanical aerators. However, these techniques may be considered as an acceptable method of achieving ambient water quality standards on a case-by-case basis when:

1. The technology based treatment requirements applicable to the discharge are not sufficient to meet the ambient water quality standards;

2. The discharger waives any opportunity to request a variance under section 301(c), (g), or (h) of the Federal Act; and

3. The discharger demonstrates that such a technique is the preferred environmental and economic method to achieve the ambient water quality standards after consideration of alternatives such as advanced waste treatment, recycle and reuse, land disposal, changes in operating methods, and other available options.

(k) Except as provided below, technology based effluent limitations imposed in permits shall not be adjusted for pollutants in the intake water.

1. Upon request of the discharger, technology based effluent limitations or standards shall be adjusted to reflect credit for pollutants in the discharger's intake water if:

- i. The applicable effluent standards specifically provide that they may be applied on a net basis; or

- ii. The discharger demonstrates that the control system it proposes or uses to meet applicable technology based limitations and standards would, if properly installed and operated, meet the effluent limitations and standards in the absence of pollutants in the intake water;

2. The permit includes conditions requiring:

- i. The permittee to conduct additional monitoring (for example, for flow and concentration of pollutants) as necessary to determine continued eligibility for and compliance with any such adjustments; and

- ii. The permittee to notify the Department if eligibility for an adjustment under this section may no longer be applicable. In that case, the permit shall be modified accordingly under N.J.A.C. 7:14A-16.4(b)8;

3. Credit for generic pollutants such as biochemical oxygen demand (BOD) or total suspended solids (TSS) shall not be granted unless the permittee demonstrates that the constituents of the generic measure in the effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere;

4. Credit shall be granted only to the extent necessary to meet the applicable limitation or standard, up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine continued eligibility for credits and compliance with permit limits;

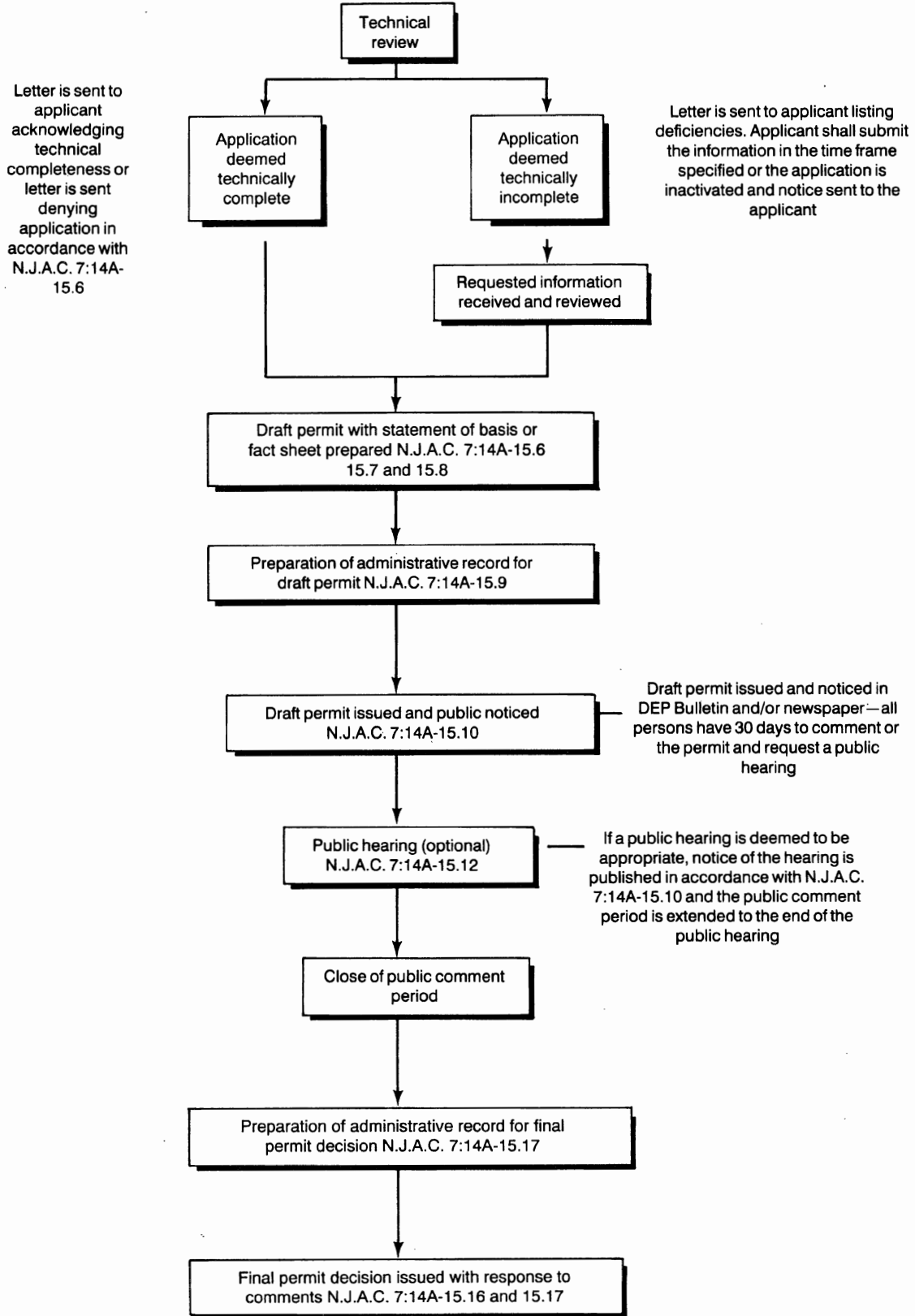
5. Credit shall be granted only if the discharger demonstrates that the intake water is drawn from the same body of water into which the discharge is made. For the purposes of this provision, same body of water means any hydrologically connected waterbody provided chemical characteristics are essentially identical. Chemical characteristics may be evaluated on a parameter by parameter basis; and

