

CHAPTER 14A

**NEW JERSEY POLLUTANT DISCHARGE
ELIMINATION SYSTEM**

Authority

N.J.S.A. 13:1B-3 et seq., 13:1D-1 et seq., 13:1D-29 et seq., 13:1E-1 et seq., 26:2C-1 et seq., 26:3A2-21, 40:55D-1 et seq., 58:10-23.11 et seq., 58:10A-1 et seq., 58:11-23 et seq., 58:11-49 et seq., 58:11-64 et seq., 58:11A-1 et seq. and 58:12A-1 et seq.

Source and Effective Date

R.2009 d.7, effective December 2, 2008.
See: 40 N.J.R. 1478(a), 41 N.J.R. 142(a).

Chapter Expiration Date

Chapter 14A, New Jersey Pollutant Discharge System, expires on December 2, 2013.

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 re-adopted 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 re-adopted as R.1989 d.339, effective June 2, 1989. See 21 N.J.R. 707(a), 21 N.J.R. 1883(a). Petition for Rulemaking: Notice of Receipt of and Action on a Petition for Rulemaking. See: 23 N.J.R. 222(a), 23 N.J.R. 622(b). Public Notice: Opportunity for interested party review of rule amendments. See: 25 N.J.R. 411(a).

Appendix F, Values for Determination of NJPDES Permit Toxic Effluent Limitations, was repealed by R.1993 d.59, effective February 1, 1993.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

Subchapter 12, Requirements for a Treatment Works Approval, was repealed by R.1994 d.278, effective June 6, 1994.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

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

Pursuant to Executive Order No. 66(1978), Subchapter 22, Treatment Works Approvals, Sewer Bans, Sewer Ban Exemptions; and Subchapter 23, Technical Requirements for Treatment Works Approval Applications, of Chapter 14A were readopted as R.1997 d.107, effective February 5, 1997. See: 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). 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, Pre-treatment Program Requirements for Local Agencies; Subchapter 20, Standards for the Use or Disposal of Residual; and Subchapter 21, Requirements for Indirect Users, were adopted; and Appendix A, Average Ambient Water Temperature; Appendix B, Permit Application Testing Requirements; Appendix C, Criteria for Determining a Concentrated Animal Feeding Operation; Appendix D, Criteria for Determining a Concentrated Aquatic Animal Production Facility; Appendix E, Primary Industry Categories; Appendix G, Modified Equation for Determining "Area of Review"; and Appendix H, Schedule of Monitoring, were repealed.

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

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

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

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

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

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 14A, Pollutant Discharge Elimination System, was extended by gubernatorial directive from May 5, 2007 to December 5, 2007. See: 39 N.J.R. 2248(b).

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 14A, Pollutant Discharge Elimination System, was extended by gubernatorial directive from December 5, 2007 to June 5, 2008. See: 40 N.J.R. 150(a).

Chapter 14A, Pollutant Discharge Elimination System, was readopted as R.2009 d.7, effective December 2, 2008. As a part of R.2009 d.7, Chapter 14A was renamed New Jersey Pollutant Discharge Elimination System; Subchapter 5, Wastewater Discharge Requirements was repealed; and Subchapter 7, Requirements for Discharges to Ground Water (DGW), was renamed Requirements for Discharges to Groundwater (DGW), effective January 5, 2009. See: Source and Effective Date. See, also, section annotations.

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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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.
- “AM” means additional measure.
- “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.
- “DSAM” means Department sanctioned analytical method.
- “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.
- “EDI” means electronic data interchange.
- “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. 7:9C.
- “IC” means the inhibition concentration.
- “IPP” means industrial pretreatment program.
- “ISRA” means Industrial Site Recovery Act.

“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.

"Cesspool" means a covered pit with open-jointed lining into which untreated sewage is discharged, the liquid portion of which is disposed of by leaching into the surrounding soil, the solids or sludge being retained within the pit. A cesspool is an injection well.

"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

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.

