"NCCW" means non-contact cooling water.

"N.J.A.C." means New Jersey Administrative Code.

"NJPDES" means the New Jersey Pollutant Discharge Elimination System.

"N.J.S.A." means New Jersey Statutes Annotated.

"NOAEC" means no observed adverse effect concentration.

"NOEC" means no observable effect concentration.

"NPDES" means the National Pollutant Discharge Elimination System.

"NT" means non-trout waters.

"OEP" means the Office of Environmental Planning.

"OM" means optional measure.

"PL" means the general surface water classification applied to Pinelands Waters.

"POTW" means publicly owned treatment works.

"PPSNC" means pretreatment program significant noncompliance.

"PQL" means practical quantification level.

"PVSC" means Passaic Valley Sewerage Commissioners.

"RCRA" means Resource Conservation and Recovery Act.

"RFA" means Request For Authorization under a general NJPDES permit.

"SBR" means Statewide Basic Requirement.

"SC" means the general surface water classification applied to coastal saline waters.

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

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

"SESCP" means soil erosion and sediment control plan.

"SIC" means Standard Industrial Classification.

"SIU" means significant indirect user.

"SNC" means significant non-compliance.

"SOD" means sediment oxygen demand.

"SSMP" means Statewide Sludge Management Plan.

"TDS" means total dissolved solids.

"TKN" means total Kjeldahl nitrogen.

"TM" means trout maintenance.

"TMDL" means total maximum daily load.

"TOC" means total organic carbon.

"TP" means trout production.

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

"TSS" means total suspended solids.

"TTO" means total toxic organics.

"TUA" means toxic units acute

"TUC" means toxic units chronic

"TWA" means Treatment Works Approval.

"TWTDS" means treatment works treating domestic sewage.

"UIC" means Underground Injection Control program.

"ug/L" means micrograms per liter.

"USEPA" means the United States Environmental Protection Agency.

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

"USDA" means the United States Department of Agriculture.

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

"USDW" means underground source of drinking water.

"USGS" means United States Geological Survey.

"USNRC" means the United States Nuclear Regulatory Commission.

"UST" means underground storage tank.

"VOC" means volatile organic compounds.

"WET" means whole effluent toxicity.

"WLA" means wasteload allocation.

"WQBEL" means water quality based effluent limitation.

"WQM plan" means Water Quality Management plan.

"WSC" means Written Statement of Consent.

Amended by R.2004 d.47, effective February 2, 2004.
See: 35 N.J.R. 169(a), 1331(a), 36 N.J.R. 813(a).
Added "AM", "MS4", "OM", "SBR".

7:14A-1.2 Definitions

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

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

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

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

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

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

"Acute toxicity" means a lethal or severe adverse sublethal effect (for example, immobilization of daphnids) to an organism exposed to a toxic substance for a relatively short period of time. Acute toxicity is measured by short-term bioassays, generally of 48 or 96 hour duration.

"Adequate conveyance capacity" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(USEPA, Office of Technology Transfer, Washington, D.C., March 1983).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Composite sample" means a sample composed of several discrete samples combined in a known proportion. For NJPDES wastewater monitoring, a composite sample is a sample composed of several discrete samples collected at equal time intervals, or proportionally to the flow rate of the discharge.

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

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

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

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

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

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

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

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

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

"Connection" means, for purposes of N.J.A.C. 7:14A-22 only, any physical or operational change, associated with an increase in projected flow, to a collection system of any building, facility, or other structure either proposed or existing for which a building permit or other municipal approval including site plan or subdivision approval is required, and which connects directly or indirectly to any portion of a treatment works.

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

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

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

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

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

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

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

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

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

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

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

"Co-permittee" means, for purposes of N.J.A.C. 7:14A-24.2 and 25.9 only, a permittee that is only responsible for NJPDES permit conditions relating to the discharge for which that permittee is an operating entity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Department" means the New Jersey Department of Environmental Protection.

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

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

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

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

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

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

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

"Director" means the Director of the Department's Division of Water Quality, its predecessor or successor, or an authorized representative.

"Discharge" means an intentional or unintentional action or omission resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying, or dumping of a pollutant into the waters of the State, onto land or into wells from which the pollutant might flow or drain into such waters, or into waters or onto lands outside the jurisdiction of the State which pollutant enters the waters of the State, and shall include the release of any pollutant into a municipal treatment works. A leak into a secondary containment system which does not involve a release into the waters or lands of this State is not a "discharge" for purposes of applying the rules under this chapter to violations of the Underground Storage of Hazardous Substances Act, N.J.S.A. 58:11-49 et seq. and the rules promulgated pursuant thereto, N.J.A.C. 7:14B.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Effluent concentrations consistently achievable through proper operations and maintenance" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Existing uses" means the following:

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

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

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

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

1. The BOD_5 and TSS effluent concentrations consistently achievable through proper operation and maintenance of the treatment works exceed the minimum level of the effluent quality set forth in N.J.A.C. 7:14A-12;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under paragraph 1 or 2 of this definition. In making this determination the Department may consider the following factors:

i. Physical interconnections between the municipal separate storm sewers;

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

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

iv. The nature of the receiving waters; or

v. Other relevant factors; or

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

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

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

"Minimum value" means the lowest data value measured during the monitoring period.

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

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

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

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

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

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

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

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

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

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

"Municipality" means a city, town, borough, county, parish, district, association or other public body created by or under State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or a designated and approved management agency under Section 208 of the Federal Act (33 U.S.C. § 1288), except as provided at N.J.A.C. 7:14A-25.1(b).

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

1. Owned or operated by the United States, an interstate agency, a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe organization, or a designated and approved management agency under section 208 of the CWA (33 U.S.C. § 1288) that discharges to surface water or groundwater;

2. Designed and used for collecting or conveying stormwater;

3. Which is not a combined sewer;

4. Which is not part of a POTW; and

5. Which is not either of the following:

i. A separate storm sewer(s) that is at an industrial facility, and that collects or conveys stormwater discharges associated with industrial activity that occurs at that facility; or

ii. A separate storm sewer(s) that is at a construction site, and that collects or conveys stormwater discharges associated with small construction activity that occurs at that site.

"Municipal separate storm sewer system" or "MS4" means a "large," "medium" or "small" municipal separate storm sewer system as defined in this section.

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

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

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

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

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

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

1. From which there is or may be a discharge of pollutants;

2. Was not an existing source prior to August 13, 1979;

3. Which is not a new source; and

4. Which has never received a final NJPDES permit for discharges at that site.

This definition includes an indirect user which commences discharging into waters of the State after August 13, 1979. It also includes any existing mobile point source (other than an offshore or coastal oil and gas exploratory drilling rig) such as a seafood processing rig, seafood processing vessel, or aggregate plant, that begins discharging at a site for which it does not have a permit; and any offshore or coastal mobile oil and gas exploratory drilling rig or coastal mobile oil and gas development drilling rig that commences the discharge of pollutants after August 13, 1979, at a site for which it is not covered by an individual or general permit and which is located in an area determined by the Department in the issuance of the final permit to be an area of biological concern. In determining whether an area is an area of biological concern, the Department shall consider the factors specified in 40 CFR 125.122(a)(1) through (1).

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

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

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

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

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

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

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

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

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

iii. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing

works. Permit also includes a general permit and a permit-by-rule.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Pond" see the definition for lake.

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

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

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

"Pretreatment program significant noncompliance" or "PPSNC" means non-compliance by a source of indirect discharge which requires notification pursuant to 40 CFR 403.8(f)(2)(vii).

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

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

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

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

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

1. Used to treat wastes from any facility whose operator is not the operator of the treatment works; and

2. Is not a "POTW."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Sewage authority" see sewerage entity.

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

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

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

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

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

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

1. Will extend along an easement through more than two properties, a roadway, or public right-of-way;

2. Conveys flows from more than two buildings; or

3. Conveys, or will convey, 8,000 gallons per day or more of sewage flow determined in accordance with the criteria specified in N.J.A.C. 7:14A-23.3. This includes all sewer lines from a single building if the building utilizes more than one sewer line to convey waste to the sewer system and the aggregate waste flow is 8,000 gallons per day or more.

"Sheen" means an iridescent appearance on the surface of water.

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

"Shellfish waters" means waters classified as Approved, Seasonally Approved, Special Restricted, Seasonally Special Restricted or Condemned that support or possess the potential to support shellfish which are within the Coastal Area Facility Review Act (CAFRA) zone as delineated in 1973, (excluding: 1—The Cohansey River upstream of Brown's Run; 2—The Maurice River upstream of Route 548; 3—The Great Egg Harbor River upstream of Powell Creek; 4—The Tuckahoe River upstream of Route 50; 5—The Mullica River upstream of the Garden State Parkway) plus the adjacent areas between Route 35 (from its juncture with the CAFRA zone just north of Red Bank to its juncture with the CAFRA zone just south of Keyport) and the CAFRA zone and the area from the C.A.F.R.A. zone on the south northwesterly along Route 35 to the northern shore of the Raritan River, then easterly along the northern shore of the Raritan River to the southeast point of Perth Amboy, then due east to the New Jersey jurisdictional limit, and seaward along the jurisdictional limit to the Atlantic Ocean.

"Significant biological treatment" means the use of an aerobic or anaerobic biological treatment process in a treatment works to consistently achieve a 30-day average of at least 65 percent removal of BOD_5.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Significantly more stringent limitations" means BOD_5 and TSS limitations necessary to meet the percent removal requirements of at least five mg/l more stringent than the otherwise applicable concentration-based limitations (for example, less than 25 mg/l in the case of the secondary treatment limits for BOD_5 and TSS), or the percent removal limitations in N.J.A.C. 7:14A-12, if such limit as would, by themselves, force significant construction or other significant capital expenditure.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Zone of saturation" means saturated zone.

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

In "Hazardous waste", amended N.J.A.C. references; Changed "Level of pollutant concentration actually achieved" to "Level of pollutant control actually achieved", and added reference to nonconventional pollutants; in "Medium municipal separate storm sewer system", in 1, inserted "(As of May 5, 1997, only Elizabeth, Jersey City, and Paterson are listed)", and in 2, inserted "(As of May 5, 1997, no New Jersey counties are listed)"; in "Operating entity", deleted reference to "operator error"; in "Significant indirect user", amended N.J.A.C. references; in "Surface impoundment", changed "wastes containing fee liquids" to "wastes containing free liquids"; and deleted "Total suspended solids concentrations achievable with waste stabilization ponds".
Amended by R.2004 d.47, effective February 2, 2004.
See: 35 N.J.R. 169(a), 35 N.J.R 1331(a), 36 N.J.R. 813(a).

Added "Cesspool", "Illicit connection", "Small municipal separate storm sewer system", "Stormwater discharge (or stormwater DSW) associated with construction activity"; rewrote "Connection", "Co-permittee", Interstate agency", "Large municipal separate storm sewer system", "Medium municipal separate storm sewer system", "Municipality", "Municipal separate storm sewer", "Stormwater", "Stormwater discharge associated with industrial activity"; deleted "Run-off" for purposes of N.J.A.C. 7:14A-10 only, and "Run-on".
Administrative corrections.
See: 36 N.J.R. 4133(a).
Administrative correction.
See: 37 N.J.R. 1517(a), 37 N.J.R. 4245(a).

Case Notes

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

Citation to upset definition; pollutant discharger not entitled to upset defense to permit limit exceedances which occurred prior to inclusion of upset provision in discharge permit; burden of proof of upset on

discharger. Student Public Interest Research Group of New Jersey v. P.D. Oil & Chemical Storage, Inc., 627 F.Supp. 1074 (D.N.J.1986).

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

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

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

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

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

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

SUBCHAPTER 2. GENERAL PROGRAM REQUIREMENTS

7:14A-2.1 Purpose and scope

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

(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;

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

Acid *Compounds*

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

Base/Neutral

Acenaphthylene
Acenaphthene
Anthracene
Benzidine
Benzo(a)Anthracene
Benzo(a)Pyrene
3,4-Benzofluoranthene
Benzo(ghi)Perylene
Benzo(k)Fluoranthene
Bis (2-Chloroethoxy) Methane
Bis (2-Chloroethyl) Ether
Bis (2-Chloroisopropyl) Ether
Bis (2-Ethylhexyl) Phthalate
4-Bromophenyl Phenyl Ether
Butyl Benzyl Phthalate
2-Chloronaphthalene
4-Chlorophenyl Phenyl Ether
Chrysene
Dibenzo (a,h) Anthracene
1,2-Dichlorobenzene
1,3-Dichlorobenzene
1,4-Dichlorobenzene
3,3'-Dichlorobenzidine
Diethyl Phthalate
Dimethyl Phthalate
Di-N-Butyl Phthalate
2,4-Dinitrotoluene
2,6-Dinitrotoluene
Di-B-Octyl Phthalate
1,2-Diphenylhydrazine(as
Azobenzene) Fluoranthene
Fluorene
Hexachlorobenzene
Hexachlorobutadiene
Hexachlorocyclopentadiene
Hexachloroethane
Indeno (1,2,3-cd) Pyrene
Isophorone
Naphthalene
Nitrobenzene
N-Nitrosodimethylamine
N-Nitrosodi-N-Propylamine
N-Nitrosodiphenylamine
Phenanthrene
Pyrene
1,2,4-Trichlorobenzene

Pesticides

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

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

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

Thallium, Total
Zinc, Total
Cyanide, Total
Phenols, Total

Table IV

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

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

Table V

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

Toxic Pollutants

Asbestos

Hazardous Substances

Acetaldehyde
Allyl alcohol
Allyl chloride
Amyl acetate
Aniline
Benzonitrile
Benzyl chloride
Butyl acetate
Butylamine
Captan
Carbaryl
Carbofuran
Carbon disulfide
Chlorpyrifos
Coumaphos
Cresol
Crotonaldehyde
Cyclohexane
2,4-D (2,4-diichlorophenoxy acetic acid)
Diazinon
Dicamba
Dichlobenil
Dichlone
2,2-Dichloropropionic acid
Dichlorvos
Diethyl amine
Dimethyl amine
Dintrobenzene
Diquat
Disulfoton
Diuron
Epichlorohydrin
Ethion
Ethylene diamine
Ethylene dibromide
Formaldehyde
Furfural
Guthion
Isoprene
Isopropanolamine
Dodecylbenzenesulfonate
Kelthane
Kepone
Malathion
Mercaptodimethur
Methoxychlor
Methyl mercaptan
Methyl methacrylate
Methyl parathion
Mevinphos
Mexacarbate
Monoethyl amine
Monomethyl amine
Naled
Napthenic acid
Nitrotoluene
Parathion
Phenolsulfanate
Phosgene
Propargite
Propylene oxide
Pyrethrins
Quinoline
Resorcinol
Strontium
Strychnine
Styrene
2,4,5-T (2,4,5-Trichlorophenoxy acetic acid)
TDE (Tetrachlorodiphenyylethane)
2,4,5-TP[2-(2,4,5-Trichlorophenoxy) propanoic acid]
Trichlorofan
Triethanolamine dodexylbenzenesulfonate
Triethylamine
Trimethylamine
Uranium
Vanadium
Vinyl acetate
Xylene
Xylenol
Zirconium

Administrative correction.
See: 29 N.J.R. 3822(a).
In Table II, deleted "Trichlorofluoromethane" and inserted "Trichloroethylene"

(b) All NJPDES permits shall include any applicable Federal or State statutory or regulatory requirements which take effect prior to final permit issuance. N.J.A.C. 7:14A–15.14, Reopening of the public comment period, provides a means for reopening NJPDES permit proceedings at the discretion of the Department where new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. An applicable requirement is also any requirement which takes effect prior to the modification or revocation and reissuance of a permit, to the extent allowed in N.J.A.C. 7:14A–16.4.

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

Cross References

Procedures and conditions applicable to NJPDES-DSW permits, see N.J.A.C. § 7:14A–11.

Case Notes

Applying two different permits to same effluent was hazardous waste violation warranting civil penalty. Camden County Municipal Utilities v. Department of Environmental Protection, 95 N.J.A.R.2d (EPE) 44.

7:14A–6.4 Schedules of compliance

(a) The Department shall, when appropriate, specify in the permit a schedule of compliance, including interim deadlines for progress or reports of progress towards compliance with the State and Federal Acts and all other applicable authority for this chapter.

1. The first NJPDES permit issued to a new source or a new discharger shall contain a schedule of compliance only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised after commencement of construction but less than three years before commencement of the relevant discharge. For dischargers with a discharge that has been suspended for an extended period during which the submittal of DMRs has also been suspended, a schedule of compliance shall be included as part of the permit or conditions for recommencement only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised less than three years before recommencement of the discharge.

2. Except as provided in (b)1ii below, if a permit establishes a schedule of compliance which exceeds one year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.

i. The time between interim dates shall not exceed one year except that in the case of a schedule for compliance with standards for sewage sludge use or disposal, the time between interim dates shall not exceed six months.

ii. If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than one year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

3. No later than 14 days following each interim date or final date of compliance, the permittee shall provide written notice to the Department of its compliance or noncompliance with interim or final requirements, or submit progress reports if (a)2ii above is applicable.

(b) A permittee may cease conducting regulated activities rather than continue to operate and meet permit requirements as follows:

1. If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued:

i. The permit may be modified pursuant to N.J.A.C. 7:14A–16.4, to contain a new or additional schedule leading to timely cessation of activities; or

ii. The permittee shall cease conducting permitted activities before noncompliance with any interim or final compliance requirement already specified in the permit.

2. If the decision to cease conducting regulated activities is made before issuance of a permit whose term shall include the expiration date, the permit shall contain a schedule leading to expiration which shall ensure compliance no later than any applicable statutory deadline.

3. If the permittee is undecided as to whether it will cease conducting regulated activities, the Department shall either issue or modify a permit to contain two schedules:

i. One schedule shall lead to timely compliance with all applicable requirements, no later than the statutory deadline;

ii. The second schedule shall lead to cessation of regulated activities by a date which shall ensure timely compliance with all applicable requirements;

iii. Both schedules shall contain an identical interim deadline requiring a final decision as to whether the permittee will cease conducting regulated activities. A decision by the permittee to continue conducting regulated activities shall be made by a date which ensures sufficient time to comply in a timely manner with all applicable requirements;

iv. Each permit containing two schedules shall include a requirement that the permittee, after making a final decision under (b)3iii above, shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and shall follow the schedule leading to expiration if the decision is to cease conducting regulated activities.

4. The permittee's decision to cease conducting regulated activities shall be evidenced by a firm public commitment satisfactory to the Department, such as a resolution of the board of directors of a corporation.

(c) A POTW required to develop a pretreatment program shall have a pretreatment program compliance schedule based on the dates established in a written notification from the Department. This compliance schedule shall be incorporated into the NJPDES permit at the time of issuance, reissuance or modification of the permit. The compliance schedule shall require the development and submission of a pretreatment program developed in accordance with N.J.A.C. 7:14A–19 as soon as possible, but in no case later than one year after the receipt of written notification from the Department.

(d) Any schedules of compliance under this section shall require compliance as soon as possible, but no later than any applicable statutory deadline.

(e) The permittee shall meet schedules for compliance with the terms of the permit and interim deadlines for progress or reports of progress towards compliance. Reports of compliance or noncompliance with, or any progress reports on, the interim and final requirements contained in any compliance schedule of a permit shall be submitted no later than 14 days following each scheduled date, and may be submitted with the DMRs in accordance with N.J.A.C. 7:14A–6.8(a).

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

7:14A–6.5 Monitoring

(a) Monitoring requirements are as follows:

1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

2. The permittee shall perform all analyses in accordance with the analytical test procedures specified in 40 C.F.R. 136 or, in the case of residual use or disposal, in 40 C.F.R. 136 unless otherwise specified in 40 C.F.R. 503, or unless other test procedures have been specified in the permit. Where no approved test procedure is available, the permittee shall indicate a suitable analytical procedure and shall provide the Department with literature references or a detailed description of the procedure. The Department shall determine the appropriate procedure and require that procedure in the NJPDES permit. The laboratory performing the analyses shall be certified by the Department for the analysis of those specific parameters in accordance with N.J.A.C. 7:18. Information concerning laboratory approval and/or certification may be obtained from:

New Jersey Department of Environmental Protection
Division of Financial Management
Planning and General Services
Bureau of Revenue
CN 402
Trenton, New Jersey 08625
(609) 530–5760

(b) All permittees shall:

1. Properly install, use, and maintain monitoring equipment and use proper monitoring methods (including biological monitoring methods when appropriate);

2. Properly monitor the discharge in accordance with the monitoring type, interval, and frequency as specified in the permit;

i. Certain discharges of non-contact cooling water shall be exempt from monitoring, unless specifically required by the Department, where the applicant's activities do not affect the following constituents: COD, BOD, TSS, pH, and/or settleable solids.

ii. Bacterial monitoring shall not be required for facilities which do not receive wastewater containing pathogenic organisms, including fecal coliform or enterococci organisms, unless otherwise required by the Department. Discharge permits shall contain a monitoring-only requirement for enterococci organisms, unless the Department determines that it is appropriate to require enterococci effluent limitations and publishes a public notice in the New Jersey Register with supporting reasons to this effect;

3. Comply with the reporting requirements specified in the permit; and

4. Monitor in accordance with the edition of the Department's "Field Sampling Procedures Manual" applicable at the time of sampling or an alternate method approved by the Department.

