

(b) The intent of these rules is to:

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

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

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

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

Case Notes

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

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

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

7:14A-2.2 Liberal construction and severability

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

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

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

7:14A-2.3 Incorporation by reference

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

(b) The Delaware River Basin Commission Water Quality Regulations, including all amendments and supplements thereto, and the Interstate 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 water and groundwater, including discharges through storm sewers, as set forth in N.J.A.C. 7:14A-24 and 25;
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 under N.J.A.C. 7:14A-24.2, who shall apply within 180 days unless the Department approves a later date. 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).

Amended by R.2004 d.47, effective February 2, 2004.
See: 35 N.J.R. 169(a), 35 N.J.R. 1331(a), 36 N.J.R. 813(a).
Rewrote (b)11 and (c).

7:14A-2.5 Exemptions

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

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

i. Rubbish, trash, garbage, or other such materials discharged overboard; or

ii. Other discharges when the vessel is operating in a capacity other than as a means of transportation such as when used as an energy or mining facility, a storage facility or a seafood processing facility, a residence, or when secured to a storage facility or a seafood processing facility, or when secured to the bed of the ocean, contiguous zone, or waters of the United States for the purpose of mineral or oil exploration or development;

2. Discharges of dredged or fill material into waters of the United States which are regulated under Section 404 of the Federal Act;

3. Any discharge in compliance with the instructions of an On-Scene Coordinator pursuant to 40 CFR 300 (The National Oil and Hazardous Substances Pollution Plan) or 33 CFR 153.10(e) (Pollution by Oil and Hazardous Substances), and the State Spill Compensation and Control Act, N.J.S.A. 58:10-23.11;

4. Any introduction of pollutants from nonpoint source agricultural and silvicultural activities, including runoff from orchards, cultivated crops, pastures, range lands, and forest lands. This paragraph does not exempt the point source discharges from concentrated animal feeding operations as defined at N.J.A.C. 7:14A-1.2, from concentrated aquatic animal production facilities as defined at N.J.A.C. 7:14A-1.2, from silvicultural point sources as defined at N.J.A.C. 7:14A-1.2, or to aquaculture projects as defined at N.J.A.C. 7:14A-1.2;

5. Return flows from irrigated agriculture;

6. Indirect users which do not meet the SIU definition in N.J.A.C. 7:14A-1.2;

7. Indirect users which meet the SIU definition in N.J.A.C. 7:14A-1.2 and discharge to a delegated local agency. IPP permits issued by delegated local agencies to indirect users under this chapter are NJPDES permits. An exemption under this section does not limit the authority of a delegated local agency to require a IPP permit; and

8. Discharges into a privately owned treatment works, except as the Department may otherwise require on a case-by-case basis. In such a case, the Department shall specify in the statement of basis or fact sheet prepared in accordance with N.J.A.C. 7:14A-15.7 and 15.8 the reason for requiring the user to apply for a permit. Such dischargers shall comply with N.J.A.C. 7:14A-4.

(b) (Reserved)

(c) An exemption afforded under (a) above shall not:

1. Limit the administrative, civil, or criminal liability of any discharger; or

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

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

Administrative correction.

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

In (a)8, amended N.J.A.C. references.

7:14A-2.6 Conflict of interest

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

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

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

7:14A-2.7 Permit duration and renewal

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

1. A shorter permit duration will facilitate issuance of a discharge permit in accordance with a watershed management plan;

2. The permittee requests a shorter permit duration; or

3. The discharge is anticipated to cease in less than five years.

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

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

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

Administrative correction.

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

In (c), added references to renewal of NJPDES permits.

7:14A-2.8 Administrative continuation of permits

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

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

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

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

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

1. Initiate enforcement action;

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

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

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

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

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

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

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

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

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

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

3. A statement setting a timeframe within which the permittee must file the application or, if applicable, the request for authorization. The Department may grant additional time for filing, upon request by the permittee. If a permittee fails to submit in a timely manner an application form or request for authorization form required by the Department under this subsection, then such permittee is subject to the provisions of (d) above.

Administrative correction.

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

In (c)3, substituted "notice of intent to deny" for "notice to deny".

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 groundwater permit:

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

2. Return flows from irrigated agriculture;

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

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

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

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

ii. Stormwater discharges from residential areas (including residential streets, parking lots, easements, and open space), or from commercial areas (other than areas of high pollutant loading), unless N.J.A.C. 7:14A-25.2(a) or (b) requires the operating entity to apply for a NJPDES permit for the discharge. For purposes of this subparagraph and N.J.A.C. 7:14A-8.5(b)9 and 24.2(c)3, high pollutant loading areas are commercial areas where solvents and/or petroleum products are loaded/unloaded, stored, or applied; commercial areas where pesticides are loaded and/or unloaded or stored; commercial areas where hazardous materials are expected to be present in greater than "reportable quantities" as defined by the USEPA at 40 C.F.R. 302.4; commercial areas where recharge would be inconsistent with a Department approved remedial

action work plan or landfill closure plan; and commercial areas where the risk for spills of toxic material is high, such as gas stations and vehicle maintenance facilities; and