6. The discharge of raw water clarifier sludge generated from the treatment of intake water shall not be adjusted for pollutants in the intake water.

(l) The development of technology based effluent limitations shall incorporate alternative effluent limitations or standards where warranted by fundamentally different factors under N.J.A.C. 7:14A-11.7(b)1.

(m) Technology based effluent limitations shall be established under this section for solids, sludges, filter backwash, and other pollutants removed in the course of treatment or control of wastewaters in the same manner as for other pollutants.

Permit Decision Process



Administrative correction.
See: 29 N.J.R. 3822(a).
Amended N.J.A.C. references.
Administrative correction.
See: 30 N.J.R. 340(a).

**SUBCHAPTER 16. TRANSFER, MODIFICATION,
REVOCATION AND REISSUANCE,
RENEWAL, SUSPENSION, AND
REVOCATION OF EXISTING PERMITS**

7:14A-16.1 Purpose and scope

This subchapter sets forth the causes for and the procedures governing the transfer, modification, revocation and reissuance, renewal, suspension, and revocation of existing NJPDES permits. Specific procedures governing authorizations issued under general permits are set forth at N.J.A.C. 7:14A-6.13.

7:14A-16.2 Transfer of a permit

(a) A permittee shall not transfer a NJPDES permit to any person except after due notice to the Department in accordance with (b) or (d) below.

(b) To identify a new owner or operator, a permit may be transferred:

1. As a major modification or revocation and reissuance if one or more causes at N.J.A.C. 7:14A-16.4 are identified;
2. As a minor modification with changes identified at N.J.A.C. 7:14A-16.5; or
3. As an automatic transfer under (d) below.

(c) (Reserved)

(d) Any permit shall be automatically transferred to a new permittee if:

1. The current permittee provides written notice to the Department by certified mail or by other means which provides verification of the date of delivery to the Department of the proposed transfer at least 30 days prior to the proposed transfer date. This notice shall include the following:
 - i. The name of the current owner and the address of facility;
 - ii. The name and address of the new owner or owners and operator;
 - iii. The permit number;
 - iv. The names of the principal officer or officers responsible for the facility operation and maintenance under the new operator identified under (d)1ii above;

v. The names and current telephone numbers of persons upon whom legal process can be served;

vi. A notarized statement signed by the new principal officer identified in (d)1iv above stating that he or she has read the permit and certifies, pursuant to N.J.A.C. 7:14A-4.9, that he or she shall abide by all the conditions of the permit and that production levels, products generated, rates of discharge, and discharge characteristics shall remain unchanged; and

vii. A written agreement between the current permittee and new permittee which includes a specific date for transfer of permit responsibility between the current permittee and new permittee; and

2. The Department does not issue a response letter in accordance with N.J.A.C. 7:14A-16.3(c) to notify the current permittee and the new permittee, within 30 days of receipt of notice of the proposed transfer provided the permittee complies with the requirements in (d)1 above. The Department shall incorporate the name of the new permittee into the permit as a minor modification in accordance with N.J.A.C. 7:14A-16.5.