(c) If the Department has reason to believe that the accuracy and/or precision of one or more analyses is inadequate to provide a reasonable estimate of effluent quality, the Department shall, upon written notification, require any facility that analyzes its effluent samples at a laboratory it directly or indirectly owns, operates or manages to annually have one of its permit-required periodic sampling analyses performed by a certified laboratory which is not owned, operated or managed by the permittee. This shall be broadly construed to include all the sample analyses that are to be performed during the course of routine hourly, daily, monthly, quarterly, semi-annual, or annual sampling.

(d) Requirements for automatically adjusting effluent monitoring frequency are as follows:

1. Any permittee shall automatically adjust its effluent monitoring and reporting frequency to monthly when the permittee:

i. Reports effluent values that would make the permittee a serious violator for one or more parameters for which the permittee is required to report less frequently than monthly. Monthly reporting is only required for parameters with serious violations. (However, NJPDES-SIU permittees shall resample within 30 days of becoming aware of any violation if required by 40 C.F.R. Part 403); or

ii. Fails to submit a completed Discharge Monitoring Report (DMR).

2. The monthly reporting required by (d)1 above shall begin the first month after the submission of the DMR or the month in which the permittee was required to submit the completed DMR or the Baseline Report (BR) to the Department which results in the permittee becoming a serious violator. If the Department grants an affirmative defense pursuant to N.J.A.C. 7:14–8.3(i) for an effluent violation, the violation shall not be considered a serious violation and shall not be subject to monthly reporting under (d)1 above.

3. Any permittee required to adjust its monitoring and reporting pursuant to (d)1 above shall continue this monthly schedule until the permittee has submitted six consecutive monthly Discharge Monitoring Reports which show compliance with the particular serious violation parameter at the particular discharge point, at which time the permittee may resume the original schedule in its permit.

7:14A–6.6 Recordkeeping

(a) A person shall retain records of all monitoring information including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by a NJPDES permit, records of all data used to complete the application for a NJPDES permit, and records of monitoring information required by the permit related to the permittee's residual use and/or disposal practices for a period of at least five years, or longer as required by N.J.A.C. 7:14A–20, from the date of the sample, measurement, report, application, or record. The Department may at any time, extend this period through a written notice, and require that a person retain all records listed above for a period longer than five years for, at a minimum, any of the following reasons:

1. Enforcement action;

2. Litigation; and

3. Water quality studies.

(b) Records of monitoring information shall include:

1. The date, exact place, and time of sampling or measurements;

2. The individual(s) who performed the sampling or measurements;

3. The date(s) analyses were performed;

4. The individual(s) who performed the analyses;

5. The analytical techniques or methods used; and

6. The results of such analyses.

7:14A–6.7 Notice requirements for facility alterations and additions

(a) All permittees shall give written notice to the Department of any planned physical alterations or additions to the permitted facility which meet the criteria in (b) below, or as soon as possible.

(b) Notice is required only when:

1. The alteration or addition to a permitted facility meets one of the criteria for determining whether a facility is a new source as defined in N.J.A.C. 7:14A–1.2;

2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged;

3. The alteration or addition is expected to result in a significant change in the permittee's residual use or disposal practices, and such alterations, additions, or changes may justify the application of permit conditions that are different from or absent in the existing permit. This includes notification of additional use or disposal sites not reported during the permit application process; or

4. The planned alterations or changes in the permitted facility or activity may result in noncompliance with permit requirements.

(c) Fulfillment of these notice requirements does not relieve the applicant of the responsibility to obtain any applicable approvals or permits.

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

7:14A–6.8 Reporting monitoring results

(a) The permittee shall report monitoring results on the Discharge Monitoring Reports (DMR) and/or the Baseline Reports (BR) or other monitoring report forms required by the permit or the Department at the intervals specified in the permit.

(b) All permittees with effluent limits expressed as daily maxima or minima without a monthly average for a particular parameter shall report, in addition to all other applicable reporting requirements, the average value obtained during the reporting month. However, for pH and WET, the reporting requirements of the permit shall govern.

(c) Any permittee required to adjust its effluent monitoring to monthly under N.J.A.C. 7:14A–6.5(d) shall also automatically adjust its reporting frequency to monthly.

(d) Upon written notice from the Department, monitoring results may be submitted to the Department electronically, provided the data is submitted in accordance with the standards for information exchange detailed in the Department's Manual for Information Management, "Guidance Document for Electronic Reporting of Environmental Data," August 1995 (see data dictionary and file format), as may be amended and supplemented. However, the permittee shall continue to submit signed transmittal forms.

(e) All monitoring requirements of the permit are minimum requirements. However, if a permittee monitors any pollutant more frequently than required by the permit in accordance with the permit requirements for sample type, location, and analysis and using test procedures approved under 40 C.F.R. 136 or, in the case of residual use or disposal, approved under 40 C.F.R. 136, unless otherwise specified in 40 C.F.R. 503 or as specified in the permit, the results of this monitoring shall be included in the calculation and reported on the form specified by the Department.

(f) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in the permit by the Department.

(g) When subject to limitations based on a measure of production, the permittee shall submit with the report the level of production that actually occurred during the reporting month and the limitations, standards, or prohibitions applicable to that level of production.

(h) The permittee shall report all instances of noncompliance not reported under N.J.A.C. 7:14A–6.10 at the time DMRs are submitted. The reports shall contain the information required in the written submission listed in N.J.A.C. 7:14A–6.10(c) if not already submitted to the Department.

(i) All SIUs, DSW major industrial facilities, DGWs, and DSW local agencies, other than those discharging only stormwater or non-contact cooling water, required to submit DMRs to the Department shall submit the required reporting forms to the Department on a monthly basis when sampling is required on a monthly basis for one or more parameters. Reporting is required on a monthly basis for all those parameters that are required to be monitored during that particular month.

7:14A–6.9 Signatory requirements for DMR and BR

(a) All DMRs and the BRs shall be signed by the highest ranking official having day-to-day managerial and operational responsibilities for the discharging facility, whose responsibilities usually include authorizing capital expenditures and/or hiring personnel.

1. For private entities this will usually be a person identified in N.J.A.C. 7:14A–4.9(a)1; and

2. For public entities it will usually be a plant manager or plant operator, an executive director of a public authority, or a ranking elected official.

(b) The following certification shall be made by the above described official and shall accompany the report:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and/or imprisonment."

(c) The above described official may authorize another responsible high ranking official to sign the DMR in his or her absence. Authorizations for other individuals to sign in accordance with this subsection shall be made in accordance with N.J.A.C. 7:14A–4.9(b).

(d) The highest ranking official shall be liable in all instances for the accuracy of all of the information provided in the report. However, the highest ranking official may file within seven days of his or her return, amendments to the report to which he or she was not a signatory. The filing of amendments to a monitoring report in accordance with this subsection shall not be considered a late filing of a report for the purposes of N.J.A.C. 7:14A–6.8, or for the purposes of determining a significant noncomplier.

7:14A–6.10 Noncompliance reporting

(a) All permittees shall report to the Department (and receiving DTW, if applicable) any noncompliance including, but not limited to:

1. Any exceedance of effluent limitation that:

i. Causes injury to persons;

ii. Poses a threat to human health;

iii. Causes damage to the environment;

iv. Poses a threat to the environment; or

v. Violates a daily maximum effluent limitation for a toxic pollutant listed in N.J.A.C. 7:14A–4 Appendix A;

2. Any discharge of any toxic or hazardous pollutant listed in N.J.A.C. 7:14A–4 Appendix A, which is not covered under a permit;

3. Any upset or an unanticipated bypass not otherwise covered in (a)1 or 2 above; or

4. Any anticipated bypass.

(b) Any permittee discharging pollutants under the conditions identified in (a) above shall comply with the reporting requirements in this section. Any permittee with a discharge not otherwise covered in (a) above shall comply with the reporting requirements relating to that type of discharge as listed below.

(c) For the situations listed in (a)1i through iv and 2, above, the permittee shall communicate the information in (c)1 through 3 below by telephone to the DEP Hotline at (609) 292–7172 (and to the receiving DTW, if applicable) within two hours of the commencement of the discharge or of the permittee's becoming aware of the discharge. Any revision to this information for situations listed in (a)1i through iv and 2 above shall be reported to the DEP Hotline within 24 hours after the permittee's becoming aware of the need to revise the information.

1. A description of the discharge, including the time of the discharge, the location of discharge, the volume of the discharge, the concentration of pollutants discharged, and the receiving water of the discharge;

2. Steps being taken to determine the cause of the permit noncompliance; and

3. Steps being taken to reduce, remediate, and eliminate the noncomplying discharge and any damage to the environment, and the anticipated time frame to initiate and complete the steps to be taken.

(d) For the situations listed in (a)1v and 3 above, the permittee shall communicate the following information by telephone to the DEP Hotline at (609) 292–7172 within 24 hours after the commencement of the discharge or of the permittee's becoming aware of the discharge:

1. A description of the discharge, including the time of the discharge, the location of discharge, the volume of the discharge, the concentration of pollutants discharged, and the receiving water of the discharge;

2. Steps being taken to determine the cause of the permit noncompliance;

3. Steps being taken to reduce, remediate, and eliminate the noncomplying discharge and any damage to the environment, and the anticipated time frame to initiate and complete the steps to be taken;

4. The duration of the discharge, including the dates and times of the commencement and, for an unanticipated bypass, the dates and times of the end or anticipated end of the discharge, and if the discharge has not been corrected, the anticipated time when the permittee will correct the situation and return the discharge to compliance;

5. The cause of the noncompliance;

6. Steps being taken to reduce, eliminate, and prevent reoccurrence of the noncomplying discharge;

7. An estimate of the threat to human health or the environment posed by the discharge; and

8. The measures the permittee has taken or is taking to remediate the problem and any damage or injury to human health or the environment, and to avoid a repetition of the problem.

(e) For the situations identified in (a)1 through 3 above, a written submission containing the information listed in (d) above shall be submitted to the Department, if the permittee had not previously submitted the information. The written information shall be sent to the person identified in (h) below.

1. The permittee shall ensure that the written submission required pursuant to this subsection is submitted to the Department within five days of the commencement of the discharge or of the permittee becoming aware of the discharge.

2. If the permittee becomes aware that it has failed to submit any relevant facts or submitted incorrect information required in (c) or (d) above, the permittee shall immediately submit such facts or information to the Department.

(f) For the situations identified in (a)3 above, the permittee shall ensure the person identified in (h) below receives the information listed at (f)4 below as part of the written submission required pursuant to (e) above, if not previously submitted, as follows:

1. For an unanticipated bypass, the information listed at (f)4i through ii and iv through ix below.

2. For an upset, the information listed at (f)4i and iii through vi below as applicable, is submitted to the Department, within the five-day period.

3. If the permittee becomes aware that it has failed to submit any relevant facts or has submitted incorrect information pursuant to (d) above, the permittee shall immediately submit such facts or information to the Department.

4. The following information shall be submitted as required under this subsection:

i. All properly signed, contemporaneous operating logs, or other relevant evidence, on the circumstances of the noncompliance;

ii. For an unanticipated bypass, the reasons that the unanticipated bypass occurred, including the circumstances leading to the unanticipated bypass;

iii. For an upset, the reasons that the upset occurred, including the cause of the upset and the identity of the person causing the upset, as necessary, except that, in the case of a treatment works, the local agency may certify that despite a good faith effort it was unable to identify the cause of the upset or the person causing the upset;

iv. Evidence that the permittee was properly operating the facility at the time;

v. Evidence that the permittee submitted notice of the unanticipated bypass as required pursuant to (a)3 above, or, in the case of an upset resulting from the performance by the permittee of maintenance operations, the permittee provided prior notice and received prior written approval from the Department, including the name, title, address and telephone number of the individual who satisfied this requirement, the date and specific time the individual notified the Department for the permittee, the specific method that the individual used to notify the Department, and the name and title of the individual within the Department to whom the permittee gave such notice;

vi. Evidence that the permittee complied with all remedial measures the Department required;

vii. For an unanticipated bypass, the permittee's rationale for and all supporting documentation that the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage, including the name, title, address and telephone number of the individual that made the determination for the permittee, the data and information upon which that individual made the determination and any other information the Department requests;

viii. For an unanticipated bypass, evidence that there was no feasible alternative to the unanticipated bypass, including but not limited to the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of downtime; and

ix. For an unanticipated bypass, evidence that the unanticipated bypass did not occur during normal periods of equipment downtime or preventive maintenance when back-up equipment should have been installed to avoid the unanticipated bypass.

(g) For the situations identified in (a)4 above, the permittee shall submit the information below to the person identified in (h) below at least 10 days, if possible, prior to the date of the anticipated bypass.

1. The exact dates and times of the anticipated commencement and the end of the anticipated bypass;

2. The permittee's rationale as to why the anticipated bypass is necessary;

3. A statement certifying that the permittee will properly operate the facility at the time of the anticipated bypass;

4. A statement certifying that the anticipated bypass is unavoidable to prevent loss of life, personal injury, or severe property damage, including the name, title, address and telephone number of the individual that made this determination for the permittee, the data and information upon which that individual made the determination, and any other information the Department requests;

5. A statement certifying that there is no feasible alternative to the anticipated bypass, including but not limited to the use of auxiliary treatment facilities retention of untreated wastes, or maintenance during normal periods of equipment downtime; and

6. A statement certifying that the anticipated bypass will not occur during normal periods of equipment downtime or preventive maintenance when backup equipment can be installed to avoid the anticipated bypass.

(h) The permittee shall submit all written notifications and/or reports required pursuant to this section to:

Administrator of Water Compliance and Enforcement
New Jersey Department of Environmental Protection
401 East State Street, 4th Floor East
PO Box 422
Trenton, New Jersey 08625–0422

(i) For a serious violation, as defined in N.J.A.C. 7:14A–1.2, a person shall, within 30 days of the violation, submit a written report to the person listed in (h) above or the appropriate control authority. The report shall include the following:

1. All the information required in (d) above, if not already submitted; and

2. A written statement that:

i. Indicates the person understands the civil and administrative penalties required to be assessed for serious violations; and

ii. Explains the nature of the serious violation.

(j) The permittee shall report all instances of noncompliance not reported under this section at the time DMRs are regularly submitted. The reports shall contain the information required pursuant to (d) above.

Amended by R.1999 d.163, effective May 17, 1999.
See: 31 N.J.R. 508(b), 31 N.J.R. 636(a), 31 N.J.R. 1314(b).
In (a), added 4; in (e), (f) and (i), substituted references to (h) for references to (g); in (e), substituted a reference to (a)1 through 3 for a reference to (a); inserted a new (g); recodified former (g) through (i) as (h) though (j); and rewrote the new (h).

7:14A–6.11 Affirmative defenses

Permittees may request an affirmative defense for effluent violations resulting from an upset, bypass, or laboratory error in accordance with the procedures at N.J.A.C. 7:14–8.3(i).

7:14A–6.12 Operation, maintenance, and emergency conditions

(a) A permittee shall, at all times, maintain in good working order and operate the treatment works and facilities which are installed or used by the permittee to achieve compliance with the terms and conditions of the discharge permit. Proper operation and maintenance, includes, at a minimum:

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, II, 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)3ii(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. 7:9C, 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. 7:9C, 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.
Administrative correction.
See: 37 N.J.R. 4245(a).

7:14A-8.5 Authorization of injection into Class V wells by permit-by-rule

(a) Any owner or operator of a Class V underground injection well who has submitted the inventory information, pursuant to (c) below, prior to May 5, 1997 shall be deemed to have a permit-by-rule.

(b) An owner or operator of any of the Class V injection wells described in (b)1 through 11 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;

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; and

11. Underground injection wells used during the remediation of a contaminated site where the person conducting the remediation meets the conditions set forth at N.J.A.C. 7:14A-7.5(b).

(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. 7:9C.

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

See: 37 N.J.R. 405(a), 37 N.J.R. 2499(a).
Rewrote (a); in (b), substituted "11" for "10" preceding "below is deemed" in the introductory paragraph and added 11.
Administrative correction.
See: 37 N.J.R. 4245(a).

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 incurporated 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 the application. For purposes of this section, temporary intermittent cessation of injection operations is not abandonment. Cessation of injection operations for a period of two 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.
Amended by R.2005 d.222, effective July 5, 2005.
See: 37 N.J.R. 405(a), 37 N.J.R. 2499(a).
In (a), substituted "two" for "three" following "injection operations for a period of" in 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 Department approves of the model and determines that the model is appropriate.

2. A fixed radius around the well, field or project, of not less than two miles, shall be determined based on the following:

i. Chemistry of injected and formation fluids;

ii. Hydrogeology;

iii. Population and groundwater use and dependence; and

iv. Historical practices in the area.

3. If the area of review is determined by a mathematical model pursuant to (a)1 above, the permissible radius resulting from such calculation may be less than two miles. Where the radius calculated is significantly less than two miles, however, the Department reserves the right to require the applicant to submit additional information as needed to assess the possible impact of the proposed injection.

(b) In determining the adequacy of corrective action proposed by the applicant under N.J.A.C. 7:14A–8.11 and in determining the additional steps needed to prevent fluid movement into underground sources of drinking water, the Department shall consider the following criteria and factors:

1. The nature and volume of the injected fluids;

2. The nature and native fluids or by-products of injection;

3. The potentially affected population;

4. Geology;

5. Hydrology;

6. The history of the injection operation;

7. Completion and plugging records;

8. The abandonment procedures in effect at the time the well was abandoned; and

9. The hydraulic connections with underground sources of drinking water.

(c) Requirements for mechanical integrity are as follows

1. An injection well has mechanical integrity if:

i. There is no significant leak in the casing, tubing or packer; and

ii. There is no fluid movement into an underground source of drinking water through vertical channels adjacent to the injection well bore.

2. One of the following tests shall be used to determine the presence of significant leaks under (c)1i above:

i. Monitoring of annulus pressure between the casing and the injection tubing; or

ii. Pressure test with liquid or gas.

3. One of the following methods shall be used to determine the presence of fluid movement under (c)1ii above:

i. For Class II injection wells only, well records demonstrating the presence of adequate cement to prevent such migration; or

ii. The results of a temperature or noise log.

4. The Department shall allow the use of a test to demonstrate mechanical integrity other than those listed in (c)2 and 3ii above with the written approval of the EPA. The Department shall allow the use of any other alternate method approved by the EPA and published in the Federal Register unless the use of such method is restricted at the time of approval by the EPA.

5. In conducting and evaluating the tests for mechanical integrity described in this subsection, the owner or operator of the injection well and the Department shall apply methods and standards generally accepted in the industry. When the owner or operator reports the results of mechanical integrity tests to the Department, he or she shall include a description of the test(s) and the method(s) used. In making its evaluation, the Department shall review monitoring and other test data submitted since the previous evaluations.

(d) Requirements for plugging and abandoning Class I, II, III, IV and V wells are as follows:

1. Prior to abandoning any Class I, II, III, IV and V well, the well shall be plugged with cement or with other EPA-approved material in a manner which will not allow the movement of fluids either into or between underground sources of drinking water. The abandoned well is to be, at a minimum, filled and sealed in conformance with the requirements of N.J.S.A. 58:4A–4.1 et seq., and N.J.A.C. 7:9–9, Sealing of Abandoned Wells, or in conformance with the requirements of N.J.A.C. 7:9A–12.8, if applicable, or in conformance with the requirements established in a NJPDES permit.

2. Placement of the cement plugs shall be accomplished by one of the following:

i. The balance method;

ii. The dump bailer method;

iii. The two-plug method; or

iv. Any other method acceptable to the Department and the EPA that is at least as protective of the ground water as the methods listed in (d)2i through iii.