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

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

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

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

1. Discharges to ground water from underground injection activities that are eligible for a permit-by-rule under N.J.A.C. 7:14A-8.5;
2. Discharges to ground water from activities associated with the flushing or cleaning of potable water mains and fire water systems, including hydrants and sprinklers;
3. Discharges to ground water from activities associated with the development of potable water wells;
4. Discharges to ground water from activities associated with the 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;

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

iv. Discharges to ground water not to exceed 90 calendar days from any other facility or equipment associated with monitoring, engineering, remedial alternatives activities, or design studies necessary to evaluate a contaminated site; and

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

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

1. The discharge is likely to contravene the ground water quality standards at N.J.A.C. 7:9-6;
2. The discharge may result in violation of the Surface Water Quality Standards at N.J.A.C. 7:9B.

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

(a) Each discharge to ground water permit, except those identified in N.J.A.C. 7:14A-7.3(c), (d) and (e), and those permitted by rule pursuant to N.J.A.C. 7:14A-7.5, shall include an approved Ground Water Protection Program to ensure that the discharge does not contravene the ground water quality standards at N.J.A.C. 7:9-6 and meets the monitoring requirements of this section and N.J.A.C. 7:14A-7.7.

(b) Unless an alternate program is approved in advance as indicated in (f) below, each Ground Water Protection Program shall include the following components:

1. A monitoring well system, consisting of monitoring wells located in each aquifer that may be impacted by the discharge. Unless the permittee demonstrates otherwise to the satisfaction of the Department, the monitoring well system shall consist of a minimum of one hydraulically upgradient well, and at least three hydraulically downgradient wells. The permittee shall demonstrate the adequacy of the monitoring well system by:

i. Submission of results of a physical or mathematical ground water flow and/or contaminant transport model demonstrating that the monitoring well system is capable of intercepting contaminant plumes emanating from each pollutant source;

ii. Submission of results of geophysical methods of analysis such as resistivity/conductivity methods that confirm wells are placed such that they are capable of intercepting contaminant plumes emanating from each pollution source; or

iii. Submission of results of an alternative method of adequacy testing, approved by the Department in writing;

2. Effluent quality monitoring;

3. A schedule of mechanical and structural testing to determine that the berms, dikes, liners, and wells, and any other engineered devices used as part of a treatment works will function as designed;

4. A list of ground water contaminants for which to monitor, analyze, and report, including the contaminants identified during the pollutant characterization performed in accordance with N.J.A.C. 7:14A-7.9(d)2; and

5. A schedule, including procedures and techniques for:

- i. Sample collection;
- ii. Sample preservation and shipment;
- iii. Analytical procedures; and
- iv. Chain of custody control.

(c) In addition to the requirements of (b) above, a Ground Water Protection Program shall contain additional treatment works, materials management, best management plans, discharge sampling, flow limitations, effluent limitations, monitoring wells, lysimeters, piezometers, alarms, hydraulic control devices and inspections as required to prevent contravention of the ground water quality standards in N.J.A.C. 7:9-6.

(d) In each Ground Water Protection Program, the Department shall require one or more of the following monitoring programs:

1. A leak detection monitoring program, capable of detecting all discharges from any pollution source not designed to discharge pollutants but from which a discharge could occur as a result of a leak or other structural failure. The leak detection monitoring program shall include:

i. A monitoring well system that includes the components described at (b)1 above or leak detection devices such as piezometers, alarms, electrical leak detection or leak location systems, or leachate collection systems; and

ii. A statistical analysis of the monitoring well data collected in accordance with N.J.A.C. 7:14A-7.7, in order to determine whether or not there is statistically significant evidence of a leak from the pollutant source when monitoring is conducted pursuant to (b)1 above.

2. An attenuation monitoring program if any pollution source is known or expected to discharge pollutants. The attenuation monitoring program shall include:

- i. The components described at (b) above; and

ii. A statistical analysis of the monitoring well data collected in accordance with N.J.A.C. 7:14A-7.7, in order to determine whether or not there is statistically significant evidence of a contravention of the ground water quality standards in N.J.A.C. 7:9-6.

3. A non-point source monitoring program if there are an indeterminate number of pollution sources, or more than one discharge source. The non-point source monitoring program shall consist of:

i. The components described at (b) above; and

ii. A monitoring approach capable of evaluating whether ground water quality standards are contravened at the property boundary, or at another point of compliance as identified in the permit.

(e) When comparing data from monitoring wells, the data collected shall be subjected to the appropriate statistical analyses as described in N.J.A.C. 7:14A-7.7.

(f) If approved by the Department in writing, a permittee may implement an alternate Ground Water Protection Program that ensures compliance with the ground water quality standards of N.J.A.C. 7:9-6 and that meets the monitoring requirements of this section and N.J.A.C. 7:14A-7.7.

7:14A-7.7 Ground water sampling procedures and statistical analysis requirements

(a) The person responsible for conducting the Ground Water Protection Program established pursuant to N.J.A.C. 7:14A-7.6 shall conduct ground water sampling in accordance with the edition of the Department's Field Sampling Procedures Manual applicable at the time of sampling, an alternate method approved by the Department, or as set forth in the NJPDES-DGW permit.

