

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Zone of saturation” means saturated zone.

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

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

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

Administrative corrections.

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

Administrative correction.

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

Administrative corrections and changes.

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

Administrative correction.

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

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

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

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

#### 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 Regulations, N.J.A.C. 7:26G; 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).  
Administrative correction.  
See: 38 N.J.R. 1445(a).

### 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;

standard temperature and pressure for the purpose of storage.

**7:14A-8.2 Classification of injection wells**

(a) Injection wells are classified as Class I, II, III, IV or V, as follows:

1. Class I wells are:

i. Wells used by generators of hazardous wastes or owners or operators of hazardous waste management facilities, or by any other person, to inject hazardous waste beneath the lowermost formation containing an underground source of drinking water; and

ii. Other industrial or municipal disposal wells which inject fluids beneath the lowermost formation containing an underground source of drinking water.

2. Class II wells inject fluids:

i. Which are brought to the surface in connection with conventional oil or natural gas production;

ii. For enhanced recovery of oil or natural gas; or

iii. For storage of hydrocarbons which are liquid at standard temperature and pressure.

3. Class III injection wells are used in processes to extract minerals or energy, including:

i. Mining of sulfur by the Frasch process;

ii. Solution mining of minerals, including sodium chloride, potash, phosphate, copper, uranium and any other minerals which can be mined by this process;

iii. In-situ combustion of fossil fuel, with the term "fossil fuel" including coal, tar sands, oil shale and any other fossil fuel which can be mined by this process; and

iv. Wells used in the recovery of geothermal energy to produce electric power, but not including wells used in heating or aquaculture, which fall under Class V.

4. Class IV injection wells are used by generators of hazardous wastes or of radioactive wastes, by owners or operators of hazardous waste management facilities, by owners or operators of radioactive waste disposal sites, or by any other person to dispose of hazardous wastes or radioactive wastes into or above a formation which, within two miles of the well bore, contains an underground source of drinking water (USDW).

5. Class V injection wells are injection wells not included in Class I, II, III or IV. Examples of Class V wells include:

i. Air conditioning return flow wells used to return the water used for heating or cooling in a heat pump;

ii. Cooling water return flow wells used to inject water previously used for cooling;

iii. Drainage wells used to drain storm runoff into a subsurface formation, except as regulated under Class IV;

iv. Recharge wells used to replenish the water in an aquifer;

v. Salt water intrusion barrier wells used to inject water into a fresh water aquifer to prevent the intrusion of salt water into the fresh water;

vi. Sand backfill wells used to inject a mixture of water and sand, mill tailings or other solids into mined-out portions of subsurface mines;

vii. All septic systems or other subsurface sewage disposal systems other than those excluded under N.J.A.C. 7:14A-8.1(b)2ii;

viii. Subsidence control wells (not used for the purpose of oil or natural gas production) used to inject fluids into a non-oil or gas producing zone to reduce or eliminate subsidence associated with the overdraft of fresh water; and

ix. Geothermal wells and ground water heat pumps used in heating and aquaculture.

**7:14A-8.3 Prohibition of unauthorized injection**

Any underground injection is prohibited, except pursuant to a permit-by-rule under N.J.A.C. 7:14A-8.5, or pursuant to a UIC permit under N.J.A.C. 7:14A-8.8. The construction of any well required to have a permit (including, where applicable, a well permit) under this subchapter is prohibited, except pursuant to such permit-by-rule or UIC permit.

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

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

(a) No UIC permit or approval under a permit-by-rule shall be issued or provided under this subchapter in the following circumstances:

1. Where a Class I, II or III well may cause or allow movement of any contaminant into underground sources of drinking water;

2. Where a Class IV or V well may cause or allow movement of fluid containing any contaminant into underground sources of drinking water, and the presence of that contaminant may adversely affect the health of persons; or

3. Where a Class V well is:

i. A large-capacity cesspool (design flow greater than 2,000 gallons per day). All large-capacity cesspools authorized by this subchapter shall be closed by April 5, 2005. Large-capacity cesspools shall be closed in

accordance with N.J.A.C. 7:14A-8.16(d)2. The owner or operator shall notify the Department of intent to close at least 30 days prior to closure; or

ii. Except as provided at (a)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. 7:9D. 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. 7:9D 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;