



State of New Jersey  
 DEPARTMENT OF ENVIRONMENTAL PROTECTION  
 DIVISION OF WATER RESOURCES  
 P O BOX CN-029  
 TRENTON NEW JERSEY 08625

ARNOLD SCHIFFMAN  
 DIRECTOR

SEP 30 1980

Dear Sir/Madam:

The Department is proposing regulations to implement the New Jersey Pollutant Discharge Elimination System (NJPDDES) permit program. This proposed program will carry out the intent of the New Jersey "Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq.) which was enacted by the State Legislature and signed into law by Governor Byrne in 1977.

These proposed regulations are a first step in the process of delegation by the U.S. Environmental Protection Agency to the State of New Jersey of the total responsibility for administering the National Pollutant Discharge Elimination System (NPDES) in New Jersey. Presently the discharge of pollutants into the surface waters of the State is regulated, in part, by the federal government through the issuance of the NPDES permits under Section 402 of the Federal Water Pollution Control Act.

The NJPDDES program includes not only the protection of our surface waters but also protection of our ground water resources, as mandated by the New Jersey "Water Pollution Control Act". Within the broad scope of authority in the Act the proposed regulations will additionally control, for example, underground disposal of wastes and storage of fluids, the discharge of pollutants into privately or publicly owned waste treatment facilities (indirect dischargers), surface impoundments, land application of sludge and septage, land application of effluents by spray irrigation, land application of effluents by overland flow, land disposal by infiltration-percolation lagoons, and dischargers from sanitary landfills.

The proposed regulations also control the treatment, storage and disposal of hazardous waste in the following instances:

- (1) The pretreatment and discharge of hazardous pollutants, which were received intracompany and intrastate, into privately or publicly owned waste treatment facilities;

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- (2) The treatment of hazardous waste in surface impoundments;
- (3) The intracompany, intrastate collection and treatment of hazardous wastes by surface water dischargers; and
- (4) The receipt and treatment of hazardous wastes for use in the production process by surface water dischargers.

I would like to solicit your comments on this program and to invite you to attend the public hearings concerning these proposed regulations. These hearings will be held on October 29 at 9:00 a.m. in the A Wing Auditorium, Stockton State College, College Drive, Pomona, and on October 30, also at 9:00 a.m., in the Labor Education Center Auditorium, Cook College, New Brunswick. Comments will be welcomed at the meeting, or can be mailed to:

Dr. Marwan M. Sadat, P.E.  
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The comment period will remain open until December 15, 1980. I hope you will be able to attend these hearings and to provide us with your thoughts and comments.

Thank you for your interest in protecting New Jersey's environment.

Very truly yours,

Dr. Marwan M. Sadat, P.E.  
Assistant Director  
Water Quality Management

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DRAFT REGULATIONS CONCERNING THE NEW JERSEY  
POLLUTANT DISCHARGE ELIMINATION SYSTEM

BASIS AND BACKGROUND.

SEPTEMBER 1980

TABLE OF CONTENTS

History.....	1
Present conditions.....	1-2
The NJPDES program.....	2-4
Description of the proposed NJPDES regulations.....	4-22
Public participation.....	22
Appendix-Fee schedule.....	23-27
-Tentative fees for dischargers to surface water.....	28-52

## History

In 1972, Public Law 92-500, The "Federal Water Pollution Control Act Amendments of 1972," set new goals in surface water quality for the country. The year 1985 was earmarked for the end of all pollutant dischargers. An intermediate goal of water quality providing for the protection of fish, shellfish and wildlife, and for safe contact recreation (the "fishable, swimmable" goal) was set for June 1, 1983.

The most significant change in the national strategy at this time was the switch from an ambient water quality approach to the direct control of effluents by permits based on regulations and standards developed on the basis of technology. This was the origin of the National Pollution Discharge Elimination System (NPDES) program. The first mention of pretreatment guidelines and standards also occurred in P.L. 92-500.

The next major influence on national strategy came in 1976 (and later, in 1979) with the settlement of a suit by the Natural Resources Defense Council (NRDC) against the U.S. Environmental Protection Agency (EPA). EPA agreed, to concentrate on setting limitations for 65 toxic substances and on 21 industrial categories using technology-based standards. The 1977 Amendments to the Federal Water Pollution Control Act, also known as the "Clean Water Act," incorporated much of the EPA-NRDC agreement up to that point. By this time, emphasis had shifted to chemical pollution, materials recycling and the overall environmental compatibility of the wastewater treatment systems themselves.

In New Jersey, the State legislature enacted the "New Jersey Water Pollution Act" which was signed into law by Governor Byrne in 1977. While much of the essential content of the federal act was long anticipated in our legislative history, the State Act provided the authority necessary for the State takeover of the federal NPDES program. The highly industrialized, densely populated nature of New Jersey had long provided a "geographic-demographic imperative" to water quality consciousness.

## Present Conditions

Approximately 600 municipal sewage treatment plants discharge 1.3 billion gallons per day of effluent into New Jersey's surface waters. Many of the municipal effluents include industrial wastes which may or may not have been treated adequately by the municipal process. About 900 industrial plants directly contribute 300 million gallons of industrial waste and 1.5 million gallons of cooling water to the State's rivers and streams on a daily basis. These discharges are currently subject to NPDES regulations at the federal level, and the

construction and operation of the plants require State treatment works approvals. This is necessary and important, as they constitute highly significant pollutant inputs to New Jersey's waters.

There are a number of other activities which impact water quality within the State. Some of the impacts are severe and can affect surface ground water. New Jersey obtains half of its water supply from surface water and half from ground water sources, making water quality issues vital to both.

Major sources of ground water contamination include old dumps, illegal disposal of septage and industrial wastes, and continuing problems with over 300 landfills and more than 400 lagoons throughout the State. A single acre of unlined landfill discharges 600,000 gallons of leachate into the ground water annually. Some direct discharge of industrial wastes into the ground water is suspected, as well.

The discharge of wastewater treatment residues onto the land, and the treatment of some wastewaters by discharge onto the land (e.g. spray irrigation), can impact ground and/or surface water quality. Certain solids and liquids, when stored under some conditions may also enter the waters of the State.

#### The NJPDES Program

The State's full takeover of the NPDES program is expected to be accomplished in 1981. The promulgation of regulations for the implementation of the program by any state assuming this responsibility is federally mandated. The proposed regulations are designed to fulfill all federal requirements, and will implement a program of somewhat greater scope than the federal NPDES program. The geographic-demographic imperative in New Jersey has prompted the design of a permit system which is truly comprehensive from the perspective of water quality management.

The proposed New Jersey Pollutant Discharge Elimination System (NJPDES) Regulations deal with:

1. discharge of pollutants into surface waters,
2. discharge of pollutants into ground waters, directly or via the land,
3. discharge of pollutants into privately and publicly owned treatment works,
4. discharge of residuals (e.g. sludge) onto the land,
5. discharge of pollutants onto the land (e.g. spray irrigation),

6. discharge of leachate from landfills onto the land and/or into the ground water, and
7. storage of solids and liquids which may enter the waters of the State.

The development of a NJPDES permit will involve consideration of all of the following which are appropriate to the particular NJPDES permit applicant:

1. water quality-based waste load allocations,
2. technology-based effluent limitations,
3. surface and/or ground water standards,
4. bio-monitoring requirements,
5. court-mandated effluent limitations,
6. interstate agency-developed effluent limitations,
7. best management practices, and
8. best engineering judgement.

NJPDES permits will be performance-oriented. The treatment works approval program will be phased out, and responsibility for meeting effluent standards will fall squarely on the shoulders of permittees and their engineers. The State should not be in the business of providing engineering consultation services to NJPDES applicants.

The proposed NJPDES Regulations have been updated from earlier drafts, in response to comments received from the public during pre-hearing public participation, including task force meetings and public meetings, and in accordance with the federal Consolidated Permit Regulations published on May 19, 1980 in the Federal Register.

The intent, again, is to control the discharge of pollutants into the surface and ground waters of the State. The inclusion of indirect dischargers (e.g. industrial wastes which enter municipal systems) is part of the Department's integrated approach to control water pollution. Although municipal treatment plants are primarily responsible for industrial pretreatment by federal intention, there are practical constraints on the authority of sewerage authorities and municipal utilities authorities, as created under State law. These authorities, for all practical purposes cannot, for example, assess fines on violators of rules and regulations, including pretreatment requirements. The Department is in a considerably stronger position for enforcing the pretreatment program.

Individual permits will not be necessary for all indirect dischargers. The State's goal is not to write effluent guidelines, but to control gross pollution. Some sewerage and municipal utilities authorities may obtain general permits for their contributing industries.

#### DESCRIPTION OF THE PROPOSED NJPDES REGULATIONS

In order for the State to administer the NPDES, UIC, or RCRA programs, the State must comply with the equivalent of the federal regulations in 40 CFR Section 123.7. It is within this required framework that the State of New Jersey proposes to issue permits not only for direct dischargers to surface water (NPDES), underground injection (UIC), and industrial waste management facilities (RCRA), but also for dischargers of pollutants into publicly or privately owned treatment works (indirect discharges), discharges from surface impoundments, land application of sludge and septage, land applications of effluents by spray irrigation, land application of effluents by overland flow, land disposal by infiltration-percolation lagoons, and discharges from sanitary landfills.

Under the authority of the State Act the Department has utilized many of the provisions in the Consolidated Permit Regulations, 40 CFR Parts 122, 123, and 124 to develop the NJPDES permit program. (See May 19, 1980 Federal Register).

#### SUBCHAPTER 1

Subchapter 1 contains the general information which applies to all NJPDES permittees. A NJPDES permittee is anyone who receives any type of permit to discharge as required by these regulations.

#### Section 1.3-Scope

Paragraph (e) describes the exemptions to these regulations which were specifically described in the Section 6(d) of the State Act. For example, an exemption is provided for individual subsurface sewage disposal systems which are installed and operating in conformance with the "Realty Improvement Sewerage and Facilities Act," N.J.S.A. 58:11-23 through 42 (commonly known as Chapter 199). If, however an individual subsurface sewage disposal system is causing degradation of water quality or is improperly installed the Department may require that an application be made for an NJPDES permit.

#### Section 1.3(e)4.

This paragraph concerns discharges of stormwater runoff. However, the Department will require a NJPDES permit when it finds that such stormwater is contaminated by any industrial or commercial activity (Section 6(d)6. of the State Act) or where it is required to be permitted pursuant to Section 3.8 or 3.9 of these regulations, which concerns separate storm sewers or general permits, respectively. Separate storm sewers and general permits must be issued by the Department as a requirement for state takeover of the NPDES program (See 40 CFR Sections 123.7, 122.57 and 122.59).

#### Section 1.5-Consolidation of Permit Processing

The purpose of this section is to describe the Department's procedure for consolidated permit processing. Under these regulations an applicant may require several different types of discharge permits under the NJPDES program. It is the Department's intent to simultaneously process and issue all types of permits required under the NJPDES program in order to facilitate the permit issuance process, whenever possible. In certain instances, however, the Department may issue a certain type of discharge permit to an applicant at an earlier or later date. This may be necessary especially while the NJPDES program is starting, in order to consolidate expiration dates for all of an applicant's NJPDES permits.

#### Section 1.9-Fee Schedule

This section describes the regulatory process for determining annual fees for all holders of NJPDES permits. This fee is specifically required pursuant to Section 9 of the State Act. Prior to the annual assessment, the Department will hold a public hearing concerning the

specific fees proposed for the following year. Notice of such hearing shall be published in the New Jersey Register.

The proposed fees for the first year of the NJPDES program may be found in the Appendix to this document.

#### Section 1.10

This section contains all of the definitions which apply to the NJPDES permit program. Many of these definitions have been taken word for word from federal regulations concerning NPDES, UIC and RCRA. Certain other definitions were excerpted from the State Act.

Some commenters requested that the Department explicitly state which priority pollutants are relevant to these regulations. The Department has reviewed EPA's list of priority pollutants and included additional pollutants which comprise the priority pollutants relevant to these regulations. The priority pollutants can be found in Appendix D, Tables II, III, and part of V. These priority pollutants shall also be considered the State's list of toxic pollutants.

### SUBCHAPTER 2

This Subchapter describes the general requirements for all NJPDES permit applicants and permittees.

#### Section 2.1-Applications for Permit.

Some sources are required to obtain a NJPDES permit which includes discharge permits for several types of NJPDES discharges on site. In the case of a source with a discharge from a landfill which requires a type of NJPDES permit, formal application for the NJPDES permit shall be made to the Solid Waste Administration (SWA). The address for the SWA is: Solid Waste Administration, 32 East Hanover Street, Trenton, New Jersey 08625. The SWA will administer these NJPDES permit applications.

#### Section 2.1(f)

This section describes the general schedule for the submission for applications. This schedule should be applicable throughout the life of these regulations. The schedule for the submission of applications in Section 10.1 applies primarily to existing discharges which are being permitted under the NJPDES system for the first time.

This section also requires that a person applying for discharge to surface water (DSW) permit for the first time must also apply for a discharge allocation certificate (DAC) (to obtain a waste load allocation) in accordance with Section 3.3. This requires an applicant to apply for a DAC 90 days prior to the finalization of engineering plans and specifications for a treatment works.

The Department may determine after application for the DAC, or in response to a pre-application conference if the applicant has requested one, that the applicant will also need a treatment works approval. Pre-application conferences are highly recommended as an aid to the applicant.

#### Section 2.1(f)2.

This section applies to new sources who will be discharging for the first time, other than from a proposed source who discharges to surface water. The application shall be submitted in accordance with Section 7.2. It is the Department's intent to issue a draft NJPDES permit, final draft NJPDES permit, and NJPDES discharge permit exactly like a DAC is issued (see Section 3.3). The only distinction is that a wasteload allocation will not be included in the permit. In accordance with Section 6(b) of the State Act, the Department must have some form of approval for a person to build, install, modify or operate any facility for the collection, treatment or discharge of any pollutant. The final draft NJPDES permit will serve as this approval.

#### Section 2.1(f)3.

This section indicates that a new source which does not require a facility for the collection or treatment of waste (a treatment works), such as land application of sludge or septage, does not have to apply for a NJPDES permit until 90 days prior to proposed discharge.

#### Section 2.1(f)4.

This section refers NPDES permittees to Section 10.1 for special application procedures during the transition period between the Department's adoption of the NJPDES regulations and the federal government's delegation of the NPDES program to the State.

#### Section 2.1(f)5.

This section requires that all renewal applications for a NJPDES permit shall be filed at least 180 days prior to the expiration of an existing permit.

#### Section 2.1(g)

This section describes the basic information which must be supplied by all NJPDES permittees.

#### Section 2.1(g)8.

This section requires the applicant to provide the Department with the location of all sites involved in the storage of solid or liquid wastes at the facility for which the NJPDES application is being made, and the alternate disposal sites for solid or liquid wastes generated

by any facility with a discharge. In response to public comments, the Department has added language which makes an applicant responsible for providing this information, to the extent practicable. The applicant, however, will have to justify why it is not practical to submit all of this information.

#### Section 2.1(g)11.

Some commenters indicate that it would be very difficult for some smaller companies to submit permit applications on microfilm or microfiche as required by this Section. Therefore, the Department has agreed to provide this service upon request of the applicant. Reasonable fees will be assessed to reimburse the Department for such expenses.