3. The abandoned well shall be in a state of static equilibrium with the mud weight equalized top to bottom, either by circulating the mud in the well at least once or by a comparable method prescribed by the Department, prior to the placement of the cement plug(s).

4. The plugging and abandonment plan required under N.J.A.C. 7:14A–8.9(a)6 and 8.10(a) 5 shall, in the case of a Class III well field, also demonstrate that no movement of contaminants from the mined zone into an underground source of drinking water will occur. The Department shall prescribe aquifer cleanup and monitoring where necessary and feasible to ensure that no migration of contaminants from the mined zone into an underground source of drinking water will occur.

5. The Department shall require a permittee to monitor and submit reports for a period of time after the well has been plugged and abandoned.

7:14A–8.13 Specific operating criteria and construction standards applicable to Class I wells

(a) This section establishes the operating criteria and construction standards for Class I wells disposing of municipal and/or industrial wastes (other than hazardous wastes or radioactive wastes), where the injection stream quality meets limits established in an individual UIC permit based on primary drinking water standards or applicable ground water quality standards, including anti-degradation or non-degradation policies.

(b) Construction requirements for Class I wells are as follows:

1. Class I wells shall, at a minimum, be constructed in accordance with the requirements and specifications set forth in N.J.A.C. 7:10–12. More stringent requirements will be imposed, based on an evaluation of the nature of the injection fluid and/or of geological conditions, or where the Department otherwise determines that it is appropriate.

2. All Class I wells shall be cased and cemented to prevent the movement of fluids into or between underground sources of drinking water. The casing and cement used in the construction of each newly drilled well shall be designed for the life expectancy of the well. In

determining and specifying casing and cementing requirements, the following factors shall be considered:

i. Depth to injection zone;

ii. Injection pressure, external pressure, internal pressure, and axial loading;

iii. Hole size;

iv. Size and grade of all casing strings (wall thickness, diameter, nominal weight, length, joint specifications, and construction material);

v. Corrosiveness of injected fluid, formation fluids, and temperatures;

vi. Lithology of injection and confining intervals; and

vii. Type and grade of cement.

3. All Class I injection wells shall inject fluids through tubing with a packer set immediately above the injection zone, or tubing with an approved fluid seal as an alternative. The tubing, packer, and fluid seal shall be designed for the expected service.

i. To obtain approval of the use of an alternative to a packer, the operator of the injection well shall submit a written request to the Department, which shall set forth the proposed alternative and all technical data supporting its use. The Department shall approve the request if the alternative method will reliably provide a comparable level of protection to underground sources of drinking water. The Department may approve an alternative method solely for an individual well or for general use.

ii. In determining and specifying requirements for tubing, packer, or alternatives the following factors shall be considered:

(1) The depth of setting;

(2) The characteristics of injection fluid (chemical content, corrosiveness, and density);

(3) The injection pressure;

(4) The annular pressure;

(5) The rate, temperature and volume of injected fluids; and

(6) The size of casing.

4. Appropriate logs and other tests shall be conducted during the drilling and construction of new Class I wells. A descriptive report interpreting the results of such logs and tests shall be prepared by a qualified log analyst and submitted to the Department. At a minimum, such logs and tests shall include:

i. Deviation checks on all holes constructed by first drilling a pilot hole, and then enlarging the pilot hole by reaming or another method. Such checks shall be at sufficiently frequent intervals to ensure that vertical avenues for fluid migration in the form of diverging holes are not created during drilling; and

ii. Such other logs and tests as may be needed after taking into account the availability of similar data in the area of the drilling site, the construction plan, and the need for additional information, that may arise from time to time as the construction of the well progresses. For surface casings and for intermediate and long strings of casings, the following logs shall be used:

(1) For surface casing intended to protect underground sources of drinking water:

(A) Resistivity, spontaneous potential, gamma ray, and caliper logs before the casing is installed; and

(B) A cement bond, temperature, or density log after the casing is set and cemented.

(2) For intermediate and long strings of casing intended to facilitate injection:

(A) Resistivity, spontaneous potential, porosity, and gamma ray logs before the casing is installed;

(B) Fracture finder logs; and

(C) A cement bond, temperature, or density log after the casing is set and cemented.

5. At a minimum, the following information concerning the injection formation shall be determined or calculated for new Class I wells:

i. Fluid pressure;

ii. Temperature;

iii. Fracture pressure;

iv. Other physical and chemical characteristics of the injection zone; and

v. Physical and chemical characteristics of the formation fluids.

(c) Operating, monitoring and reporting requirements for Class I wells are as follows:

1. Operating requirements shall, at a minimum, specify that:

i. Injection pressure at the wellhead shall not exceed a maximum which shall be calculated so as to ensure that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the injection zone, initiate fractures in the confining zone or cause the movement of injection or formation fluids into an underground source of drinking water;

ii. Injection between the outermost casing protecting underground sources of drinking water and the well bore is prohibited;

iii. Unless an alternative to a packer has been approved under (b)3 above, the annulus between the tubing and the long string of casings shall be filled with a fluid approved by the Department.

2. Monitoring requirements shall, at a minimum, include:

i. The analysis of the injected fluids with sufficient frequency to yield data representative of the fluids' characteristics;

ii. Installation and use of continuous recording devices to monitor injection pressure, flow rate and volume, and the pressure on the annulus between the tubing and the long string of casing;

iii. A demonstration of mechanical integrity pursuant to N.J.A.C. 7:14A–8.12(c) at least once every five years during the life of the well; and

iv. The type, number and location of wells within the area of review to be used to monitor any migration of fluids into and pressure in the underground sources of drinking water, the parameters to be measured and the frequency of monitoring.

3. Reporting requirements shall, at a minimum, include:

i. Quarterly reports to the Department on:

(1) The physical, chemical and other relevant characteristics of injection fluids;

(2) Monthly average, maximum and minimum values for injection pressure, flow rate and volume, and annular pressure; and

(3) The results of monitoring prescribed under (c)2iv above; and

ii. The results of the following tests, submitted with the first quarterly report due after the respective test's completion:

(1) Periodic tests of mechanical integrity;

(2) Any other test of the injection well conducted by the permittee if required by the Department; and

(3) Any well repair.

7:14A–8.14 Specific operating criteria and construction standards applicable to Class II wells

(a) This section establishes operating criteria and construction standards for Class II wells.

(b) Construction requirements for Class II wells are as follows:

1. Class II wells shall, at a minimum, be constructed in accordance with the requirements and specifications set forth in N.J.A.C. 7:10–12. More stringent requirements shall be imposed, based on an evaluation of the nature of the injection fluid and/or of geological conditions, or where the Department otherwise determines that it is appropriate, based on considering potential impacts on ground water quality.

2. All new Class II wells shall be sited in such a fashion that they inject into a formation which has confining zones that are free of open faults or fractures within the area of review.

3. All Class II injection wells shall be cased and cemented to prevent movement of fluids into or between underground sources of drinking water. The casing and cement used in the construction of each newly drilled well shall be designed for the life expectancy of the well. In determining and specifying casing and cementing requirements, the following factors shall be considered:

i. Depth to injection zone;

ii. Injection pressure, external pressure, internal pressure, and axial loading;

iii. Hole size;

iv. Size and grade of all casing strings (wall thickness, diameter, nominal weight, length, joint specifications, and construction material);

v. Corrosiveness of injected fluids, formation fluids and temperatures;

vi. Lithology of injection and confining zones; and

vii. Type and grade of cement.

4. Appropriate logs and other tests shall be conducted during the drilling and construction of new Class II wells. A descriptive report interpreting the results of these logs and tests shall be prepared by a qualified log analyst and submitted to the Department. At a minimum, these logs and tests shall include:

i. Deviation checks on all holes constructed by first drilling a pilot hole, and then enlarging the pilot hole by reaming or another method. Such checks shall be at sufficiently frequent intervals to ensure that vertical avenues for fluid movement in the form of diverging holes are not created during drilling; and

ii. Such other logs and tests as may be needed after taking into account the availability of similar data in the area of the drilling site, the construction plan, and the need for additional information that may arise from time to time as the construction of the well progresses. For surface casings and for intermediate and long strings of casings, the following logs shall be used:

(1) Resistivity, spontaneous potential, gamma ray and caliper logs before the casing is installed;

(2) A cement bond, temperature, or density log after the casing is set and cemented; and

(3) Fracture finder logs, when intermediate and long strings of casing are intended to facilitate injection.

5. At a minimum, the following information concerning the injection formation shall be determined or calculated for new Class II wells:

i. Fluid pressure;

ii. Temperature;

iii. Fracture pressure;

iv. Other physical and chemical characteristics of the injection zone; and

v. Physical and chemical characteristics of the formation fluids.

(c) Operating, monitoring, and reporting requirements for Class II wells are as follows:

1. Operating requirements shall, at a minimum, specify that:

i. Injection pressure at the well head shall not exceed a maximum which shall be calculated so as to ensure that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the injection zone. In no case shall injection pressure initiate fractures in the confining zone or cause the movement of injection or formation fluids into an underground source of drinking water; and

ii. Injection between the outermost casing protecting underground sources of drinking water and the well bore is prohibited.

2. Monitoring requirements shall, at a minimum, include:

i. Monitoring of injected fluids at time intervals sufficiently frequent to yield data representative of the fluids' characteristics;

ii. Monitoring of injection pressure, flow rate, and cumulative volume with at least the following frequencies:

(1) Weekly for produced fluid disposal operations;

(2) Monthly for enhanced recovery operations;

(3) Daily during the injection of liquid hydrocarbons and injection for withdrawal of stored hydrocarbons; and

(4) Daily during the injection phase of cyclic steam operations;

iii. A demonstration of mechanical integrity pursuant to N.J.A.C. 7:14A–8.12(c) at least once every five years during the life of the injection well;

iv. Maintenance of the results of all monitoring until the next permit review; and

v. Hydrocarbon storage and enhanced recovery may be monitored on a field or project basis rather than on an individual well basis by manifold monitoring. Manifold monitoring may be used in cases of facilities consisting of more than one injection well, operating with a common manifold. Separate monitoring systems for each well may not be required provided the owner or operator demonstrates that manifold monitoring is comparable to individual well monitoring.

3. Reporting requirements shall, at a minimum, include: An annual report to the Department summarizing the results of the monitoring required under (c)2 above. Previously submitted information may be included by reference.

i. Owners or operators of hydrocarbon storage and enhanced recovery projects may report on a field or project basis rather than an individual well basis where manifold monitoring is used.

7:14A–8.15 Specific operating criteria and construction standards applicable to Class III wells

(a) This section establishes operating criteria and construction standards for Class III wells.

(b) Construction requirements for Class III wells are as follows:

1. Class III wells shall, at a minimum, be constructed in accordance with the requirements and specifications set forth in N.J.A.C. 7:10–12. More stringent requirements shall be imposed, based on an evaluation of the nature of the injection fluid and/or of geological conditions, or where the Department otherwise determines that it is appropriate, based on considering potential impacts on ground water quality.

2. All new Class III wells shall be cased and cemented to prevent the migration of fluids into or between underground sources of drinking water. The casing and cement used in the construction of each newly drilled well shall be designed for the life expectancy of the well. In determining and specifying casing and cementing requirements, the following factors shall be considered:

i. Depth to the injection zone;

ii. Injection pressure, external pressure, internal pressure, and axial loading;

iii. Hole size;

iv. Size and grade of all casing strings (wall thickness, diameter, nominal weight, length, joint specifications, and construction material);

v. Corrosiveness of injected fluid, formation fluids and temperatures;

vi. Lithology of injection and confining zones; and

vii. Type and grade of cement.

3. Appropriate logs and other tests shall be conducted during the drilling and construction of new Class III wells. A descriptive report interpreting the results of such logs and tests shall be prepared by a qualified log analyst and submitted to the Department. The logs and tests appropriate to each type of Class III well shall be determined based on the intended function, depth, construction and other characteristics of the well, availability of similar data in the area of the drilling site and the need for additional information that may arise from time to time as the construction of the well progresses. At a minimum, such logs and tests shall include deviation checks conducted on all holes where pilot holes and reaming are used, at sufficiently frequent intervals to ensure that vertical avenues for fluid migration in the form of diverging holes are not created during drilling.

4. Where the injection zone is a water-bearing formation, the following information concerning the injection zone shall be determined or calculated for new Class III wells:

i. Fluid pressure;

ii. Temperature;

iii. Fracture pressure;

iv. Other physical and chemical characteristics of the injection zone;

v. Physical and chemical characteristics of the formation fluids; and

vi. Compatibility of injected fluids with formation fluids.

5. Where the injection zone is not a waterbearing formation, the information in (b)4 above shall be determined or calculated and submitted to the Department.

6. Where injection is into a formation which contains water with less than 10,000 mg/l total dissolved solids (TDS), monitoring wells shall be completed into the injection zone and into any underground sources of drinking water above the injection zone which could be affected by the mining operation. These wells shall be located so as to detect any excursion of injection fluids, process by-products, or formation fluids outside the mining area or zone. If the operation may be affected by subsidence or catastrophic collapse, the monitoring wells shall be located so that they will not be physically affected.

7. Where injection is into a formation which does not contain water with less than 10,000 mg/l TDS, monitoring requirements may be less stringent.

8. Where the injection wells penetrate an underground source of drinking water (USDW) in an area subject to subsidence or catastrophic collapse monitoring wells shall be installed into the USDW in sufficient numbers to detect any movement of injected fluids, process by-products or formation fluids into the USDW. The monitoring wells shall be located outside the physical influence of the subsidence or catastrophic collapse.

9. In determining the number, location, construction and frequency of monitoring of the monitoring wells, the following criteria shall be considered:

i. The population relying on the USDW affected or potentially affected by the injection operation;

ii. The proximity of the injection operation to points of withdrawal of drinking water;

iii. The local geology and hydrology;

iv. The operating pressures and whether a negative pressure gradient is being maintained;

v. The nature and volume of the injected fluid, the formation water, and the process by-products; and

vi. The injection well density.

(c) Operating, monitoring, and reporting requirements for Class III wells are as follows:

1. Operating requirements shall, at a minimum, specify that:

i. Injection pressure at the wellhead shall not exceed a maximum which shall be calculated so as to ensure that the pressure in the injection zone during the injection does not initiate new fractures or propagate existing fractures in the injection zone, initiate fractures in the confining zone, or cause the migration of injection or formation fluids into an underground source of drinking water; and

ii. Injection between the outermost casing protecting underground sources of drinking water and the well bore is prohibited.

2. Where appropriate, Class III wells may be monitored on a field or project basis rather than an individual well basis by manifold monitoring. Manifold monitoring may be used in cases of facilities consisting of more than one injection well, operating with a common manifold. Separate monitoring systems for each well are not required, provided the owner or operator demonstrates that manifold monitoring is comparable to individual well monitoring. Monitoring requirements shall, at a minimum, include:

i. Analyses of the injected fluids with sufficient frequency to yield data representative of the fluids' characteristics;

ii. Installation and use of continuous recording devices to monitor the injection pressure, flow rate and volume;

iii. A demonstration of mechanical integrity pursuant to N.J.A.C. 7:14A-8.12(c) at least once every five years during the life of the well;

iv. Weekly monitoring of fluid level and the parameters chosen to measure water quality in the injection zone; and

v. Quarterly monitoring of wells adjacent to the injection site to detect any migration from the injection zone into a USDW.

(d) Reporting requirements shall, at a minimum, include:

1. Quarterly reports to the Department on monitoring required;

2. Results of mechanical integrity, and any other periodic test required by the Department, reported with the first regular report after completion of the test; and

3. Monitoring may be reported on a project or field basis rather than on an individual well basis where manifold monitoring is used.

7:14A-8.16 Specific operating criteria and construction standards applicable to Class V injection wells

(a) This section establishes the operating criteria and construction standards for Class V wells.

(b) Class V wells shall, at a minimum, be constructed in accordance with the requirements and specifications set forth in N.J.A.C. 7:9 or 7:9A.

1. Well drilling permit requirements:

i. Where applicable, any owner or operator of a new Class V well shall obtain a well drilling permit before the commencement of any construction, in accordance with the Subsurface and Percolating Waters Act, particularly N.J.S.A. 58:4A-4.1. Information and applications for a well permit may be obtained from:

NJDEP
Water Supply Administration
Bureau of Water Allocation
PO Box 426
Trenton, New Jersey 08625-0426

2. Where applicable, individual subsurface sewage disposal systems, septic systems, or disposal beds shall be constructed in accordance with N.J.A.C. 7:9A.

3. The following information shall be submitted to the Department with the application for an individual UIC permit for a Class V well:

i. Detailed plans for construction of the injection well, including materials used and geologic or soil characteristics;

ii. Detailed description and analyses of fluids to be injected; and

iii. Description of the method of injection.

(c) Operating requirements for Class V wells are as follows:

1. Injection wells constructed in accordance with N.J.S.A. 58:4A-4.1 shall be maintained in accordance with N.J.A.C. 7:10-12 or any other pertinent regulations, or in accordance with requirements of the UIC permit.

2. Septic systems, disposal beds, or other subsurface sewage disposal systems shall be maintained in accordance with N.J.A.C. 7:9A or in accordance with the requirements of the UIC permit.

(d) Plugging and abandonment requirements for Class V wells are as follows:

1. Class V wells shall be plugged and abandoned in accordance with the requirements of N.J.S.A. 58:4A-4.1 et seq. and N.J.A.C. 7:9-9, Sealing of Abandoned Wells, where applicable. Cessation of injection operations constitutes abandonment in accordance with the requirements of N.J.S.A. 58:4A-4.1. The improper maintenance of a well may constitute abandonment of that well in accordance with N.J.S.A. 58:4A-4.1. The plugging and abandonment of injection wells constructed or operated in accordance with N.J.A.C. 7:9A are, at a minimum, to be abandoned in accordance with N.J.A.C. 7:9A-12.8.

2. Large-capacity cesspools as identified in N.J.A.C. 7:14A-8.4(a)3i and motor vehicle waste disposal wells as identified in N.J.A.C. 7:14A-8.4(a)3ii shall be closed in a manner that does not cause a violation of the State primary drinking water regulations under N.J.A.C. 7:10, or any Ground Water Quality Standards under N.J.A.C. 7:9C. At a minimum:

i. Large-capacity cesspools and motor vehicle waste disposal wells shall be emptied of wastes. Any soil, gravel, or other loose material within two feet from the bottom and sides which were exposed to waste shall be removed (except for large-capacity cesspools that have not received industrial wastes). Following such emptying and removal, the cavity shall be filled with clean gravel, stones, or soil material;

ii. All influent and effluent lines shall be excavated, removed or sealed such that no leaching of contaminants can occur; and

iii. All wastes or other materials emptied or removed under (d)2i above shall be managed in accordance with this chapter and the State Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and its implementing rules at N.J.A.C. 7:26, 7:26A and 7:26G.

3. Other Class V wells shall be plugged and abandoned in accordance with the terms of a UIC permit. These permit conditions shall include the following conditions:

i. All septic systems, seepage pits, dry wells and cesspools shall be emptied of wastes and removed or filled with gravel, stones, or soil material, in a manner which is acceptable to the administrative authority as defined in N.J.A.C. 7:9A-1;

ii. All influent and effluent lines shall be excavated, removed or sealed such that no leaching of contaminants can occur; and

iii. When components or residuals (for example, gravel filter material, fill material, soil) from an abandoned individual subsurface sewage disposal system are removed from the ground, such components or residuals shall be managed as follows:

(1) Any off site disposal of components and residuals from an abandoned system shall be managed in accordance with the State Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.) and its implementing rules at N.J.A.C. 7:26, 7:26A and 7:26G; and

(2) Onsite management of components and residuals from abandoned systems shall be in a manner which is acceptable to the administrative authority as defined in N.J.A.C. 7:9A-1.

(e) The UIC permit-by-rule authorization for any Class V well which fails to comply with the requirements of this section automatically terminates.

(f) Injection wells that exert a total pressure that exceeds the pressure exerted by the fluid under the influence of gravity at its height above the point of discharge plus the atmospheric pressure, shall be required to follow the standards described for Class I wells.

(g) Requirements for converting a Class V motor vehicle waste disposal well to another type of Class V well are as follows:

1. An application for an individual UIC permit shall be submitted, and shall include:

i. The information required under N.J.A.C. 7:14A-8.17;

ii. A description of how the requirements in (g)2 and 3 below will be met; and

iii. A description of how all motor vehicle waste will be managed in accordance with this chapter and the State Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and its implementing rules at N.J.A.C. 7:26, 7:26A and 7:26G.