"Waste Characterization Report" means the Department's form used primarily for the reporting of surface water sampling data for nonlimited parameters, such as periodic priority pollutant scans; groundwater monitoring well results; and residual monitoring information.

"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”.

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

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

Administrative corrections.

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

Administrative correction.

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

Administrative corrections and changes.

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

Administrative correction.

See: 38 N.J.R. 5153(a).

Amended by R.2007 d.304, effective October 1, 2007.

See: 38 N.J.R. 3393(a), 39 N.J.R. 4117(a).

Added definitions “Amalgam separator”, “Amalgam waste”, “Dental facility” and “ISO 11143”.

Amended by R.2009 d.7, effective January 5, 2009.

See: 40 N.J.R. 1478(a), 41 N.J.R. 142(a).

In the introductory paragraph, inserted “, unless the context clearly indicates otherwise”; added definitions “Common plan of development or sale”, “Construction cost”, “Department sanctioned analytical method”, “Exceptional quality”, “Monitoring Report Submittal Form”, “Non-significant categorical indirect user”, “Reclaimed water for beneficial reuse”, “Residual additives”, “Residual blending and distribution”, “Residuals Transfer Report”, “Reuse feasibility study” and “Waste Characterization Report”; and rewrote definitions “Disposal”, “Domestic treatment works”, “Individual subsurface sewage disposal system”, “Monitoring report form”, “Oil and grease”, “Petroleum hydrocarbons”, “Pretreatment program significant noncompliance”, “Property”, “Serious violation”, “Significant indirect user” or “SIU”, “Slug discharge”, “Solid waste”, “Stormwater discharge (or stormwater DSW)”, and “Surface disposal site”.

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).

On appeal, the court held that the Department of Environmental Protection did not err in requiring a developer to obtain a pollution discharge elimination system permit for its proposed housing development, despite the developer’s claim that the agency’s working definition of the term “property” was an unauthorized expansion of the definition found in the New Jersey Pollution Discharge Elimination System (NJPDES) regulations, and that the agency could not use the definition without amending its regulations, because: (1) having a common plan of development, as set forth in the working definition, was a form of control by the property owner for purposes of the regulatory definition of property; (2) at the time of the developer’s application, the property was in common ownership, and the septic systems were being planned as part of one housing development of 31 units; (3) under the proposed development plan, each separate set of buildings would have a separate property owners association to maintain the septic system and other common areas on that property, while a master association would be responsible for overall management of the entire development including the storm water management system; and (4) the Department could reasonably conclude that both before and after construction, the entire housing complex would be under unitary control thereby justifying its treatment as one property; additionally, to have accepted the developer’s argument would have permitted it to discharge 6,200 gallons of sewage per day without meeting the standards of the NJPDES permitting system, which would be contrary to the purpose of the Water Pollution Control Act and the NJPDES regulations to protect New Jersey waters from pollution. *SJC Builders v. State Dep’t of Env’tl. Protection*, 378 N.J. Super. 50, 874 A.2d 586, 2005 N.J. Super. LEXIS 171 (App.Div. 2005).

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

7:14A-13.5 Determination of the reasonable potential to cause an excursion above the SWQS as a basis for requiring inclusion of water quality based effluent limitations

(a) Water quality based effluent limitations shall control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants, including whole effluent toxicity) which are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above the Surface Water Quality Standards.

(b) When determining whether a discharge causes, has the reasonable potential to cause, or contributes to an instream excursion above any Surface Water Quality Standard the Department shall evaluate and consider existing controls on point and nonpoint sources of pollution, the variability of the pollutant or pollutant parameter in the effluent, the sensitivity of the test species to toxicity testing (when evaluating whole effluent toxicity), and, where appropriate, the available dilution of the effluent in the receiving water.

(c) The dilution of the effluent in the receiving water shall be determined in accordance with N.J.A.C. 7:9B-1.5(c)4.