#### Section 2.1(j)

This section requires a request for a local endorsement for all new sources. The Department has revised the endorsement requirement which is required for a treatment works approval pursuant to the "New Jersey Water Pollution Control Act Regulations," N.J.A.C. 7:14-2.1 et seq. A new source applicant must submit a request for an endorsement to the municipality in which the facility is located and to the affected sewerage authority, as defined in Section 1.10. Copies of this request must be submitted with the new source NJPDES application. The municipality and affected sewerage authority shall endorse, deny endorsement, or issue comments on the request for endorsement, within 60 days of receipt of the request. The municipality or affected sewerage authority may request a 30 day extension provided that such request is made within the initial 60 day period. Prior to the issuance of a draft NJPDES permit or a DAC for a new source, the Department will review any submission made by the municipality or affected sewerage authority and consider its merits. However, an actual endorsement will not be a requirement for the issuance of a permit. The Department finds that review of permit applications should focus on water quality criteria. Furthermore, prior to a Departmental determination to issue a DAC or final NJPDES permit or deny a NJPDES permit the public has an opportunity to comment (See Subchapter 8).

#### Section 2.2 Emergency Permits

This section describes the circumstances in which the Department may issue an emergency permit. The fundamental language for this section is based upon the federal RCRA and UIC provisions for emergency permits. An emergency permit may be issued when: (1) the Department finds that an imminent and substantial endangerment to human health will result unless a temporary emergency permit is granted; or when the requirements of Sections 2.2(a)3 and 4 are met for class II wells,

under the UIC program. The Department will issue a permit under this section without an application by the permittee. Such permits will be issued when hazardous circumstances can be avoided or mitigated only through very quick action which requires a permit. Such a situation might arise if ground water became contaminated, and only a quick draw from the point of contamination would prevent spreading of the pollutant and serious damage to an aquifer. In such a case, water could be drawn up, treated and released to surface waters on an emergency basis. Such permits would be issued only in cases where the normal process would exceed the period of time during which remedial action would be effective and efficient.

An emergency permit shall not exceed 90 days in duration except in the case of land application of sludge, which may be granted for as long as 180 days. The basis for this difference is that land application of sludge is likely to continue beyond the 180 day emergency period and therefore a NJPDES application must be submitted. The nature of the information required for a NJPDES application under Section 10.8 is often difficult to obtain when there is frozen ground. The Department will publish public notice of all emergency permits.

#### Section 2.3 Continuation of Expiring Permits

Basically, a permit remains in effect when the State does not reissue the permit by the expiration date, if the permittee submitted a complete application on time, and the delay is through no fault of the permittee. If new permit conditions are contested, old terms also continue in full force, except that uncontested terms of the new permit replace permit terms from the prior permit.

#### Section 2.4 Signatories

This section is exactly as required by federal law. Some latitude had been permitted in the June 7, 1979 revisions to the federal NJPDES regulations, however that latitude was eliminated in the May 19, 1980 federal Consolidated Permit Regulations. The policy change is explained in the supplementary information on Section 122.6, in the latter document.

#### Section 2.5 Conditions applicable to all permits

This section describes conditions applicable to all NJPDES permits. These conditions will be either expressly stated in the permit or included by reference to these regulations.

#### Section 2.5(a)-Conditions applicable to all permits-Duty to comply.

The Department received many comments concerning this discharge requirement. The commenters stated that some pollutants, used in some activities at a facility, are insignificant, impractical to identify,

and not used in the production process. The revised language now places the burden of proof on the permittee to demonstrate that discharge of a pollutant not specifically authorized in the NJPDES permit does not result from any of the permittee's industrial activities which contribute to the generation of its wastewaters.

#### Section 2.5(e)

This section clearly establishes that all operators of a treatment works shall be licensed in accordance with the "Licensing of Superintendents or Operators of Public Wastewater Treatment Plants and Public Water Supply Systems." N.J.S.A. 58:11-18.10 et seq. This means that all treatment works with an NJPDES discharge shall have a licensed operator. The operator shall be licensed by taking the tests given by regulation under the Licensing Act.

#### Section 2.5(j) Monitoring and records.

##### Section 2.5(j)3.

This section indicates that all monitoring shall be conducted in accordance with test procedures approved under 40 CFR Part 136 unless other test procedures have been specified in the permit. Where an applicant is required to monitor for a substance which does not have an approved test procedure under 40 CFR Part 136 the applicant shall provide the Department with a description of the test procedure which was used. The Department may approve this procedure for future test or require an applicant to use another procedure. The Department will be proposing regulations concerning test procedures applicable to State monitoring. All permittees and applicants will be required to conform to these regulations when adopted.

Section 2.5(j)4. Flow monitoring. Some commenters suggested that the procedure described would not provide accurate results. The Department finds that a reasonable method for most permittees to accurately monitor flow is to use a "standard" primary flow device. Permittees are however, allowed to use "nonstandard" primary flow device if independent calibration tests (such as current-meter ratings) are made at fairly close discharge intervals over the full operating range of the flow measuring device. There is no other way to assure that the flow measurement from a "nonstandard" device will be accurate. Permittees are also required to periodically calibrate the equipment used to sense, record, and totalize flow.

The devices commonly used to monitor flow can typically achieve an accuracy of 5% or better when properly installed and maintained. If the Department finds that a flow meter does not indicate a flow which is within 10% of the flow determined by an independent means, the per-

mittee is subject to enforcement action. The 10% is used to account for the accuracy of the independent measurement and to be consistent with the policy stated in EPA's NPDES Compliance Sampling Manual.

Section 2.5(1) describes the general reporting requirements for all NJPDES permittees. This section is largely required by federal regulations (40 CFR 122.7(j)(6)). Some commenters pointed out the difficulty of notifying the Department of the exact cause of noncompliance within the 2 hours notification period specified in the May draft NJPDES regulations. The Department is required by federal law to obtain this data within 24 hours, and has extended the notification period for this information (causation) to 24 hours, in response to those comments. Commenters also suggested that the written submission required by this Section be due within 5 working days, rather than the 5 days specified in the draft regulations. The Department finds there is no conflict with federal law, and has made the requested adjustment.

#### Section 2.6-Establishing permit conditions.

Basically, all permittees are required to conform with the applicable statutory and regulatory requirements which take effect prior to final administrative disposition of a permit. In other words, all applicable federal and state conditions shall be part of a permit and may be included in the permit prior to the issuance of a final NJPDES permit.

#### Section 2.7-Duration of permits.

Most NJPDES permits will be issued for a fixed term not to exceed 5 years. In some instances the Department may issue a permit for less than 5 years, including those cases where: (1) the Department determines that it is in the public interest because toxic effluent limitations may be issued in the near future; or (2) issuance for a short-term period is necessary in order to consolidate the issuance procedure for several types of NJPDES permits. (It should be noted, the Department always has the right to modify a permit if a toxic effluent limitation is established pursuant to Section 307(a) of the Federal Act or Section 8 of the State Act.

Some commenters requested clarification concerning the relationship between continuation of expiring permits (Section 2.3) and duration of permits. If an applicant makes a timely application for renewal of a permit, and the Department does not issue a new permit on or before the expiration date of the existing permit, the conditions of the previous permit remains will in effect until the new permit is issued. In addition Section 9.5 applies to all discharges to surface water (DSW) and describes the federally mandated requirements for stays of such permits.

#### Section 2.8-Schedules of Compliance.

The Department shall require schedules of compliance for permittees who do not meet final permit limits upon issuance of the permit. However, such schedules shall not exceed time limitations for compliance which are stated under the Federal and State Acts or regulations promulgated thereunder. Noncompliance with any part of the schedule is a basis for enforcement action.

#### Section 2.9-Requirements for recording and reporting monitoring results.

All permittees must monitor in accordance with the conditions established in the NJPDES permit. Such monitoring shall, as a minimum, comply with the requirements of any technology based effluent limitations.

#### Section 2.10 Effect of a permit.

The issuance of a permit establishes initial compliance with all State and Federal Acts which are the basis of these regulations. Failure to obtain a permit is grounds for enforcement action pursuant to these Acts.

#### Section 2.11-Transfer of permits.

The transfer of a permit requires a modification of the permit. The Department will revoke and reissue the permit pursuant to Section 2.12, or determine that the transfer shall constitute a minor modification under Section 2.14. The Department will notify a prospective transferor of which type of modification process will apply based on the criteria in these sections.

#### Section 2.12-Modification or revocation and reissuance of permits.

This section establishes the basis for the modification or revocation and reissuance of permits. The Department may take this action only if cause exists. The only other authorized modification to a permit is pursuant to Section 2.14, which establishes the criteria for a minor modification.

Many commentors requested that the Department define a substantial modification. A substantial modification shall constitute an increase or decrease, by at least 20%, in the quantity or quality of pollutants discharged or subject to these regulations.

#### Section 2.13-Termination of permits.

The Department may terminate permits based on the criteria established in this Section. It is noted that one basis for termination is a failure to pay applicable fees which are established pursuant to the

formula in Section 1.9. The Department may also bring a summary proceeding under the "Penalty Enforcement Law" N.J.S.A. 2A:58-1 et seq., for failure to pay applicable fees.

#### Section 2.14-Minor modifications of permits.

Where the Department issues approvals for sewer extensions pursuant to the "New Jersey Water Pollution Control Act Regulations," N.J.A.C. 7:14-1 et seq., the list of approved extensions shall be included as part of the NJPDES permit for that privately or publicly owned treatment works. Therefore, if a privately or publicly owned treatment works does not obtain a treatment works approval for a sewer extension, failure to obtain the treatment works approval will be a violation of the "Water Pollution Control Act Regulations" and NJPDES permit requirements.

#### Section 2.15-Noncompliance and program reporting by the Department.

This section describes the public accountability process which shall be imposed upon the Department. The Department is required by federal regulations to monitor permit compliance by NPDES dischargers and under the UIC and RCRA programs. The Department has extended this public reporting to apply to all NJPDES permits.

### SUBCHAPTER 3

This subchapter is basically the equivalent of 40 CFR Part 122, Subpart D, additional requirements for National Pollutant Discharge Elimination System Programs under the Federal Act. This Subchapter regulates all discharges to surface water who are required to obtain a NPDES permit from EPA under the Federal Act, until delegation of the program to the State.

#### Section 3.3-Discharge Allocation Certificate (DAC) for a discharges to surface water.

The DAC originates as a requirement under the State Act. The purpose of the DAC is to provide an applicant with notice of the wasteload which must be met by a new source in order to facilitate appropriate planning, design and construction.

The Department presently requires an approval for a treatment works in accordance with Section 6 of the State Act. The Department finds that many times it acts as a consultant to an applicant by assisting the applicant in determining a method to meet permit limits. The Department has determined that full responsibility should lie with the applicant and its consultants. Therefore, the Department will not usually be reviewing the submission of engineering plans and specifi-

cations to determine whether a treatment works will meet the discharge limits for a permit. The Department, however, does want the applicant to submit the engineering plans and specifications in order for the Department to have them on record for purposes of inspection. The operation manual shall also be submitted. The Department has determined that an applicant planning to discharge to surface water shall apply for a permit 90 days prior to the initiation of final engineering designs, specifications and plans. This is a change from the May draft NJPDES regulations where the application for a DAC was to have been made 180 days prior to initiation of engineering design specifications and plans. After reviewing the comments submitted, the Department determined that the regulations could change the time for submission of an application. The Department, however, cautions applicants that by delaying the date of submission, the applicant is incurring more costs prior to notice by the Department of what limitations must be met. The Department emphasizes that such financial risk is clearly on the applicant.

#### Section 3.3(d) Environmental Assessment

The May NJPDES draft regulations reserved the requirement that an applicant for a DAC submit an environmental impact statement. The Department has reviewed the basis for this requirement and finds that an environmental assessment for a new source will satisfy the intent of the State Act and other related laws and regulations. Therefore, the applicant shall submit an environmental assessment as part of an application for a DAC. The requirements for an environmental assessment are designed to be comprehensive but not overly burdensome for an applicant.

#### Section 3.3(f)-Duration.

A DAC for a non-POTW is issued for a fixed term of 18 months. During that 18 months the applicant desiring to discharge should complete engineering design and submit an application for an DSW discharge permit. However, the Department will grant one 18 month extension provided that the applicant demonstrates that steps have been taken to advance the project in accordance with paragraph (f)2. If an applicant has not received a draft NJPDES permit prior to the end of the 18-month period, and an extension has not been granted for an additional 18-month period, the applicant must resubmit an application for a new DAC which may include additional or new conditions. A DAC for a POTW shall be valid for a term of 5 years. This distinction recognizes that, in most cases, a POTW is also involved in the application for 201 grants. The grant process often takes several years. The 5-year term parallels the maximum term for a NJPDES permit.

#### Section 3.4 through 3.7.

The following types of discharges are required to obtain a NPDES permit, pursuant to federal regulations, as a point source discharge:

concentrated animal feeding operations, (Section 3.4), concentrated aquatic animal production facilities. (Section 3.5), aquaculture projects (Section 3.6), and silvicultural activities (Section 3.7). The regulations in these sections strictly comply with the regulations found in 40 CFR Part 122, Subchapter D.

#### Section 3.8-Separate Storm Sewers.

This section describes the extent to which the Department will regulate separate storm sewers. In this instance the Department will issue individual permits for such discharge.

#### Section 3.9-General Permits.

This section also regulates discharges from separate storm sewers. However, the general permit may state limitations or conditions for discharge which are identical within a given geographical area as described in Section 3.9(a)1. The Department may determine that an applicant who has a general permit must apply for an individual permit.

#### Section 3.10-Additional Conditions Applicable to all DSW Permits.

This section describes all conditions which shall apply to a DSW permit.

#### Section 3.10(b)-Bypass.

The Department has requested that it receive notice of an anticipated bypass at least 30 days before its occurrence. This condition is more stringent than the federal requirement of 10 days notice. However, the Department finds from experience that most anticipated bypasses are known 30 days before the event and the Department has determined that it should be notified in order to suggest alternatives to or require conditions for such bypass.

#### Section 3.11-Additional Conditions Applicable to Specified Categories of DSW Permits.

#### Section 3.11(b)-Additional conditions for DTW's.

A domestic treatment works (DTW) is a privately or publicly owned treatment works which treats primarily domestic waste (see Section 1.10). Most of the conditions of this section concern the relationship between a domestic treatment works (DTW) and an indirect discharge. These conditions are required under the federal regulations for all POTW's. The Department has expanded the application of these requirements to all DTW's.

### Section 3.12-Emergency Plans.

It has come to the attention of the Department that there is a need for a pre-planned and systematic approach for a DSW to respond to an emergency affecting a treatment works. Therefore, the Department has determined that as a preventative measure all holders of DSW permits shall have an emergency plan which is prepared pursuant to this section. Submission of such plans for existing dischargers is as described in the schedule in Section 3.12(a). New sources will be required to submit an emergency plan as part of the application for a DSW. The emergency plan consists of two basic steps. The first step is to perform a vulnerability analysis. The second step is to develop an emergency operating plan and a manual for the implementation of procedures for such plan. The plan shall include the steps a permittee will take to handle emergencies. The Department realizes that an emergency plan may require the acquisition of equipment. The Department has provided existing dischargers with a time period, not to exceed 36 months, in which to complete any structural elements of a plan. The Department shall then incorporate structural elements and the emergency operating plan manual into the NJPDES permit. Note that in accordance with Section 3.12(g) all permittees shall remain liable for any violation of a DSW permit which arises from an emergency situation, regardless of compliance with the emergency plan in the permit.