2. All motor vehicle waste is segregated from the intended discharge by physical barriers and is not allowed to enter the well. The use of a semi-permanent plug as the means to segregate waste is not sufficient to convert a motor vehicle waste disposal well to another type of Class V well;

3. The motor vehicle waste disposal well is emptied of wastes. Any soil, gravel, or other loose material within two feet from the bottom and sides which were exposed to waste is removed. All wastes or other materials emptied or removed are managed in accordance with this chapter and the State Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and its implementing rules at N.J.A.C. 7:26, 7:26A and 7:26G;

4. The Department finds that injection of motor vehicle waste into the well following conversion is unlikely based on the facility's compliance history and records showing proper waste disposal; and

5. The Department approves such conversion in writing.

Amended by R.2004 d.47, effective February 2, 2004.
See: 35 N.J.R. 169(a), 35 1331(a), 36 N.J.R. 813(a).
In (b)1i, updated address; in (c) deleted "individual" throughout; in (d), inserted new 2, recodified existing 2 to 3; added (g).
Administrative correction.
See: 37 N.J.R. 4245(a).

7:14A-8.17 Additional requirements for applications for individual UIC permits

(a) In addition to the information required to be submitted pursuant to N.J.A.C. 7:14A-4 and 8.8, and after consultation with the Department, an applicant for an individual NJPDES UIC permit for a Class I, II, III or V well shall submit those items in (a)1 through 5 below as required by the Department.

1. For a permit for an existing Class I, II, III and V well to operate or the construction or conversion of a new Class I, II, III and V well:

i. A map showing the injection well(s) for which a permit is sought and the applicable area of review, determined as per N.J.A.C. 7:14A-8.12(a). Within the area of review, the map shall show the number, or name, and location of all producing wells, injection wells, abandoned wells, dry holes, or wells, surface bodies of water, springs, mines (surface and subsurface), quarries, water wells and other pertinent surface features including residences and roads. All wells, reservoirs, and other bodies of water used for public water supply that are within a five mile radius of the injection well shall be indicated. The map shall also show geologic faults, if known or suspected;

ii. A tabulation of data on all wells within the area of review which penetrate into the proposed injection zone. Such data shall include a description of each well's type, geological and geophysical logs, construction, date drilled, location, depth, record of plugging and/or completion, and any additional information the Department may require;

iii. Geologic name(s), maps, and cross sections indicating the general vertical and lateral limits of all underground sources of drinking water within the area of review, their position relative to the injection formation and the direction of water movement, where known, in each underground source of drinking water which may be affected by the proposed injection;

iv. Maps and cross sections detailing the geological structure of the local area;

v. Generalized maps and cross section illustrating the regional geologic setting;

vi. Proposed operating data as follows:

(1) Average and maximum daily rate and volume of the fluid to be injected;

(2) Average and maximum injection pressure; and

(3) Source and analysis of the chemical, physical, radiological and biological characteristics of injection fluids;

vii. Proposed formation testing program to obtain an analysis of the chemical, physical, and radiological characteristics of and other information on the receiving formation;

viii. Proposed stimulation program;

ix. Proposed injection procedure;

x. Engineering drawings of the surface and subsurface construction details of the system;

xi. Any expected changes in pressure, native fluid displacement, direction of movement of injection fluid;

xii. Contingency plans to address all shut-ins or well failures so as to prevent migration of fluids into any underground source of drinking water;

xiii. Plans (including maps) for meeting the monitoring requirements for Class I, II and III wells as specified in this section;

xiv. For wells within the area of review which penetrate the injection zone but are not properly completed or plugged, the corrective action proposed to be taken under N.J.A.C. 7:14A-8.11; and

xv. Construction procedures including a cementing and casing program, logging procedures, deviation checks, and a drilling, testing, and coring program.

2. For the approval of operation of a Class I, II, III and V well:

i. All available logging and testing program data on the well(s);

ii. A demonstration of mechanical integrity pursuant to N.J.A.C. 7:14A-8.12(c);

iii. The actual operating data;

iv. The results of the formation testing program;

v. The actual injection procedure;

vi. The compatibility of injected waste with fluids in the injection zone and minerals in both the injection zone and the confining zone; and

vii. The status of corrective or preventive action on defective wells in the area of review.

3. For the approval of the plugging and abandonment of a Class I, II, III and V well or of a plan for same:

i. The type and number of plugs to be used;

ii. The placement of each plug including the elevation of the top and bottom;

iii. The type and grade and quantity of cement to be used;

iv. The method for placement of the plugs; and

v. The procedures to be used to meet the requirements of N.J.A.C. 7:14A-8.12(d)3.

4. For Class I, II and III wells, the corrective or preventive action proposed to be taken under N.J.A.C. 7:14A- 8.11.

5. For Class V wells which are subsurface disposal systems, other than those regulated under the Standards for Individual Subsurface Sewage Disposal Systems, N.J.A.C. 7:9A, the information set forth at N.J.A.C. 7:14A-7.13.

7:14A-8.18 Specific operating criteria and construction standards applicable to permit by rule authorizations for underground injection into seepage pits

(a) This section sets forth the operating criteria and construction standards for underground injection into seepage pits under a permit-by-rule pursuant to N.J.A.C. 7:14A-8.5(b)5.

(b) Design requirements are as follows:

1. When required to protect against accumulation of fine particles that would impair the proper functioning of the seepage pit, a multiple compartment septic tank shall be designed and constructed in accordance with N.J.A.C. 7:9A-8.2.

2. The percolating area shall be the total outside surface area of the seepage pit lining below the inlet and exclusive of any soil horizons with a percolation rate slower than 40 minutes per inch. The bottom of the seepage pit shall not be counted as part of the percolating area. The minimum percolating area shall be determined from the following table based upon the maximum daily volume of discharge and a weighted average of the percolation or permeability rates of all soil layers exposed in the sidewalls. In no case, however, shall the percolating area be less than 110 square feet.

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

SUBCHAPTER 13. EFFLUENT LIMITATIONS FOR DSW PERMITS

7:14A–13.1 Purpose and scope

This subchapter sets forth the procedures the Department will use in imposing numeric or non-numeric effluent limitations in DSW permits.

7:14A–13.2 Types of effluent limitations

(a) Each DSW permit shall include conditions meeting the following requirements, as applicable:

1. Technology based limitations determined in accordance with N.J.A.C. 7:14A–13.3 and 13.4. Technology based limitations include secondary treatment standards for DTWs, effluent limitations guidelines, and case-by-case limitations developed through a best professional judgment analysis. Applicability criteria are at N.J.A.C. 7:14A–13.3(b);

i. For DTWs, effluent limitations based on secondary treatment as defined at 40 CFR 133 and incorporated into N.J.A.C. 7:14A–12;

ii. For dischargers other than DTWs, effluent limits requiring:

(1) Effluent limitations based on the best practicable control technology currently available (BPT);

(2) For conventional pollutants, effluent limitations based on the best conventional pollutant control technology (BCT);

(3) For all toxic pollutants, effluent limitations based on the best available technology economically achievable (BAT);

(4) For pollutants which are neither toxic nor conventional pollutants, effluent limitations based on BAT.

2. Water quality based limitations determined in accordance with N.J.A.C. 7:14A–13.6 when the Department has determined that the discharge causes, has the reasonable potential to cause, or contributes to an excursion above the SWQS. Water quality based limitations include limitations based on a TMDL adopted in accordance with N.J.A.C. 7:15–7. Applicability criteria are at N.J.A.C. 7:14A–13.3(a);

3. Limitations based on a WQM Plan adopted in accordance with N.J.A.C. 7:15. Applicability criteria are at N.J.A.C. 7:14A–13.3(d);

4. Limitations based on State effluent standards in accordance with N.J.A.C. 7:14A–12 and N.J.A.C. 7:9–5.7. Applicability criteria are at N.J.A.C. 7:14A–13.3(c); and

5. Limitations based on existing effluent quality and determined in accordance with N.J.A.C. 7:14A–13.8 when the Department determines that such limitations are necessary. Applicability criteria are at N.J.A.C. 7:14A–13.3(e).

7:14A–13.3 Applicability of effluent limitations

(a) DSW permits shall include water quality based effluent limitations or requirements where the Department determines that effluent limitations, guidelines or standards established pursuant to (b) through (e) below are not sufficient to achieve surface water quality standards established pursuant to N.J.A.C. 7:9B, or to attain and maintain a specified water quality through water quality related effluent limitations established pursuant to Section 302 of the Federal Act. In addition:

1. Where the Department determines that a discharge may adversely impact a waterbody with a higher use classification or antidegradation designation downstream of the discharge location, water quality based effluent limitations shall be developed and included in the discharge permit to ensure that the water quality standards applicable to the higher classification or antidegradation designation of the downstream waterbody shall be attained and maintained; and

2. Where the Department determines that a discharge may cause, contribute, or have the reasonable potential to cause an excursion above the surface water quality standards of another state, water quality based effluent limitations shall be developed and included in the discharge permit to ensure that the water quality standards for the affected waters of the other state shall be attained and maintained.

(b) DSW permits issued for direct discharges of industrial wastewater shall include technology based effluent limitations and standards promulgated under Section 301 of the Federal Act (33 U.S.C. § 1311), new source performance standards promulgated under Section 306 of the Federal Act (33 U.S.C. § 1316), or case-by-case effluent limitations determined under Section 402(a)(1) of the Federal Act (33 U.S.C. § 1342(a)(1)), or N.J.A.C. 7:14A–13.4, or a combination, in accordance with N.J.A.C. 7:14A–13.4.

1. Technology based treatment requirements under section 301(b) of the Federal Act represent the minimum level of control that shall be imposed in a permit. Where such technology based limitations are more stringent than other applicable limitations listed at N.J.A.C. 7:14A–13.2, the technology based limitations shall be included in the permit.

2. Technology based treatment requirements may be imposed through one of the following methods:

i. Application of USEPA promulgated effluent limitations developed under section 304 of the Federal Act (33 U.S.C. § 1314) to dischargers by category or subcategory. A permittee may seek fundamentally different factors variances from these effluent limitations under N.J.A.C. 7:14A–11.7(b)1.

ii. On a case-by-case basis under section 402(a)(1) of the Federal Act, to the extent that USEPA promulgated effluent limitations are inapplicable. The Department shall apply the appropriate factors listed in N.J.A.C. 7:14A–13.4 and shall consider:

(1) The appropriate technology for the category or class of point sources of which the applicant is a member, based on available information; and

(2) Any unique factors relating to the applicant.

iii. Through a combination of the methods in (b)2i and ii above. Where promulgated effluent limitations or guidelines apply only to certain aspects of the discharger's operation, or to certain pollutants, other aspects or activities are subject to regulation on a case-by-case basis in order to carry out the provisions of the Federal or State Act.

iv. Limitations developed under (b)2ii above may be expressed, where appropriate, in terms of toxicity (that is, LC_{50} or IC_{25}), provided the fact sheet demonstrates that the limits reflect the appropriate requirements.

3. Technology based limitations for new sources may be imposed through one of the following methods:

i. Application of USEPA promulgated new source standards developed under section 304 of the Federal Act to dischargers by category or subcategory.

ii. On a case-by-case basis to the extent that USEPA promulgated effluent limitations are inapplicable or are not available, the Department shall apply the appropriate factors listed in N.J.A.C. 7:14A–13.4 and shall consider:

(1) The appropriate technology for the category or class of point sources of which the applicant is a member, based on available information; and

(2) Any unique factors relating to the applicant.

(c) DSW permits shall include State effluent standards at N.J.A.C. 7:14A–12 and N.J.A.C. 7:9–5.7 as follows:

1. Secondary treatment standards at N.J.A.C. 7:14A–12.2 are the minimum treatment standard applicable to DTWs for BOD_5, total suspended solids, and pH;

2. State effluent standards at N.J.A.C. 7:14A–12.5 for disinfection, N.J.A.C. 7:14A–12.6 for foam, N.J.A.C. 7:14A–12.8 for oil and grease, and N.J.A.C. 7:9–5.7 for whole effluent toxicity and phosphorus are the minimum treatment standard;

3. State BOD_5 effluent standards at N.J.A.C. 7:14A–12.4 shall be incorporated into DSW permits for discharges into the named waterbodies where the Department has not adopted a TMDL for the waterbody;

4. The Department shall include effluent limitations for site remediation activities equal to the remediation effluent standards listed in N.J.A.C. 7:14A–12 Appendix B for any pollutant or pollutant parameter which either results from any remedial action or is present on-site at a concentration greater than the applicable Surface Water Quality Standards, unless it has been demonstrated to the Department's satisfaction that the pollutant, upon discharge, will not cause, have the reasonable potential to cause, or contribute to an excursion above any applicable Surface Water Quality Standards. The Department may include limitations for additional pollutants or pollutant parameters provided the statement of basis or the permit fact sheet includes a specific rationale for the requirement.

5. State effluent standards for the toxic effluent standards at N.J.A.C. 7:14A–12 Appendix C will be included in a discharge permit for a new source, a new discharge, or an expanded direct discharge in accordance with (c)5i through v below only if the permittee requests such limitations in accordance with N.J.A.C. 7:14A–4.4. A request shall specifically list each pollutant or pollutant parameter for which a limitation based on N.J.A.C. 7:14A–12 Appendix C is requested. The applicant shall not be required to submit a water quality study for any pollutant or pollutant parameter for which the Department determines that limitations based on N.J.A.C. 7:14A–12 Appendix C, when imposed on the discharge, are anticipated to ensure that the surface water quality standards, including antidegradation requirements, will be attained.

i. Limitations based on N.J.A.C. 7:14A–12 Appendix C shall not be used to relax a more stringent existing effluent limitation or standard, including limitations to be applied to the expansion of an existing discharge.

ii. Limitations based on N.J.A.C. 7:14A–12 Appendix C shall be used on a site-specific basis and consideration of the factors listed at (c)5ii(1) through (3) below only for discharges to waterbodies with the following classifications and antidegradation designations as defined in the Surface Water Quality Standards: FW2–NT (Category 2); FW2–TM (Category 2); SE1 (Category 2); SE2 (Category 2); SE3 (Category 2); or SC (Category 2). In no case shall N.J.A.C. 7:14A–12 Appendix C limitations be included in a discharge permit for a discharge to waters classified as FW1; FW2–TP; PL; any Category 1 water; any water with existing active shellfish harvesting activities, any intermittent stream, or immediately upstream or directly into any impoundment

(1) Limitations based on N.J.A.C. 7:14A–12 Appendix C shall be used for discharges to FW2–TM (Category 2) waters only when the Department determines that all Surface Water Quality Standards, including antidegradation requirements, will be attained;

(2) Limitations based on N.J.A.C. 7:14A–12 Appendix C shall be used for new sources or expanded direct discharges discharging to a waterbody only after consideration by the Department of the basis for any effluent limitations in place for existing discharges to the waterbody; and

(3) Limitations based on N.J.A.C. 7:14A–12 Appendix C shall be used for new sources or expanded direct discharges discharging to a waterbody only after consideration by the Department of the potential effects of the discharge on downstream high quality waters or rare or endangered species habitat, the effective dilution at the point of discharge, or any other appropriate site specific factors.

iii. Limitations based on N.J.A.C. 7:14A–12 Appendix C shall not be used where the Department determines that insufficient assimilative capacity is available in the receiving waterbody to allow the proposed discharge and to ensure that the Surface Water Quality Standards will be attained.

iv. When limitations based on N.J.A.C. 7:14A–12 Appendix C are requested by an applicant, the Department shall evaluate existing data to determine, if possible, whether the receiving waterbody is currently attaining the Surface Water Quality Standards. Where the waterbody is not currently attaining the SWQS, for the pollutants for which the N.J.A.C. 7:14A–12 Appendix C effluent limitations are requested, such, effluent limitations shall not be used.

v. Effluent limitations developed in accordance with N.J.A.C. 7:14A–13.4 or 13.6 which are more stringent than the limitations based on N.J.A.C. 7:14A–12 Appendix C shall be imposed when such limitations are developed. Limitations based on N.J.A.C. 7:14A–12 Appendix C which have been imposed on each discharge shall be evaluated as a part of the TMDL process for each pollutant or pollutant parameter.

(d) DSW permits shall include effluent limitations based on a WQM Plan adopted in accordance with N.J.A.C. 7:15 unless limitations based on (a), (b), (c)1, or (c)2 above are more stringent.

(e) DSW permits shall include effluent limitations based on existing effluent quality when the Department determines that an effluent limitation is appropriate for the pollutant or pollutant parameter of interest and a limitation has not been established in accordance with (a) through (d) above.

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), added U.S.C. references.

7:14A–13.4 Establishment of technology based limitations

(a) The discharge permit shall include technology based effluent limitations to control all toxic pollutants which the Department determines are or may be discharged at a level greater than the level which can be achieved by the technology-based requirements appropriate to the permittee under N.J.A.C. 7:14A–13.3(b)2.

(b) The Department may determine that surrogate limitations established in accordance with N.J.A.C. 7:14A–13.10 will provide controls for one or more of the pollutants identified under (a) above.

(c) In setting case-by-case technology based limitations, the following factors shall be considered:

1. For best practicable control technology (BPT) requirements:

i. The total cost of application of technology in relation to the effluent reduction benefits to be achieved;

ii. The age of the equipment and facilities involved;

iii. The process employed;

iv. The engineering aspects of the application of various types of control techniques;

v. Process changes; and

vi. Non-water quality environmental impacts, including energy requirements.

2. For best conventional pollutant control technology (BCT) requirements:

i. The reasonableness of the relationship between the costs of attaining a reduction in the pollutant(s) and the benefits derived from the pollutant reduction;

ii. Cost and level of treatment comparisons between DTWs and a class or category of industrial sources;

iii. The age of the equipment and facilities involved;

iv. The process employed;

v. The engineering aspects of the application of various types of control techniques;

vi. Process changes; and

vii. Non-water quality environmental impacts, including energy requirements.

3. For best available technology (BAT) requirements for toxic pollutants and non-conventional pollutants:

i. The age of the equipment and facilities involved;

ii. The process employed;

iii. The engineering aspects of the application of various types of control techniques;

iv. Process changes; and

v. Non-water quality environmental impacts, including energy requirements.

(d) The Department shall set a permit limit for a conventional pollutant at a level more stringent than the best conventional pollutant control technology, or a limit for a nonconventional pollutant which shall not be subject to modification under Section 301(c) or (g) of the Federal Act, where either (d)1 or 2 below apply. The permit fact sheet required by N.J.A.C. 7:14A–15.8 shall set forth the basis for the limitation, including a finding that compliance with the limitation will result in the BAT level of control of the toxic or hazardous pollutant discharges identified, and a finding that it would be economically or technically infeasible to directly limit the toxic or hazardous pollutant(s).

1. Effluent limitations guidelines specify the pollutant as a surrogate for a toxic or hazardous pollutant; or

2. The limitation reflects the BAT level of control of the discharge of one or more toxic or hazardous pollutants which are present in a waste stream, and a specific BAT limitation upon the toxic or hazardous pollutant(s) is not feasible for economic or technical reasons. The permit shall identify which toxic or hazardous pollutants are intended to be controlled by the use of the limitation.

(e) The Department shall set a permit limit for a conventional pollutant at a level more stringent than best conventional pollutant control technology when:

1. Effluent limitations guidelines specify the pollutant as an indicator for a hazardous substance; or

2. The limitation reflects best available technology level of control of the discharge of one or more hazardous substances which are present in a waste stream, and a specific best available technology limitation upon the hazardous substance(s) is not feasible for economic or technical reasons. The permit shall identify which hazardous substances are intended to be controlled by the use of the limitation. The statement of basis under N.J.A.C. 7:14A–15.7 or the permit fact sheet required by N.J.A.C. 7:14A–15.8 and 40 CFR Part 124.56 shall set forth the basis for the limitation, including a finding that compliance with the limitation will result in the best available technology level of control of the hazardous substances identified in the discharge, and a finding that it would be economically or technically infeasible to directly limit the hazardous substance(s).

(f) The Department shall not set a more stringent limit under (d) or (e) above if the method of treatment required to comply with the limit differs from that which would be required if the toxic pollutants or hazardous substances controlled by the limitation were limited directly.

(g) Toxic pollutants identified under (d) above shall be subject to the provisions of N.J.A.C. 7:14A–11.2 concerning establishing permit conditions.

(h) (Reserved)

(i) Technology based treatment requirements shall be applied prior to or at the point of discharge.