(b) When statistical data evaluations are specified by the Department to implement the Ground Water Protection Program, the statistical test chosen shall be conducted separately for each specified constituent in each well, and one of the following statistical methods shall be used to evaluate ground-water monitoring data for each specified constituent:

1. A parametric analysis of variance (ANOVA) followed by multiple comparison procedures to identify statistically significant evidence of contamination. The method shall include estimation and testing of the contrasts between each compliance well's mean and the background water quality mean levels for each constituent;

2. An analysis of variance (ANOVA) based on ranks followed by multiple comparison procedures to identify statistically significant evidence of contamination. The method shall include estimation and testing of the contrasts between each compliance well's median and the background water quality median levels for each constituent;

3. A tolerance or prediction interval procedure in which an interval for each constituent is established from the distribution of the background water quality data, and the level of each constituent in each compliance well is compared to the upper tolerance or prediction limit;

4. A control chart approach that gives control limits for each constituent; or

5. Another statistical test method that meets the performance standards of (c) below, and has been approved by the Department in writing.

(c) Any statistical method chosen under this section shall comply with the following performance standards, as appropriate:

1. The statistical method used to evaluate ground-water monitoring data shall be appropriate for the distribution of parameters. If the distribution of the parameters is shown by the permittee to be inappropriate for a normal theory test, then the data must be transformed or a distribution free theory test used. If the distributions for the constituents differ, more than one statistical method may be needed.

2. If an individual well comparison procedure is used to compare an individual compliance well constituent concentration with background water quality constituent concentrations or a ground-water protection standard, the test shall be done at a type I error level no less than 0.01 for each testing period. If a multiple comparisons procedure is used, the type I experiment wise error rate for each testing period shall be no less than 0.05; however, the type I error of no less than 0.01 for individual well comparison shall be maintained. The performance standard does not apply to tolerance intervals, prediction intervals or control charts.

3. If a control chart approach is used to evaluate ground-water monitoring data, the specific type of control chart and its associated parameter values shall be protective of human health and the environment. The parameters shall be determined after considering the number of samples in the background water quality data base, the data distribution, and the range of the concentration values for each constituent of concern.

4. If a tolerance interval or a prediction interval is used to evaluate ground-water monitoring data, the levels of confidence and, for tolerance intervals, the percentage of the population that the interval shall contain shall be protective of human health and the environment. These parameters shall be determined after considering the number of samples in the background water quality data base, the data distribution, and the range of the concentration values for each constituent of concern.

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 a 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, except pursuant to such permit-by-rule or UIC permit.

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

7:14A-8.4 Prohibition of movement of fluid into underground sources of drinking water

(a) No UIC permit or approval under a permit-by-rule shall be issued or provided 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;
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; or
3. Where a Class V well is:
 - i. A large-capacity cesspool (design flow greater than 2,000 gallons per day). All large-capacity cesspools authorized by this subchapter shall be closed by April 5, 2005. Large-capacity cesspools shall be closed in accordance with N.J.A.C. 7:14A-8.16(d)2. The owner or operator shall notify the Department of intent to close at least 30 days prior to closure; or
 - ii. Except as provided at (a)3iii(1) below, a motor vehicle waste disposal well. A motor vehicle waste disposal well is an injection well that receives or has received fluids from motor vehicle repair or maintenance activities, such as an auto body repair shop, automotive repair shop, car dealership, specialty repair shop (for example, transmission and/or muffler repair shop), or any facility that does any motor vehicle repair work.

(1) Motor vehicle waste disposal wells constructed prior to April 5, 2000 shall be authorized under a permit in accordance with N.J.A.C. 7:14A-8.8, closed in accordance with N.J.A.C. 7:14A-8.16(d)2, or converted to another type of Class V well in accordance with N.J.A.C. 7:14A-8.16(g).

(2) Motor vehicle waste disposal wells that continue to operate in accordance with a permit shall meet Ground Water Quality Standards, N.J.A.C. 7:9-6, at the last accessible sampling point prior to waste fluids being released into the subsurface environment. The owner or operator shall notify the Department of intent to close at least 30 days prior to closure.

(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 Groundwater 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 a UIC permit pursuant to N.J.A.C. 7:14A-8.8; 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.

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

In (a), rewrote introductory paragraph and added new 3; rewrote (c)1.

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 10 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;

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;

8. Underground injection of stormwater discharges from municipal separate storm sewers that are not identified under N.J.A.C. 7:14A-25.2(a) or (b);

9. Underground injection of stormwater discharges from residential areas (including residential streets, parking lots, easements, and open space), or from commercial areas other than areas of high pollutant loading as described under N.J.A.C. 7:14A-7.4(b)5ii, unless N.J.A.C. 7:14A-25.2(a) or (b) requires the operating entity to apply for a NJPDES permit for the discharge; and

10. Underground injection of stormwater discharges from animal feeding operations that do not require a NJPDES permit under N.J.A.C. 7:14A-2.13.