### Section 3.13(j) User charges.

This section is required pursuant to Section 4 of the State Act. The Department realizes that Congress is in the process of seeking to amend or repeal the equivalent federal requirement adopted pursuant to the Federal Act. Nevertheless, this regulatory requirement must be included based on the State Act.

### Section 3.13(m)-Privately-owned treatment works.

The Department requires an indirect discharge permit for all significant industrial users. A significant industrial user is defined in Section 1.10. The schedule for the submission of applications for indirect dischargers is found in Section 10.1. The Department will issue an individual indirect discharge permit to an SIU, or to an indirect discharger to the privately owned treatment works, or the indirect discharger may receive a permit as a limited co-permittee as required by this section. Inclusion of this section is required for State takeover of the federal NPDES program.

### Section 3.14-Calculating DSW Permit Conditions.

Section 3.14(h) net limits. An applicant may apply for a limitation to be calculated on a net basis. The burden of proof shall be on the

applicant to demonstrate that the limitation is appropriate by indicating the background quality of the intake water and satisfying other requirements of this Section. This calculation may also be made for a discharger to ground water, but only if the discharger demonstrates to the satisfaction of the Department that the discharger is not responsible for the background pollutants present in the intake water.

### Section 3.14(l).

This section deals with limitations which are imposed in DWS permits to control the gross pollution of surface waters by toxic pollutants. The application of the methodology for streams and for discharges to bays, estuaries, or the ocean, are to be used on a net basis. That is to say the discharge limitation will not be affected by the presence of a background concentration of any of the toxic pollutants listed in Appendix B. The equation for discharge into surface streams is simply a mass balance equation while the equation for the discharge into bays or the ocean is based on the theory of turbulent jet mixing. The ambient water quality criteria which is used in obtaining the maximum total weight which may be discharged from any treatment works are not to be considered to be formally adopted water quality standards, but rather concentrations which cannot be exceeded.

### Section 3.17-Criteria and Standards for New Jersey Pollution Discharge Elimination System Program.

This section is primarily authorized pursuant to Section 4 of the State Act and required by federal regulation (see 40 CFR Part 123.7).

#### SUBCHAPTER 4

### Additional Requirements for an Industrial Waste Management Facility.

The Department of Environmental Protection is in the process of applying for State administration of the regulatory program required by the Resource Conservation and Recovery Act. The Solid Waste Administration (SWA) is proposing to regulate hazardous waste management facilities. The SWA will be responsible for the regulation of these facilities. The SWA will regulate hazardous waste management facilities which treat, store, or dispose of hazardous waste on a commercial basis. In addition, the SWA will be responsible for all generation (manifest) requirements as required under RCRA.

The Division of Water Resources, under this Subchapter, will regulate hazardous waste at an industrial waste management facility by requiring a NJPDES permit. These regulations define hazardous wastes in accordance with the proposed "Hazardous Waste Regulations", N.J.A.C. 7:26-1.1 et seq.. Industrial Waste Management Facilities (IWMP's) are basically facilities which treat, store, or dispose of hazardous waste intracompany and intrastate or as part of its normal

production processes (not for commercial purposes). The specific inclusions for an IWMF under these regulations are found under Section 4.2.

Existing IWMF's will submit their permit applications in two stages:

1. Federal RCRA Regulations, listing and identifying hazardous wastes, were promulgated on May 19, 1980. Within six months of that date, all owners and operators of existing IWMF's must submit Part A of their permit application to EPA.
2. Once Phase II of the RCRA regulations is promulgated, EPA (or the Department if interim authorization has been granted) may request the Part B permit application from the IWMF. The applicant must comply with the request within six months.

This Subchapter does not preclude a facility from complying with Subchapter 7 of the Hazardous Waste Regulations, N.J.A.C. 7:26-7.1 et seq. Subchapter 7 contains the SWA's manifest requirements. Section 4.2(c)3.

This section clarifies that the fact if a surface impoundment is used as an ultimate disposal site for hazardous waste a discharger shall comply with the "Hazardous Waste Regulations." Where the surface impoundment is used as part of the treatment process, the regulations in this Subchapter shall apply.

As stated in Section 4.1, this Subchapter shall not be effective until the State is granted interim authorization by EPA pursuant to Section 3006 of RCRA. However, this does not preclude a hazardous waste management facility as defined in the RCRA regulations from complying with that Act or the State "Hazardous Waste Regulations" until this Subchapter is promulgated. This Subchapter is modeled on the federal regulations concerning RCRA programs found at 40 CFR Part 122, Subpart B and 40 CFR Part 124.

#### SUBCHAPTER 5

Section 1422 of the Federal Safe Drinking Water Act provides authorization for New Jersey to have a program for underground injection control. The Department is proposing to implement the UIC program under the authority of the New Jersey Water Pollution Control Act. The program provides that all underground injections are unlawful and subject to penalties unless authorized by a permit or rule.

New Jersey's UIC program consists, for the most part, of requirements mandated by the EPA for a State takeover of the program. Sections 5.1 through 5.13 were derived primarily from 40 CFR 122.32 et seq. The technical requirements found at Sections 5.14 through 5.18 are based

on requirements in 40 CFR Part 146. The filing requirements for UIC permits are located at Section 10.13 of these regulations.

During the development of the UIC program, the Department may identify aquifers and portions of aquifers which are actual or potential sources of drinking water. This will provide an aid to the Department in carrying out its duty to protect all underground sources of drinking water (USDW). Note that an aquifer is a USDW if it fits the definition, even if it has not been formally "identified". The Department may also designate as "exempted aquifers" those aquifers which would otherwise qualify as USDW's entitled to protection, but which have no real potential to be used as drinking water sources. Aquifers which do not fit the USDW definition are not "exempted aquifers." They are simply not subject to the special protection afforded USDW's.

New Jersey's UIC permit program, as part of the NJPDES Program, regulates underground injections under five defined classes of wells. No Class I, II, or III well may be authorized if it results in the movement of fluid into underground sources of drinking water (USDW). Technical requirements included in the regulations are designed to insure that such movement will not occur.

Existing Class IV wells which inject hazardous waste into or above a USDW are to be eliminated within six months of EPA's approval of New Jersey's NJPDES Program. New Class IV wells are prohibited. These Class IV prohibitions, found in Section 5.7, are significant changes from the federal requirements in that Class IV wells are prohibited whether they inject into or above an underground source of drinking water (USDW). The Federal regulations were developed to apply to a nation-wide program and consequently must be reasonable over a wide variety of environment of situations, including those where the injection of hazardous waste above a USDW may not be an objectional practice. The particular situation in New Jersey must be considered, however. New Jersey is heavily dependent on its ground water supplies for drinking water. Once USDW is contaminated, it may never be completely purged of the contaminants and could be lost as a drinking water supply for hundreds of years. Thus, in an effort to prevent the introduction of hazardous wastes into USDWs, the injection of hazardous wastes into wells above a USDW will not be allowed in New Jersey. Specifically, in New Jersey, no non-USDW aquifers are located above a USDW aquifer. Therefore, the only procedure whereby hazardous waste may be enplaced above a USDW would be through the use of a dry well, a septage pit, or a cesspool that subsequently dischargers the hazardous waste to the unsaturated zone above a USDW. Considering the relatively shallow depth of the water-table (unconfined) aquifers in New Jersey, the emplacement of any substance into the unsaturated zone is essentially equivalent to its discharge directly into the USDW.

Class V wells will be inventoried and assessed, and the appropriate regulatory action will be established at a later date. In the mean-

time, if such a well may cause a violation of primary drinking water regulations or otherwise adversely affect the health of persons, an individual permit may be required. On this basis, the Department may also order remedial action or closure."

#### SUBCHAPTER 6

(RESERVED)

#### SUBCHAPTER 7

##### Procedures for Decision-Making.

This Subchapter describes the procedures for issuing, modifying or revoking and reissuing or terminating all NJPDES permits. This subchapter consists mainly of federally mandated requirements. Sections 7.3, 7.5, 7.6, and 7.8 are specifically required by federal regulations at 40 CFR Sections 124.3 (Application for a permit), 124.5 (Modification), 124.6 (Draft permit), and 124.8 (Fact Sheets).

Section 7.2 includes the procedures concerning the issuance of NJPDES permits for new sources, (other than a DSW, which requires a DAC in accordance with Section 3.3). The process of new source permit issuance includes a draft NJPDES permit (tentative decision to issue or deny), a final draft NJPDES permit (equals an approval to build a treatment works), and a NJPDES permit (a permit to discharge). The concept for permit issuance is similar to the issuance of a DAC and NJPDES permit.

#### SUBCHAPTER 8

Most of the sections in this Subchapter are required for the Department to takeover the NPDES, UIC, and RCRA programs. The Department will utilize this procedural framework for all NJPDES permits. Sections 8.1, 8.2, 8.3, 8.7, are specifically required by federal regulation (See 40 CFR 123.7)

#### SUBCHAPTER 9

Specific procedures applicable to DSW permits. In order to takeover the NPDES program these procedures must apply to DSW (discharges to surface water) permits.

#### SUBCHAPTER 10

This Subchapter indicates when an applicant should submit an application and what the applicant should submit.

##### Section 10.1 Schedule for the Submission of Applications.

This section includes all persons who have existing discharges and who are now required to obtain a NJPDES permit. The schedule for the submission of applications for new sources is described in Section 2.1.

All sanitary landfills shall submit the NJPDES permit application to the Solid Waste Administration. The SWA shall be responsible for permit processing. The filing requirements for a sanitary landfill, Section 10.12, will be repealed and replaced by revisions to regulations by the Solid Waste Administration, which should be proposed in a few months.

##### Section 10.2 Initial Filing Fee.

A filing fee is only required for the initial submission of each type of NJPDES permit. However, as stated in Section 1.9, all facilities which had a NPDES permit prior to the effective date of these regulations are exempt from these fees for all discharges existing at the facility upon the effective date of these regulations.

#### SUBCHAPTER 11

##### CONFIDENTIALITY

This Subchapter is essentially adapted from the confidentiality provisions of the "Regulations Governing the Industrial Survey Project" N.J.A.C. 7:1F-2.1 et seq., and the EPA confidentiality regulations in 40 CFR Part 2.201 et seq.

Under Section 9(c) of the New Jersey "Water Pollution Control Act" the information listed in section 11.1 is required to be made available to the public, with no exceptions. Additional information, as explained in section 11.2, will be made available to the public subject to any confidentiality determinations protecting the information. Section 11.2(b) is a list of examples of the types of information for which confidentiality claims will be denied. Note that "effluent data" (which must be public information) is defined in Section 1.10. It should be noted that fees will be charged claimants to cover the additional costs of protecting and processing the information declared to be confidential (See Section 11.4).

The procedures for a Departmental determination of a confidentiality claim are established in Section 11.5. The flow charts at the end of Subchapter 11 are meant to be helpful guides through this section, and it is recommended that the flow charts and Section 11.5 be read together. Any information received under a claim of confidentiality will be given confidential treatment until the Department determines, under this Subchapter, that the information is not entitled to such treatment. Confidentiality determinations will primarily be made only when the Department receives a request to copy or inspect information under the "Right to Know Law", N.J.S.A. 47:1A-1 et seq.

Section 11.10 established requirements for the treatment of confidential information when the Department uses contractor which may have access to such information. This section contains the added provision (not contained in the DEP Industrial Survey Confidentiality regulations) that the authorized agent may be further required to protect the confidentiality of such information by contracting with the person owning the confidential information.

#### Public Participation

Public input to these proposed regulations is invited. Public hearings will be held on October 29, 1980 at Stockton College in Pomona and on October 30, 1980 at Cook College in New Brunswick. The comment period will end on December 15, 1980. Written comments should be forwarded to:

Dr. Marwan M. Sadat, P.E.  
Assistant Director  
Water Quality Management  
P.O. Box CN-029  
Trenton, N.J. 08625

#### Appendix

##### Fee Schedule

The New Jersey Water Pollution Control Act requires that the administrative costs of the State NPDES program be completely supported by a fee structure. The first year fees are based on estimates of those administrative costs.

In order to equitably distribute the program costs to permittees, it was recognized that the volume and strength of the permitted discharge, which affects administration of the permit, should be factored into the fee calculation. Since data is not available for all discharges requiring permits, some assumptions were made concerning the nature of municipal and industrial discharges, for the purpose of determining these initial fees. In subsequent years, actual data on flow and strength of discharges will be used to calculate individual fees.

A structure in which fees are directly proportional to flow and discharge strength would result in an inequitable distribution of the administrative costs. For example, the preparation of a permit for a large industrial concern might cost 15-20 times the cost of preparing a permit for a minor industrial discharge, in terms of staff time, record keeping, telephone and mailing costs, etc. This would not justify imposing a fee which was 1000 times that of the smaller industry, simply because that number reflected the differences in flow and discharge strength. Therefore, the formulas for calculating fees are not straight-line functions, but produce a sliding-scale fee which more closely represents relative administrative costs. For similar reasons, a minimum fee of \$100 has been established for minor discharges.

The compliance assurance and enforcement costs for the permit system are based on an estimated utilization of 30 per cent of the Division Water Resources enforcement element available manpower. This number will be adjusted in future years when actual costs are obtained and the Department has gained the experience in administering this program.

The total cost for the administration of that portion of the program attributable to municipal permits is \$621,030. These costs are based on the estimated number of municipal permits and the workload necessary for their processing. Similarly, the yearly cost for the industrial permits is \$917,110 and the total cost for processing thermal discharges is \$690,320.

It is the aim of the fee structure to:

1. support the NJPDES program, as required by the State Act and federal regulations,

2. reflect relative administrative costs incurred on behalf of the permittee, and
3. encourage cleaner effluents by direct cost benefits based on quality of the discharge after the first year.

At present, the fee structure has been developed only for discharges to surface water (DSW). The specific formulas differ for municipal, industrial/commercial and thermal effluents.

The general formula is:  
 $y = A + B (x)^{1/3}$

Where: y is the annual fee

A and B are constants specific to the type of discharge, and

x is pounds of BOD (or equivalent pounds of BOD) per day.

For the purpose of assigning "x" values for first-year fee calculations, currently available flow data were used\*, and several assumptions were made:

1. primary municipal effluents contain 100 mg/l BOD
2. secondary municipal effluents contain 20 mg/l BOD
3. industrial/commercial effluents contain 20 mg/COD
4. average ambient water temperature is 12.8°C.

The values of the two constants, "A" and "B" were determined for each discharge type. Two constraints were imposed in the computer-assisted calculation for each set of constants:

1. total estimated administrative cost of the program for that category, and
2. a maximum fee based on the estimated maximum costs of program activities for the largest members of that category.

The specific equations for municipal, industrial/commercial, and thermal fee calculations are included in section 1.9 of the NJPDES the regulations.

\*Note: Because of some inconsistencies in the reporting of the data on thermal discharges, a special survey was conducted to obtain appropriate data. Thermal discharge fees were based on millions of BTU's generated per hour.

Table I

WORKPOWER REQUIREMENTS FOR THE NJPDES (DSW)  
PROGRAM FOR PERMIT ISSUANCE

Industrial Permits

978 permits x 9 work days x 15% public hearings x 15% adjudications  
divided by 200 workdays per work year divided by 5 years per permit term = 12 persons plus supervisor.