(j) Technology based treatment requirements cannot be satisfied through the use of non-treatment techniques such as flow augmentation and instream mechanical aerators. However, these techniques may be considered as an acceptable method of achieving ambient water quality standards on a case-by-case basis when:

1. The technology based treatment requirements applicable to the discharge are not sufficient to meet the ambient water quality standards;

2. The discharger waives any opportunity to request a variance under section 301(c), (g), or (h) of the Federal Act; and

3. The discharger demonstrates that such a technique is the preferred environmental and economic method to achieve the ambient water quality standards after consideration of alternatives such as advanced waste treatment, recycle and reuse, land disposal, changes in operating methods, and other available options.

(k) Except as provided below, technology based effluent limitations imposed in permits shall not be adjusted for pollutants in the intake water.

1. Upon request of the discharger, technology based effluent limitations or standards shall be adjusted to reflect credit for pollutants in the discharger's intake water if:

i. The applicable effluent standards specifically provide that they may be applied on a net basis; or

ii. The discharger demonstrates that the control system it proposes or uses to meet applicable technology based limitations and standards would, if properly installed and operated, meet the effluent limitations and standards in the absence of pollutants in the intake water;

2. The permit includes conditions requiring:

i. The permittee to conduct additional monitoring (for example, for flow and concentration of pollutants) as necessary to determine continued eligibility for and compliance with any such adjustments; and

ii. The permittee to notify the Department if eligibility for an adjustment under this section may no longer be applicable. In that case, the permit shall be modified accordingly under N.J.A.C. 7:14A–16.4(b)8;

1. Limitations on industrial treatment works for conventional, non-conventional, and toxic pollutants shall, unless impracticable, be stated as maximum daily and average monthly discharge limitations;

2. Limitations for conventional and non-conventional pollutants discharged from a DTW shall, unless impracticable, be stated as average weekly and average monthly discharge limitations. Limitations on toxic pollutants discharged from a DTW shall, unless impracticable, be stated as maximum daily and average monthly discharge limitations;

3. Limitations on any pollutant or pollutant parameter where the monitoring frequency is once per month or less may be stated as a maximum daily limitation. Average monthly limitations may also be included on a site specific basis if the Department determines that such limitations are necessary to adequately regulate the discharge of pollutants from the facility;

4. For whole effluent toxicity where the effluent monitoring frequency is once per month or less, the maximum daily effluent limitation shall be stated as the No Observed Adverse Effect Concentration or minimum LC_{50} (for acute whole effluent toxicity) or minimum IC_{25} (for chronic whole effluent toxicity) and as a maximum acute or chronic toxic units. Average monthly limitations may also be included on a site specific basis if the Department determines that such limitations are necessary to adequately regulate the discharge of pollutants from the facility;

5. For limitations other than water quality based limitations which may be imposed on DTWs, where the average weekly limitation is calculated from the average monthly limitation, or the reverse, the Department may use a factor of 1.5 to calculate the average weekly limitation from the average monthly limitation or, alternatively, may, at the request of the applicant, use the statistical procedures at N.J.A.C. 7:14A–13.6 to determine the appropriate average weekly limitation; and

6. For intermittent flows, the maximum limitation shall be applicable during periods of actual discharge.

7:14A–13.16 Point of compliance for effluent limitations

(a) The point of compliance for each outfall shall be established as follows:

1. Permit effluent limitations, standards, prohibitions, and monitoring requirements shall be established for each outfall or discharge point of the permitted facility, except as provided under N.J.A.C. 7:14A–6.2(b) (BMPs where limitations are infeasible), (a)2 below (limitations on internal waste streams), (a)6 below (alternate monitoring point for whole effluent toxicity), and (a)7 below (discharges into storm sewers);

2. Effluent limitations or standards for discharges of pollutants may be imposed on internal waste streams before mixing with other waste streams or cooling water streams when:

i. Permit effluent limitations for the final effluent are impracticable or infeasible to calculate; or

ii. Monitoring of the final mixed effluent or point of discharge is impracticable or infeasible;

3. Internal monitoring points shall be established in cases where two or more different types of wastewater (for example, process waste, domestic waste, stormwater, non-contact cooling water) mix prior to entering the receiving water, unless such monitoring points are deemed to be unnecessary by the Department;

4. When the point of compliance is an internal waste stream, the monitoring required by N.J.A.C. 7:14A–14.2 shall be applied to the internal waste stream;

5. When the point of compliance is an internal waste stream, the fact sheet under N.J.A.C. 7:14A–15.8 shall set forth the circumstances which make such limitations necessary, such as that the final discharge point is inaccessible, the wastes at the point of discharge are so diluted as to make monitoring impractical, the interferences among pollutants at the point of discharge would make detection or analysis impracticable, or two or more waste streams are mixed prior to discharge;

6. For whole effluent toxicity, an alternate point of compliance may be established prior to chlorination if either of the following applies:

i. The whole effluent toxicity limitation is based on N.J.A.C. 7:9–5.7; or

ii. The permit includes water quality based limitations for chlorine produced oxidants and the following conditions are met:

(1) The discharge is in compliance with the water quality based effluent limitations for chlorine produced oxidants at the point of discharge or such limitations have been determined to be unnecessary;

(2) A dechlorination treatment step is not required to attain the water quality based limitations for chlorine produced oxidants;

(3) Establishment of a monitoring point after chlorination at the point of discharge is impracticable or infeasible;

(4) Samples collected after chlorination are not able to attain the water quality based effluent limitation for whole effluent toxicity; and

(5) The permittee demonstrates to the Department's satisfaction that the failure to attain the water quality based limitation in samples collected post-chlorination is due to the presence of chlorine produced oxidants in the effluent sample;

7. For discharges into stormwater conveyances, the point of compliance shall be established prior to the discharge into the stormwater conveyance, unless the Department determines on a site specific basis that an alternate point of compliance is appropriate.

7:14A–13.17 Toxicity reduction evaluations

(a) Toxicity reduction requirements shall be included in discharge permits which include a whole effluent toxicity limitations as follows:

1. When a minimum of two tests out of six consecutive whole effluent toxicity tests demonstrate that the effluent does not comply with the effluent limitation, the permittee shall initiate toxicity reduction implementation requirements.

2. Where an exceedance of the permit limit is directly caused by a documented facility upset, or other unusual event which has been identified and appropriately remedied by the permittee, test data collected during the period of upset may be eliminated when determining the necessity of initiating the following toxicity reduction implementation requirements.

3. Toxicity reduction requirements apply to limitations that are in effect or become effective during the term of the permit.

4. The permittee shall conduct a tiered investigation as specified below:

i. Within 30 days of the close of the monitoring period which contained the second violation specified in (a)1 above, the permittee shall initiate the toxicity characterization phase of monitoring consisting of increased monitoring frequency for a total of 12 additional tests, as follows:

(1) For major facilities, monthly effluent monitoring; and

(2) For minor facilities, semi-monthly effluent monitoring.

ii. Upon the third exceedance of the toxicity limit for a major facility or upon the fourth exceedance of the toxicity limit for a minor facility of the tests conducted during the characterization phase, a preliminary toxicity identification shall be conducted, which includes (a)4ii(1) through (5) below as applicable to a specific facility. This preliminary toxicity identification shall be completed within 15 months of completing the toxicity characterization phase:

(1) Treatment plant performance evaluation;

(2) Pretreatment program information;

(3) Evaluation of levels of ammonia-N and chlorine produced oxidants and their effect on the toxicity of the discharge;

(4) Evaluation of chemical use and processes at the facility; and

(5) Evaluation of incidental facility procedures (such as washing of floors and chemical spill disposal) which may contribute to effluent toxicity.

5. Where the data collected during the Toxicity characterization phase indicate consistent compliance with the whole effluent toxicity limit for four (4) consecutive tests, the toxicity reduction implementation requirements are deemed complete and the permittee may return to the monitoring frequency for WET specified in the discharge permit.

6. Where a preliminary toxicity identification has not resulted in compliance with the final effluent limitation, the permittee shall initiate a comprehensive toxicity investigation phase within six months of the completion of the preliminary investigation.

7. Within three months of the demonstration that a comprehensive toxicity investigation is necessary, the permittee shall submit a project study plan. The project study plan shall identify the party or parties responsible for the conduct of the comprehensive evaluation, establish a schedule for completion of the study, and identify and describe the technical approach which the study will utilize. The schedule for completion of the toxicity reduction evaluation is subject to Departmental approval.

i. Quarterly progress reports shall be submitted during the term of the toxicity reduction implementation requirements. The reports shall include a summary of data collected and actions taken during the applicable quarter. A copy of the transmittal letter for each quarterly report shall be forwarded to the applicable regional Enforcement Bureau; and

ii. A final report shall be submitted which identifies the specific actions taken by the permittee to achieve compliance, describes and identifies the pollutants or groups of pollutants contributing to or causing the whole effluent toxicity exceedances, and describes the final corrective actions taken to achieve compliance and the outcome of the study.

8. The permittee may elect to complete an instream verification study prior to the initiation of the comprehensive toxicity identification/ reduction phase specified in (a)6 above. If the permittee selects this option, a project work plan approved by the Department shall be submitted in lieu of the project work plan specified in (a)7 above. This option shall be limited to permittees with discharges to non-tidal, freshwater receiving waters where a regulatory mixing zone of a defined size and shape has been established for the discharge. The study shall be completed and submitted to the Department for evaluation within two years of selecting this alternative.

i. Where the results of an instream verification study definitively demonstrate that there are no existing or potential adverse impacts from the discharge, the Department shall determine that the permittee is exempt from the requirements of (a)6 above.

ii. If the data submitted for this study are deemed insufficient by the Department to make a determination that there are no existing or potential adverse impacts from the discharge, the permittee shall initiate the comprehensive toxicity identification and reduction evaluation requirements of (a)6 above within 90 days of notification by the Department that the instream verification study was insufficient to make a determination.

iii. The instream verification study shall be completed in accordance with the approved project work plan. Evaluation of the instream data may also require completion of a mixing zone study.

7:14A–13.18 Inclusion of action levels for water quality based effluent limitations

(a) Where the Department has developed water quality based effluent limitations utilizing a chemical equilibrium which includes non-limited pollutants or pollutant parameters which control the chemical equilibrium, action levels for the controlling pollutants or pollutant parameters equal to the values used in the chemical equilibrium calculation shall be included in the permit as permit monitoring conditions.

(b) For ammonia-N limitations, action levels shall be determined and included for pH and may be included for temperature, alkalinity or hardness.

(c) For those metals where the applicable criterion is dependent on hardness, an action level shall be included for hardness.

(d) If the discharge is not in conformance with the applicable action level for a period of time not to exceed the duration of the applicable criterion, the permittee shall take the specific actions stipulated in the discharge permit. These actions may require the permittee to:

1. Collect the necessary instream data during the period of the non-conformance to determine if the instream criteria were exceeded during the period of non-conformance; and

2. Prepare and submit with the monthly DMR, a report which details the frequency and duration of any non-conformance with the action levels as set forth in the permit and includes all instream and effluent data collected during periods of non-conformance.

(e) If the action levels set forth in the permit are exceeded more frequently than once in any monthly monitoring period, the action levels shall be re-evaluated and, if necessary, the effluent limitations associated with those action levels shall be recalculated. The permit shall be reopened and modified to include the updated effluent limitations and the associated action levels. The permit shall be reopened and modified to adjust the action levels and/or the effluent limitations if monitoring data demonstrate that the discharge causes, contributes, or has the reasonable potential to cause or contribute to an exceedance of the surface water quality standards at N.J.A.C. 7:9B.

7:14A–13.19 Antibacksliding

(a) Except as provided for under Section 402(*o*) of the Federal Act (33 U.S.C. § 1342(*o*)), when a permit is modified, renewed or reissued, all effluent limitations or standards shall be at least as stringent as the final and effective effluent limitations or standards in the previous permit.

7:14A–13.20 Limitations for non-continuous discharges

(a) In addition to applicable requirements specified in N.J.A.C. 7:14A–13.2 through 13.19, discharges which are not continuous shall be specifically described and limited by one or more of the following measures, as appropriate:

1. Frequency (for example, a discharge shall not occur more often than once every three weeks);

2. Total mass (for example, a discharge shall not exceed 100 kilograms of zinc and 200 kilograms of copper per batch discharge);

3. Maximum rate of discharge of pollutants during the discharge event (for example, the discharge shall not exceed two kilograms of zinc per minute);

4. Maximum concentration of pollutants (for example, the concentration shall not exceed one milligram per liter of zinc); and

5. Prohibition or limitation of specified pollutants by mass, concentration, or other appropriate measure (for example, a discharge shall not contain more than 0.1 mg/L of zinc at any time or more than 250 grams of zinc in any batch discharge).

7:14A–13.21 Implementation of water quality based effluent limitations

(a) The implementation procedures in (b) through (e) below shall be utilized by the Department as a process to incorporate water quality based effluent limitations in discharge permits to ensure compliance with the Surface Water Quality Standards.

(b) Whole effluent toxicity shall be incorporated in discharge permits where a water quality based whole effluent toxicity limitation is required in accordance with N.J.A.C. 7:14A–13.5, water quality based whole effluent toxicity limitations shall be determined and incorporated into the discharge permit in accordance with N.J.A.C. 7:14A–13.6. The permit may include a schedule to achieve compliance with the water quality based limit.

1. Where a water quality based whole effluent toxicity limitation is not required, the discharge permit shall include an acute whole effluent toxicity limitation in accordance with N.J.A.C. 7:9–5.7.

(c) Limitations for new sources, new discharges, or expanded direct discharges shall be established as follows:

1. Water quality based limitations for chemical specific parameters shall be incorporated into the discharge permit as required by N.J.A.C. 7:14A–13.5. Chemical specific limitations shall become effective on the effective date of the permit.

2. If a permittee/applicant qualifies in accordance with N.J.A.C. 7:14A–13.3 for limitations based on N.J.A.C. 7:14A–12 Appendix C for a specific pollutant, limitations for that pollutant may be incorporated into the discharge permit. The limitations shall become effective on the effective date of the permit. The effluent limitations shall be re-evaluated when a TMDL is adopted for the affected waterbody.

3. Where a water quality based whole effluent toxicity limitation is required in accordance with N.J.A.C. 7:14A–13.6, the water quality based limitation shall be incorporated into the discharge permit. The Department may include a compliance schedule not to exceed three years for water quality based whole effluent toxicity limitations.

4. Where a water quality based whole effluent toxicity limitation is not required, the discharge permit shall include an acute whole effluent toxicity limitation in accordance with N.J.A.C. 7:9–5.7.

(d) For site remediation discharges, the site remediation effluent standards at N.J.A.C. 7:14A–12 Appendix B shall be incorporated into the discharge permit unless a water quality based effluent limit is determined in accordance with N.J.A.C. 7:14A–13.5 and 13.6 or the discharge qualifies in accordance with N.J.A.C. 7:14A–13.3(c)5 for limitations based on N.J.A.C. 7:14A–12 Appendix C. The limitations shall become effective on the effective date of the permit unless the Department determines that a compliance schedule is appropriate and is included in the permit. The site remediation limitations may be re-evaluated in conjunction with the TMDL process for the affected waterbody.

(e) For existing discharges, water quality based effluent limitations shall be incorporated into discharge permits in accordance with the following schedule:

1. All water quality based effluent limitations that have been previously included in the discharge permit shall be included in the renewal or reissuance of the discharge permit, unless the Department makes a determination that the discharge does not have the reasonable potential to cause or contribute to an excursion above the Surface Water Quality Standards, or that modification of the limitation is consistent with N.J.A.C. 7:14A–13.16 and 13.19.

2. Whenever appropriate, water quality based effluent limitations for conventional and non-conventional pollutants, including, but not limited to biochemical oxygen demand (BOD) (or any parameter serving as a surrogate for BOD), nitrogen compounds including ammonia-N, chlorine produced oxidants, total dissolved solids, and dissolved oxygen, shall be included in the discharge permit upon renewal or reissuance.

i. When a water quality based limitation is required to control dissolved oxygen dynamics in the receiving stream, the effluent limitations shall control both the carbonaceous and nitrogenous forms of BOD as necessary based on an evaluation of the reasonable potential of the discharge to cause or contribute to an exceedance of the water quality standards.

ii. Whenever possible, carbonaceous BOD (CBOD) shall be controlled through effluent limitations on $CBOD_5$ or $CBOD_{20}$. Limitations on both $CBOD_5$ and $CBOD_{20}$ may be imposed to ensure consistency with water quality management plans and/or the requirements of other agencies.

iii. Nitrogenous BOD (NBOD) shall be controlled through effluent limitations on NBOD, ammonia-N, total N, or a combination of these measures.

3. When insufficient data are available to determine water quality based limitations for any conventional or non-conventional pollutant at the time of permit renewal or issuance, the permittee may be required to complete a water quality study to determine appropriate water quality based effluent limitations. In certain cases, the permittee may elect to participate in a watershed-based TMDL study, if the time frame for such study is determined to be acceptable by the Department.

SUBCHAPTER 14. MONITORING FREQUENCY REQUIREMENTS APPLICABLE TO DSW AND SIU PERMITS

7:14A–14.1 Purpose and scope

(a) This subchapter sets forth the monitoring frequency requirements for parameters included in DSW and SIU permits that are either monitored and limited, or monitored only.

(b) The Department shall specify alternative monitoring requirements in a permit, other than specified in this subchapter, for cause, provided the Department justifies such alternative monitoring requirements in the fact sheet for the draft permit.

SUBCHAPTER 15. PROCEDURES FOR DECISION MAKING—NJPDES PERMIT PROCESSING REQUIREMENTS

7:14A–15.1 Purpose and scope

This subchapter sets forth the procedural stages that the Department shall follow when processing an individual NJPDES permit and, as applicable, a general NJPDES permit. These procedural stages include conducting a permit preapplication conference when requested, receiving a permit application, performing an administrative and technical review of the application, preparing a draft permit, issuing a public notice, inviting public comment, holding a public hearing on a draft permit as applicable, issuing a final permit decision, responding to comments and establishing an administrative record for the permit action. The procedural stages of the NJPDES permit application and decision process are outlined in Appendix A of this subchapter as a guide for permit applicants.

7:14A–15.2 (Reserved)

7:14A–15.3 Preapplication conferences, permit checklists and technical manuals

(a) The Department shall convene a preapplication conference within 30 days of receipt of a written request for such a conference submitted pursuant to (b) below. The purpose of the preapplication conference is to discuss general program requirements and their application to the proposed project or activity.

(b) A prospective applicant seeking a preapplication conference shall submit to the address below a completed preapplication conference request form and a conceptual plan of the proposed project for which permit approval is sought. Preapplication conference request forms may be obtained from the Department by writing or calling:

New Jersey Department of Environmental Protection
Office of Permit Coordination and Pollution Prevention
CN 423
401 East State Street
Trenton, NJ 08625–0029
(609) 292–3600

(c) Upon receipt of a written request sent to the address listed in (b) above, the Department shall provide a prospective applicant with a permit application checklist to identify those items required to be submitted in order for a permit application to be declared administratively complete, including:

1. The application form(s) required for an administratively complete application;

2. Any documents or other written submissions required to be filed with the application under this chapter; and

3. Any filing, notice, hearing or other requirement that is a precondition for review and processing of an application, including any required certification of compliance.

(d) A prospective applicant may also obtain a technical manual prepared by the Department in accordance with N.J.S.A. 13:1D–111 for a specified class or category of permit by writing to:

Maps and Publications Sales Office
Bureau of Revenue
CN 417
Trenton, NJ 08625

(e) The policies and interpretations contained in a technical manual in force on the date that an administratively complete application for a permit subject to that technical manual has been filed shall be binding on both the Department and the applicant, except as otherwise required under Federal or State law, or rule or regulation promulgated thereunder, or an order of the court. However, if an application is determined to be administratively incomplete, the date of filing shall be the date that the information required for an administratively complete application is filed with the Department. Any revision to a technical manual shall have no effect upon a permit application that was submitted to the Department prior to the date of the revision. Nothing in this subsection shall be construed to:

1. Exempt an applicant from complying with all Federal and State laws, or rules or regulations adopted thereunder, including compliance with the requirements of a permit issued by the Department; or

2. Compromise any enforcement action available to the Department pursuant to law.

7:14A–15.4 Procedures for Department review of individual NJPDES permit applications

(a) The procedures for review of an application for an individual NJPDES permit application are as follows:

1. An applicant shall comply with the permit application requirements contained in N.J.A.C. 7:14A–4 and any specific permit application requirements for the particular type of discharge as outlined elsewhere in this chapter before the Department begins the processing of an individual permit application.