7:14A-16.3 Procedures for the modification, revocation and reissuance, renewal, suspension, or revocation of a permit

(a) An existing permit shall be modified, revoked and reissued, renewed, suspended, or revoked for cause as specified at N.J.A.C. 7:14A-16.4 through 16.6, as applicable, either at the request of the permittee, or a person, or upon the Department's initiative.

(b) Any request under (a) above shall be submitted in accordance with the following procedures:

1. The request shall be in writing;
2. The request shall contain facts and reasons supporting the request, including a specific reference to the applicable cause(s) under N.J.A.C. 7:14A-16.4 through 16.6;
3. A person submitting the request shall also identify the environmental, aesthetic, or recreational interest which is or may be affected by the permit action;
4. A permittee requesting a modification for a less stringent effluent limitation or standard shall comply with any outstanding fee, penalty or fine requirements contained in N.J.S.A. 58:10A-6(k); and
5. The Department shall request additional information that is necessary to process the request as follows:
 - i. For a permit modification, the submission of an updated permit application to support the request for modification in accordance with N.J.A.C. 7:14A-4.2.

ii. For a renewal or revocation and reissuance, submission of a new permit application in accordance with N.J.A.C. 7:14A-4.2 except for applicants for renewals

issued a notice of eligibility for expedited renewal in accordance with (h) below.

(c) In response to a request submitted under (a) above, or upon its own initiative, the Department shall take action as follows:

1. For a request for a major modification or revocation and reissuance for one or more of the causes listed in N.J.A.C. 7:14A-16.4, the Department shall either:

i. Issue a draft permit in accordance with N.J.A.C. 7:14A-15.6 which shall include a fact sheet in accordance with N.J.A.C. 7:14A-15.8; or

ii. Deny the request for a major modification or revocation and reissuance. The Department shall issue the requester a response letter stating the reason for the denial. This decision is a final agency action.

2. For a request for a permit renewal, the Department shall either:

i. Issue a draft permit in accordance with N.J.A.C. 7:14A-15.6 which shall include a fact sheet in accordance with N.J.A.C. 7:14A-15.8; or

ii. Deny the request for a permit renewal for one or more causes listed at N.J.A.C. 7:14A-16.6. The Department shall issue a notice of intent to deny, which is a type of draft permit in accordance with N.J.A.C. 7:14A-15.6 which includes only a statement of basis in accordance with N.J.A.C. 7:14A-15.7.

3. For a request for a permit suspension or revocation for one or more causes listed at N.J.A.C. 7:14A-16.6, the Department shall either:

i. Issue a draft permit under N.J.A.C. 7:14A-15.6, which includes only a statement of basis in accordance with N.J.A.C. 7:14A-15.7; or

ii. Deny the request for a suspension or revocation. The Department shall issue the requester a response letter stating the reasons for the denial. This decision is a final agency action.

4. For a request for a minor modification, the Department shall either:

i. Issue a minor modification in accordance with N.J.A.C. 7:14A-16.5; or

ii. Deny the request for a minor modification. The Department shall issue the requester a response letter stating the reasons for the denial. This decision is a final agency action.

(d) (Reserved)

(e) When the Department issues a draft permit for a major modification, only those conditions that are being modified shall be reopened for notice and comment. Where a permit is renewed or revoked and reissued, the entire permit shall be reopened for notice and comment.

(f) The permittee shall comply with all conditions of the existing permit while a request for modification, revocation and reissuance, renewal, suspension or revocation is being processed by the Department unless the conditions of the existing permit are stayed in accordance with N.J.A.C. 7:14A-17.6.

(g) (Reserved)

(h) Procedures for expedited permit renewal are as follows:

1. A permittee shall be eligible for an expedited permit renewal when the Department reviews the existing permit and determines that no change to the permit is needed other than changes which would constitute a minor modification under N.J.A.C. 7:14A-16.5. The Department may determine eligibility on its own initiative or a permittee may request that the Department consider issuing an expedited permit renewal by submitting a request for consideration for an expedited permit renewal at least 270 days prior to the permit expiration date. The Department shall notify permittees as to their eligibility for an expedited renewal 210 days before the permit expiration date.