Municipal Permits

480 permits x 7 work days x 15% public hearings x 15% adjudications  
divided by 200 work days per work years divided by 5 years per permit term = 5 persons plus one supervisor.

Pretreatment\*

4000 permits x 2 work days x 15% public hearings x 15% adjudications  
divided by 200 work days per work years divided by 5 years per permit term = 11 persons plus one supervisor.

\*Staff necessary for only the NPDES related functions concerning the pretreatment program = 4 persons

Compliance assurance and enforcement staff has been based on the estimated amount of staff of necessary for DSW (formally NPDES) program compliance.

Table II

The Total Budget for the first year operation of the State NPDES Program is the following:

<u>Salaries*</u>	1,623,033.
<u>Overtime</u>	16,755
<u>Seasonal Co-Op</u>	111,702.
<u>Printing and Organization</u>	30,159
<u>Vehicular</u>	53,617
<u>Medical/Educational</u>	11,170
<u>Clothing</u>	4,468
<u>Other</u>	11,170
<u>Travel</u>	20,106
<u>Data Processing</u>	27,925
<u>Professional Services</u>	131,808
<u>Other</u>	13,404
<u>Maintenance-Equipment</u>	2,234
<u>Maintenance-Vehicles</u>	8936.
<u>Rent-Central Motor Pool</u>	69,255
<u>Vehicular Equipment</u>	80,425
<u>Telephone</u>	7819
<u>Postage</u>	4429
<b>Total =</b>	<b>2,228,415</b>

\*Includes planning, permitting, public participation monitoring, enforcement, and administration.

Table III

Commitments of man-years and funding to the State NPDES program are as follows:

<u>PERSONNEL*</u>	<u>MAN-YEARS &amp; FUNDING 1981<sup>1</sup></u>				<u>MAN YEARS &amp; FUNDING 1982<sup>2</sup></u>			
	<u>Permit Issuance</u>	<u>Compliance Assurance</u>	<u>Enforcement</u>	<u>Total</u>	<u>\$</u>	<u>TOTAL</u>	<u>\$</u>	
Industrial Waste Section	12	8	3	23	\$899,185	25	\$1,000,000	
Municipal Waste Section	5	2.5	2	9.5	\$371,402	11	\$ 440,000	
Pretreatment	4	4	2	10	\$390,950	12	\$ 480,000	
Monitoring & Planning	2.5			2.5	\$ 97,737	4	\$ 160,000	
Overall Administration	6	4	2	12	\$469,140	13	\$ 520,000	
<b>TOTALS</b>	<b>29.5</b>	<b>18.5</b>	<b>9</b>	<b>57</b>	<b>\$2,228,415</b>	<b>65</b>	<b>\$2,600,000</b>	

<sup>1</sup>includes operating expenses for municipal, industrial, and thermal discharges

<sup>2</sup>average man year cost = \$39,095

average man year cost = \$40,000

**PRELIMINARY FEE SCHEDULE FOR MUNICIPAL DISCHARGERS**

THIS IS A PRELIMINARY FEE STRUCTURE FOR MUNICIPAL DISCHARGERS.  
THE FEE IS DETERMINED BY THE EQUATION

$$Y = A + B * (X)^{0.75}$$

WHERE A = -3314.868  
B = 716.830  
Y = THE YEARLY FEE  
X = LB/DAY BOD

AND IT IS ASSUMED THAT PRIMARY EFFLUENT IS 100 MG/L BOD  
AND SECONDARY EFFLUENT IS 20 MG/L BOD.  
THERE IS A \$100/YEAR MINIMUM FEE IMPOSED.

**CATEGORY ONE - AVERAGE FLOW OF 0.099 MGD OR LESS**

NPDES #	MUNICIPAL PLANT NAME	TYPE	AVG FLOW (MGD)	LB/DAY BOD	FEE
0020575	FRANKLIN TWP STP	P	0.0	0.0	100.00
0001848	COMMONWEALTH WATER CO. CANOE BROOK	P	0.001	0.834	100.00
0030759	MONTVILLE TWP - BROOK VALLEY STP	P	0.001	0.834	100.00
0022802	WHITE MEADOW LAKE STP	S	0.002	0.334	100.00
0026701	SUSSEX COUNTY DEPT CIVIL DEFENSE	P	0.002	1.669	100.00
0029149	VAN RUREN ASSOCIATES-WHITE MEADOWS APTS	P	0.002	1.669	100.00
0025607	PASSAIC VALLEY WATER COMMISSION	S	0.003	0.501	100.00
0026981	MILFORD MANOR NURSING HOME STP	S	0.003	0.501	100.00
0027063	SPARTA TWP - ALPINE STP	S	0.003	0.501	100.00
0029297	DELAWARE RIVER & RAY AUTHORITY-MIDDLE CR	S	0.003	0.501	100.00
0030767	MONTVILLE TWP - MORRLAND ESTATES STP	P	0.003	2.503	100.00
0021814	GREAT GORGE SKI AREA	P	0.004	3.338	100.00

NPDES#	MUNICIPAL PLANT NAME	TYPE	AVG FLOW(MGD)	LB/DAY BOD	FEE
0024431	MONTVILLE TWP MUA FOREST PARK	S	0.005	0.834	100.00
0023027	VERNON VALLEY REC ASSC-VERNON VALLEY STP	S	0.006	1.001	100.00
0022926	PEQUANNOCK TWP - LAUREL HOMES STP	S	0.007	1.168	100.00
0023051	CORY ESTATES II	S	0.007	1.168	100.00
0027464	HANOVER MOBILE HOME PARK	S	0.007	1.168	100.00
0030198	FAIRFIELD BORO - COTTAGE PARK STP	S	0.007	1.168	100.00
0023078	CORY ESTATES I	S	0.008	1.335	100.00
0023035	HILLTOP TRAILER COURT-BROWNS HILLS	P	0.009	7.510	100.00
0023710	WEST MONMOUTH UA	P	0.009	7.510	100.00
0023060	HILLTOP GARDENS	S	0.010	1.669	100.00
0023906	MAHWAH TWP BLUE HILLS DEVELOPMENT	S	0.011	1.836	100.00
0022993	195 BROADWAY CORP	S	0.012	2.003	100.00
0026557	WARREN COUNTY COURTHOUSE	S	0.014	2.336	100.00
0022063	SUSSEX COUNTY SERVICE CENTER	S	0.017	2.837	100.00
0022551	JEFFERSON PARK TREATMENT PLANT	S	0.017	2.837	100.00
0026212	MT ARLINGTON SANITATION CORP	S	0.017	2.837	100.00
0027367	CARLTON VILLAGE PUBLIC SEWAGE TR PLT	S	0.017	2.837	100.00
0020770	PRINCETON STP	P	0.017	14.186	100.00
0023884	REGENCY PARK APTS	S	0.018	3.004	100.00
0027197	GARDEN LAKE CORP.	S	0.018	3.004	100.00
0020338	BRANCHBURG TWP - FOX HOLLOW STP	S	0.019	3.171	100.00
0023761	WARREN TWP S A - BARDY FARMS	S	0.019	3.171	100.00
0026506	FAR HILLS BORO STP	P	0.019	15.855	100.00
0023043	BELTEN GARDENS	S	0.020	3.338	100.00
0027669	WEST MILFORD MUA ANOSTING STP	S	0.021	3.505	100.00
0020281	CHATHAM TWP - PARK CENTRAL STP	S	0.022	3.672	100.00
0027774	OAKWOOD KNOLLS - OAKLAND BORO	P	0.022	18.358	100.00
0027596	SPARTAN VILLAGE MOBILE HOME PARK	P	0.022	18.358	100.00
0026395	MERCER MOBILE HOMES-ROBBINSVILLE	S	0.023	3.838	100.00
0020796	PRINCETON SEWER OPERATING COMMITTEE	S	0.024	4.005	100.00
0029041	WANTAGE DEVELOPMENT CO. SUSSEX ARMS	S	0.024	4.005	100.00
0020354	BRANCHBURG TWP - NESHANIC STATION	S	0.025	4.172	100.00
0021342	OAKLAND BORO - SKYVIEW-HI BROOK STP	S	0.026	4.339	100.00
0027057	SPARTA TWP - PLAZA STP	P	0.026	21.696	100.00
0031461	SHARON ARMS - SEWAGE PLANT	S	0.028	4.673	100.00
0028240	SILVERMEDE MOBILE HOME PARK	S	0.029	4.840	100.00
0023663	CARRIER FOUNDATION	S	0.031	5.174	100.00
0022781	VALLEY ROAD SEWERAGE CO.-MC CANN HILL	P	0.031	25.868	100.00
0022411	VOORHEES TOWNSHIP-ASHLAND	S	0.032	5.340	100.00
0027715	MERCER COUNTY CORRECTION CENTER	S	0.035	5.841	100.00
0027120	FREEHOLD TWP - WOODGATE FARMS	P	0.038	31.709	100.00
0026174	WEST MILFORD MUA CRESCENT PARK STP	S	0.039	6.509	100.00
0027006	RINGWOOD BORO S A - RINGWOOD ACRES	S	0.039	6.509	100.00
0028509	ROELACK INC T/A TIMBERLINE HOMES	P	0.040	33.378	100.00
0027677	WEST MILFORD MUA OLDE MILFORD STP	S	0.040	6.676	100.00
0030368	EAST GREENWICH SEWERAGE CORP	P	0.040	33.378	100.00
0023990	MOUNT LAUREL TWP - RANCOGAS STP	S	0.041	6.843	100.00
0029203	KINGS GRANT SEWERAGE CORP S T P	P	0.042	35.047	100.00
0027791	OCEAN TWP MUA - SKIPPERS COVE	S	0.044	7.343	100.00
0031810	BOROUGH OF FIELDSBORO-STP	P	0.045	37.550	100.00
0003832	HIGHTSTOWN BORO STP	P	0.045	37.550	100.00

NPDES#	MUNICIPAL PLANT NAME	TYPE	AVG FLOW(MGD)	LB/DAY BOD	FEE
0028541	BIRCH HILL PARK DISPOSAL CO INC	P	0.046	38.385	100.00
0027561	DELAWARE TWP M U A	S	0.047	7.844	100.00
0023779	MERCER COUNTY AIRPORT	P	0.048	40.054	100.00
0022136	BEAVER BROOK GARDENS TREATMENT PLANT	S	0.049	8.178	100.00
0026913	MONTGOMERY TWP STP J SLEEPY HOLLOW	S	0.049	8.178	100.00
0025143	MIDDLETOWN TWP SEWERAGE AUTHORITY	P	0.054	45.060	100.00
0023833	MELROSE PLANT -BORO OF SAYREVILLE	P	0.058	48.398	100.00
0029572	WEST MILFORD MUA HIGHVIEW STP	S	0.062	10.347	100.00
0022772	VALLEY ROAD SEWERAGE CO.-FIELDHEDGE STP	P	0.062	51.736	100.00
0023574	JAMESBURG BOROUGH STP	P	0.063	52.571	100.00
0022764	VALLEY ROAD SEWERAGE CO.-RIVER RD. STP	P	0.067	55.908	100.00
0026786	CAPE MAY CO - HOLMES CREEK STP	P	0.067	55.908	100.00
0023752	WARREN TWP S A - STAGE 3 STP	S	0.070	11.682	100.00
0022683	ROXBURY TWP - SKYVIEW STP	S	0.071	11.849	100.00
0020133	ADELPHIA SEWER COMPANY	P	0.075	62.584	100.00
0023205	PRINCETON SEMINARY SEWAGE PLANT	S	0.078	13.017	100.00
0026867	JEFFERSON TWP - HIGH RIDGE SEWER CO	S	0.079	13.184	100.00
0026344	LIN PARK SEWAGE TREATMENT PLANT	S	0.100	16.689	100.00

CATEGORY TWO - AVERAGE FLOW FROM 0.1 TO 0.999 MGD

NPDES #	MUNICIPAL PLANT NAME	TYPE	AVG FLOW (MGD)	LB/DAY BOD	FEE
0029831	FRENCHTOWN SEWAGE TREATMENT PLANT	S	0.102	17.023	100.00
0025127	CHERRY HILL TWP - COLWICK STP	S	0.104	17.357	100.00
0026492	GLOUCESTER TWP - CATALINA HILLS STP	S	0.110	18.358	100.00
0027383	SUNBURY VILLAGE SEWER COMPANY	P	0.115	95.962	100.00
0021440	WEST COLLINGSWOOD HEIGHTS	S	0.117	19.526	100.00
0028592	DIAMOND HILL SEWAGE PLANT	S	0.119	19.860	100.00
0022949	BERKELEY TWP-CLAMMING CREEK STP	S	0.121	20.194	100.00
0020583	JACKSON TWP MUA - HARMONY STP	S	0.124	20.694	100.00
0024139	BORDENTOWN TWP - LAUREL RUN STP	P	0.125	104.307	100.00
0021881	PEAPACK-GLADSTONE BORO STP	S	0.126	21.028	100.00
0026263	JACKSON TWP MUA - GREAT ADVENTURE STP	S	0.131	21.863	100.00
0030261	MANAQUE BORO S A MEADOWBROOK STP	S	0.131	21.863	100.00
0028037	MIDDLE TOWNSHIP SEWERAGE DISTRICT #1	P	0.131	109.313	110.00
0022985	WRIGHTSTOWN MUA	P	0.134	111.817	140.00
0021733	PEMBERTON BORO CONTACT AERATION PLANT	P	0.139	115.989	180.00
0020532	MULLICA HILL SEWAGE TREATMENT PLANT	S	0.143	23.865	100.00
0026361	GIBBSBORO SEWERAGE CORP	P	0.143	119.327	210.00
0029840	CAMDEN COUNTY HOSPITAL - LAKELAND	P	0.144	120.161	220.00
0028495	REDMINSTER TWP STP	S	0.152	25.367	100.00
0025721	RUTLER BORO WTP	P	0.155	129.340	310.00
0026484	GLOUCESTER TWP - HARDALE MANOR STP	S	0.156	26.035	100.00