2. Within 30 days of receipt of an application, the Department shall send written notice to the applicant and, if other than the applicant, to the person(s) who prepared the application as to whether the application and supporting documentation constitutes an administratively complete application for the purpose of commencing a technical review of the application. The notice shall

specify if the application lacks a submission identified in the permit application checklist obtained pursuant to N.J.A.C. 7:14A–15.3(c) or if any particular submission is incomplete.

3. Within 20 days after an application is determined to be administratively complete the Department shall send written notice to the applicant and, if other than the applicant, to the person(s) who prepared the application specifying the name of the individual(s) assigned to review the application.

4. If an application, including all necessary documentation, is determined to be administratively complete, the application shall be deemed complete for the purposes of commencing technical review thereof, and any applicable time period established for completing a review of the application and taking final action thereon shall, notwithstanding any other provisions of law to the contrary, commence on the 31st day following the date of filing of the administratively complete application.

5. If an application is determined to be not administratively complete and the Department fails to issue written notice to an applicant pursuant to (a)2 above, the application shall be deemed administratively complete for the purposes of commencing a technical review, and any applicable time period established to complete a review of the application and take final action shall, notwithstanding any other provisions of law to the contrary, commence on the 31st day following the date of filing of the administratively complete application.

6. Commencement of a technical review of the application shall not be delayed because of the failure of an applicant to file a submission not specifically identified on the checklist for that application that was in effect as of the date of the filing of the application.

7. If an application is deemed not administratively complete for the purposes of commencing a technical review, the Department shall provide the applicant with written notice of the information necessary to make the application complete. The Department shall specify in the notice of deficiency a date for submitting the necessary information. The applicant may request an extension for any such submittal.

8. If the application is deemed administratively complete for the purposes of commencing a technical review but is subsequently deemed technically incomplete, the Department shall provide the applicant with written notice of the information necessary to make the application technically complete. The Department shall specify in the notice of deficiency a date for submitting the necessary technical information. The applicant may request an extension for any such submittal.

9. The permit application will be inactivated and the applicant notified if the applicant fails or refuses to correct deficiencies to the satisfaction of the Department within the time frames established pursuant to (a)7 or 8 above.

10. Within 30 days of a written request by an applicant, the Department shall notify an applicant of the status of the application and of any outstanding issues relating to review of the application.

11. Nothing in this subsection shall be construed to:

i. Limit the authority of the Department to request at any time a submission that was not identified on the checklist for an application if the submission is required by State or Federal law, or rule or regulation promulgated in accordance therewith, except that such additional submission shall not affect any applicable time period established for the Department to review and take final action on a completed application;

ii. Diminish the responsibility of an applicant to comply with all applicable requirements of State or Federal law, or any rule or regulation promulgated in accordance therewith, or an order issued thereunder;

iii. Compromise or limit any enforcement action available to the Department pursuant to law; or

iv. Exempt an applicant from complying with all applicable provisions of Federal and State laws, or rules or regulations promulgated pursuant thereto.

(b) A final permit decision shall not be issued until the permit is determined to be consistent with the applicable water quality management plan in accordance with N.J.A.C. 7:15. An applicant may submit the permit application and plan amendment application concurrently pending the Department's determination of consistency of the permit application with the water quality management plan in accordance with the following terms and conditions:

1. The applicant shall state in the NJPDES permit application that it is submitting concurrent permit and water quality management plan amendment applications and shall request administrative and technical application review of the permit application;

2. The NJPDES permit application shall be deemed to be administratively incomplete in the absence of a determination of consistency with the applicable water quality management plan but the Department will continue to review the permit application for technical sufficiency;

3. The applicant bears the risk of incurring any cost associated with preparing the NJPDES permit and water quality management plan amendment application submittals whether or not the Department subsequently determines that the permit application is consistent with the water quality management plan; and

i. For effluent limitations, including those limitations necessary to implement a TMDL or watershed management plan adopted in accordance with N.J.A.C. 7:15–7, pursuant to N.J.A.C. 7:14A–6.2(a)10;

ii. For surrogate parameters, pursuant to N.J.A.C. 7:14A–13.7 or 13.10;

iii. For making a determination of reasonable potential to cause or contribute to an exceedance of the Surface Water Quality Standards, pursuant to N.J.A.C. 7:14A–13.5;

iv. For action levels associated with a specific effluent limitation that have been exceeded, pursuant to N.J.A.C. 7:14A–13.18;

v. For limitations based on narrative Surface Water Quality Standards, pursuant to N.J.A.C. 7:14A–13.7;

vi. For residual use or disposal, pursuant to N.J.A.C. 7:14A–20.5;

vii. (Reserved)

viii. For modification of effluent standards when Whole Effluent Toxicity data obtained by the Department shows toxicity at levels that exceed applicable effluent standards, as specified in N.J.A.C. 7:9–5.7(a); or

ix. For issuance of a facility wide permit, requiring pollution prevention at a facility, to incorporate a pollution prevention plan or to require more stringent effluent levels based on pollutant prevention strategies or technologies applicable to that facility or industry, in accordance with Section 48 of the Pollution Prevention Act, N.J.S.A. 13:1D–35, and its implementing regulations, specifically, N.J.A.C. 7:1K–7.1(c);

8. The filing of a complete request from a permittee who qualifies for effluent limitations on a net basis under N.J.A.C. 7:14A–13.4(k) or when a permittee is no longer eligible for net limitations as provided for in N.J.A.C. 7:14A–13.4(k) (see the information requirements contained in 40 CFR 122.45(g));

9. Establishment of a compliance schedule for development of a pretreatment program in accordance with N.J.A.C. 7:14A–6.4(c) and N.J.A.C. 7:14A–19;

10. Failure of the State to notify, as required by Section 402(b)(3) of the Federal Act, another state whose waters may be affected by a discharge from the State;

11. The level of discharge of any pollutant which is not limited in the permit exceeds the level which can be achieved by the technology based treatment requirements appropriate to the permittee under N.J.A.C. 7:14A–13.2 through 13.4;

12. Establishment of a "notification level" as provided in N.J.A.C. 7:14A–6.2(b)2;

13. Modification of a schedule of compliance to reflect the time lost during construction of an innovative or alternative facility, in the case of a POTW which has received a grant under Section 202(a)(3) of the Federal Act or public loan moneys for the costs to modify or replace facilities constructed with a grant for innovative and alternative wastewater technology under Section 202(a)(2) of the Federal Act. In no case shall a compliance schedule be modified to extend beyond an applicable State or Federal statutory deadline. For a permit modification under this paragraph a permittee shall submit all information detailing the reasons for time lost during construction and why such loss of time was not the fault of the permittee;

14. Correction of technical mistakes, such as errors in calculation, or mistaken interpretations of law or rules, made in determining permit conditions. For a permit modification under this paragraph, when the request is initiated by a permittee, the permittee shall cite the location of the alleged error or interpretation, denote what the correction should be and provide a detailed basis for the correction including any applicable regulatory citations or calculations;

15. Inability to achieve effluent limitations when the discharger has installed the treatment technology considered by the Department in setting effluent limitations imposed under section 402(a)(1) of the Federal Act and has properly operated and maintained the facilities. The limitations in the modified permit shall reflect the level of pollutant control actually achieved but shall not be less stringent than required by a subsequently promulgated effluent limitations guideline;

16. Inclusion of a plan or compliance schedule for the management of septage or sludge in accordance with the Statewide Sludge Management Plan;

17. Existence of cause for revocation under N.J.A.C. 7:14A–16.6 where the Department determines that modification or revocation and reissuance is instead appropriate;

18. When the proposed automatic transfer of a permit includes one or more of the causes for a major modification under this section;

19. For changes in permit issuance and renewal schedules to better manage the Department's workload and optimize its resource and to facilitate issuing permits on a watershed basis;

20. For substitution of ambient monitoring for compliance monitoring in order to gather data for issuing permits on a watershed basis; or

21. For a small MS4, to include an effluent limitation requiring implementation of one or more control measures (or component(s) thereof) when:

i. The permit recognizes under N.J.A.C. 7:14A–25.7(b) that another governmental entity or the

Department was responsible for implementing the measure(s), or component(s) thereof; and

ii. The other governmental entity or the Department does not implement the measure(s), or component(s) thereof.

Administrative correction.
See: 29 N.J.R. 3822(a).
In (b)5. substituted "A complete and timely request filed by the permittee for" for "The Department's approval of"; in (b)7viii, amended N.J.A.C. references; and rewrote (b)8.
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), added new 21.

7:14A–16.5 Minor modification of a permit

(a) The Department shall, with the consent of the permittee and without following the procedures set forth in N.J.A.C. 7:14A–15, modify a permit to make any of the following changes:

1. Correct typographical errors and make language changes that have no legal or substantial effect or correct technical or administrative errors which do not result in changes to the permit effluent limitations;

2. Require more frequent monitoring or reporting by the permittee;

3. Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date;

4. Reflect a change in the owner or operator of a facility where the Department determines that no permit change(s) necessary to accomplish the change in the owner or operator constitutes a major modification under N.J.A.C. 7:14A–16.4, provided that a written agreement containing a specific date for transfer of permit responsibility between the current and new permittees has been submitted to the Department;

5. Change the construction schedule for a discharger which is a new source. Such change shall not affect a discharger's obligation to have all pollution control equipment installed and in operation prior to discharge;

6. Delete a point source when the discharge from such point source is terminated and does not result in a change to the characteristics of the effluent from other point sources except in accordance with permit limits;

7. Incorporate the requirements of an industrial pretreatment program in accordance with the procedures in 40 CFR 403.11 as enforceable conditions of the permit; or

8. Substitute the parameter $CBOD_5$ for BOD_5 and revise the effluent limitations consistent with the secondary treatment provisions specified at N.J.A.C. 7:14A–12.2(c).

7:14A–16.6 Causes for suspension or revocation of a permit or denial of a permit renewal

(a) The following are causes for suspending or revoking a permit during its term, or for denying a permit renewal application:

1. Noncompliance by the permittee with any condition of the permit;

2. The permittee's failure in the application or during the permit issuance or treatment works approval process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;

3. A determination by the Department that the permitted activity endangers human health or the environment which can be corrected only by suspension or revocation;

4. A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or residual use or disposal practice regulated under the permit;

5. For an individual SIU permit with an actual or potential discharge to a nondelegated local agency, information that shows that a permittee has ceased to meet all criteria under which an individual SIU permit is required pursuant to N.J.A.C. 7:14A–19;

6. The nonconformance of the discharge with any applicable facility, basin or areawide plans;

7. Inconsistency of the permit with any duly promulgated effluent limitation, permit, regulation, statute, or other applicable State or Federal law; or

8. Failure to pay applicable permit fees.

SUBCHAPTER 17. PROCEDURES FOR DECISION MAKING—ADJUDICATORY HEARINGS AND STAYS OF PERMIT CONDITIONS

7:14A–17.1 Purpose and scope

(a) This subchapter sets forth the procedures for requesting an adjudicatory hearing and a stay of permit conditions and for the Department's evaluation and processing of such requests. The procedural stages for requesting an adjudicatory hearing and stay of permit conditions are outlined in Appendix A which is to be used for guidance purposes only and is of no legal effect.

(b) The Department's decision regarding any adjudicatory hearing request and/or request for a stay shall be considered final agency action.

Administrative correction.
See: 29 N.J.R. 3822(a).
In (b) deleted "as defined in N.J.A.C. 7:14A–1.2".

Case Notes

Denial of discharge permit for noncontaminated, noncontact cooling water was valid due to concerns that it posed a threat to drinking water supplies because it would increase the rate of flow of arsenic contaminated waters. Matter of Vineland Chemical Co. (Vichem), 243 N.J.Super. 285, 579 A.2d 343 (A.D.1990), certification denied 127 N.J. 323, 604 A.2d 598.

Denial of requested discharge permit was not precluded because denial would not, of itself, solve contamination problems. Matter of Vineland Chemical Co. (Vichem), 243 N.J.Super. 285, 579 A.2d 343 (A.D.1990), certification denied 127 N.J. 323, 604 A.2d 598.

Role of the court in reviewing denial of pollution discharge elimination system (NJPDES) permit was limited to determining whether the conclusions reached by the Department of Environmental Protection (DEP) were based on substantial credible evidence. Matter of Vineland Chemical Co. (Vichem), 243 N.J.Super. 285, 579 A.2d 343 (A.D. 1990), certification denied 127 N.J. 323, 604 A.2d 598.

7:14A–17.2 Request for an adjudicatory hearing

(a) A permittee or a person who seeks and qualifies to be considered a party to the action pursuant to N.J.A.C. 7:14A–17.3 may submit to the Department a written request, by certified mail, or by other means which provides verification of the date of delivery to the Department for an adjudicatory hearing to contest the Department's final decision to:

1. Issue a new permit, permit modification, permit revocation and reissuance, permit renewal, permit suspension, or permit revocation;

2. Deny an application for a new permit or a permit renewal; or

3. Deny a variance pursuant to N.J.A.C. 7:14A–11.8.

(b) In order to request an adjudicatory hearing, a permittee shall submit the request in accordance with the requirements in (e) below within 30 days following receipt of the Department's notification of a final permit decision under N.J.A.C. 7:14A–15.15(a). In addition, the permittee shall provide a copy of its request for an adjudicatory hearing to any other person named on the permit.

(c) In order to be considered a party to the action for purposes of requesting an adjudicatory hearing under this section, a person shall submit a request in accordance with the requirements in (f) below within 30 days following receipt of the Department's notification of final permit decision under N.J.A.C. 7:14A–15.15(a). In addition, such person shall forward a copy of the request to the permittee.

(d) The request for an adjudicatory hearing shall be submitted to the Department at the address listed below, and a copy of the request shall be submitted to the permit issuing office:

Office of Legal Affairs
Attention: Adjudicatory Hearing Requests
Department of Environmental Protection
CN 402
Trenton, New Jersey 08625–0402

(e) A permittee shall request an adjudicatory hearing by completing a Department adjudicatory hearing request tracking form which shall contain the following information:

1. For the Office of Legal Affairs only, a copy of the permit clearly indicating the permit number and issuance date;

2. For the permitting office only, the facility name and permit number;

3. The date that the notification of the final permit decision was received by the permittee;

4. A list of the specific contested permit condition(s) and the legal or factual question(s) at issue for each condition, including the basis of any objection;

5. A statement as to whether the permittee raised the legal and/or factual issues during the public comment period in accordance with N.J.A.C. 7:14A–15.13;

6. The relevance of the legal and/or factual issues to the permit decision;

7. Suggested revised or alternative permit conditions and how they meet the requirements of the State or Federal Act;

8. A request, if necessary for a barrier-free hearing location for disabled persons;

9. An estimate of the amount of time required for the hearing;

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

11. The name(s) and address(es) of the person(s) whom the requester represents; and

12. Information supporting the request or other written documents relied upon to support the request, unless this information is already in the administrative record (in which case, such information shall be specifically referenced in the request).

(f) A person seeking consideration as a party to the action shall include the following information in such person's request for an adjudicatory hearing:

1. The facility name and permit number;

2. A statement setting forth:

i. Each legal or factual question alleged to be at issue;

ii. Whether the legal or factual issue was raised by that person during the public comment period in accordance with the provisions of N.J.A.C. 7:14A–15.13;

iii. The relevance of the legal or factual issue to the permit decision, together with a designation of the specific factual areas to be adjudicated; and

iv. An estimate of the amount of time required for the hearing;

3. The date that notification of the final permit decision was received by the person making the hearing request;

4. The name, mailing address, and telephone number of the person making the request;

5. A clear and concise factual statement of the nature and scope of the interest of the requester which meets the criteria set forth at N.J.A.C. 7:14A–17.3(c)4;

6. The names and addresses of all persons whom the person making the hearing request represents;

7. A request, if necessary, for a barrier-free hearing location for disabled persons;

8. A statement by the person making the hearing request that, upon motion by any party granted by the administrative law judge, or upon order of the administrative law judge's initiative, such person shall make available to appear and testify at the administrative hearing, if granted, the following persons:

i. The person making the hearing request;

ii. All persons represented by the person making the hearing request; and

iii. All officers, directors, employees, consultants, and agents of the person making the hearing request;

9. Specific references to the contested permit conditions, as well as suggested revised or alternative permit conditions, including permit denials, which, in the judgment of the person making the hearing request, would be required to implement the purposes of the State Act;

10. Identification of the basis for any objection to the application of control or treatment technologies, if identified in the basis or fact sheets, and the alternative tech-

nologies or combination of technologies which, in the judgment of the person making the hearing request are necessary to satisfy the requirements of the State Act; and

11. A completed Department adjudicatory hearing request tracking form.

(g) The Department, in its discretion, may extend the time allowed for submission of an adjudicatory request under this section for good cause.

7:14A–17.3 Consideration as a party to the action

(a) The Department shall determine, or shall refer the determination to an administrative law judge, whether a person, other than an applicant or a permittee, is a party to the action.

(b) The Department shall determine whether a person is considered to be a party to the action within 30 days of receipt of the request or to refer the request to the administrative law judge. If the request is referred to the administrative law judge, the administrative law judge has an additional 30 days to decide on the request.

(c) A person shall be considered to be a party to the action only if:

1. The person's objection(s) to the Department's decision as specified in N.J.A.C. 7:14A–17.2(a) were raised by that person in the public hearing and/or in a written submission within the public comment period established pursuant to N.J.A.C. 7:14A–15;

2. The person demonstrates the existence of a significant issue of law or fact;

3. The person shows that the significant issue of law or fact is likely to affect the permit decision;

4. The person can show an interest, including an environmental, aesthetic, or recreational interest, which is or may be affected by the permit decision and that the interest can be fairly traced to the challenged action and is likely to be redressed by a decision favorable to that person. An organization may contest a permit decision on behalf of one or more of its members if the organization's member or members could otherwise be a party to the action in their own right, and the interests the organization seeks to protect are germane to the organization's purpose; and

5. The person submits the information required under N.J.A.C. 7:14A–17.2(f).

(d) Whenever a person's request to be considered to be a party to the action is granted, the Department or the administrative law judge, as appropriate, shall identify the permit conditions which have been contested by such person for which an administrative hearing will be granted. Permit conditions which are not so contested shall not be affected by, or considered at, the adjudicatory hearing.

(e) A permittee or applicant shall be allowed to participate in any proceeding where a person, other than the permittee or applicant, is seeking to become a party to the action. All requests by persons seeking to be considered a party to the action for a particular permit shall be combined in a single administrative hearing. When a person's request to be considered a party to the action is granted and a permittee's request for an administrative hearing is granted, the actions may be combined into a single administrative hearing by the Department after consideration of the nature and scope of the issue(s).

7:14A–17.4 Granting or denying an adjudicatory hearing request

(a) The Department, in its discretion, shall decide the extent to which, if at all, the request for an adjudicatory hearing shall be granted. The Department may grant or deny a request for a hearing in whole or in part.