2. A permittee notified of eligibility for an expedited permit renewal pursuant to (h)1 above shall, at least 180 days prior to the permit expiration date, either submit a written request for the expedited renewal or, if not interested in expedited permit renewal and the discharge will continue after the permit expiration date, submit a renewal application in accordance with N.J.A.C. 7:14A-4.

3. When issuing an expedited permit renewal:

i. In accordance with N.J.A.C. 7:14A-15.10(d), the Department shall provide a consolidated public notice in the DEP Bulletin and appropriate newspaper(s) for those facilities classified as major facilities, listing those permits it plans to renew. Such public notice shall include the opportunity for public comment and the procedure for requesting a public hearing in accordance with N.J.A.C. 7:14A-15.11; and

ii. Issue a final permit to each permittee after the close of the public comment period which shall include the same terms and conditions as the existing permit, with the exception of changes that constitute minor modifications pursuant to N.J.A.C. 7:14A-16.5 unless the Department determines, based on issues raised during the public comment period, to prepare a new draft permit pursuant to N.J.A.C. 7:14A-15.14(a).

(i) When taking any permit action pursuant to (c) above for two or more similar permits, the Department may consolidate the procedures listed in N.J.A.C. 7:14A-15.7, 15.8 and 15.10, such that one statement of basis or fact sheet, as appropriate, and one public notice for all of the permits are prepared for publication.

(j) When a proposed rule change affects multiple permits, the Department may modify the affected permits through a rule proposal.

1. The permit modification may be done through a rule proposal provided the Department:

- i. Identifies the affected permits in the rule proposal; and
- ii. Provides the affected permittees with a copy of the rule proposal as published in the New Jersey Register.

2. When a permit is modified through a rule proposal, the rule proposal shall serve as the draft permit for the purposes of N.J.A.C. 7:14A-15.6 and fact sheet for the purposes of N.J.A.C. 7:14A-15.8.

3. The affected permit(s) will be finalized simultaneously on adoption of the rule proposal and constitute a final permit decision.

Case Notes

Discharge permit imposed limitation on bioassay effluent. Public Interest Research Group of New Jersey v. Yates Industries, Inc., D.N.J.1991, 790 F.Supp. 511.

Discharge permit remains in effect as originally filed unless modified. 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.

Permit holder responsible for terms of discharge permit; violations. 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.

Sewage company was entitled to seek amendment of its discharge permit without request of a hearing. Bayshore Regional Sewerage Authority v. DEPE, 94 N.J.A.R.2d (EPE) 91.

Municipal utility's discharges of oil and grease in violation of permit were not excused. West New York Municipal Utilities Authority v. Division of Water Resources, 93 N.J.A.R.2d (EPE) 26.

7:14A-16.4 Causes for major modification or revocation and reissuance of a permit

(a) The Department shall issue a major modification or revoke and reissue a permit only for one or more of the causes set forth at (b) below.

(b) The following constitute cause for major modification or revocation and reissuance of a permit:

1. Any material and substantial alteration or addition to the permitted facility, activity, or discharge (including one or more changes in the permittee's residual use or disposal practices) which occurred after permit issuance and which justifies the application of permit conditions that are different or absent from those in the existing permit. A request for a permit modification under this paragraph shall include all information demonstrating that the alterations or additions occurred after permit issuance and therefore this information was not available at the time of permit issuance or renewal;

2. New information which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of different permit conditions at the time of issuance. A request for consideration under this paragraph shall include all information demonstrating that the information was not available at the time of permit issuance. Such information includes, but is not limited to, the following:

- i. Information showing a need for additional flow;
- ii. Effluent testing indicating that the cumulative effects on the environment are unacceptable or are in violation of applicable standards; or
- iii. Any toxic pollutant that a permittee begins or expects to begin to use or manufacture as an intermediate or final product or by-product which was not reported in the permit application under N.J.A.C. 7:14A-4.2. A permittee subject to this subparagraph shall amend its permit application to list those pollutants;

3. A change in the regulation or standard on which the issued permit was based by subsequent rule amendment or by judicial decision upon which no further appeals may be taken. The Department may provide for a schedule of compliance in accordance with N.J.A.C. 7:14A-6.4 in order for the permittee to meet such regulations or standards;

4. An act of God, strike, flood, or other events over which the permittee has little or no control and for which there is no reasonably available remedy which the Department has determined warrants the modification of a compliance schedule. However, in no case shall a compliance schedule be modified to extend beyond an applicable State or Federal statutory deadline;