(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 a UIC permit pursuant to N.J.A.C. 7:14A-8.8, 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 a UIC permit pursuant to N.J.A.C. 7:14A-8.8. The notice shall include a brief statement of the reasons for the decision, instructions on how to apply for the UIC permit, a statement setting a time by which the owner or operator must apply for the permit, and a statement that upon the effective date of the UIC permit authorization 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 a UIC permit pursuant to N.J.A.C. 7:14A-8.8. The owner or operator shall provide 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 a UIC permit authorization 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 other information in a timely manner pursuant to this section;
3. Upon failure to comply with the provisions of an enforcement action; and

4. 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
PO Box 029
Trenton, New Jersey 08625-0029

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

In (b), in introductory paragraph substituted "10" for "7"; added (b)8 through (b)10; in (d) added N.J.A.C. reference; rewrote (e) through (g); in (h), deleted old 3 and recodified existing 4 and 5 as 3 and 4.

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) The owner or operator shall apply for a UIC permit in accordance with N.J.A.C. 7:14A-4. An application for a well-drilling permit, if applicable, shall be submitted concurrently in accordance with N.J.S.A. 58:4A-4.1.

(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.

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

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 when applying for the permit. 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-16.5(a). 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 permit authorization. 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.

Amended by R.2004 d.47, effective February 2, 2004.
See: 35 N.J.R. 169(a), 35 N.J.R. 1331(a), 36 N.J.R. 813(a).
Rewrote (a)1 and (a)5.

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 permit authorization 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.

Amended by R.2004 d.47, effective February 2, 2004.
 See: 35 N.J.R. 169(a), 35 N.J.R. 1331(a), 36 N.J.R. 813(a).
 In (b)3, substituted "permit authorization" for "the application".

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 Depart-

ment 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

7:14A-10.2 Applicability

(a) The requirements in this subchapter apply to:

1. Hazardous waste facilities as defined by N.J.A.C. 7:26G-8 through 7:26G-9.

(b) All hazardous waste facilities shall obtain a NJPDES-DGW permit to conduct ground water monitoring as specified in this subchapter.

7:14A-10.3 Exemptions

(a) The owner or operator of a hazardous waste facility unit or units is not subject to regulation for releases into the uppermost aquifer under this subchapter if:

1. The owner or operator is exempt pursuant to the rules governing hazardous waste facilities in N.J.A.C. 7:26G-8 through 9.

7:14A-10.4 General ground water monitoring well requirements

(a) In addition to monitoring requirements specified elsewhere in this subchapter, all of the following requirements apply to the installation, maintenance, sampling and closure of monitoring wells.

1. Ground water monitoring wells shall be constructed in accordance with the edition of the Department's "Field Sampling Procedures Manual" applicable at the time of well construction, an alternate method approved by the Department, or as set forth in the NJPDES-DGW permit.

2. A well permit, as required by N.J.S.A. 58:4A-1 et seq., shall be obtained prior to the installation of any ground water monitoring well. A clear and accurate record or base map providing the monitoring well location, depth, elevation and achievable pumping rate shall be kept at the facility by the owner or operator and made available to the Department.

3. Ground water sampling and analysis shall be conducted in accordance with the edition of the Department's "Field Sampling Procedures Manual" applicable at the time of sampling, an alternate method approved by the Department, or as set forth in the NJPDES-DGW permit.

4. Wells shall be capped to prevent precipitation from entering the well bore hole or introduction of extraneous material and substances into the well which might invalidate analytical results. All monitoring wells shall be cased in a manner that maintains the integrity of the monitoring well bore hole. Wells shall be screened and packed with gravel or sand where necessary to enable sample collection at depths where appropriate. The annular space (that is, the space between the bore hole and well casing) above the sampling depth shall be sealed with a suitable material (for example, cement grout or bentonite slurry) to prevent contamination of samples and ground water.

5. The elevation of the top of the well casing for each ground water monitoring well shall be established and said elevation shall be permanently marked on the well casing. The elevation established shall be in relation to the New Jersey Geodetic Control Survey datum. Each monitoring well casing shall be permanently marked with a number to be assigned or approved by the Department. This will typically be the well permit number issued with the permit to construct the well.

7:14A-10.5 Ground water monitoring program requirements for hazardous waste facilities

(a) Any owner or operator subject to this subchapter shall conduct a monitoring program as follows:

1. Whenever any hazardous constituent pursuant N.J.A.C. 7:14A-10.7 from a hazardous waste facility unit is detected at a compliance point established pursuant to N.J.A.C. 7:14A-10.9, the owner or operator shall institute a compliance monitoring program under N.J.A.C. 7:14A-10.13. "Detected" is defined as statistically significant evidence of contamination as described in N.J.A.C. 7:14A-10.12(f);

2. Whenever the ground water protection standard under N.J.A.C. 7:14A-10.6 is exceeded, the owner or operator shall institute a corrective action program under N.J.A.C. 7:14A-10.14. "Exceeded" is defined as statistically significant evidence of increased contamination as described in N.J.A.C. 7:14A-10.13(d);

i. Whenever hazardous constituents under N.J.A.C. 7:14A-10.7 from a hazardous waste facility unit exceed concentration limits under N.J.A.C. 7:14A-10.8 in ground water between the relevant point of compliance under N.J.A.C. 7:14A-10.9 and the downgradient hazardous waste facility property boundary, the owner or operator shall institute a corrective action program under N.J.A.C. 7:14A-10.14; or

ii. In all other cases, the owner or operator shall institute a detection monitoring program under N.J.A.C. 7:14A-10.11.