NPDES#	MUNICIPAL PLANT NAME	TYPE	AVG FLOW(MGD)	LB/DAY BOD	FEE
0020621	LAWNSIDE SEWER UTILITY DEPT	S	0.174	29.039	100.00
0021725	BRIGANTINE CITY SEWAGE TREATMENT PLANT	P	0.180	150.202	500.00
0025119	CHERRY HILL TWP - ASHLAND STP	S	0.183	30.541	100.00
0023566	HUDSON COUNTY-MEADOWVIEW HOSPITAL	P	0.184	153.539	520.00
0026905	MONTGOMERY TWP STP 2	S	0.185	30.875	100.00
0022021	SWEDESBORO BORO STP	P	0.187	156.043	540.00
0022896	ISLAND HEIGHTS SEWERAGE TREATMENT PLANT	S	0.195	32.544	100.00
0023736	SOUTHAMPTON SEWERAGE CO	P	0.196	163.553	610.00
0021857	SUSSEX BOROUGH	P	0.197	164.387	610.00
0022829	ABERDEEN TWP MUA - RIVER GARDENS STP	S	0.198	33.044	100.00
0022951	BERKELEY TWP-SOUTH SEASIDE PARK STP	S	0.204	34.046	100.00
0021610	RIVERTON SEWAGE TREATMENT PLANT	S	0.209	34.880	100.00
0020605	PEQUEST SEWER COMPANY	S	0.218	36.382	100.00
0021695	BURLINGTON TOWNSHIP	P	0.221	184.414	770.00
0022012	WOODLYNNE BORO STP	P	0.223	186.083	780.00
0020206	ALLENTOWN WATER POLLUTION CONTROL PLANT	S	0.228	38.051	100.00
0024074	JACKSON TWP MUA	P	0.233	194.428	840.00
0025097	CHERRY HILL TWP - STAFFORD STP	S	0.236	39.386	100.00
0022918	ROOSEVELT BOROUGH STP	S	0.239	39.887	100.00
0022055	FRANKLIN BORO - HEMLOCK JCT STP	P	0.241	201.103	880.00
0023825	MORGAN STP -SAYREVILLE	P	0.245	204.441	910.00
0023493	WASHINGTON TWP- SCHOOLEYS MOUNTAIN STP	P	0.248	206.944	930.00
0022748	BROOKLAWN BOROUGH STP	P	0.253	211.117	950.00
0021890	MILFORD SEWER UTILITY	S	0.254	42.390	100.00
0021041	BRADLEY BEACH BOROUGH STP	P	0.263	219.461	1010.00
0021741	MANAQUE BORO S A HASKELL STP	S	0.271	45.227	100.00
0022250	WOODSTOWN SEWERAGE AUTHORITY	S	0.276	46.062	100.00
0027952	LAKEHURST BOROUGH STP	P	0.281	234.481	1110.00
0022934	PEQUANNOCK TWP - GREENVIEW STP	S	0.283	47.230	100.00
0023981	MOUNT LAUREL TWP - RAMBLEWOOD STP	S	0.304	50.735	100.00
0022489	WARREN TWP S A - STAGE II STP	S	0.321	53.572	100.00
0024147	CUMBERLAND CUA - SEABROOK STP	S	0.332	55.408	100.00
0022497	WARREN TWP S A - STAGE 4 STP	S	0.333	55.575	100.00
0026387	BERNARDSVILLE BORO STP	S	0.340	56.743	100.00
0021954	MOUNT OLIVE TWP STP	S	0.346	57.744	100.00
0021032	TUCKERTON STP	P	0.352	293.727	1450.00
0025003	OAKLYN BORO STP	S	0.364	60.748	100.00
0021334	MENDHAM BORO - INDIA BROOK STP	S	0.368	61.416	100.00
0021008	WYNEWOOD SEWERAGE UTILITY COMPANY	S	0.369	61.583	100.00
0027545	LOGAN TWP MUA	S	0.370	61.749	100.00
0022128	MONROE TWP MUA	S	0.371	61.916	100.00
0020311	MAXIM SEWERAGE CORP	S	0.372	62.083	100.00
0026581	STONE HARBOR SEWER TREATMENT PLANT	P	0.375	312.920	1550.00
0021717	BUENA BOROUGH MUA	S	0.411	68.592	100.00
0025101	CHERRY HILL TWP - WOODCREST STP	S	0.411	68.592	100.00
0026204	HIGHLANDS BORO STP	P	0.414	345.463	1710.00
0024121	BORDENTOWN TWP - MILE HOLLOW STP	S	0.423	70.595	100.00
0021075	NEPTUNE CITY STP - LAIRD AVENUE	P	0.428	357.146	1770.00
0022942	BERKELEY TWP-BERKELEY SHORES STP	S	0.433	72.264	100.00
0022454	MANASQUAN RIVER REGIONAL STP	P	0.447	373.000	1850.00
0028959	GLOUCESTER TWP-CHEWS LANDING B10-SURF	P	0.450	375.504	1860.00

NPDES#	MUNICIPAL PLANT NAME	TYPE	AVG FLOW(MGD)	LB/DAY BOD	FEE
0021431	MAGNOLIA SEWERAGE TREATMENT PLANT	S	0.464	77.437	100.00
0020974	FAIRFIELD BORO - DEER PARK STP	S	0.472	78.772	100.00
0026000	MONROE MUA	P	0.480	400.537	1970.00
0029386	TWO BRIDGES WTP	S	0.480	80.107	100.00
0022535	ABERDEEN TWP MUA - CLIFFWOOD STP	S	0.482	80.441	100.00
0021563	SURF CITY STP	P	0.484	403.875	1980.00
0026221	STAFFORD TWP- MUA	P	0.488	407.213	2000.00
0027286	OCEAN CITY - 46TH STREET STP	S	0.492	82.110	100.00
0026310	YAROVILLE GROVEVILLE WASTEWATER PLANT	S	0.497	82.945	100.00
0025186	WOOD-RIDGE S.A.	S	0.498	81.112	100.00
0024589	EGG HARBOR CITY MUA	S	0.499	83.278	100.00
0021687	ESSEX COUNTY HOSPITAL CENTER	S	0.504	84.113	100.00
0020931	AVON BY THE SEA SEWAGE TREATMENT PLANT	P	0.507	423.068	2070.00
0022233	OCEAN GROVE CAMP MEETING ASSOCIATION	P	0.508	423.902	2070.00
0024023	PENNS GROVE SEWERAGE AUTHORITY	P	0.518	432.247	2110.00
0021652	SOMERDALE STP	S	0.535	89.286	100.00
0026972	BERLIN BORO STP	S	0.535	89.286	100.00
0022357	BOROUGH OF SPRING LAKE HEIGHTS	P	0.541	451.439	2180.00
0025402	ATLANTIC HIGHLANDS BTP	P	0.552	460.618	2220.00
0023680	SEA ISLE CITY STP	P	0.556	463.956	2230.00
0024449	PALMYRA SEWAGE TREATMENT PLANT	S	0.568	94.794	100.00
0022080	TOTOWA BORO-WEST END STP	S	0.578	96.463	100.00
0021393	HAMILTON TOWNSHIP MUA	S	0.580	96.797	100.00
0021326	MEDFORD LAKES BOROUGH STP	S	0.590	98.465	100.00
0030333	GREENWICH TWP STP	S	0.607	101.303	100.00
0020541	SOUTH AMBOY SEWAGE TREATMENT PLANT	P	0.625	521.533	2460.00
0027481	BEVERLY SEWERAGE AUTHORITY	S	0.637	106.309	100.00
0020915	LAMBERTVILLE TREATMENT WORKS	S	0.646	107.811	100.00
0023191	DEAL BOROUGH STP	P	0.660	550.739	2560.00
0021113	WASHINGTON BOROUGH STP	S	0.691	115.321	170.00
0022543	ABERDEEN TWP MUA - STRATHMORE STP	S	0.703	117.324	190.00
0028436	FLEMINGTON BORO SEWER TREATMENT PLANT	S	0.709	118.325	200.00
0021709	BURLINGTON TWP - CENTRAL AVE STP	S	0.758	126.503	280.00
0021059	BRADLEY BEACH BOROUGH STP	P	0.760	634.184	2840.00
0023701	FLORENCE TOWNSHIP STP	S	0.761	127.004	290.00
0021229	HADDON HEIGHTS SEWAGE TREATMENT PLANT	S	0.767	128.005	300.00
0029475	HIGHTSTOWN BORO STP	S	0.769	128.339	300.00
0020389	CLINTON WASTEWATER TREATMENT PLANT	S	0.776	129.507	310.00
0022471	OLD BRIDGE TWP SA - LAURENCE HARBOR	P	0.778	649.205	2890.00
0020290	CHATHAM TWP MAIN PLANT	S	0.790	131.844	330.00
0024465	PASSAIC TOWNSHIP STP	S	0.814	135.849	370.00
0020371	CAPE MAY CITY STP	P	0.830	692.596	3030.00
0024848	VINFLAND CITY WATER SEWER UTILITY	P	0.830	692.596	3030.00
0025518	FLORHAM PARK SEWERAGE AUTHORITY	S	0.837	139.687	400.00
0023698	POMPTON LAKES BOROUGH MUA	S	0.847	141.356	420.00
0024031	EVESHAM TWP-ELMWOOD STP	S	0.858	143.192	440.00
0026476	GLOUCESTER TWP - BLACKWOOD STP	S	0.861	143.693	440.00
0024040	EVESHAM TWP-WOODSTREAM STP	S	0.862	143.860	440.00
0021601	CARNEYS POINT TWP SEWERAGE AUTH	P	0.864	720.968	3110.00
0025178	MOUNT LAUREL TWP - INTERIM STP	S	0.874	145.862	460.00
0022675	ROXBURY TWP - AJAX TERRACE STP	S	0.880	146.864	470.00

- 32 -

NPDES#	MUNICIPAL PLANT NAME	TYPE	AVG FLOW(MGD)	LB/DAY BOD	FEE
0027316	SEASIDE PARK BOROUGH STP	P	0.880	734.319	3150.00
0025160	HAMMONTON WASTETREATMENT PLANT	S	0.893	149.033	490.00
0026841	WAYNE TWP SHEFFIELD HILLS STP	S	0.894	149.200	490.00
0025054	CHERRY HILL TWP - OLD ORCHARD STP	S	0.906	151.203	500.00
0020401	WOODBIDGE TWP KEASBEY STP	P	0.907	756.849	3220.00
0026964	LAVALLETTE SEWER DEPT	P	0.929	775.207	3270.00
0020184	NEWTON MUNICIPAL STP	S	0.932	155.542	540.00
0022403	VOORHEES TOWNSHIP-OSAGE	S	0.934	155.876	540.00
0022519	RIVERSIDE SEWAGE PLANT	S	0.935	156.043	540.00
0023817	MOUNT EPHRAIM STP	P	0.948	791.062	3310.00
0024929	MORRIS TWP - WOODLAND STP	S	0.973	162.385	600.00
0025071	CHERRY HILL TWP - KINGSTON STP	S	0.973	162.385	600.00
0028746	MAPLE SHADE TWP-MAIN STREET STP	S	0.986	164.554	610.00
0023370	SEASIDE HEIGHTS BOROUGH MUA	P	0.988	824.440	3410.00
0020320	CLEMENTON SEWERAGE TREATMENT PLANT	S	0.993	165.722	620.00
0026468	GLOUCESTER TWP-CHEWS LANDING ACT. SLUDGE	S	0.993	165.722	620.00

CATEGORY THREE - AVERAGE FLOW FROM 1.0 TO 4.999 MGD

NPDES #	MUNICIPAL PLANT NAME	TYPE	AVG FLOW (MGD)	LB/DAY BOD	FEE
0027821	MUSCONETCONG SEWERAGE AUTHORITY	S	1.005	167.725	640.00
0022624	STRATFORD SEWERAGE AUTHORITY	S	1.024	170.896	660.00
0026875	BARRINGTON SEWER UTILITY	S	1.044	174.234	690.00
0026859	RUNNEMEDE SEWERAGE AUTHORITY	P	1.046	872.838	3540.00
0021385	AVALON BORO - WATER & SEWER UTILITY	S	1.050	175.235	700.00
0026271	KINGSTON STP	P	1.052	877.845	3550.00
0025046	CHERRY HILL TWP - BARCLAY STP	S	1.062	177.238	710.00
0023507	DELTRAN SEWAGE TREATMENT AUTHORITY	S	1.079	180.075	730.00
0022845	BERNARDS TWP S.A. - HARRISON BROOK	S	1.110	185.248	770.00
0026832	MEDFORD WATER POLLUTION CONTROL PLANT	S	1.114	185.916	780.00
0027766	FREEMOLD SEWER CO - STONEHURST DEV	S	1.116	186.250	780.00
0021636	NEW PROVIDENCE WASTEWATER DISPOSAL PLANT	S	1.136	189.588	800.00
0022446	AUDORON STP	S	1.190	198.600	870.00
0023515	NORTH WILDWOOD STP	P	1.218	1016.364	3890.00
0027171	WILDWOOD CREST SEWAGE TREATMENT PLANT	P	1.220	1018.033	3900.00
0024678	BORDENTOWN CITY DISPOSAL PLANT	S	1.239	206.778	920.00
0024821	PEMBERTON TWP MUNICIPAL UTILITIES AUTH	S	1.278	213.286	970.00
0025330	CEDAR GROVE TWP STP	S	1.288	214.955	980.00
0023787	EAST WINDSOR MUA	S	1.328	221.631	1020.00
0022098	WEST PATERSON BORO STP	S	1.332	222.298	1030.00
0022039	BUTLER BLOOMINGDALE STP	S	1.336	222.966	1030.00
0021369	HACKETTSTOWN MUA	S	1.339	223.466	1040.00
0024503	HADDONFIELD WASTEWATER TREATMENT PLANT	S	1.353	225.803	1050.00

- 33 -

NPDES#	MUNICIPAL PLANT NAME	TYPE	AVG FLOW(MGD)	LB/DAY BOD	FEE
0024856	SALEM CITY STP	P	1.353	1129.015	4150.00
0024598	PENNSVILLE SEWERAGE AUTH	P	1.364	1138.194	4170.00
0024007	CINNAMINSON SEWERAGE AUTHORITY	S	1.367	228.139	1070.00
0026620	GLOUCESTER CITY SEWAGE TREATMENT PLANT	S	1.385	231.144	1080.00
0022047	RARITAN TWN. M.U.A.	S	1.404	234.314	1100.00
0028738	MAPLE SHADE TWP-LINWOOD AVE STP	S	1.468	244.995	1170.00
0029408	OCEAN CO SEWERAGE AUTHORITY - CENTRAL	P	1.470	1226.646	4360.00
0028762	HANVILLE BORO STP	S	1.504	251.003	1210.00
0024911	MORRIS TWP - BUTTERNORTH STP	S	1.509	251.838	1210.00
0025526	COLLINGSWOOD STP	S	1.513	252.505	1220.00
0025038	SECAUCUS TOWN STP	S	1.519	253.507	1220.00
0022071	TOTOWA BORO-RIVERVIEW STP	S	1.524	254.341	1230.00
0024830	HADDON TWP -COLES HILL RD STP	S	1.583	264.188	1280.00
0023809	LOWER TOWNSHIP MUA	S	1.591	265.523	1290.00
0024660	BURLINGTON CITY STP	S	1.596	266.357	1300.00
0025291	N ARLINGTON-LYNDHURST JT MEETING STP	P	1.678	1400.213	4700.00
0029092	NORTH BERGEN D P M-NORTHERN B T P	P	1.700	1418.570	4740.00
0029564	COLLINGSWOOD BORO WATER TREATMENT	P	1.739	1451.115	4800.00
0025062	CHERRY HILL TWP - COOPER RIVER STP	S	1.834	306.077	1520.00
0021547	SO BRUNS TWP KINGSTON B T P	S	1.835	306.244	1520.00
0027961	BERKELEY HTS. WATER-POLLUTION CONTROL PL	S	1.846	308.080	1530.00
0024902	HANOVER TWP STP	S	1.850	308.748	1530.00
0024881	NEPTUNE TWP STP - OLD CORLIES AVE	S	1.859	310.250	1540.00
0025496	MORRISTOWN SEWAGE PLANT	S	1.872	312.419	1550.00
0029076	NORTH BERGEN D P M-CENTRAL B T P	P	1.901	1986.296	5050.00
0024015	MT HOLLY S.T.P.	S	1.903	317.593	1580.00
0024732	LITTLE FALLS TWP STP	S	1.947	324.936	1610.00
0028649	BORDENTOWN CITY WTP	P	1.957	1633.024	5130.00
0029190	FREEHOLD BORO WATER TREATMENT PLANT	P	1.974	1647.210	5150.00
0026743	BELMAWR SEWERAGE AUTHORITY	S	2.013	335.951	1670.00
0022811	WILDWOOD WASTEWATER TREATMENT PLANT	P	2.013	1679.754	5210.00
0023281	OCEAN CITY THIRD STREET STP	P	2.017	1683.093	5210.00
0029084	NORTH BERGEN D P M-WOODCLIFF B T P	P	2.098	1750.682	5320.00
0024716	PHILLIPSBURG WTP	S	2.126	354.809	1760.00
0026965	FREEHOLD BOROUGH	S	2.153	359.315	1780.00
0023671	FAIR LAWN BOROUGH STP	S	2.181	363.988	1800.00
0025089	CHERRY HILL TWP - PENNSAUKEN CREEK STP	S	2.321	387.353	1910.00
0026409	LINDENWOLD UTILITY AUTHORITY MUNICIPAL	S	2.350	392.193	1930.00
0024945	PLEASANTVILLE STP	P	2.417	2016.873	5740.00
0024490	VERONA BORO STP	S	2.458	410.217	2010.00
0029467	MILLVILLE STP	S	2.650	442.260	2150.00
0024996	MOORESTOWN TWP STP	S	2.666	444.930	2160.00
0025348	PENNSAUKEN SEWERAGE AUTHORITY	S	2.752	459.283	2220.00
0024791	RIDGEWOOD VILLAGE STP	S	2.808	468.629	2250.00
0024872	NEPTUNE TWP STP #2 - OLD CORLIES AVE	S	2.825	471.466	2260.00
0020591	EDGEWATER SEWAGE TREATMENT PLANT	P	2.898	2418.245	6310.00
0023728	WESTERN MONMOUTH UTILITIES AUTHORITY	S	2.936	489.991	2340.00
0024937	MADISON CHATHAM JOINT MEETING	S	3.040	507.347	2400.00
0025241	ASBURY PARK STP	P	3.124	2606.832	6550.00
0022161	KEARNY TOWN STP	P	3.179	2652.727	6610.00
0024651	CUMBERLAND COUNTY UTILITIES AUTHORITY	S	3.187	531.880	2490.00