5. A complete and timely request filed by the permittee for any of the variances listed in N.J.A.C. 7:14A-11.7;

6. Incorporation of an applicable toxic effluent standard or prohibition under Section 307(a) of the Federal Act (see N.J.A.C. 7:14A-13.2 through 13.4);

7. Inclusion or modification of an effluent limitation or parameter pursuant to a permit "reopener" condition as follows:

- i. For effluent limitations, including those limitations necessary to implement a TMDL or watershed management plan adopted in accordance with N.J.A.C. 7:15-7, pursuant to N.J.A.C. 7:14A-6.2(a)10;
- ii. For surrogate parameters, pursuant to N.J.A.C. 7:14A-13.7 or 13.10;
- iii. For making a determination of reasonable potential to cause or contribute to an exceedance of the Surface Water Quality Standards, pursuant to N.J.A.C. 7:14A-13.5;

- iv. For action levels associated with a specific effluent limitation that have been exceeded, pursuant to N.J.A.C. 7:14A-13.18;
 - v. For limitations based on narrative Surface Water Quality Standards, pursuant to N.J.A.C. 7:14A-13.7;
 - vi. For residual use or disposal, pursuant to N.J.A.C. 7:14A-20.5;
 - vii. (Reserved)
 - viii. For modification of effluent standards when Whole Effluent Toxicity data obtained by the Department shows toxicity at levels that exceed applicable effluent standards, as specified in N.J.A.C. 7:9-5.7(a); or
 - ix. For issuance of a facility wide permit, requiring pollution prevention at a facility, to incorporate a pollution prevention plan or to require more stringent effluent levels based on pollutant prevention strategies or technologies applicable to that facility or industry, in accordance with Section 48 of the Pollution Prevention Act, N.J.S.A. 13:1D-35, and its implementing regulations, specifically, N.J.A.C. 7:1K-7.1(c);
8. The filing of a complete request from a permittee who qualifies for effluent limitations on a net basis under N.J.A.C. 7:14A-13.4(k) or when a permittee is no longer eligible for net limitations as provided for in N.J.A.C. 7:14A-13.4(k) (see the information requirements contained in 40 CFR 122.45(g));
9. Establishment of a compliance schedule for development of a pretreatment program in accordance with N.J.A.C. 7:14A-6.4(c) and N.J.A.C. 7:14A-19;
10. Failure of the State to notify, as required by Section 402(b)(3) of the Federal Act, another state whose waters may be affected by a discharge from the State;
11. The level of discharge of any pollutant which is not limited in the permit exceeds the level which can be achieved by the technology based treatment requirements appropriate to the permittee under N.J.A.C. 7:14A-13.2 through 13.4;
12. Establishment of a "notification level" as provided in N.J.A.C. 7:14A-6.2(b)2;
13. Modification of a schedule of compliance to reflect the time lost during construction of an innovative or alternative facility, in the case of a POTW which has received a grant under Section 202(a)(3) of the Federal Act or public loan moneys for the costs to modify or replace facilities constructed with a grant for innovative and alternative wastewater technology under Section 202(a)(2) of the Federal Act. In no case shall a compliance schedule be modified to extend beyond an applicable State or Federal statutory deadline. For a permit modification under this paragraph a permittee shall submit all information detailing the reasons for time lost during

construction and why such loss of time was not the fault of the permittee;

14. Correction of technical mistakes, such as errors in calculation, or mistaken interpretations of law or rules, made in determining permit conditions. For a permit modification under this paragraph, when the request is initiated by a permittee, the permittee shall cite the location of the alleged error or interpretation, denote what the correction should be and provide a detailed basis for the correction including any applicable regulatory citations or calculations;

15. Inability to achieve effluent limitations when the discharger has installed the treatment technology considered by the Department in setting effluent limitations imposed under section 402(a)(1) of the Federal Act and has properly operated and maintained the facilities. The limitations in the modified permit shall reflect the level of pollutant control actually achieved but shall not be less stringent than required by a subsequently promulgated effluent limitations guideline;

16. Inclusion of a plan or compliance schedule for the management of septage or sludge in accordance with the Statewide Sludge Management Plan;

17. Existence of cause for revocation under N.J.A.C. 7:14A-16.6 where the Department determines that modification or revocation and reissuance is instead appropriate;

18. When the proposed automatic transfer of a permit includes one or more of the causes for a major modification under this section;

19. For changes in permit issuance and renewal schedules to better manage the Department's workload and optimize its resource and to facilitate issuing permits on a watershed basis; or

20. For substitution of ambient monitoring for compliance monitoring in order to gather data for issuing permits on a watershed basis.