(b) The Department shall deny a request for an adjudicatory hearing if:

1. The request does not conform with the information requirements for a permittee or a person as set forth, respectively, in N.J.A.C. 7:14A–17.2(e) and (f);

2. The request does not include genuine issues of material fact or of law which are relevant to the Department's decision as specified in N.J.A.C. 7:14A–17.2(a);

3. The request was not submitted within the time frames specified in N.J.A.C. 7:14A–17.2 (b) or (c), as appropriate;

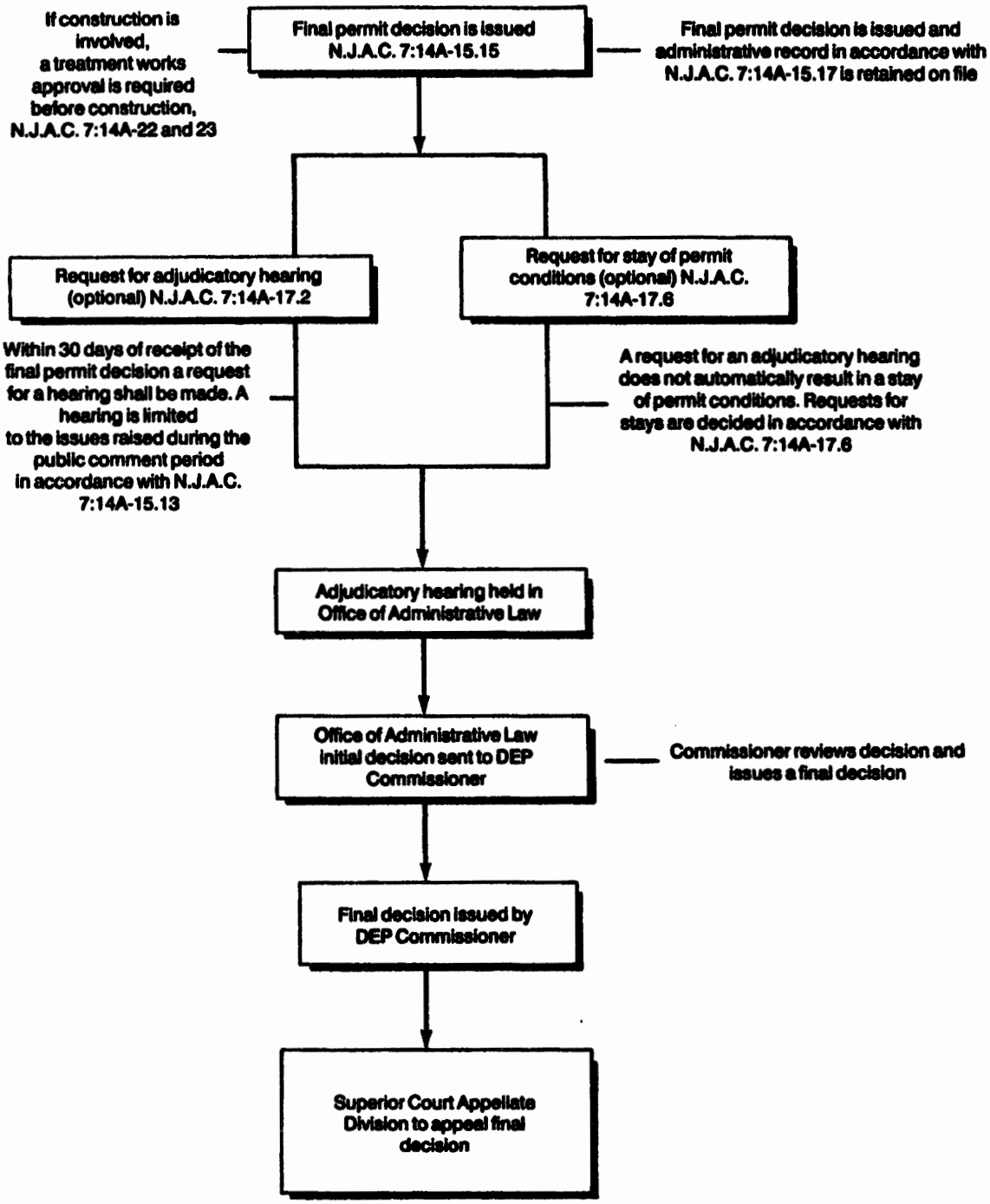
4. The contested legal and/or factual issues were not raised during the public comment period in accordance with N.J.A.C. 7:14A–15.13;

5. The request challenges duly promulgated regulations and not the Department's application of the regulations; or

6. The permittee or applicant is seeking an adjudicatory hearing to contest permit effluent limitations based upon N.J.A.C. 7:14A–12 Appendix C which were imposed in the permit due to the permittee's or applicant's specific request to impose those limitations.

(c) The Department, if it grants a request for an adjudicatory hearing in part, shall specifically identify those contested permit conditions for which an adjudicatory hearing has been granted. The issues presented in the adjudicatory hearing shall be limited to those permit conditions contested in a request for an adjudicatory hearing or those specifically identified by the Department in accordance with this section.

Permit Appeal and Stay Process



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

SUBCHAPTER 18. PUBLIC ACCESS TO INFORMATION AND REQUIREMENTS FOR DETERMINATION OF CONFIDENTIALITY

7:14A–18.1 Public access to information and scope of authority

(a) Except as otherwise provided in section 3 of P.L. 1963, c.73 (N.J.S.A. 47:1A–3), any records, reports or information obtained by the Department, or required to be developed and retained by the permittee as a permit condition pursuant to this chapter, the State Act or section 5 of P.L. 1972, c.42 (N.J.S.A. 58:11–53), including all NJPDES permit applications, documented information concerning actual and proposed discharges, comments received from the public, draft and final NJPDES permits, and related correspondence shall be made available to the public for inspection and duplication at the offices of the Department.

(b) For facilities with NJPDES permits for discharges to ground or surface water but which are otherwise within the jurisdiction of the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 and/or the Hazardous and Solid Waste Amendments of 1984 to that Act, public access to information shall be regulated pursuant to N.J.A.C. 7:26G.

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

7:14A–18.2 Confidentiality

(a) The Department shall protect from disclosure any information, other than effluent data, upon a satisfactory showing by any person that the information, if made public, would divulge methods or processes entitled to protection as trade secrets of such persons. The Department's decision on the claim of confidentiality shall be made in accordance with the substantive criteria listed in N.J.A.C. 7:14A–18.6. The access to any information deemed to be confidential by the Department shall be limited to authorized officers or employees of the Department and the Federal government. For purposes of this subchapter the term "information" shall include records, reports, and any other documents, writings, photographs, sound or magnetic recordings, drawings, or other similar formats by which information has been retrieved or copied.

(b) Included among those items for which claims of confidentiality will be denied are the following:

1. The name and address of any permit applicant, permittee or co-permittee;

2. Permits;

3. Effluent data as defined in N.J.A.C. 7:14A–1.2;

4. For permits under the UIC program, information which concerns the existence, absence, or level of contaminants in drinking water; and

5. Information required by NJPDES permit application forms provided by the Department under N.J.A.C. 7:14A–4. This includes information on the forms themselves and any attachments used to supply information required by the forms.

7:14A–18.3 Procedures for asserting confidentiality

(a) Any person may assert a confidentiality claim regarding information, in whole or in part, by following the procedures set forth in (b) through (f) below.

(b) Any person submitting information to the Department and asserting a confidentiality claim covering any of the information shall submit two sets of documents to the Department. The first set shall contain all information requested by the Department, including any information which the person alleges to be entitled to confidential treatment. The second set, which will go into the public file, shall be identical to the first set except that it shall not contain information which the person alleges to be entitled to confidential treatment. In order to provide the public notice that information has been omitted from the second set under a claim of confidentiality, the second set shall indicate where such deletions have been made.

(c) The top of each page of the first set containing the information which the person alleges to be entitled to confidential treatment shall display the heading "CONFIDENTIAL" in bold type or stamp.

(d) All parts of the text of the first set which the person alleges to be entitled to confidential treatment shall be underscored or highlighted in a clear manner. Translucent ink markers are acceptable for this purpose.

(e) The outside of the envelope containing the first set containing the information which the person alleges to be entitled to confidential treatment shall display the word "CONFIDENTIAL" in bold type on both sides.

(f) The person submitting the sets of information shall send them to the appropriate permitting office by certified mail (return receipt requested), or by other means which provides verification of the date of delivery to the Department.

7:14A–18.4 Fees for a claim of confidentiality

Any person submitting documents to the Department under a claim of confidentiality shall submit a check in the amount of $250.00 for the first 50 confidential pages and $1.00 for each page thereafter, to cover the additional costs of processing and protecting the confidential information.

7:14A–18.5 Procedure for confidentiality determinations

(a) Information for which a confidentiality claim has been asserted shall be treated by the Department as entitled to confidential treatment unless and until the Department determines that the information is not entitled to confidential treatment as provided in this section.

(b) The Department shall determine whether the information is entitled to confidential treatment whenever the Department:

1. Receives a request under the Right to Know Law, N.J.S.A. 47:1A–1 et seq., to inspect or copy such information; or

2. Desires to determine whether information in its possession is entitled to confidential treatment, even though no request to inspect or copy such information has been received.

(c) The initial determination of entitlement to confidential treatment is as follows:

1. If, in connection with any person's claim, the Department makes a preliminary determination that the information may be entitled to confidential treatment, the Department shall:

i. Furnish the notice of opportunity to submit comments as specified in (d) below to the affected person who is known to have asserted an applicable claim and who has not previously been furnished such notice with regard to the information in question; and

ii. Furnish, to any person whose request for release of the information is pending under N.J.S.A. 47:1A–1 et seq., a notification that the information may be entitled to confidential treatment under this subchapter, that further inquiry by the Department pursuant to this subsection is required before a final determination on the request can be issued, that the person's request is therefore initially denied, and that after further inquiry a final determination shall be issued by the Department.

2. If, in connection with all applicable claims, the Department determines that the information clearly is not entitled to confidential treatment, the Department shall take the actions required by (g) below.

(d) The Department shall provide notice to the affected person and an opportunity to comment as follows:

1. Whenever required by (c)1i above, the Department shall promptly furnish the affected person a written notice stating that the Department is in the process of determining under this subchapter whether the information is entitled to confidential treatment, and that the affected person shall substantiate the claim by submitting comments. The notice shall be furnished by certified mail (return receipt requested), or by other means which provides verification of the date of delivery to the Department. The notice shall state the address of the office to which the affected person's comments shall be addressed, the time allowed for comments, and the method for requesting a time extension under (d)1ii below. The notice shall further state that the Department will construe a person's failure to furnish timely comments as a waiver of the person's claim.

i. If action under this section is occasioned by a request for the information under N.J.S.A. 47:1A–1 et seq., the period for comment shall be 10 days after the date of the affected person's receipt of the written notice. In other cases, the period for comment shall be 20 days after the person's receipt of the written notice. In all cases, the notice shall reference the provisions of (d)1ii below.

ii. The period of submission of comments may be reasonably extended if, before comments are due, a request for an extension of the comment period is made by the affected person and approved by the Department. Except in extraordinary circumstances, as determined by the Department, the Department shall not approve such an extension without the consent of any person whose request for release of the information under N.J.S.A. 47:1A–1 is pending.

2. The written notice required by (d)1 above shall inform the affected person of the requirement to submit comments on the following points, subject to (d)3 below:

i. Measures taken by the person to guard against undesired disclosure of the information to others;

ii. The extent to which the information has been disclosed to others, and the precautions taken in connection therewith;

iii. Pertinent confidentiality determinations, if any, by the Department, by USEPA or by other agencies, and a copy of any such determination, if available, or reference to it;

iv. Whether the person asserts that disclosure of the trade secret information would be likely to result in substantial harmful effects on the person's competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects; and

v. The period of time for which confidential treatment is desired by the person.

3. New information, not submitted in the initial claim for confidentiality, provided it is marked when received in accordance with N.J.A.C. 7:14A–18.3 shall be regarded by the Department as entitled to confidential treatment if in accordance with the criteria listed in N.J.A.C. 7:14A–18.6, the Department determines that the information is entitled to confidential treatment. This new information shall not be disclosed by the Department without the person's consent, unless its disclosure is duly ordered by a court, notwithstanding other provisions of this subchapter to the contrary.

(e) An affected person shall be determined to have waived his or her claim of confidentiality as follows:

1. If the Department finds that a person has failed to furnish comments as required under this section, it shall

determine that the person has waived his or her claim, and that the information is therefore not entitled to confidential treatment under this subchapter and is available to the public.

2. In all other cases, the Department shall determine with respect to each claim whether or not the information is entitled to confidential treatment for the benefit of the affected person.

(f) If, in accordance with the criteria listed in N.J.A.C. 7:14A–18.6, the Department determines that the information is entitled to confidential treatment, it shall maintain the information in confidence, subject to court order, any applicable court rules, N.J.A.C. 7:14A–18.9, 18.10, 18.12 and 18.13 or other provisions of this subchapter which authorize disclosure in specified circumstances, and the Department shall so inform the affected person. If any person's request for the release of the information is then pending under N.J.S.A. 47:1A–1 et seq., the Department shall issue a determination denying that request, which shall state the basis for the determination and that it constitutes final agency action.

(g) If, in accordance with the criteria listed in N.J.A.C. 7:14A–18.6, the Department determines that the information is not entitled to confidential treatment, the Department shall so notify the affected person. Such notice of denial, or partial denial, of a confidentiality claim shall be in writing, and shall be furnished by certified mail, return receipt requested or by other means which provides verification of the date of delivery to the Department. The notice shall state the basis for the determination, that it constitutes final agency action concerning the confidential claim, and that the Department shall make the information available to the public 10 days after the date of the affected person's receipt of the notice.

(h) If the Department finds that disclosure of information covered by a confidentiality claim would serve to alleviate a situation posing an imminent and substantial danger to public health or safety, it may prescribe such shorter comment period as it finds necessary under the circumstances and make such shorter comment period known to affected persons pursuant to (d)1 above or post-determination waiting period pursuant to (g) above, or both; or disclose confidential information to any person whose role in alleviating the danger to public health or safety necessitates that person's knowing the information. Any such disclosure shall be limited to the minimum information necessary to enable the person to whom it is disclosed to carry out his or her role in alleviating the dangerous situation.

1. Any disclosure made pursuant to this section shall not be deemed a waiver of a confidentiality claim, nor shall it of itself be grounds for any determination that information is no longer entitled to confidential treatment.

7:14A–18.6 Substantive criteria for confidentiality determinations

(a) A determination made under N.J.A.C. 7:14A–18.5 shall hold that trade secret information is entitled to confidential treatment if:

1. The person has asserted a confidentiality claim;

2. The person has satisfactorily shown that he or she has taken reasonable measures to protect the confidentiality of the information, and that he or she intends to continue to take such measures;

3. The information is not, and has not been, reasonably obtainable, without the person's consent, by other persons (other than governmental bodies) using legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding);

4. No statute requires disclosure of the information; and

5. The person has satisfactorily shown that disclosure of the information would be likely to cause substantial harm to the person's competitive position.

7:14A–18.7 Class determinations

(a) The Department may make a determination that a certain class of information is or is not entitled to confidential treatment under this section if it finds that:

1. The Department possesses, or is obtaining, related items of information; and

2. One or more characteristics common to all such items of information will necessarily result in identical treatment for each such item, and that it is therefore proper to treat all such items as a class.

(b) A class determination shall clearly identify the class of information to which it pertains.

(c) A class determination shall state that all of the information in the class:

1. Fails to satisfy one or more of the applicable criteria in N.J.A.C. 7:14A–18.6, and is therefore ineligible for confidential treatment; or

2. Satisfies the applicable criteria in N.J.A.C. 7:14A–18.6, and is therefore eligible for confidential treatment.

7:14A–18.8 Access to and safeguarding of confidential information

(a) Unless specifically provided for by Federal law, State law, court order, or applicable court rule, no person shall have access to information which has been determined to be entitled to confidential treatment, other than:

1. The designated Department personnel;

2. For any permit issued to a treatment works treating domestic sewage or residual-only facility, the Department shall include a reopener clause to allow the incorporation of any applicable standard for residual use or disposal. The Department shall promptly modify or revoke and reissue any permit containing the reopener clause required by this paragraph if an applicable standard for residual use or disposal is more stringent than any requirements for residual use or disposal in the permit, or controls a pollutant or practice not limited in the permit.

3. On a case-by-case basis, the Department may impose requirements for the use or disposal of residual in addition to or more stringent than the requirements in the subchapter when necessary to protect public health or the environment from any adverse effect of the pollutant in the residual. This authority shall include, but not be limited to, the following:

i. The authority to require compliance with pollutant limits for additional constituents which the Department has evidence exceed the range found in sewage sludge produced in the State as determined by the Sludge Quality Assurance Regulations, N.J.A.C. 7:14C, or which exceed acceptable levels in USEPA's Technical Support Document for Land Application of Sewage Sludge, EPA 822/R–93–001a and 001b, November 1992 or Technical Support Document for Surface Disposal of Sewage Sludge, EPA 822/R–93–002, November 1992, as amended and supplemented;

ii. For bulk residual applied in accordance with N.J.A.C. 7:14A–20.7(h)1, the authority to require compliance with any or all of the general requirements in N.J.A.C. 7:14A–20.7(b)1 and the management practices in N.J.A.C. 7:14A–20.7(b)2 upon the Department's determination that the general requirements or management practices are needed to protect public health and the environment;

iii. For residual applied in accordance with N.J.A.C. 7:14A–20.7(h), the authority to establish additional steps in the treatment of residual to control the release of air contaminants (including, but not limited to, ammonia) consistent with the Air Pollution Control Act, N.J.S.A. 26:2C–1 et seq. This additional step shall include, but not be limited to, the requirement to increase the maturity of marketable residual products by achieving additional temperature reduction and moisture reduction; and

iv. For sites where bulk residual is applied under N.J.A.C. 7:14A–20.7(h), the authority to require a permit or a Letter of Land Application Management Approval to be obtained upon the Department's determination that a permit or Letter of Land Application Management Approval is needed to protect public health and the environment.

(b) The Department shall set forth the basis for permit conditions imposed under (a) above in a fact sheet issued pursuant to N.J.A.C. 7:14A–20.9, or, if the requirements are based on site-specific factors, a Letter of Land Application Management Approval issued pursuant to N.J.A.C. 7:14A–20.7(h) for the residual land application site.

(c) Innovative or alternative technologies and systems for residual use or disposal shall be regulated on a case-by-case basis in conformance with the requirements for the technology which most closely resembles the innovative or alternative technology system.

(d) The Department may designate any person subject to the standards for residual use or disposal as a "treatment works treating domestic sewage" or "residual-only facility" as defined by N.J.A.C. 7:14A–1.2, where it is found that a permit is necessary to protect public health and the environment from the adverse effects of a residual or to ensure compliance with the technical standards for residual use or disposal. Any person designated as a "treatment works treating domestic sewage" or "residual-only facility" shall submit an application for a permit under N.J.A.C. 7:14A–4 within 180 days of being notified by the Department that a permit is required. The basis for the Department's decision to designate a person as a "treatment works treating domestic sewage" or "residual-only facility" under this paragraph shall be stated in the fact sheet or statement of basis for the permit.

Amended by R.1999 d.164, effective May 17, 1999.
See: 31 N.J.R. 200(a), 31 N.J.R. 1320(a).
In (a)3i, changed N.J.A.C. reference.

7:14A–20.6 Environmental assessment

(a) In addition to the information required by N.J.A.C. 7:14A–4, an applicant for a NJPDES permit for residual use or disposal shall submit an environmental assessment for the location where a residual will be prepared to be applied to the land, the location where a residual was placed on a surface disposal site, or the location of any other treatment works treating domestic sewage (TWTDS) or residual-only facility required to obtain a permit pursuant to this subchapter. The magnitude and detail of the environmental assessment shall be determined by the Department and shall be relative to the nature, scale and location of the proposed TWTDS or residual-only facility. Where the permitted activity shall not require the construction of additional infrastructure the Department shall waive this requirement. At a minimum, the environmental assessment shall conform to the environmental assessment requirements of the Department's applicable NJPDES Permit Technical Manual in effect at the time of submission of the assessment and shall include:

1. A written description of facility operations, including volumes of residual to be handled, methods of handling, facility layout, and use or disposal of any end products;

2. An analysis of the impact that the proposed TWTDS or residual-only facility will have on local transportation patterns, drainage and soil characteristics, surface and

ground water quality, endangered or threatened wildlife and vegetation, storm water and wastewater collection/treatment capability, water supply capability, ambient acoustical conditions and air quality;

3. A description of how the TWTDS or residual-only facility will conform or conflict with the objectives of any applicable Federal, State, or local land use and/or environmental requirements for areas within two miles of the perimeter of a proposed large facility (residual production equal to or greater than 15,000 metric tons per 365 day period), or within one mile of the perimeter of a proposed small facility (residual production less than 15,000 metric tons per 365 day period); and

4. Where a potential conflict between the TWTDS or residual only-facility and the objectives of land use and/or environmental requirements is identified under (a)3 above, a description of the mitigation efforts to be undertaken to minimize any such conflict.

7:14A–20.7 Land application

(a) In addition to the information required in N.J.A.C. 7:14A–4 and 20.6, an applicant for a NJPDES permit to prepare residual for land application shall submit the following:

1. Information on the characteristics of the residual proposed to be applied, to the extent known at the time that the permit application is submitted, including, but not limited to:

i. The origin and volume of the residual;

ii. A dated analysis of the residual on a mg/kg dry weight basis (or other unit as specified) for the following constituents:

Total solids (percent by weight)

pH (standard units)

Total Kjeldahl nitrogen

Ammonia-nitrogen

Nitrate-nitrogen

Calcium

Potassium

Phosphorus

Arsenic

Cadmium

Copper

Lead

Mercury

Molybdenum

Nickel

Selenium

Zinc

iii. A copy of all reports required to be submitted under the Sludge Quality Assurance Regulations (SQAR), N.J.A.C. 7:14C, for the previous 12–month period;

iv. Additional quality analyses (including characteristics pursuant to N.J.A.C. 7:26G) as may be deemed necessary by the Department through evaluation of past SQAR reports or other relevant information, such as information on industrial discharges which might contribute constituents not normally evaluated under the SQAR program or which may exceed levels identified in USEPA's Technical Support Document for Land Application of Sewage Sludge, EPA 822/R–93–001a and 001b, November 1992.