(b) The Department shall specify in the NJPDES-DGW permit the specific elements of the monitoring and response program. The Department may include one or more of the programs identified in (a) above in the NJPDES-DGW permit as may be necessary to protect human health and the environment and shall specify the circumstances under which each of the programs will be required. In deciding whether to require the owner or operator to institute a particular program, the Department shall consider the potential adverse effects on human health and the environment that might occur before final administrative action on a permit modification application to incorporate such a program could be taken.

7:14A-10.6 Ground water protection standard

The owner or operator shall comply with conditions specified in the NJPDES-DGW permit that are designed to ensure that hazardous constituents under N.J.A.C. 7:14A-10.7 detected in the ground water from a hazardous waste facility unit do not exceed the concentration limits under N.J.A.C. 7:9-6 or 7:14A-10.8 in the uppermost aquifer underlying the hazardous waste facility area beyond the relevant point of compliance under N.J.A.C. 7:14A-10.9 during the compliance period under N.J.A.C. 7:14A-10.10. The Department shall establish this ground water protection standard in the NJPDES-DGW permit when hazardous constituents have been detected in the ground water.

7:14A-10.7 Hazardous constituents

(a) The Department shall specify in the NJPDES-DGW permit the hazardous constituents to which the ground water protection standard of N.J.A.C. 7:14A-10.6 applies. Hazardous constituents are constituents identified in 40 CFR Part 261 Appendix VIII that have been detected in ground water in the uppermost aquifer underlying a hazardous waste facility unit and that are reasonably expected to be in or derived from waste contained in a hazardous waste facility unit, unless the Department has excluded them under (b) below.

(b) The Department shall exclude a 40 CFR Part 261 Appendix VIII constituent from the list of hazardous constituents specified in the NJPDES-DGW permit if it finds that the constituent is not capable of posing a substantial present or potential hazard to human health or the environment based on the following:

1. Potential adverse effects on ground water quality, considering:

i. The physical and chemical characteristics of the waste in the hazardous waste facility unit, including its potential for migration;

ii. The hydrogeological characteristics of the facility and surrounding land;

iii. The quantity of ground water and the direction of ground water flow;

iv. The proximity and withdrawal rates of ground water users;

v. The current and future uses of ground water in the area;

vi. The existing quality of ground water, including other sources of contamination and their cumulative impact on the ground water quality;

vii. The potential for health risks caused by human exposure to waste constituents;

viii. The potential damage to wild life, crops, vegetation, and physical structures caused by exposure to waste constituents; and

ix. The persistence and permanence of the potential adverse effects;

2. Potential adverse effects on hydraulically connected surface water quality, considering:

i. The volume and physical and chemical characteristics of the waste in the hazardous waste facility unit;

ii. The hydrogeological characteristics of the facility and surrounding land;

iii. The quantity and quality of ground water, and the direction of ground water flow;

iv. The patterns of rainfall in the region;

v. The proximity of the hazardous waste facility unit to surface waters;

vi. The current and future uses of surface waters in the area and any water quality standards established for those surface waters;

vii. The existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality;

viii. The potential for health risks caused by human exposure to waste constituents;

ix. The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

x. The persistence and permanence of the potential adverse effects.

(c) In making any determination under (b) above, the Department shall assess any identified underground sources of drinking water.

7:14A-10.8 Concentration limits

(a) The Department shall specify in the NJPDES-DGW permit concentration limits in the ground water for hazardous constituents established under N.J.A.C. 7:14A-10.7. The concentration of a hazardous constituent:

1. Shall not exceed the background level of that constituent in the ground water at the time that limit is specified in the permit;

2. For any of the constituents listed in (a)2i below, shall not exceed the ground water quality criteria of N.J.A.C. 7:9-6, or the 40 CFR 264.93 Table 1 concentration, whichever is more stringent, if the background level of the constituent is below the more stringent of the relevant concentration limits for those parameters; or

i. The following constituents shall be evaluated in accordance with (a)2 above: arsenic, silver, barium, endrin, cadmium, lindane, chromium, methoxychlor, lead, toxaphene, mercury, 2, 4-D, selenium, 2, 4, 5-TP Silvex; or

3. Building, installing, operating or modifying any residuals treatment units, including, but not limited to, facilities for composting, heat drying, thickening, digestion, air drying, thermal reduction, dewatering and storage of sludge;

4. Building, installing, operating or modifying any domestic or industrial treatment works that discharges directly to the surface water or ground water of the State, with the exception of individual subsurface disposal systems exempted pursuant to N.J.A.C. 7:14A-22.4(a)3; or

5. Building, installing, operating or modifying any industrial treatment works located in any area of the State where the Department is the control authority (non-delegated area) for an industrial pre-treatment program pursuant to 40 CFR 403 and N.J.A.C. 7:14A-19.