NPDES#	MUNICIPAL PLANT NAME	TYPE	AVG FLOW(MGD)	LB/DAY BOD	FEE
0024481	CAMDEN CITY - BALDWIN RUN STP	S	3.200	534.050	2500.00
0024805	VENTOR-MAGATE STP	P	3.335	2782.902	6770.00
0024571	CARTERET SEWAGE TREATMENT PLANT	P	3.369	2811.274	6800.00
0022756	RUTHERFORD, E RUTHERFORD, CARLSTADT JT MTG	S	3.417	570.265	2630.00
0020397	WOODBRIIDGE TWP SEWAREN STP	P	3.533	2948.123	6960.00
0025364	LANDIS SEWERAGE AUTHORITY	S	3.634	3032.403	7060.00
0024511	LIVINGSTON TWP STP	S	3.712	619.498	2800.00
0024520	OCEAN TWP SEWERAGE AUTHORITY	S	3.908	652.208	2900.00
0024562	SOUTH MONMOUTH R.S.A.	S	3.944	658.217	2920.00
0023213	PERTH AMPDY CITY STP	P	4.159	3470.492	7540.00
0023361	WILLINGBORO MUA	S	4.299	717.463	3100.00
0020427	CALDWELL WASTEWATER TREATMENT PLANT	S	4.342	724.639	3120.00
0026018	OCEAN COUNTY S.A. SOUTHERN TREATMENT PLT	S	4.433	739.826	3170.00
0031119	STONY BROOK REGIONAL SEWERAGE AUTHORITY	S	4.700	784.385	3300.00
0025356	MIDDLETOWN SEWER AUTHORITY	S	4.994	833.452	3430.00

CATEGORY FOUR - AVERAGE FLOW GREATER THAN OR EQUAL TO 5.0 MGD

NPDES #	MUNICIPAL PLANT NAME	TYPE	AVG FLOW (MGD)	LB/DAY BOD	FEE
0028002	WAYNE TWP MOUNTAIN VIEW PLANT #1	S	5.237	874.006	3540.00
0024783	LONG BRANCH SEWERAGE AUTHORITY	S	5.536	923.906	3670.00
0024813	NORTHWEST BERGEN COUNTY SEWER AUTHORITY	S	5.582	931.583	3690.00
0024775	DOVER MUA - ORTLEY BEACH STP	S	7.071	1180.084	4260.00
0026301	HAMILTON TWP - INDEPENDENCE AVENUE STP	S	7.783	1298.909	4510.00
0024970	PARSIPPANY-TROY HILLS TREATMENT PLANT	S	7.810	1303.416	4520.00
0026735	NORTHEAST MONMOUTH REGIONAL S A	S	8.300	1385.192	4680.00
0024864	SOMERSET RARITAN VALLEY S.A.	S	8.334	1390.866	4690.00
0022349	ROCKAWAY VALLEY REGIONAL SEWERAGE AUTH	S	8.547	1426.414	4750.00
0025321	WEST NEW YORK SEWAGE TREATMENT PLANT	P	8.823	7362.379	10630.00
0024708	BAYSHORE REGIONAL SEWERAGE AUTHORITY	S	9.209	1536.896	4960.00
0028142	OCEAN COUNTY S.A. NORTHERN TREATMENT PLT	S	10.414	1737.999	5300.00
0024988	COSTAL WTP	P	10.780	8995.406	11590.00
0024759	EWING LAWRENCE WHTP	S	11.221	1872.680	5520.00
0024694	MONMOUTH CTY BAYSHORE OUTFALL AUTH-BELFD	P	12.073	10074.352	12170.00
0024953	LINDEN ROSELLE SEWERAGE AUTHORITY WPCP	S	12.227	2040.572	5780.00
0026085	HOBOKEN CITY STP	P	13.064	10901.297	12580.00
0025836	BAYONNE SEWAGE TREATMENT PLANT	P	13.564	11318.523	12780.00
0024686	GLOUCESTER COUNTY SEWAGE AUTHORITY	S	14.658	2446.283	6340.00
0020923	TRENTON SEWAGE TREATMENT PLANT	S	16.103	2687.439	6650.00
0027022	JERSEY CITY S.A. WEST SIDE PLANT	P	19.827	16544.699	14950.00
0024473	ATLANTIC COUNTY SEWERAGE AUTHORITY	S	21.785	3635.711	7710.00
0024643	RAHWAY VALLEY SEWERAGE AUTHORITY	S	28.694	4788.758	8770.00
0026182	CAMDEN CITY - CAMDEN CO. MUA - MAIN STP	P	29.450	24574.641	17530.00

NPDES#	MUNICIPAL PLANT NAME	TYPE	AVG FLOW(MGD)	LB/DAY BOD	FEE
0027014	JERSEY CITY S.A. EAST SIDE PLANT	P	35.116	29302.652	18780.00
0020028	BERGEN COUNTY UTILITIES AUTHORITY	B	61.743	10304.328	12280.00
0024741	ELIZABETH JOINT MEETING	B	71.273	11894.793	13050.00
0020141	MIDDLESEX COUNTY SEWERAGE AUTHORITY	B	89.147	14877.797	14320.00
0021016	PASSAIC VALLEY SEWERAGE COMMISSIONERS	P	264.400	220629.375	40000.00

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- 36 -

PRELIMINARY FEE STRUCTURE FOR  
INDUSTRIAL AND COMMERCIAL DISCHARGERS

This fee is determined by the equation:  $Y = A + B * (X)^{1/3}$

WHERE A = -4260.047

B = 2103.776

Y IS THE YEARLY FEE

X IS LB/DAY BOD

INDUSTRIAL AND COMMERCIAL DISCHARGERS

- 37 -

NPDES #	INDUSTRIAL OR COMMERCIAL PLANT NAME	TYPE	AVG FLOW(MGD)	LB/DAY BOD	FEE
0028690	PUBLIC SERVICE ELECTRIC & GAS COMPANY	I	0.0	0.0	100.00
0002119	TEXACO INC - BAYONNE TERMINAL	I	0.0	0.0	100.00
0023914	CONRAIL - RARITAN OIL SEPARATOR	C	0.0	0.0	100.00
0023230	ATLANTIC RICHFIELD COMPANY	I	0.0	0.0	100.00
0029891	GOVERNOR'S ANTIQUE MARKET	C	0.001	0.501	100.00
0026999	FRANKLIN A&P SHOPPING CENTER	C	0.001	0.501	100.00
0027227	JK COWPERTHWAIT	C	0.001	0.501	100.00
0021245	TRI CORNER REALTY CORP	C	0.001	0.501	100.00
0027251	CLIPPER EXPRESS CO WWTP	C	0.001	0.501	100.00
0001015	UNION STEEL CORP.	I	0.001	0.501	100.00
0005550	JERSEY CENTRAL P&L OYSTER CREEK GEN STA	I	0.001	0.501	100.00
0027804	DELITE FOODS	I	0.001	0.501	100.00
0003409	MT HOPE MATERIALS CO	I	0.001	0.501	100.00

NPDES #	IND OR COMMERCIAL PLANT NAME	TYPE	AVG FLOW(MGD)	LB/DAY FOD	FEE
0005703	PUBLIC SERVICE ELECTRIC & GAS	I	0.002	1.001	100.00
0001881	AMAX SPECIALTY METALS	I	0.002	1.001	100.00
0004049	INGERSOLL RAND RESEARCH INC	I	0.002	1.001	100.00
0005398	KERR GLASS MANUFACTURING CORP	I	0.002	1.001	100.00
0027201	REFLECTION LAKES GARDEN APARTMENTS INC	C	0.002	1.001	100.00
0031771	COLTS NECK INN	C	0.002	1.001	100.00
0021750	KOOLTRONIC INC	C	0.002	1.001	100.00
0027090	THE PEDENS BROOK CLUB	C	0.002	1.001	100.00
0020079	FIRESTONE TIRE AND RUBBER COMPANY	I	0.002	1.001	100.00
0031763	VIVIANI CORPORATION	C	0.002	1.001	100.00
0002372	ESSEX COUNTY IMPROVEMENT AUTHORITY	I	0.002	1.001	100.00
0023892	MU-CAR CARRIERS, INC.	C	0.002	1.001	100.00
0000850	WELSH FARMS ICE CREAM INC	I	0.002	1.001	100.00
0006661	PLASTOID CORP	I	0.002	1.001	100.00
0001651	FRITZSCHE DODGE & OLCOTT, INC.	I	0.002	1.001	100.00
0900605	HOFFMAN-LA ROCHE ANIMAL HEALTH FACILITY	I	0.002	1.001	100.00
0900362	CHESTER COUNTRY DINER	C	0.003	1.502	100.00
0005495	HARSHAW CHEMICAL COMPANY	I	0.003	1.502	100.00
0020885	PLASTOID CORP	C	0.003	1.502	100.00
0023167	CRICKET RESTAURANT	C	0.003	1.502	100.00
0026549	POMPTON LAKES NURSING-CONVALESCENT HOME	C	0.003	1.502	100.00
0005622	PSEG - SALEM GENERATING STATION	I	0.003	1.502	100.00
0026981	MILFORD MANOR NURSING HOME STP	C	0.003	1.502	100.00
0002666	CARTER-WALLACE 2 PLANTS	I	0.003	1.502	100.00
0003166	ALLIED CHEMICAL-ELIZABETH WORKS WWTP	I	0.003	1.502	100.00
0901288	FMC CORP CARRON COLUMN WWTP	I	0.003	1.502	100.00
0027235	OKONITE COMPANY	C	0.004	2.003	100.00
0028282	EMR PHOTOELECTRIC	I	0.004	2.003	100.00
0030201	CAMP VACAMAS ASSOC OF NEW JERSEY	C	0.004	2.003	100.00
0900028	KENNEDY MALL - MILIA REALTY	C	0.004	2.003	100.00
0028975	TOP RESTAURANT INC T/A HOWARD JOHNSONS	C	0.005	2.503	100.00
0020672	TINGLEY RUBBER CORPORATION	I	0.005	2.503	100.00
0023141	SOCIETY HILLS	C	0.005	2.503	100.00
0001040	KOOLTRONIC INC.	I	0.005	2.503	100.00
0005428	PACEMAKER YACHT COMPANY	I	0.005	2.503	100.00
0026441	URBAN FARMS SHOPPING CENTER INC	C	0.005	2.503	100.00
0028703	HUNT AND AUGUSTINE - REDEN BROOK PLANT	C	0.005	2.503	100.00
0021792	STRUTHERS-DUNN INC	I	0.005	2.503	100.00
0005118	INMONT CORPORATION (CELENESE COATINGS)	I	0.005	2.503	100.00
0000141	AMES RUBBER CORP	I	0.006	3.004	100.00
0028452	A M REST CO	C	0.006	3.004	100.00
0026590	MIDMOUTH INDUSTRIAL PARK INC	I	0.006	3.004	100.00
0003905	ER SQUIB & SONS INC. RESEARCH ENGR	I	0.006	3.004	100.00
0900869	JERYL INDUSTRIES INC	C	0.006	3.004	100.00
0002623	THE RENDIX CORP-ELECTRIC POWER DIVISION	I	0.006	3.004	100.00
0025429	TURTLE & HUGHES, INC	C	0.007	3.505	100.00
0020508	STARS ROEBUCK CO	C	0.007	3.505	100.00
0027731	FMC CORP SANITARY WASTE TREATMENT PLANT	I	0.007	3.505	100.00
0022225	LINDEN INVESTMENT CO.	C	0.007	3.505	100.00
0024414	WEST MILFORD SHOPPING CENTER	C	0.007	3.505	100.00
0027464	HANOVER MOBILE HOME PARK	C	0.007	3.505	100.00