(d) A separate determination of reasonable potential shall be made for each pollutant or pollutant parameter of interest (either conventional, nonconventional, or toxic pollutants, including acute and chronic whole effluent toxicity) that is or may be discharged from the facility. These determinations shall be based on a WLA or site specific allocation.

(e) The discharge shall be determined to cause an excursion above the Surface Water Quality Standards if the maximum reported effluent concentration, considering the criteria averaging period, for the pollutant of interest is greater than the WLA or the site specific allocation for that pollutant.

(f) The discharge shall be determined to contribute to an excursion above the Surface Water Quality Standards if the maximum reported effluent concentration, considering the criteria averaging period, for the pollutant of interest when considered collectively with other discharges to the receiving water is greater than the WLA determined for that pollutant.

(g) The discharge shall be determined to have the reasonable potential to cause an excursion above the Surface Water Quality Standards if the maximum projected effluent concentration is greater than the WLA or site specific allocation determined for that discharge for that pollutant or pollutant parameter. The maximum projected effluent concentration shall be calculated in accordance with the USEPA TSD, as amended and/or supplemented, unless the permittee demonstrates for a given pollutant of interest that

none of the methods in the TSD are applicable and that an alternative statistical method more accurately estimates the maximum projected effluent concentration.

(h) Where an effluent concentration is directly caused by a documented facility upset, or other unusual event which has been identified and appropriately remedied by the permittee, data collected during the period of upset may be eliminated when making a determination of reasonable potential. Data no longer representative of effluent quality because of process modification or pollution prevention activities undertaken shall not be used when making a determination of reasonable potential.

(i) (Reserved)

(j) (Reserved)

(k) When the Department determines that a discharge does not cause, have reasonable potential to cause, or contribute to an excursion above the water quality standards for a specific pollutant or pollutant parameter; or that data are insufficient to make such a determination:

1. Except as specified in (k)li through iii below, water quality based effluent limitations shall not be required for that pollutant or pollutant parameter.

i. Where the discharge is in compliance with an existing water quality based effluent limitation and the permittee provides treatment for the limited pollutant or pollutant parameter, the reissued permit shall include a water quality based effluent limitation for the affected pollutant or pollutant parameter unless the permittee demonstrates to the satisfaction of the Department that a water quality based limitation is no longer required and that the existing effluent quality is anticipated to be maintained.

ii. When the Department determines in accordance with (k)li above that a water quality based effluent limitation is not required for the reissued permit, the fact sheet for the reissued permit shall include a summary of effluent data for the pollutant or pollutant parameter, a justification for eliminating the effluent limitation, and a determination that eliminating the effluent limitation is not anticipated to cause or contribute to an exceedance of the surface water quality standards.

iii. When the Department determines in accordance with (k)li above that a water quality based effluent limitation is not required for the reissued permit, the discharge permit shall be reopened and modified to include water quality based effluent limitations if the effluent quality changes so as to cause, contribute, or have the reasonable potential to cause or contribute to an excursion above the Surface Water Quality Standards.

iv. The Department shall consider the following factors when making a determination regarding reasonable potential for discharges with existing water quality based effluent limitations:

(1) The permit compliance history for the facility, including the compliance history for the specific pollutant or pollutant parameter and any permit conditions related to the pollutant or pollutant parameter;

(2) The reliability of the treatment process; and

(3) The ratio between the permitted or actual effluent flow and the base flow of the receiving water;

2. Effluent limitations other than water quality based limitations may be required for the pollutant or pollutant parameter in accordance with N.J.A.C. 7:14A-13.3; and

3. The Department may determine that monitoring for specific pollutant or pollutant parameters shall be included in the permit.

(l) When the Department is unable to determine for one or more pollutants or pollutant parameters of interest whether the discharge from a particular facility will cause, have the reasonable potential to cause, or contribute to an excursion above a Surface Water Quality Standard, the permit for that facility shall include effluent monitoring requirements for each pollutant or pollutant parameter where such a determination cannot be made. The discharge permit shall be reopened and modified to include water quality based effluent limitations if subsequent monitoring demonstrates that the discharge causes, contributes, or has the reasonable potential to cause or contribute to an excursion above the Surface Water Quality Standards.