Administrative correction.

See: 29 N.J.R. 3822(a).

In (b)5, substituted "A complete and timely request filed by the permittee for" for "The Department's approval of"; in (b)7viii, amended N.J.A.C. references; and rewrote (b)8.

7:14A-16.5 Minor modification of a permit

(a) The Department shall, with the consent of the permittee and without following the procedures set forth in N.J.A.C. 7:14A-15, modify a permit to make any of the following changes:

- 1. Correct typographical errors and make language changes that have no legal or substantial effect or correct technical or administrative errors which do not result in changes to the permit effluent limitations;

2. Require more frequent monitoring or reporting by the permittee;

3. Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date;

4. Reflect a change in the owner or operator of a facility where the Department determines that no permit change(s) necessary to accomplish the change in the owner or operator constitutes a major modification under N.J.A.C. 7:14A-16.4, provided that a written agreement containing a specific date for transfer of permit responsibility between the current and new permittees has been submitted to the Department;

5. Change the construction schedule for a discharger which is a new source. Such change shall not affect a discharger's obligation to have all pollution control equipment installed and in operation prior to discharge;

6. Delete a point source when the discharge from such point source is terminated and does not result in a change to the characteristics of the effluent from other point sources except in accordance with permit limits;

7. Incorporate the requirements of an industrial pretreatment program in accordance with the procedures in 40 CFR 403.11 as enforceable conditions of the permit; or

8. Substitute the parameter CBOD₅ for BOD₅ and revise the effluent limitations consistent with the secondary treatment provisions specified at N.J.A.C. 7:14A-12.2(c).

7:14A-16.6 Causes for suspension or revocation of a permit or denial of a permit renewal

(a) The following are causes for suspending or revoking a permit during its term, or for denying a permit renewal application:

1. Noncompliance by the permittee with any condition of the permit;

2. The permittee's failure in the application or during the permit issuance or treatment works approval process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;

3. A determination by the Department that the permitted activity endangers human health or the environment which can be corrected only by suspension or revocation;

4. A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or residual use or disposal practice regulated under the permit;

5. For an individual SIU permit with an actual or potential discharge to a nondelegated local agency, information that shows that a permittee has ceased to meet all criteria under which an individual SIU permit is required pursuant to N.J.A.C. 7:14A-19;

6. The nonconformance of the discharge with any applicable facility, basin or areawide plans;

7. Inconsistency of the permit with any duly promulgated effluent limitation, permit, regulation, statute, or other applicable State or Federal law; or

8. Failure to pay applicable permit fees.

SUBCHAPTER 17. PROCEDURES FOR DECISION MAKING—ADJUDICATORY HEARINGS AND STAYS OF PERMIT CONDITIONS

7:14A-17.1 Purpose and scope

(a) This subchapter sets forth the procedures for requesting an adjudicatory hearing and a stay of permit conditions and for the Department's evaluation and processing of such requests. The procedural stages for requesting an adjudicatory hearing and stay of permit conditions are outlined in Appendix A which is to be used for guidance purposes only and is of no legal effect.

(b) The Department's decision regarding any adjudicatory hearing request and/or request for a stay shall be considered final agency action.

Administrative correction.

See: 29 N.J.R. 3822(a).

In (b) deleted "as defined in N.J.A.C. 7:14A-1.2".

Case Notes

Denial of discharge permit for noncontaminated, noncontact cooling water was valid due to concerns that it posed a threat to drinking water supplies because it would increase the rate of flow of arsenic contaminated waters. Matter of Vineland Chemical Co. (Vichem), 243 N.J. Super. 285, 579 A.2d 343 (A.D.1990), certification denied 127 N.J. 323, 604 A.2d 598.

Denial of requested discharge permit was not precluded because denial would not, of itself, solve contamination problems. Matter of Vineland Chemical Co. (Vichem), 243 N.J. Super. 285, 579 A.2d 343 (A.D.1990), certification denied 127 N.J. 323, 604 A.2d 598.