2. Where the sources of residual to be land applied are not known at the time of permit application, requests for approval to land apply residual shall be submitted in accordance with N.J.A.C. 7:14A–20.11.

3. For bulk residual which does not satisfy the pollutant concentrations in 40 CFR 503.13(b)(3), the Class A pathogen requirements in 40 CFR 503.32(a), or one of the vector attraction reduction options in 40 CFR 503.33(b)(1) through (8), requests for approval to land apply residual shall be submitted in accordance with the following:

i. For each residual land application site identified at the time of permit application, the applicant shall, in accordance with the applicable NJPDES Permit Technical Manual, supply information necessary to determine if the site is appropriate for land application and a description of how the site is or will be managed, including, but not limited to, the following:

(1) A residual land application site evaluation that includes, at a minimum, a description of easements, distances to surface water, distances to drinking water wells, distances to occupied dwellings, depth to ground water, depth to bedrock, slope, soil drainage class, pH, flooding, site soil texture and parent geologic material, and proposed buffer zones;

(2) A written analysis of operational considerations including, at a minimum, crop type, crop end use, residual application methods, whole residual application rates and seasonal limitations;

(3) An original or clear copy of the appropriate Soil Conservation Service Soil Survey Map showing the residual land application site;

(4) An original or clear copy of a 1:24,000 scale (7.5 minute Quadrangle) United States Geological Survey Topographic Map showing the exact location of the residual land application site and indicating the sheet name from which the map portion was taken; and

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

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

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

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

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

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

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

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

7:14A–22.16 Capacity assurance program

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

1. Implementation of water conservation measures;

2. Reduction of inflow and infiltration (I/I) where appropriate. Measures shall be taken, to the satisfaction of the Department, which appropriately identify the causes and course of corrective action within a specified time frame;

3. Implementation of measures to maximize treatment plant capacity at a minimum cost;

4. Construction of improvements;

5. Disconnection of roof leaders, sump pumps and other sources of inflow, from sanitary sewer lines and connect into storm sewer lines where storm sewers are available and to the extent feasible;

6. Submission, on a quarterly basis, of a completed WQM007 Form to the Wastewater Facilities Regulation Program, Bureau of Construction and Connection Permits, CN–029, Trenton, New Jersey 08625; and

7. Preparation for the imposition of a self-imposed sewer connection ban, as required by N.J.A.C. 7:14A–22.17, in the event that it is anticipated that additional flows will result in violations of any pollutant parameter limits contained in the plant's NJPDES or NPDES permit.

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

1. The detailed technical report referenced in (b) above must contain a discussion of the following issues:

i. The extent of inflow and infiltration;

ii. Dry weather treatment capacity at the plant;

iii. The plant's ability to treat additional flows;

iv. Water quality issues;

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

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

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

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

1. The name, mailing address and telephone number of the owner of the treatment works;

2. The permitted capacity of the treatment works;

3. The committed flow to the treatment works;

4. A statement that the treatment plant is approaching its permitted capacity and the possibility exists that a sewer connection ban will be imposed if the plant is unable to maintain compliance with its discharge limits; and

5. Description of the service area including the participating municipalities.

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

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

7:14A-22.17 Sewer ban imposition

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

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

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

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

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

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

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

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

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

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

Developer not entitled to sewer ban extension for construction of proposed development; absence of preliminary subdivision approval before date specified in former regulation. Misko Development Corporation v. Division of Water Resources, 92 N.J.A.R.2d (EPE) 238.

Property owners entitled to exemption from sewer connection ban for reconfiguration of lots. Hay v. Department of Environmental Protection, 92 N.J.A.R.2d (EPE) 175.

7:14A–22.23 Delegation

(a) Except as stated in (g) below, the Department may delegate its authority to approve or disapprove sewer ban exemption applications, to a municipality or sewerage authority in accordance with the provisions of this subchapter.

(b) Any municipality or sewerage authority, which is the owner of the affected sewerage facilities, may make an application to the Department to be considered as a delegated agency for the purpose of this subchapter. To be considered for delegation by the Department, the sewerage authority or municipality shall satisfy all of the following:

1. The sewerage authority or municipality shall demonstrate that it is capable of effectively implementing the rules, regulations and standards adopted by the Department for administration of the sewer ban exemption program; and

2. The sewerage authority or municipality shall have sufficient resources, including qualified staff to implement the delegated ban exemption program.

(c) If the sewer ban exemption program or portion thereof is delegated by the Department, the affected sewerage authority or municipality shall comply with the following:

1. The delegated agency shall adopt an ordinance or resolution containing all required provisions of the rules, and include provisions for enforcement and administration of the program.

2. The delegated sewerage authority or municipality shall submit a quarterly report with a list of approvals or denials of projects, including the project scope and location, a certification by the appropriate official that all projects granted approval meet the requirements of this subchapter. If no actions were taken during the quarter, a statement to this effect shall be submitted to the Department.

3. The delegated sewerage authority or municipality shall execute a binding memorandum of understanding with the Department specifying, at a minimum, each party's authority and obligations, and the specific review standards, monitoring and record keeping requirements for the delegated agency.

(d) The Department shall review the delegation arrangement and its effectiveness at least every three years from the date of initial approval, and reserves the right to rescind any previously issued delegation of authority for any valid reason.

(e) In the event that the Department amends any of the rules in this subchapter, the delegated agency shall implement the amended rules as of their effective date.

(f) Delegation pursuant to this subchapter shall not waive the Department's right to monitor and inspect any documents or project sites or to seek fines or penalties pursuant to the Water Pollution Control Act, N.J.S.A. 58:10A–1 et seq.

(g) Sewer ban exemption applications submitted pursuant to N.J.A.C. 7:14A–22.22(a)3, (a)6 and (a)7 (public need, ground water remediation and not-for-profit organization projects) shall not be delegated.

(h) Any sewerage authority or municipality accepting delegation pursuant to these provisions shall review and approve or deny projects in accordance with the provisions of this subchapter and applicable provisions contained in N.J.A.C. 7:14A–23.

7:14A–22.24 Requests for adjudicatory hearings

(a) Subject to the limitation on third-party hearing rights specified in (e) below, any interested person who considers himself or herself aggrieved by the approval or denial of a treatment works approval may request an adjudicatory hearing in accordance with the procedures specified in N.J.A.C. 7:1C–1.9 of the "Rules and Regulations Governing 90 Day Construction Permits".

(b) Subject to the limitation on third-party hearing rights specified in (e) below, any interested person aggrieved by the approval or denial of a sewer ban exemption request by the Department may request an adjudicatory hearing within 30 days of receipt of the Department's denial. Adjudicatory hearing requests shall be in writing and shall be accompanied by:

1. A copy of the approval or denial and the same documents that were submitted with the application;

2. A statement specifying which of the Department's reasons for denial are contested; and

3. Additional statements describing, in detail, how that person is aggrieved by the decision, and which findings of fact and conclusions of law are being challenged.

(c) Requests for hearing shall be sent to the Department's Office of Legal Affairs, Attention: Adjudicatory Hearing Requests, CN–402, Trenton, New Jersey 08625–0402.

(d) All hearings pursuant to this section shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(e) Nothing in this section shall be construed to provide a right to an adjudicatory hearing in contravention of N.J.S.A. 52:14B-3.1 through 3.3 (P.L. 1993, c.359).

SUBCHAPTER 23. TECHNICAL REQUIREMENTS FOR TREATMENT WORKS APPROVAL APPLICATIONS

Source and Effective Date

R.1994 d.278, effective June 6, 1994.
See: 25 N.J.R. 3282(a), 26 N.J.R. 2413(b).

7:14A-23.1 Purpose

The purpose of this subchapter is to establish technical requirements for the approval of the design, construction and operation of domestic and industrial treatment works so that wastes are properly collected, conveyed and treated before discharge to the waters of the State.

Case Notes

Seriousness of polluter's 386 violations and economic benefits obtained by polluter from not complying with permit together with evidence that penalty would not jeopardize polluter's continued operation, warranted statutory maximum penalty for violations of permit, subject to reduction to reflect actions and inaction of federal and state enforcement agencies. Pirg v. Powell Duffryn Terminals, Inc., D.N.J. 1989, 720 F.Supp. 1158, affirmed in part, reversed in part 913 F.2d 64, rehearing denied, certiorari denied 111 S.Ct. 1018, 498 U.S. 1109, 112 L.Ed.2d 1100.

7:14A-23.2 Scope

(a) These rules apply to individuals, sewerage authorities, municipalities, governmental agencies, private firms and all persons who propose to design, construct and/or operate any treatment works for the collection, conveyance or treatment of domestic or industrial wastes in the State of New Jersey, and for which a treatment works approval from the Department is required pursuant to N.J.A.C. 7:14A-22.

(b) These rules establish specific criteria and standards for the construction and operation of treatment works. In promulgating these requirements, the Department recognizes that, at times, deviations from these requirements may be necessary to address specific circumstances. The Department will consider deviations from these design criteria provided that appropriate documentation addressing the need for deviation and justification for the proposed design is submitted with the treatment works approval applications and includes a signed and sealed statement from the design engineer attesting to the treatment works ability to meet the purposes intended.

(c) These rules do not specify any technical standards explicitly for the construction of industrial treatment works due to the high degree of variability of the wastestreams, and treatment process options available to deal with the various pollutants that may be present at an industrial facility. Because of this variability, it would not be prudent to impose specific technical standards on facilities where such standards may not be appropriate. It is the responsibility of the design engineer to design industrial treatment works to meet all applicable Federal, State or local limitations, conditions, and/or requirements, including, but not limited to, the requirements of a facility's NJPDES or NPDES permit. When appropriate, the general technical standards specified in this subchapter for domestic waste treatment and conveyance systems may be used.

7:14A-23.3 Projected flow criteria

(a) The values specified below are to be used in computing the projected flow to wastewater conveyance and treatment facilities and when making an application for a treatment works approval pursuant to N.J.A.C. 7:14A-22. The specific measurement unit listed for each category shall be used as the basis for the projected flow. No additional provisions for inflow and infiltration are required. For the purposes of design only, other values, proposed by the design engineer, through actual water usage data, may be accepted at the Department's discretion, with an appropriate safety factor. However, all determination concerning whether or not any specific project requires a treatment works approval and/or sewer ban exemption shall be based upon the projected flow criteria established below. These criteria are not mandated to be used by sewerage authorities as a basis for establishing local user fees and/or connection fees.

Type of Establishment	Measurement Unit	Gallons Per Day
Residential Dwellings (single family home, duplex units, townhouses, condominiums, apartments)		
1 bedroom unit	Per Dwelling	150
2 bedroom unit	Per Dwelling	225
3 bedroom unit or larger	Per Dwelling	300
Transit dwelling units		
Hotels	Bedroom	75
Lodging houses and tourist homes	Bedroom	60
Motels and tourist cabins	Bedroom	60
Boarding houses (max. permitted occupancy)	Boarder	50
Camps		
Campground/mobile rec. vehicle/tent	Site	100
Parked mobile trailer site	Site	200
Children's camps	Bed	50
Labor camps	Bed	40
Day camps—no meals	Person	15
Restaurants (including washrooms and turnover)		
Average restaurant	Seat	35
Bar/cocktail lounges	Seat	20
Fast food restaurant	Seat	15
24 hour service restaurant	Seat	50
Curb service/drive-in restaurant	car space	50
Clubs		
Residential	Member	75
Nonresidential	Member	35

3. Storage surfaces shall be constructed of reinforced concrete, asphalt, or other suitable material capable of preventing discharges to groundwater.

(f) Septage handling/receiving facilities shall be designed to provide the following:

1. An unloading ramp for the haul trucks with a hard surface sloped to a drain to facilitate the cleaning of any spillage and washing the haul truck, connector hoses, and fittings. The ramp drainage shall be a tributary to treatment facilities and shall exclude excessive stormwater;

2. A flexible hose fitted with an easy connect coupling to provide a direct connection from the haul truck to the receiving facility;

3. Washdown water with adequate pressure, a hose, and a spray nozzle for cleaning the receiving station and the haul trucks. If a potable water source is utilized, it shall be protected with a suitable backflow prevention device;

4. An adequate off-line septage receiving tank which allows for the collection of representative samples from any truckload of waste accepted for discharge at the wastewater treatment plant. The receiving tank shall be designed to provide complete draining and cleaning by means of a sloped bottom equipped with a drain sump. The design shall also provide for adequate mixing, testing, uniform septage strength, and chemical addition for treatment or odor control purposes;

5. Screening, grit, and grease removal as appropriate to protect downstream treatment units;

6. Valving and piping designed with sufficient operational flexibility so as to control the flow rate and point of discharge of septage to the wastewater treatment plant;

7. Laboratory facilities for determining septage strength and/or toxicity to the wastewater treatment processes; and

8. Any pumps provided for the handling of septage shall be of the non-clogging design and shall be capable of passing three inch diameter solids.

Amended by R.1997 d.107, effective May 5, 1997.
See: 28 N.J.R. 380(a), 28 N.J.R. 2779(a), 28 N.J.R. 3494(a), 28 N.J.R. 3858(a), 28 N.J.R. 4697(a), 28 N.J.R. 5028(a), 29 N.J.R. 1704(a).
In (d)7, inserted "reduction" following "vector attraction" and substituted N.J.A.C. reference for CFR, Statewide Sludge Management Plan, and U.S.C.A. references.

7:14A–23.33 New treatment methods and technologies

(a) Designs for new treatment methods or for methods not included in these rules shall be accompanied by detailed supporting data from full scale tests performed under competent supervision. In evaluating the acceptability of applications for new treatment methods, or for technologies not included in these rules, the Department shall utilize the best available information including, but not limited to, texts, reports and U.S. Environmental Protection Agency publications that contain research, test, and design information relevant to the applicant's proposal.

(b) The Department may disapprove new treatment methods if in its opinion such disapproval is in the interest of environmental protection.

7:14A–23.34 Closure requirements for wastewater treatment units

(a) This section applies to any and all wastewater and sludge facilities and equipment permanently removed from use or operation at NJPDES permitted facilities or at facilities for which a NJPDES permit has been revoked or an application for renewal denied, unless a judicial or administrative stay is in effect. The intent of this section is to protect public safety and health and to assure that no contamination of ground or surface water will occur as a result of removing such facilities and equipment from service either through the act of closure or through continuing the discharge of pollutants into or through equipment; or through leaking, leaching, or discharge of pollutants from wastewater or residuals remaining in facilities or equipment which has been removed from use but remains on site.

(b) The closure of a wastewater treatment facility or equipment means either the termination of the source of wastewater or sludge, or the permitted conveyance of wastewater or sludge to an alternate location (such as a regional facility) in such a manner that no further treatment storage or conveyance of wastewater or sludge is performed by the facility.

(c) Wastewater treatment works closures shall conform with the following procedures:

1. On or before 60 calendar days prior to taking the facility or certain operating equipment out of service a permittee shall:

i. Submit to the Wastewater Facilities Regulation Program the following information concerning closure activities:

(1) The date the facility will cease operation or the date that discharge to specific operating equipment will cease;

(2) The date the influent and effluent pipes will be sealed;

(3) Plans (signed and sealed by a New Jersey licensed professional engineer) for final disposition of the physical facilities, including all treatment units, outfall line, and all mechanical and electrical equipment and piping;

(4) Plans (signed and sealed by a New Jersey licensed professional engineer) for elimination of all equipment and/or conditions that could possibly pose a safety hazard, either during or after shut-down of operations;

(5) Verification that there are no lines in the collection system which are cross connected (receiving both sanitary and storm water) or which do not contain adequate conveyance capacity as defined in N.J.A.C. 7:14A–1.9;

(6) The name of the licensed individual responsible for the maintenance and operation of the wastewater pumping station and/or wastewater collection or treatment systems that are still to be maintained; and

(7) Proof of a request to the Division of Enforcement Field Operations for a site inspection to verify cessation of the discharge. The Division of Enforcement Field Operations may be contacted by writing to:

Director
Division of Enforcement Field Operations
PO Box 029
Trenton, New Jersey 08625–0029
Attn: Water & Hazardous Waste Enforcement; and

ii. Notify the Wastewater Facilities Regulation Program, in writing, concerning any deactivated lagoons or other actual or potential discharges to ground water which may exist at the site. The Wastewater Facilities Regulation Program may be contacted by writing to:

Assistant Director
Wastewater Facilities Regulation Program
PO Box 029
Trenton, New Jersey 08625–0029

2. Proper management and/or removal of all residual materials (collected grit and screenings, scums, sand bed material, and dried or liquid sludges), as well as filter media, and all other solids from the treatment process that may remain in the abandoned treatment works is required.

i. The permittee shall submit to the Wastewater Facilities Regulation Program proof of ownership of or contractual arrangement with an operation or operations permitted to manage all such waste materials. A contract with a hauler will only be accepted as proof of proper waste management if documentation of management at an approved site or sites is included. In addition, all necessary State or Federal permits/approvals must accompany the submission.

ii. Sludge quality assurance reports which are representative of the sludge removed following closure shall be submitted. Where quality information is not available, new samples shall be obtained and analyzed upon closure. All sludge samples and analyses shall be prepared in accordance with the Sludge Quality Assurance Regulations, N.J.A.C. 7:14C.

iii. All residual material shall be removed within 180 calendar days after the facility is taken out of service. Proof of proper residuals management shall be submitted to the Wastewater Facilities Regulation Program within 30 calendar days after their removal. The dates of removal and quantities removed shall be specified.

3. Upon completion of closure activities, a permittee must complete a "Certification of Closure" form (form can be obtained by contacting the Division of Enforcement Field Operations) which will provide certification that all waste materials have been properly managed, and that the remaining components of the facility have been properly secured regarding public health and safety. This form shall be completed after closure activities cease, signed in the presence of a Notary Public, and submitted to the Wastewater Facilities Regulation Program. Incomplete Certifications of Closure are unacceptable and will be returned to the permittee.

(d) Upon satisfaction of closure requirements specified in (c) above, the Division of Enforcement Field Operations shall be contacted, in writing, to schedule a final site inspection of any treatment works which had a NJPDES discharge permit to verify that influent and effluent pipes have been sealed and that all solid and residual materials related to the treatment process have been removed.

(e) Upon satisfactory completion of the items specified in (c) and (d) above, an "Application for Termination" (application may be obtained from the Division of Water Quality or the Division of Enforcement Field Operations) from the New Jersey Pollutant Discharge Elimination System shall be completed and submitted to the Wastewater Facilities Regulation Program, Bureau of Permit Management with a copy to the appropriate permitting bureau. The application form includes information concerning the facility, its NJPDES permit number, the nature of the discharge, and a certification to the effect that the closure has been performed in accordance with all submissions made to the Department. Applications received before completion of items (c)1 through 3 above, shall not be processed and shall be returned for resubmission upon satisfactory completion of all closure requirements by the permittee.

Amended by R.1997 d.107, effective May 5, 1997.
See: 28 N.J.R. 380(a), 28 N.J.R. 2779(a), 28 N.J.R. 3494(a), 28 N.J.R. 3858(a), 28 N.J.R. 4697(a), 28 N.J.R. 5028(a), 29 N.J.R. 1704(a).
In (a), inserted "or at facilities . . . stay is in effect".
Amended by R.1999 d.164, effective May 17, 1999.
See: 31 N.J.R. 200(a), 31 N.J.R. 1320(a).
In (c)2ii, changed N.J.A.C. reference.

SUBCHAPTER 24. ADDITIONAL REQUIREMENTS FOR CERTAIN STORMWATER DISCHARGES

Authority

N.J.S.A. 13:1D–1 et seq.; 40:55D–1 et seq.; 58:10A–1 et seq. and 58:11A–1 et seq.

Source and Effective Date

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).

7:14A–24.1 Scope

This subchapter sets forth additional requirements applicable to any stormwater DSW and stormwater DGW for which a NJPDES permit is required under N.J.A.C. 7:14A–24.2.