(m) For a facility that discharges any pollutant which is present in the process intake water, the Department may, on a site specific basis, determine that the discharge does not cause, have reasonable potential to cause, or contribute to an excursion above the water quality standards in accordance with the following:

1. (Reserved)

2. (Reserved)

3. The discharge shall meet the following conditions:

i. The source for all of the intake water shall be the receiving water body. Hydrologically connected waterbodies may be determined to be the same waterbody if the water is completely mixed within a reasonable distance of the outfall location and if the chemical characteristics of the waterbodies are essentially identical. Chemical characteristics may be evaluated on a parameter by parameter basis. For discharges where the intake water is attributed to more than one source, this condition may be applied to the proportion of the intake water attributable to the receiving water or hydrologically connected waterbody;

ii. The discharge shall not contribute any additional mass of the pollutant of interest to the process intake water. This determination shall be based on a statistically rigorous analysis of intake water and outfall data that is representative of various operating conditions and influences over time and demonstrates that there is no significant difference at the 99th percent probability level between the intake concentrations and loadings and the outfall concentrations and loadings. For a DTW, this condition shall be deemed to be met if there is no significant difference at the 99th percent probability level between the intake concentrations and loadings of the public drinking water supply in the area served and the effluent concentrations and loadings. Where the source water is attributed to more than one water supply source, this condition may be applied to the proportion of the source water attributable to the receiving water or hydrologically connected waterbody;

iii. The discharger shall not chemically or physically alter the intake water to cause an adverse impact to the receiving stream for any pollutant of interest in the process intake water;

iv. The pollutant shall not accumulate at the outfall location or at the edge of the mixing zone in such a way as to increase the concentration of the pollutant. The Department may require submission of an acceptable mixing zone study to satisfy this requirement; and

v. The timing and/or location of the discharge shall not cause adverse impacts in the receiving waterbody that would not have occurred if the pollutant had remained in the waterbody.

4. The permit shall include the necessary monitoring conditions to ensure continuing compliance with the conditions listed in (m)3 above.

5. The discharge permit shall be reopened and modified to include water quality based effluent limitations if subsequent monitoring demonstrates that the discharge causes, contributes, or has the reasonable potential to cause or contribute to an excursion above the surface water quality standards at N.J.A.C. 7:9B.

6. The permit fact sheet shall include a description of the treatment process and specific reasons for making the determination that the discharge does not cause, have reasonable potential to cause or contribute to an excursion above the water quality standard for the pollutants or pollutant parameters subject to this subsection.

7. For any pollutant or pollutant parameter where the conditions listed in (m)3 above cannot be met, reasonable potential shall be determined in accordance with (d) through (k) above.

8. For site remediation projects, reasonable potential shall be determined in accordance with this subsection only for pollutants not subject to remediation.

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

7:14A-13.6 Calculation of water quality based limitations

(a) When the Department determines pursuant to N.J.A.C. 7:14A-13.5 that a discharge causes, has the reasonable potential to cause, or contributes to an excursion above a Surface Water Quality Standard, a water quality based effluent limitation for each pollutant or pollutant parameter including WET, shall be determined in accordance with the USEPA TSD, as amended and/or supplemented, unless the permittee demonstrates that none of the methods in the TSD are applicable and that an alternative method will result in a water quality based effluent limitation that ensures compliance with the Surface Water Quality Standards.

(b) Water quality based effluent limitations for CPOs may be adjusted to address chlorine demand when the Department determines that such an adjustment is appropriate after review of additional information submitted in accordance with N.J.A.C. 7:14A-4.3(e). The adjustment for chlorine demand shall be applied only within the approved regulatory mixing zone as defined in the Surface Water Quality Standards at N.J.A.C. 7:9B.

Amended by R.2009 d.7, effective January 5, 2009.
See: 40 N.J.R. 1478(a), 41 N.J.R. 142(a).
Added (b).