Role of the court in reviewing denial of pollution discharge elimination system (NJPDES) permit was limited to determining whether the conclusions reached by the Department of Environmental Protection (DEP) were based on substantial credible evidence. Matter of Vineland Chemical Co. (Vichem), 243 N.J. Super. 285, 579 A.2d 343 (A.D. 1990), certification denied 127 N.J. 323, 604 A.2d 598.

7:14A-17.2 Request for an adjudicatory hearing

(a) A permittee or a person who seeks and qualifies to be considered a party to the action pursuant to N.J.A.C. 7:14A-17.3 may submit to the Department a written request, by certified mail, or by other means which provides verification of the date of delivery to the Department for an adjudicatory hearing to contest the Department's final decision to:

1. Issue a new permit, permit modification, permit revocation and reissuance, permit renewal, permit suspension, or permit revocation;

2. Deny an application for a new permit or a permit renewal; or

3. Deny a variance pursuant to N.J.A.C. 7:14A-11.8.

(b) In order to request an adjudicatory hearing, a permittee shall submit the request in accordance with the requirements in (e) below within 30 days following receipt of the Department's notification of a final permit decision under N.J.A.C. 7:14A-15.15(a). In addition, the permittee shall provide a copy of its request for an adjudicatory hearing to any other person named on the permit.



3. Storage surfaces shall be constructed of reinforced concrete, asphalt, or other suitable material capable of preventing discharges to groundwater.

(f) Septage handling/receiving facilities shall be designed to provide the following:

1. An unloading ramp for the haul trucks with a hard surface sloped to a drain to facilitate the cleaning of any spillage and washing the haul truck, connector hoses, and fittings. The ramp drainage shall be a tributary to treatment facilities and shall exclude excessive stormwater;

2. A flexible hose fitted with an easy connect coupling to provide a direct connection from the haul truck to the receiving facility;

3. Washdown water with adequate pressure, a hose, and a spray nozzle for cleaning the receiving station and the haul trucks. If a potable water source is utilized, it shall be protected with a suitable backflow prevention device;

4. An adequate off-line septage receiving tank which allows for the collection of representative samples from any truckload of waste accepted for discharge at the wastewater treatment plant. The receiving tank shall be designed to provide complete draining and cleaning by means of a sloped bottom equipped with a drain sump. The design shall also provide for adequate mixing, testing, uniform septage strength, and chemical addition for treatment or odor control purposes;

5. Screening, grit, and grease removal as appropriate to protect downstream treatment units;

6. Valving and piping designed with sufficient operational flexibility so as to control the flow rate and point of discharge of septage to the wastewater treatment plant;

7. Laboratory facilities for determining septage strength and/or toxicity to the wastewater treatment processes; and

8. Any pumps provided for the handling of septage shall be of the non-clogging design and shall be capable of passing three inch diameter solids.

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 (d)7, inserted "reduction" following "vector attraction" and substituted N.J.A.C. reference for CFR, Statewide Sludge Management Plan, and U.S.C.A. references.

7:14A-23.33 New treatment methods and technologies

(a) Designs for new treatment methods or for methods not included in these rules shall be accompanied by detailed supporting data from full scale tests performed under competent supervision. In evaluating the acceptability of applications for new treatment methods, or for technologies not included in these rules, the Department shall utilize the best available information including, but not limited to, texts,

reports and U.S. Environmental Protection Agency publications that contain research, test, and design information relevant to the applicant's proposal.

(b) The Department may disapprove new treatment methods if in its opinion such disapproval is in the interest of environmental protection.

7:14A-23.34 Closure requirements for wastewater treatment units

(a) This section applies to any and all wastewater and sludge facilities and equipment permanently removed from use or operation at NJPDES permitted facilities or at facilities for which a NJPDES permit has been revoked or an application for renewal denied, unless a judicial or administrative stay is in effect. The intent of this section is to protect public safety and health and to assure that no contamination of ground or surface water will occur as a result of removing such facilities and equipment from service either through the act of closure or through continuing the discharge of pollutants into or through equipment; or through leaking, leaching, or discharge of pollutants from wastewater or residuals remaining in facilities or equipment which has been removed from use but remains on site.

(b) The closure of a wastewater treatment facility or equipment means either the termination of the source of wastewater or sludge, or the permitted conveyance of wastewater or sludge to an alternate location (such as a regional facility) in such a manner that no further treatment storage or conveyance of wastewater or sludge is performed by the facility.