(b) Industrial treatment works approval applications submitted pursuant to (a)4 and 5 above will generally be processed within 30 days of receipt of a complete application in accordance with N.J.A.C. 7:14A-22.6.

(c) Projects for which flow is the determining factor for the requirement of a treatment works approval pursuant to this section, the projected flow criteria specified in N.J.A.C. 7:14A-23.3 shall be used.

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).

Case Notes

Absence of allegation of continuing or continued threat of racketeering activity did not bar claim under state statute. *Maxim Sewerage Corp. v. Monmouth Ridings*, 273 N.J.Super. 84, 640 A.2d 1216 (L.1993).

Amendments were sufficient to state claims for common-law fraud and state RICO violations. *Maxim Sewerage Corp. v. Monmouth Ridings*, 273 N.J.Super. 84, 640 A.2d 1216 (L.1993).

Amendment failed to state federal RICO claim; "enterprise" requirement. *Maxim Sewerage Corp. v. Monmouth Ridings*, 273 N.J.Super. 84, 640 A.2d 1216 (L.1993).

7:14A-22.4 Activities for which a treatment works approval is not required

(a) A treatment works approval from the Department is not required for the following activities:

1. Building, installing, modifying or operating any sewer lateral (whether forced or by gravity), which will convey less than 8,000 gallons per day of projected flow;

2. Building, installing, modifying or operating any wastewater pumping equipment which utilizes a lateral force main connection, whether publicly or privately owned, to serve a facility whose projected flow is less than 8,000 gallons per day;

3. Building, installing, operating or modifying a septic system or other subsurface disposal system where the aggregate projected flow of the facility, using the criteria

established in N.J.A.C. 7:9A, is less than or equal to 2,000 gallons per day of sanitary sewage. Treatment works for such facilities are regulated pursuant to N.J.A.C. 7:9A Standards for Individual Subsurface Sewage Disposal Systems;

4. For existing facilities, and regardless of current flow, aggregate increases in the projected flow of less than 8,000 gallons per day over a five year period resulting from internal plumbing modifications, building additions, renovations or changes in use of a facility, providing that the project does not involve construction of a sewer extension or other treatment works which requires a permit pursuant to N.J.A.C. 7:14A-22.3.

i. In sewer ban areas, this exception shall not be construed to exempt the need for a sewer ban exemption prior to construction, if required pursuant to this subchapter;

ii. This exception does not apply to projects served by individual subsurface disposal systems or small treatment plants (less than 150,000 gpd) that discharge to groundwater;

5. Rehabilitation or the replacement of existing sewer lines providing that the diameter and location of the sewer line will remain unchanged and providing that the slope is either unchanged or changed only as necessary to bring an existing below-slope sewer into conformance with minimum (or greater) Department design standards.

6. The replacement of worn, damaged, defective or inoperable wastewater pumps, sewage treatment units or components of residuals treatment and storage units providing that the capacity and location of the pumps or treatment units to be replaced will not change and the replacement treatment unit or wastewater pump station will be utilized to perform the same function as the former unit;

i. Existing pumping stations whose capacity is increased through a change in impeller size only, with no other modifications, do not require a treatment works approval.

7. Minor modifications of treatment works including, but not limited to, chemical addition for the purpose of improving performance and/or odor control (provided no treatment unit construction is to be undertaken), and modifications to treatment units for repair, maintenance or monitoring providing that the treatment process is not altered;

8. Residuals spreading and injection equipment to be utilized to disperse residuals at NJPDES permitted and exempted operations for land application of residuals;

9. The following mobile (not stationary) residuals storage installations:

i. Frac tanks except when fixed into position;

- ii. Tanker trailers; and
- iii. Roll-off containers;

10. Mobile street sweepers and payloaders utilized to collect and move residuals at NJPDES permitted and exempted residual operations;

11. Provisions for emergency storage of residuals provided said storage is less than 180 days in duration and in accordance with Part 4-VIII of the Statewide Sludge Management Plan;

12. Building, installing, operating or modifying handling equipment or storage units for marketable residual products; or

13. Building, installing, operating or modifying a treatment works for a groundwater recovery and reinjection system which is performed under the authority of the Procedures for Department Oversight of the Remediation of Contaminated Sites, N.J.A.C. 7:26C.

(b) In addition to (a) above, a treatment works approval or general industrial treatment works approval will not be required for the following facilities:

1. Building, installing, operating or modifying any industrial treatment works discharging into a publicly owned treatment works and located in an area of the State for which the Department is not the control authority (delegated area) for the industrial pre-treatment program pursuant to 40 CFR 403 and N.J.A.C. 7:14A-19;

i. Projects involving the construction of a sewer extension require a treatment works approval for the conveyance aspects only and are subject to the conditions of N.J.A.C. 7:14A-22.8;

ii. Projects involving additional flow through an existing sewer line of 8,000 gpd or more require a treatment works approval for the conveyance aspects only and may be considered under the provisions of N.J.A.C. 7:14A-22.6;