7:14A-13.7 Determination of water quality based effluent limitations based on narrative criteria

(a) Where the Department has not established a numerical water quality criterion for a specific chemical pollutant but has determined that such a pollutant is present in an effluent at a concentration that causes, has the reasonable potential to cause, or contributes to an excursion or potential excursion above a narrative criterion in the Surface Water Quality Standards, the Department shall:

1. Establish effluent limitations using a calculated numeric criterion utilizing the best available scientific information and developed in accordance with N.J.A.C. 7:9B-1.6(c)4iii; or

2. Establish effluent limitations on a surrogate parameter (for example, whole effluent toxicity) for the pollutant of interest, in accordance with N.J.A.C. 7:14A-13.10, provided:

i. The permit identifies which pollutants are intended to be controlled by the use of the effluent limitation;

ii. The fact sheet sets forth the basis for the limit, including a finding that compliance with the effluent limit on the surrogate parameter will result in controls on the pollutant of concern which are sufficient to attain

and maintain applicable Surface Water Quality Standards;

iii. The permit requires the effluent and ambient monitoring necessary to show that during the term of the permit the limit on the surrogate parameter continues to attain and maintain applicable Surface Water Quality Standards; and

iv. The permit shall be reopened and limitations on the base parameters included therein if the limits on the surrogate parameter no longer attain and maintain applicable Surface Water Quality Standards.

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

7:14A-13.8 Calculation of effluent limitations using existing effluent quality

(a) Effluent limitations based on existing effluent quality shall be calculated according to the following procedure:

1. The maximum projected effluent concentration shall be calculated in accordance with the statistical method contained in the USEPA TSD, as amended and/or supplemented, unless the permittee demonstrates that the method in the TSD is not applicable and that an alternative statistical method more accurately estimates the maximum projected effluent concentrations.

i. The following conditions apply:

(1) If at least 10 data points are available, a site specific coefficient of variation shall be determined.

(2) If fewer than 10 data points are available, the permit shall require monitoring and include a reopener clause to include existing effluent quality limitations based on 10 or more data points.

(3) The 95 percent confidence interval and the 95 percent probability basis shall be used.

ii. Effluent data generated during a documented facility upset, or other unusual event which has been identified and appropriately remedied by the permittee, may be eliminated when determining effluent limitations based on existing effluent quality;

2. The maximum daily limitation shall be set equal to the maximum projected effluent concentration; and

3. The average monthly limitation shall be calculated from the maximum daily limitation according to the procedure described in N.J.A.C. 7:14A-13.6, using the sampling frequency required in the discharge permit. If the required sampling frequency is once per month or less, an average monthly limitation may be eliminated for that pollutant or pollutant parameter.

(b) Where an interim effluent limitation is required in accordance with N.J.A.C. 7:14A-13.11 for the time period prior to the effective date of a final effluent limitation, limitations

reflecting existing effluent quality shall be calculated in accordance with (a) above.

Case Notes

Initial Decision (2008 N.J. AGEN LEXIS 74) adopted, which concluded that permit requirement that sewage treatment facility continue certain toxics monitoring was authorized by law and reasonable. *Sussex County Mun. Utilities Auth./Upper Wallkill v. N.J. Dep't of Env't. Prot.*, OAL Dkt. No. EWR 11017-03, 2008 N.J. AGEN LEXIS 683, Final Decision (April 28, 2008).

7:14A-13.9 Seasonal effluent limitations

(a) Seasonal water quality based effluent limitations for continuous discharges may be developed in accordance with the following:

1. The permittee shall submit the necessary water quality studies that address any effects or potential effects on nutrient cycling and potential or actual adverse biological impacts in other waterbody segments related to nutrients.

2. The seasonal limitations shall be developed from a seasonal TMDL or a seasonal site specific allocation for the specific pollutant(s) or pollutant parameter(s) which addresses critical conditions applicable to each season for which an effluent limitation is requested.