(c) Wastewater treatment works closures shall conform with the following procedures:

1. On or before 60 calendar days prior to taking the facility or certain operating equipment out of service a permittee shall:

i. Submit to the Wastewater Facilities Regulation Program the following information concerning closure activities:

(1) The date the facility will cease operation or the date that discharge to specific operating equipment will cease;

(2) The date the influent and effluent pipes will be sealed;

(3) Plans (signed and sealed by a New Jersey licensed professional engineer) for final disposition of the physical facilities, including all treatment units, outfall line, and all mechanical and electrical equipment and piping;

(4) Plans (signed and sealed by a New Jersey licensed professional engineer) for elimination of all equipment and/or conditions that could possibly pose

a safety hazard, either during or after shut-down of operations;

(5) Verification that there are no lines in the collection system which are cross connected (receiving both sanitary and storm water) or which do not contain adequate conveyance capacity as defined in N.J.A.C. 7:14A-1.9;

(6) The name of the licensed individual responsible for the maintenance and operation of the wastewater pumping station and/or wastewater collection or treatment systems that are still to be maintained; and

(7) Proof of a request to the Division of Enforcement Field Operations for a site inspection to verify cessation of the discharge. The Division of Enforcement Field Operations may be contacted by writing to:

Director
Division of Enforcement Field Operations
PO Box 029
Trenton, New Jersey 08625-0029
Attn: Water & Hazardous Waste Enforcement;
and

ii. Notify the Wastewater Facilities Regulation Program, in writing, concerning any deactivated lagoons or other actual or potential discharges to ground water which may exist at the site. The Wastewater Facilities Regulation Program may be contacted by writing to:

Assistant Director
Wastewater Facilities Regulation Program
PO Box 029
Trenton, New Jersey 08625-0029

2. Proper management and/or removal of all residual materials (collected grit and screenings, scums, sand bed material, and dried or liquid sludges), as well as filter media, and all other solids from the treatment process that may remain in the abandoned treatment works is required.

i. The permittee shall submit to the Wastewater Facilities Regulation Program proof of ownership of or contractual arrangement with an operation or operations permitted to manage all such waste materials. A contract with a hauler will only be accepted as proof of proper waste management if documentation of management at an approved site or sites is included. In addition, all necessary State or Federal permits/approvals must accompany the submission.

ii. Sludge quality assurance reports which are representative of the sludge removed following closure shall be submitted. Where quality information is not available, new samples shall be obtained and analyzed upon closure. All sludge samples and analyses shall be prepared in accordance with the Sludge Quality Assurance Regulations, N.J.A.C. 7:14C.

iii. All residual material shall be removed within 180 calendar days after the facility is taken out of service. Proof of proper residuals management shall be submitted to the Wastewater Facilities Regulation Program within 30 calendar days after their removal. The dates of removal and quantities removed shall be specified.

3. Upon completion of closure activities, a permittee must complete a "Certification of Closure" form (form can be obtained by contacting the Division of Enforcement Field Operations) which will provide certification that all waste materials have been properly managed, and that the remaining components of the facility have been properly secured regarding public health and safety. This form shall be completed after closure activities cease, signed in the presence of a Notary Public, and submitted to the Wastewater Facilities Regulation Program. Incomplete Certifications of Closure are unacceptable and will be returned to the permittee.

(d) Upon satisfaction of closure requirements specified in (c) above, the Division of Enforcement Field Operations shall be contacted, in writing, to schedule a final site inspection of any treatment works which had a NJPDES discharge permit to verify that influent and effluent pipes have been sealed and that all solid and residual materials related to the treatment process have been removed.

(e) Upon satisfactory completion of the items specified in (c) and (d) above, an "Application for Termination" (application may be obtained from the Division of Water Quality or the Division of Enforcement Field Operations) from the New Jersey Pollutant Discharge Elimination System shall be completed and submitted to the Wastewater Facilities Regulation Program, Bureau of Permit Management with a copy to the appropriate permitting bureau. The application form includes information concerning the facility, its NJPDES permit number, the nature of the discharge, and a certification to the effect that the closure has been performed in accordance with all submissions made to the Department. Applications received before completion of items (c)1 through 3 above, shall not be processed and shall be returned for resubmission upon satisfactory completion of all closure requirements by the permittee.

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), inserted "or at facilities . . . stay is in effect".

Amended by R.1999 d.164, effective May 17, 1999.

See: 31 N.J.R. 200(a), 31 N.J.R. 1320(a).

In (c)2ii, changed N.J.A.C. reference.