2. Building, installing, operating or modifying an American Petroleum Institute approved gravity oil/water separator, a retention or detention basin, sand traps or sediment traps that are installed routinely in facilities such as car washes, truck wash bays and other similar discharges, when these systems are authorized under a general NJPDES permit, have been determined not to require a NJPDES permit, or are exempted from obtaining a NJPDES permit pursuant to this chapter or are stormwater management facilities (see (b)3v below);

3. Building, installing, operating or modifying any of the following activities or facilities:

- i. Grease traps for use in restaurants;
- ii. Cooling towers for non-contact water/heat exchange units and necessary associated appurtenances;

iii. Holding tanks for wastewater which is solely industrial in nature and the amount to be hauled to a treatment works will be less than 8,000 gallons per day, and the tank will have a total volume of 21,000 gallons or less;

iv. Recycling systems for industrial waste only, which do not discharge directly to the surface water or ground water;

v. Stormwater management facilities, including but not limited to retention basins, detention basins, and oil/water separators that prevent, abate, reduce, collect, convey, store, treat, dispose of, or otherwise manage stormwater runoff;

vi. Any part of a separate storm sewer system; or

vii. Treatment units used for pretreatment of water for use in an on-going manufacturing process at the industrial facility;

4. Mobile treatment works to be specifically utilized for the treatment of water in relation to a short-term pump test or dewatering associated with an underground storage tank project authorized under a NJPDES category B4B General permit; or

5. Building, installing, modifying or operating any system for discharges to ground water that are authorized by permit-by-rule in accordance with N.J.A.C. 7:14A-8.5.

(c) Notwithstanding the terms of (a) and (b) above, the Department shall have the authority to regulate, at its discretion, any sewer connection or other domestic or industrial treatment works when a sewer connection ban exists or a health emergency so requires.

(d) The lack of a need to obtain a treatment works approval in accordance with this section does not relieve the project owner and/or sewerage authority from the responsibility to comply with all requirements of a NJPDES discharge permit. The responsibility of determining that additional flows to the treatment works will not result in any unpermitted discharge or NJPDES permit violation rests with the owner of the collection system and treatment facility.

(e) For projects in which flow is the determining factor for the requirement of a treatment works approval permit pursuant to this section, the projected flow criteria specified in N.J.A.C. 7:14A-23.3 shall be used.

Amended by R.1994 d.448, effective September 6, 1994.

See: 26 N.J.R. 158(a), 26 N.J.R. 3709(a).

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)5, deleted “, slope” following “the diameter” and added “and providing that the slope . . . Department design standards”; in (a)12, substituted “handling equipment” for “treatment” and “marketable residual products” for “sludge derived products”; added (a)13; in (b)1, deleted “(indirect discharger)” following “treatment works” and amended N.J.A.C. reference; in (b)3ii, added “and necessary associated appurtenances”; in (b)3iii, deleted reference to discharged wastewater added 21,000 gallon total volume restriction; and in (b)5, amended N.J.A.C. reference

7:14A-22.5 Treatment works approval

(a) A treatment works approval consists of the following three stages:

1. Stage I is an optional preliminary or conceptual review of treatment works as prescribed in N.J.A.C. 7:14A-22.7. The Department recommends that a stage I review and approval be obtained for any new sewage treatment plant or plant expansion, or if the proposed treatment works involves a new or innovative design or technology.

2. Stage II is an approval to construct, install or modify a treatment works as outlined in this subchapter.

3. Stage III is an approval to operate a treatment works that has been constructed or received a stage II approval. In general, separate stage II “construct only” approvals are issued for projects located in sewer ban areas, in future sewer service areas for which no downstream sewers exist, and for construction of some treatment plants. Stage II and stage III approvals are generally issued concurrently as a single document, when operation of the treatment works can occur immediately upon completion of the project.

(b) The construction, installation, modification or operation of a treatment works in a manner inconsistent with the terms and conditions of the Department’s approval constitutes a violation of the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq. and may be subject to penalties and fines pursuant to the above Act, the Civil Administrative Penalty Rules, N.J.A.C. 7:14-8, or other applicable statute.

(c) The Department may modify, suspend or revoke a treatment works approval in accordance with N.J.A.C. 7:14A-22.11.

(d) The Department shall approve, condition, or deny an application for a treatment works approval pursuant to this subchapter and N.J.A.C. 7:1C-1, within 90 days of receipt of a complete application by the Department. This time period may be extended for one 30 day period upon the mutual consent of the applicant and the Department.

(e) The issuance of a treatment works approval by the Department does not relieve the applicant of the continuing responsibility for the successful collection, conveyance, treatment or discharge of pollutants, nor does it relieve the applicant from the responsibility of insuring that all discharges are consistent at all times with the terms and

conditions of the applicable NJPDES permit and that no pollutant will be discharged more frequently than authorized or at a level in excess of that which is authorized by the applicable NJPDES permit. The applicant is also responsible for complying with all applicable permits, regulations, statutes, or other laws.

(f) The applicant and any owner or operator of a treatment works shall provide notice of the terms and conditions of any existing treatment works approval to a prospective purchaser of the treatment works. Upon change of ownership of the treatment works, the new owner shall assume responsibility for its proper operation and maintenance or closure. Notification to the Department of a change in ownership for the treatment works approval permit is not required.