NPDES #	IND. OR COMMERCIAL PLANT NAME	TYPE	AVG FLOW(MGD)	LB/DAY ROD	FEE
0021211	ATLANTIC CITY RACE COURSE	C	0.007	3.505	100.00
0024163	BIG N SHOPPING CENTER - KENNEDY CONS CO	C	0.007	3.505	100.00
0028827	APPLE RIDGE COUNTRY CLUB	C	0.008	4.005	100.00
0004235	HOOKER CHEMICAL CO	I	0.008	4.005	100.00
0028824	CHESTER SHOPPING MALL	C	0.008	4.005	100.00
0028673	WHITEHOUSE ESTATES INC. A&P	C	0.008	4.005	100.00
0028410	HOWARD JOHNSON COMPANY	C	0.008	4.005	100.00
0026514	PEQUANNOCK TWP - PLAINS PLAZA STP	C	0.008	4.005	100.00
0900826	THE TURNING POINT	C	0.008	4.005	100.00
0901245	PRINCETON INDUSTRIAL PROPERTIES	C	0.008	4.005	100.00
0028886	CHANS HAWAII	C	0.009	4.506	100.00
0023931	HEARTHSTONE AT MAHWAH	C	0.009	4.506	100.00
0030961	SUN VALLEY SWIM CLUB	C	0.010	5.007	100.00
0004243	N L INDUSTRIES	I	0.010	5.007	100.00
0026727	BONNIE BURN INN	C	0.010	5.007	100.00
0026816	WICKATUNK VILLAGE	C	0.010	5.007	100.00
0023485	L C BOWERS	C	0.010	5.007	100.00
0900460	JACKSON ESTATES	C	0.010	5.007	100.00
0028851	HOLIDAY INN - RAND MOTEL CORP.	C	0.011	5.507	100.00
0026573	SWISS CHALET	C	0.011	5.507	100.00
0003077	HEWLETT PACKARD CO-NJ DIVISION- 2 PLANTS	I	0.011	5.507	100.00
0004308	RICHMANS ICE CREAM - WASTE TRTMT PLANT	I	0.011	5.507	100.00
0026646	WINDMILL CLUB ASSOCIATION	C	0.011	5.507	100.00
0001775	OWENS-ILLINOIS - LILY DIVISION	I	0.011	5.507	100.00
0021865	FIDDLER'S ELBOW C C REYWOOD CORP	C	0.012	6.008	100.00
0900346	CHESTER SPRINGS SHOPPING CENTER	C	0.012	6.008	100.00
0000876	HERCULES INCORPORATED	I	0.012	6.008	100.00
0001317	ARROW GROUP INDUSTRIES	I	0.012	6.008	100.00
0023876	PRIME EQUITIES INC	C	0.012	6.008	100.00
0029351	RINGWOOD SHOPPING PLAZA	C	0.013	6.509	100.00
0031356	FLAG POST MOTOR LODGE	C	0.013	6.509	100.00
0000621	PSEG - BERGEN	I	0.013	6.509	100.00
0023094	UNION OIL GARDEN STATE TRUCK PLAZA	C	0.014	7.009	100.00
0027324	SOMERSET COUNTY SHOPPING CENTER	C	0.014	7.009	100.00
0027529	HOLMDEL NURSING & HOLMDEL CONVALESCENT	C	0.014	7.009	100.00
0028584	GILBERT INDUSTRIAL PARK	C	0.014	7.009	100.00
0030023	KENTILE FLOORS INC	I	0.014	7.009	100.00
0001945	TEXAS-U.S. CHEMICAL COMPANY	I	0.015	7.510	100.00
0020109	IPM OPD TREATMENT PLANT FACILITY	I	0.015	7.510	100.00
0002275	ACCURATE FORMING CORPORATION	I	0.015	7.510	100.00
0023868	HAWARD CORPORATION	I	0.016	8.011	100.00
0005711	SCHERING CORP	I	0.016	8.011	100.00
0026425	ACCURATE FORMING CORPORATION	I	0.016	8.011	100.00
0900443	PRUDENTIAL INS CO OF AMERICA	C	0.016	8.011	100.00
0000108	ABEX CORPORATION EPD	I	0.017	8.511	100.00
0005533	U.S. STEEL CORP - US STEEL PRODUCTS	I	0.018	9.012	120.00
0027511	CALIFORNIA VILLA MOBILE HOME PARK	C	0.018	9.012	120.00
0003671	MERCK THERAPEUTIC INST - BRANCHBURG FARM	I	0.018	9.012	120.00
0000833	BELL TELEPHONE LABORATORIES INC	I	0.018	9.012	120.00
0004847	OXWALL TOOL CO LTD	I	0.019	9.513	200.00
0029858	FIORILLA NURSING HOME	C	0.019	9.513	200.00

NPDES #	IND. OR COMMERCIAL PLANT NAME	TYPE	AVG FLOW(MGD)	LB/DAY BOD	FEE
0025411	PSEG - HOPE CREEK GENERATING STATION	I	0.020	10.013	270.00
0000795	MORIL TECHNICAL CENTER 2 PLANTS	I	0.020	10.013	270.00
0026638	FARMINGDALE GARDEN APARTMENTS	C	0.021	10.514	350.00
0026956	WINDING BROOK MOBILE HOME TREATMENT PLT	C	0.022	11.015	420.00
0900923	MAHWAH RIDGE	C	0.023	11.515	490.00
0026336	FOSTER CANNING CO INC	I	0.024	12.016	560.00
0024198	THE MALL & STARVIEW GARDENS	C	0.025	12.517	620.00
0901008	PRINCETON UNIV. - PLASMA PHYSICS LAB	C	0.025	12.517	620.00
0005410	STEPAN CHEMICAL CO FIELDSBORO PLANT	I	0.025	12.517	620.00
0025739	AIRTRON DIVISION-LITTON INDUSTRIES	I	0.025	12.517	620.00
0028304	HOLIDAY INN SEWAGE TREATMENT PLANT	C	0.026	13.017	690.00
0001058	AMERICAN CYANAMID CO WARNERS	I	0.027	13.518	750.00
0028240	SILVERMEDE MOBILE HOME PARK	C	0.027	13.518	750.00
0900729	CUMBERLAND MALL ASSOCIATES	C	0.027	13.518	750.00
0001481	PENNWALT CORP 59 WHITE DIV HOLMDEL PLANT	I	0.027	13.518	750.00
0024538	SHAWCREST MOBILE HOME PARK	C	0.027	13.518	750.00
0003441	BOONTON HOLDING CO INC	I	0.028	14.019	810.00
0000272	RCA-DAVID SARNOFF RESEARCH CENTER STP	I	0.028	14.019	810.00
0900648	PITTSBORO TWP - HARDING WOODS INC	C	0.028	14.019	810.00
0001759	GENERAL CIGAR & TOBACCO CO	I	0.029	14.519	870.00
0022110	EDUCATIONAL TESTING SERVICE	C	0.029	14.519	870.00
0000655	PSEG - KEARNY FACILITY	I	0.029	14.519	870.00
0021822	HOLIDAY INN-MOTOR LODGE AT PRINCETON	C	0.031	15.521	990.00
0001708	ROME INTERNATIONAL INC	I	0.034	17.023	1150.00
0004995	PSEG - MERCER GENERATING STATION	I	0.034	17.023	1150.00
0026140	JOHNSON & JOHNSON WASTEWATER TRTMT PLT	I	0.036	18.024	1260.00
0031267	OAK TREE MOBILE HOME PARK	C	0.036	18.024	1260.00
0900877	UNITED MOBILE HOMES	C	0.037	18.525	1310.00
0900249	ANDOVER NURSING HOME	C	0.037	18.525	1310.00
0022540	PRINCETON FARMS-COLONIAL CONSTRUCTION	C	0.038	19.026	1360.00
0000809	WESTERN ELECTRIC CO. ENG RESEARCH CENTER	I	0.038	19.026	1360.00
0025259	MIDEAST ANODIZING DIVISION	I	0.040	20.027	1450.00
0028665	MORILE ESTATES OF SOUTHAMPTON INC	C	0.040	20.027	1450.00
0025453	WEST KEANSBURG WATER CO PLANT#1 PINEKNOT	I	0.040	20.027	1450.00
0001660	TENNECO CHEMICALS INC FLEMINGTON	I	0.042	21.028	1550.00
0029203	KING'S GRANT SEWERAGE CORP S T P	C	0.042	21.028	1550.00
0003867	C P CHEMICALS INC	I	0.043	21.529	1590.00
0004359	JM COMPANY-FREEHOLD	I	0.046	23.031	1730.00
0031408	DURLING FARMS DAIRY	I	0.046	23.031	1730.00
0005134	HERCULES INCORPORATED	I	0.047	23.532	1770.00
0027367	CARLTON VILLAGE PUBLIC SEWAGE TR PLT	C	0.049	24.533	1850.00
0005291	SOUTHLAND CORP FINE CHEMICALS DIVISION	I	0.050	25.034	1890.00
0028291	GAF CORPORATION	I	0.056	28.038	2110.00
0005541	AMERICAN CYANAMID CO	I	0.058	29.039	2210.00
0027723	LINCOLN PARK INTERMEDIATE CARE CENTER	C	0.060	30.040	2280.00
0005002	PUBLIC SERVICE ELEC & GAS RUHL.GFN.STATN	I	0.060	30.040	2280.00
0005240	ROLLINS ENVIRONMENTAL SERVICES INC	I	0.062	31.042	2350.00
0003255	JM COMPANY-BELLE MEAD	I	0.063	31.542	2390.00
0023159	HAMILTONIAN FIDELITY	I	0.064	32.043	2420.00
0000477	BELL LABORATORIES	I	0.066	33.044	2490.00
0000647	PSEG - HUDSON	I	0.070	35.047	2620.00

NPDES #	IND. OR COMMERCIAL PLANT NAME	TYPE	AVG FLOW(MGD)	LB/DAY BOD	FEE
0025461	WEST KEANSBURG WATER CO PLANT# 2	I	0.073	36.549	2720.00
0025887	CHARMS COMPANY	I	0.077	38.552	2850.00
0000485	BELL TELEPHONE LABS HOLMDEL	I	0.078	39.052	2880.00
0000680	PSEG - SEWAREN FACILITY	I	0.079	39.553	2910.00
0004731	ELIZABETHTOWN WATER CO	I	0.080	40.054	2940.00
0027308	SEAVIEW COUNTRY CLUB	C	0.080	40.054	2940.00
0005738	JERSEY CENTRAL P&L GILBERT GEN STA # 4-8	I	0.084	42.056	3060.00
0000191	CITIES SERVICE CO MAPICO IRON OXIDE OPER	I	0.090	45.060	3230.00
0900508	CRESTWOOD VILLAGE STP NO 1	C	0.091	45.561	3290.00
0001236	WELSH FARMS INC	I	0.093	46.563	3310.00
0005142	HERCULES INCORPORATED	I	0.101	50.568	3520.00
0004103	SHIELDALLOY CORPORATION	I	0.104	52.070	3600.00
0001929	CONRAIL SECAUCUS OIL SEPARATOR	I	0.123	61.583	4050.00
0027537	MAGNESIUM ELEKTRON INC	I	0.132	66.089	4250.00
0900184	MOUNT OLIVE COMPLEX - EAGLE ROCK VILLAGE	C	0.148	74.099	4580.00
0005517	JERSEY CENTRAL P&L GILBERT GEN STA # 1-3	I	0.153	76.603	4670.00
0901067	JOHANNA FARMS INC	I	0.170	85.114	4990.00
0900681	BLT UTILITY COMPANY	I	0.179	89.620	5150.00
0900524	LEISURE COMMUNITY SEWER CO.	I	0.180	90.121	5170.00
0026417	I ROKEACH & SONS INC	I	0.190	95.128	5340.00
0004332	YATES INDUSTRIES INC CIRCUIT	I	0.197	98.632	5460.00
0003158	AZOPLATE	I	0.198	99.133	5480.00
0020443	WESTERN ELECTRIC COMPANY	I	0.213	106.643	5720.00
0002542	WARNER CHILCOTT-DIV OF WARNER LAMBERT	I	0.220	110.148	5820.00
0004596	NEW JERSEY ZINC - STERLING MINE	I	0.240	120.161	6120.00
0023949	VERNON VALLEY REC ASSC-GREAT GORGE STP	C	0.267	133.679	6500.00
0021423	INDIANOLA SEWAGE COMPANY	C	0.281	140.689	6680.00
0022004	CURTISS-WRIGHT CORPORATION	I	0.294	147.197	6850.00
0900427	FINKELSTEIN FARMS TREATMENT PROCESS	I	0.297	148.700	6890.00
0002500	PICATINNY ARSENAL	I	0.300	150.202	6920.00
0900788	JOHANSON MANUFACTURING CORP	I	0.317	158.713	7130.00
0028657	REICHOLD CHEMICALS INC NEWBURG RD PLT	I	0.320	160.215	7170.00
0005096	GRIFFIN PIPE PRODUCTS CO	I	0.334	167.224	7330.00
0005444	ATLANTIC CITY ELECTRIC - ENGLAND GEN STA	I	0.339	169.728	7390.00
0000663	PSEG - LINDEN FACILITY	I	0.355	177.739	7570.00
0004391	TENNECO CHEMICALS INC.	I	0.379	189.755	7830.00
0024104	LINCOLN PROPERTY UTILITY COMPANY	C	0.413	206.777	8180.00
0004669	GEORGIA-PACIFIC CORP	I	0.424	212.285	8290.00
0002551	ARMOUR PHARMACEUTICAL REHEIS	I	0.429	214.788	8340.00
0004286	B F GOODRICH CHEMICAL DIVISION	I	0.438	219.294	8430.00
0004936	BROWNING-FERRIS CHEMICAL SERVICES	I	0.450	225.302	8540.00
0900516	CRESTWOOD VILLAGE STP NO 2	C	0.465	232.812	8680.00
0004901	OXFORD TEXTILE FINISHING CO. INC.	I	0.577	288.888	9650.00
0002704	FORD MOTOR CO MAHWAH 2 PLANTS	I	0.583	291.892	9700.00
0002976	CURTISS-WRIGHT CORP CALDWELL FACILITY	I	0.749	375.003	10910.00
0004430	RIEDEL PAPER CORP-RIEGELSVILLE MILL WWTP	I	0.764	382.513	11010.00
0005045	MONSANTO INDUSTRIAL CO WWTP	I	1.209	605.312	13540.00
0004421	RIEDEL PAPER CORP-HUGHESVILLE MILL WWTP	I	1.622	812.090	15370.00
0004952	HOFFMANN-LA ROCHE INC	I	1.629	815.595	15400.00
0005509	IONAC CHEMICAL COMPANY	I	1.821	911.724	16140.00
0023302	EXXON RESEARCH AND ENGINEERING CO	C	1.886	944.268	16380.00

40

41

NPDES #	IND. OR COMMERCIAL PLANT NAME	TYPE	(MGD)	LB/DAY BOD	FEE
000448	RIEGEL PAPER CORP-WARREN HILL WWT	I	2.115	1058.922	17180.00
0005177	LENOX CHINA INC	I	2.486	1244.671	18370.00
0000019	GAF CORP LINDEN PLANT	I	2.550	1276.714	18560.00
0005355	ESSEX CHEMICAL CORP.	C	2.575	1289.231	18640.00
0002089	EXXON CO USA 2 PLANTS	I	2.635	1319.271	18810.00
0004006	J T BAKER CHEMICAL COMPANY	I	2.797	1400.380	19280.00
0002828	WHIPPANY PAPER BOARD CO INC	I	3.420	1712.299	20710.00
0005401	TEXACO EAGLE POINT WASTEWATER TREATMENT	I	3.783	1894.043	21770.00
0001323	ITT RAYONIER - EASTERN RESEARCH DIVISION	I	3.995	2000.185	22250.00
0004120	TOMS RIVER CHEMICAL CORP	I	4.414	2209.967	23140.00
0004456	RIEGEL PAPER CORP-MILFORD HILL WWT	I	4.708	2357.164	23740.00
0001678	JOHNS MANVILLE CO	I	5.088	2547.418	24470.00
0001511	EXXON COMPANY USA BAYWAY REFINERY	I	8.942	4477.008	30410.00
0026026	GULF & WESTERN	I	10.550	8803.490	37180.00
0002313	AMERICAN CYANAMID CO BOUND BROOK	I	12.930	6473.691	34950.00
0004219	EI DUPONT REPAUND PLANT	I	16.406	8214.027	38190.00
0005100	EI DUPONT DE NEMOURS-CHAMBER WORKS	I	34.267	17156.527	50000.00
0000931	N L INDUSTRIES - TITANIUM PIGMENT DIV.	I	34.268	17157.031	50000.00