3. Seasonal water quality based effluent limitations shall be developed only for the following parameters and groups of parameters and only insofar as the warm weather limitations cannot be achieved due to decreases in biological treatment efficiency during cold weather:

- i. Parameters affecting dissolved oxygen dynamics in the receiving stream;
- ii. Nutrients, including phosphorus and nitrogen; and
- iii. Ammonia-N, to protect against toxic effects in the receiving water.

4. Except as specified at (a)5 below, seasonal water quality based effluent limitations shall be developed for two seasons in each year.

5. Seasonal WLAs or site specific allocations may be developed for shorter periods of time including more than two seasons, when the United States Geological Survey provides a reliable estimate of applicable stream design flows from a gauging station located in the vicinity of the discharge location.

7:14A-13.10 Surrogate effluent limitations

(a) Surrogate limitations may be included in a discharge permit in accordance with the following:

1. The permittee shall submit a written request to the Department which includes the specific parameter(s) to be

used as a surrogate and specifically lists the base parameter(s) for which the surrogate parameter is requested;

2. The request shall include a detailed report demonstrating that the requested surrogate parameter is a reliable, precise and accurate surrogate. This report shall include, at a minimum, effluent data demonstrating the relationship, including the value(s) of the surrogate parameter(s) corresponding to the limitation(s) for the base parameter(s), between the proposed surrogate(s) and the parameters for which the surrogate is requested;

3. Where the Department approves the use of a surrogate, the fact sheet for the draft permit shall set forth the basis for the limit, including a finding that compliance with the effluent limit for the surrogate parameter shall result in controls on the pollutant of interest which are sufficient to attain the applicable effluent limitations. The permit shall identify which pollutants are intended to be controlled by the use of the surrogate limitation;

4. If the permit includes a limitation for the surrogate parameter(s) with a basis separate from the use of the parameter as a surrogate, the surrogate limitation(s) may be included in addition to any limitation for the surrogate parameter based on technology, water quality concerns, or effluent standards;

5. Where an effluent limitation is being imposed on a delegated local agency in accordance with N.J.S.A. 58:10A-7b(3) for categorical or other pollutants, the permittee may request the use of surrogate parameters in accordance with the following additional requirements:

i. Where a delegated local agency has requested that whole effluent toxicity be considered as the surrogate parameter for a limitation calculated for a toxic pollutant, the Department may presume that, subsequent to the effective date of the whole effluent toxicity limitation, compliance with the water quality based whole effluent toxicity limitation satisfies the report submittal requirements specified in (a)2 above;

ii. Upon its determination that the requested surrogate parameter is an appropriate and reliable surrogate, the Department shall include in the discharge permit effluent limitations for both the surrogate parameter(s) and the base parameter(s). Compliance with the base parameter(s) shall be determined based on compliance with the surrogate parameter; and

iii. The permit shall require that, if the surrogate parameter is exceeded, the effluent limitations covered by the surrogate shall become effective upon notification by the Department, unless the permittee demonstrates that the base parameters were not exceeded at the time that the surrogate parameter was exceeded. The permit may also include procedures for re-establishment of the use of a surrogate parameter;

6. The permit shall require the monitoring necessary to demonstrate that during the term of the permit the limit on the surrogate parameter continues to attain and maintain applicable effluent limitations. The permit shall require monitoring of the surrogate parameter and may also require monitoring of the base parameter(s) covered by the surrogate parameter;

7. The permit shall be reopened and modified to include limitations on the base parameter(s) if the Department determines that the surrogate parameter(s) no longer

ensure attainment of the applicable effluent limitations for the base parameter(s); and

8. The Department, upon its own initiative, may include a limitation for a surrogate parameter irrespective of a request by the affected permittee provided the fact sheet sets forth the basis for the limit, including a finding that compliance with the effluent limit on the surrogate parameter will result in controls on the pollutant of concern that are sufficient to attain the applicable effluent limitations and the permit conditions in (a)5 and 6 above are satisfied.