(g) The Department’s review of applications and submissions is limited to engineering (including hydraulic) features of significance to applicable discharge limits and protection of the environment. The Department will not review structural, mechanical or electrical design, except when it may be significant to achievement of discharge limitations or to the protection of the environment.

(h) A permit to construct or operate a treatment works, previously issued to the owner or operator pursuant to N.J.S.A. 58:11-10 or 58:12-3 will constitute a treatment works approval for the purpose of this subchapter. The permit and any conditions thereto will continue to be in effect until such time as the permit is revoked, amended or expired.

(i) The full responsibility for adequate design, construction and operation of the treatment works, and the full responsibility for successful collection, treatment and discharge of pollutants shall be on the applicant.

(j) Treatment works shall be constructed in a manner which is consistent with the provisions of the appropriate wastewater management plan.

(k) The Department may grant an emergency approval authorizing the construction and/or operation of a treatment works prior to issuance of a formal treatment works approval in situations such as the modification/rehabilitation of existing treatment and conveyance systems where time delays may threaten the public health or safety. Such approvals shall be subject to the following requirements:

1. The Department and the affected collection system owner and/or treatment plant owner (as appropriate) shall be informed by telephone or in writing, prior to construction, as to the project location, the extent of work to be performed, and the reason for the emergency.

2. Within 15 calendar days of commencing the activity for which an emergency approval is authorized, an application for a treatment works approval and/or sewer ban exemption shall be submitted to the Department for

review and issuance of the required permit. "As-built" drawings, if applicable, shall be submitted.

3. The Department reserves the right to deny an emergency approval request if it is determined that an emergency approval request is not justified, the activity would be inconsistent with any applicable rules, or a more prudent alternative is available.

4. Failure to comply with the requirements of (k)1 or 2 above, the construction or operation of treatment works inconsistent with the emergency authorization, or submission of false information may subject the applicant to enforcement action by the Department, including the imposition of fines or penalties.

(l) For most industrial treatment works, treatment works approvals will be issued in the form of a General Industrial Treatment Works Approval. The submission requirements for a General Industrial TWA are contained in N.J.A.C. 7:14A-22.6, and are administrative in nature. Within 30 days of receipt of a complete General Industrial TWA application, the Department will issue a General Industrial TWA or notify the applicant that due to a potentially significant health risk, environmental impact, or past performance of the facility the project cannot be granted a General Industrial TWA and an individual treatment works approval is required.

7:14A-22.6 Information and submission requirements for general industrial treatment works approvals

(a) Industrial treatment works not exempt pursuant to N.J.A.C. 7:14A-22.4 shall submit the following information as an application for a General Industrial Treatment Works Approval:

1. The Departments' Treatment Works Approval application form (original) signed, dated and imprinted with a seal where applicable;

i. The application form shall require information regarding name and address of applicant, applicant's agent and design engineer; project site location; project description; the status of related permit applications; property owner's certification; professional engineer's certification; and proper construction and operation clause.

2. The minimum fee for a treatment works pursuant to N.J.A.C. 7:1C-1.5;

3. A certification signed and sealed by a New Jersey licensed professional engineer stating the following:

i. The proposed treatment works, as designed, will enable the facility to meet all applicable Federal, State and local effluent limitations, conditions and/or requirements;

ii. The proposed treatment works or contributing facility will not dilute any portion of its waste stream for the purpose of meeting any applicable NJPDES effluent limitation or condition; and

iii. The permittee currently holds a valid final NJPDES permit, General permit authorization, or for indirect dischargers, the applicant is specifically exempted by the Department;

4. A completed Licensed Operator Grading sheet;

5. A resolution, certification and/or written statement of consent from the affected municipality, sewerage authority, owner of the receiving treatment plant; owner/operator of the wastewater conveyance system into which the project will directly connect; and district sludge management lead planning agency (if applicable, see (a)5ii below) or completion of the Department's form WQM003;

i. Required consents shall be in conformance with N.J.A.C. 7:14A-22.8(a)3.

ii. A written statement of consent from the district sludge management lead planning agency is required only for applications that involve construction of residual management units at ultimate residuals management sites.

iii. Written statements of consent from the affected sewerage authority must contain a certification concerning the plant's compliance with the applicable NJPDES permit requirements.

iv. A written statement of consent from the owner/operator of the conveyance system must certify that the conveyance system has adequate conveyance capacity as defined in N.J.A.C. 7:14A-1.2 to convey the additional flow.

v. If an applicant is unable to obtain the required endorsement or written statement of consent, then the procedures stated in N.J.A.C. 7:14A-22.8(a)3 shall apply. An application may be considered complete only after the 60 day period of notification, as required in N.J.A.C. 7:14A-22.8(a)3 has elapsed;

6. One set, each, of final construction plans and specifications, signed and sealed by a New Jersey licensed professional engineer.

7. An engineering abstract containing, at a minimum, the following:

i. A description of waste treatment system;

ii. The ultimate destination of all wastewater and residuals;

iii. A listing of all pollutants, including regular and intermittent flows, which may enter the system;

iv. Average and peak flow requirements; and