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TENTATIVE  
THERMAL FEE SCHEDULE

THE FEE IS CALCULATED BY THE FORMULA: FEE = -396.7605 + 1712.0768 \* (MBTU/HR)\*\*(1/3)

NPDES	NAME	FEE	FLOW(MGD)	MBTU/HOUR
0000035	NATIONAL STANDARD CORP.	100.00	.0090	.0162
0000043	FOLEY MACHINERY INC	100.00	.0040	.0237
0000060	RHONE FOULENC INC	100.00	.0022	.0056
0000141	AMES RUBBER CORP	100.00	.1100	.0000
0000639	PUBLIC SERVICE ELEC & GAS	100.00	.0000	.0000
0000671	PUBLIC SERVICE ELEC & GAS	100.00	.1630	.0000
0001024	BECTON DICKINSON CO INC	100.00	.0000	.0000
0001121	CONTINENTAL CAN CO.	100.00	.0030	.0000
0001139	ETHICON INC	100.00	.0600	.0187
0001252	UNIVERSAL OIL PROD.	100.00	.0000	.0000
0001350	E.I DU PONT DE NEMOURS	100.00	.9000	.0000
0001490	ORANGE PRODUCTS INC	100.00	.0000	.0000
0001589	STONE INDUSTRIES INC	100.00	.0000	.0000
0001805	OAKITE PRODUCTS INC	100.00	.0000	.0000
0001911	NEW JERSEY TRANSIT CORP	100.00	.0000	.0000
0001961	DEVRO INC	100.00	.0175	.0102
0001988	ORTHO DIAGNOSTIC INC	100.00	.0000	.0000
0002003	AUTOMATIC SWITCH CO	100.00	.0000	.0000
0002101	TRANSCONTINENTAL GAS PIPE LINE	100.00	.0000	.0000
0002135	ELECTRONIC ASSOCIATES INC	100.00	.0000	.0000
0002526	AP GREEN REFRATORIES	100.00	.0000	.0000
0002615	OKONITE COMPANY	100.00	.0000	.0000
0002682	ROYCE CHEMICAL CO	100.00	.0130	.0044
0002917	MANZO CONTRACTING CO INC	100.00	.0000	.0000
0003018	KENRICH PETROCHEMICALS INC	100.00	.0000	.0000
0003093	ESSEX CHEMICAL CORP.	100.00	.0004	.0170
0003107	VOLCO BRASS & COPPER	100.00	.0000	.0000
0003221	ALL PURPOSE ROLL LEAF CORP	100.00	.1200	.0000
0003433	AMERACE ESNA CORP	100.00	43.0000	.0000
0003719	METAL IMPROVEMENT CO	100.00	.0100	.0156
0003808	HOLLAND HOUSE BRANDS INC	100.00	.0050	.0126
0003867	C P CHEMICALS INC	100.00	.0800	.0000
0004049	INGERSOLL-RAND CO	100.00	.0360	.0000
0004171	WHEATON INDUSTRIES	100.00	3.0200	.0000

NPDES	NAME	FEE	FLOW (MGD)	MBTU/HOUR
0004189	RCA CORP COMM SYSTEMS DIV	100.00	3.3900	.0000
0004239	HOOVER CHEMICAL CORP	100.00	339.0000	.0000
0004263	NL INDUSTRIES	100.00	.0120	.0119
0004294	OCEAN SPRAY CRANBERRIES INC	100.00	.0300	.0000
0004502	DIAMOND SHAMROCK CO.	100.00	.2650	.0000
0004537	CONGOLEUM IND. INC.	100.00	.3700	.0000
0004545	AIRCO INDUSTRIAL GASES	100.00	.0100	.0000
0004553	AIRCO INDUSTRIAL GASES	100.00	.0000	.0000
0004561	COCA-COLA FOODS DIV	100.00	.0500	.0000
0005177	LENOX CHINA INC	100.00	.1500	.0146
0005428	PACEMAKER CORP	100.00	.0000	.0000
0005444	ATLANTIC CITY ELEC.	100.00	.0000	.0000
0005495	HARSHAW CHEMICAL CO.	100.00	.0000	.0000
0005541	AMERICAN CYANAMID CO	100.00	.0000	.0000
0011121		100.00	.0000	.0000
0020214	ITT AVIONICS	100.00	.0020	.0000
0020435	INTERNATIONAL TEL. & TEL.	100.00	.0800	.0000
0020885	PLASTOID CORPORATION	100.00	.0000	.0000
0021784	REXNORD INC SPECIALTY FASTENER DIVISION	100.00	.0000	.0000
0024155	J.P. STEVENS & CO INC	100.00	.0072	.0110
0024201	CHEMICAL CONTROL CORPORATION	100.00	.0000	.0000
0024210	WHITEHALL LABORATORIES	100.00	.0000	.0000
0025411	P.S.E. & G HOPE CREEK	100.00	.0000	.0000
0025470	NATIONAL BERYLLIA CORP	100.00	.0000	.0000
0027138	WIGGINS PLASTICS INC	100.00	.0000	.0000
0027332	ANDMAR PLASTIC COMPANY INC	100.00	.0000	.0000
0027707	KUEHNE CHEMICAL CO INC	100.00	.0000	.0000
0028193	CULLIGAN SOFT WATER	100.00	.0000	.0000
0028273	EASTERN BREWING CORPORATION	100.00	.0000	.0000
0028266	WILKINSON SWORD INC.	100.00	.0000	.0000
0028274	STOP & SHOP COMPANIES INC	100.00	.0000	.0000
0028428	SILICON TECHNOLOGY CORP.	100.00	.0000	.0000
0028461	477 PASSAIC AVE. INC.	100.00	.0000	.0000
0028711	KRFISLER INDUSTRIAL CORP.	100.00	.0000	.0000
0028791	RANDOLPH PRODUCTS CO	100.00	.0100	.0077
0029122	COMPO INDUSTRIES INC	100.00	.0000	.0000
0029131	FRISCH & CO	100.00	.0000	.0000
0029416	HILL SPRING REALTY CO.	100.00	.0000	.0000
0029611	MCMILLAN BLOEDEL CONT. INC.	100.00	.0000	.0000
0029688	MCGRAW-HILL INC	100.00	.0000	.0000
0029751	ATI CHEMICAL SPRAY DIVISION	100.00	.0000	.0000
0029921	NORTH AMERICAN PRODUCTS INC.	100.00	.0000	.0000
0030104	REFM CORP	100.00	.0150	.0107
0030228	CERAMIC MAGNETICS INC	100.00	.0000	.0000
0030279	SUMMIT RESEARCH LABS INC	100.00	.0000	.0000
0030406	NOSTRIP CHEMICAL WORKS INC	100.00	.0000	.0000
0030872	BIDDLE SAWYER INC	100.00	.0000	.0000
0030902	SINGER CO KEARFOTT DIVISION	100.00	.0000	.0000
0030996	GENERAL AUTOMOTIVE SPEC. CO.	100.00	.0000	.0000
0031441	STOKES HOLDER PRODUCTS	100.00	.0000	.0000

NPDES	NAME	FEE	FLOW (MGD)	MBTU/HOUR
0031712	CITY OF JERSEY CITY DIV OF WATER DPW	100.00	.0000	.0000
0031950	HUB SERVALL RECORD MFG	100.00	.0000	.0000
0031976	TELEDYNE TURNER TURE	100.00	.0000	.0000
0032034	UNITED STEEL CONTAINER CORP	100.00	.0000	.0000
0032387	CORONA PLASTICS INC	100.00	.0000	.0000
0032441	SCHOLLER PROTHERS INC	100.00	.0000	.0000
0032611	STANDARD PKG./NAT'L METAL. DIV	100.00	.0000	.0000
0032751	KOPPERS COMPANY INC	100.00	.0000	.0000
0032760	CONDREN CORPORATION	100.00	.0000	.0000
0032956	HARWOOD COMPANY	100.00	.0000	.0000
0033146	CUSTOM CHEMICALS CO	100.00	.0000	.0000
0033324	CONTINENTAL CORRUGATED CONT CORP	100.00	.0000	.0000
0033545	INMONT CORPORATION	100.00	.0000	.0000
0033553	SUN CHEMICAL CORPORATION	100.00	.0000	.0000
0033570	BUDD CHEMICAL CO	100.00	.0000	.0000
0033642	PILOT METAL FABRICATORS INC	100.00	.0000	.0000
0033774	ORANGE PLASTIC CO INC	100.00	.0000	.0000
0033791	REAGENT CHEMICAL & RESEARCH INC	100.00	.0000	.0000
0033804	KAGAN DIXON WIRE CORPORATION	100.00	.0000	.0000
0033871	ASR RECORDING SERVICES INC	100.00	.0000	.0000
0033880	UNIFILM CORPORATION	100.00	.0000	.0000
0033944	REYNOLDS METAL CO -MACAULEY CAN PLANT	100.00	.0000	.0000
0033987	INTERNATIONAL BUSINESS MACHINES CORP	100.00	.0000	.0000
0034011	EMERY INDUSTRIES INC	100.00	.0000	.0000
0034118	UNITED STATES GYPSUM CO	100.00	.0000	.0000
0034215	BAY RIDGE SPECIALTY CO	100.00	.0000	.0000
0034312	WESTINGHOUSE ELECTRIC CORP LAMP DIV	100.00	.0000	.0000
0034452	EXXON BIOMEDICAL SCIENCES INC	100.00	.0000	.0000
0002593	INTERPACE CORP.	110.00	.0063	.0267
0003131	UMC INDUSTRIES INC.	140.00	.0090	.0300
0030449	RONA PEARL INC	140.00	.0101	.0310
0000906	KEM MFG CO INC	180.00	.0088	.0390
0021270	SINGER CO KEARFOTT DIVISION	210.00	.0207	.0436
0031186	E C D INC	210.00	.0080	.0436
0025674	ACTION TECHNOLOGY COMPANY	220.00	.4700	.0457
0031488	DURLING FARMS INC	220.00	.0108	.0457
0023868	HAWARD CORPORATION	230.00	.0140	.0490
0030414	BENJAMIN MOORE & CO	230.00	.0035	.0497
0003476	ESSO RESEARCH & ENGINEERING	240.00	.0585	.0523
0021288	SINGER CO KEARFOTT DIVISION	280.00	.1127	.0609
0030821	ELECTRO FINISH CORPORATION	310.00	.0100	.0715
0003468	HOWMEDICA INC	360.00	.0610	.0878
0001473	DISTILLERS COMPANY LIMITED	370.00	.0036	.0897
0024180	THE STELLA PRODS CORP	430.00	.0300	.1124
0002925	MILLINGTON QUARRY INC	470.00	.1280	.1308
0001066	NEW DEPARTURE HYATT BEARING	480.00	.1610	.1344
0005304	O-I SCHOTT PROCESS SYSTEMS INC	500.00	.0488	.1445
0004928	M&M/MARS.	540.00	.0477	.1640
0027731	FMC CORP	540.00	.0700	.1620
0029947	SOLAR PRODUCTS	540.00	.0210	.1655
0021521	OKONITE COMPANY	550.00	.0650	.1708

NPDES	NAME	FEE	FLOW(IGD)	MBTU/HOUR
0029114	MYCALEX	570.00	.0870	.1778
0000272	RCA CORP	580.00	.0710	.1857
0001171	ENGELAARD MIN. & CHEM.	580.00	.0800	.1870
0001856	STANDARD CHLORINE CHEMICAL CO	600.00	48.0000	.2000
0002861	COUNTY CONCRETE CORP	600.00	.1870	.2001
0003891	LAPIN PRODUCTS INC	600.00	.1100	.1980
0030538	PLASTINETICS INCORPORATED	600.00	.1830	.1959
0029955	RESISTOFLEX CORP	610.00	.0700	.2010
0025437	BOROUGH OF UNION BEACH W.D.	630.00	.0810	.2167
0029173	GENERAL PLASTICS CORP	630.00	.0400	.2180
0005754	TECHNICAL OIL PRODUCTS INC	640.00	.0450	.2250
0031275	PRESSWELL RECORDS MFG CO.	640.00	.0600	.2189
0001554	MONSANTO COMPANY	680.00	.2690	.2484
0000523	AIR PRODUCTS & CHEMICALS CORP.	700.00	.0300	.2656
0026336	FOSTER CANNING CO INC	700.00	.0400	.2627
0001325	ITT RAYONIER INC	720.00	.0880	.2783
0003883	HUFFMAN & KOOS CO INC	720.00	.2350	.2744
0004588	ARMAK COMPANY	720.00	.0244	.2798
0020672	TINGLEY RUBBER CORPORATION	720.00	.0660	.2760
0002321	METALLURGICAL INTL INC	730.00	.4860	.2837
0005142	MERCULES INC	740.00	.3000	.2890
0003760	NATIONAL STARCH & CHEMICAL	770.00	.4690	.3201
0004812	AMERACE-ESNA CORP.	770.00	.1250	.3162
0004146	INVERSAND COMPANY-SEWELL	790.00	.2417	.3292
0000558	TRIANGLE CONDUIT & CABLE CO	800.00	.6210	.3426
0002569	RCA CORP SOLID STATE PLANT	800.00	.1240	.3458
0000795	MOBIL RESEARCH & DEV. CO.	820.00	.4050	.3547
0004715	FOSTER GLASS WORKS	840.00	.0400	.3795
0031801	UNION CAMP CORPORATION	860.00	.0792	.4000
0001520	HILLS PROS COFFEE INC	870.00	.0550	.4067
0003786	MOKE INC	870.00	.1440	.4061
0001023	MERCULES INC	880.00	.6930	.4130
0005134	MERCULES CORP	930.00	.0691	.4614
0001481	PENNVALT CORP.	940.00	.1960	.4768
0002828	WHIPPANY PAPERBOARD CO.	960.00	.1670	.4956
0001538	WHITE CHEMICAL CORP	970.00	.5760	.5040
0004111	DEL MONTE CORPORATION	970.00	.1600	.5137
0026417	I ROKEACH & SONS INC	980.00	.1400	.5206
0032411		980.00	.0365	.5175
0000108	AREX CORPORATION.	1020.00	.0575	.5669
0028207	E.I. DU PONT DE NEMOURS & CO.	1050.00	97.3000	.6000
0001244	DART INDUSTRIES INC.	1060.00	.1420	.6217
0002381	CHESTERBROUGH-PONDS CORP.	1060.00	.1550	.6108
0002542	WARNER-CHILCOTT LABORATORIES	1060.00	.2090	.6100
0004626	GOODALL RUBBER CO	1060.00	.2600	.6166
0005548	COOKE COLON & CHEMICAL CO.	1070.00	.2050	.6283
0004324	SCOTT PAPER CO.	1090.00	.2320	.6563
0001261	KEUFFEL & ESSER	1100.00	.0200	.6643

NPDES	NAME	FEE	FLOW(IGD)	MBTU/HOUR
0029933	GEORGIA PACIFIC CORPORATION	2340.00	2.2000	4.0800
0005355	ESSEX CHEMICAL CORP.	2370.00	2.2358	4.2200
0005321	OWENS-ILLINOIS INC	2380.00	.8000	4.2642
0005461	ATLANTIC CITY ELEC.	2450.00	1.2120	4.5992
0005738	J.C.P. & L. GILBERT WTP	2510.00	1.0800	4.9100
0005045	MONSANTO COMPANY	2530.00	1.2100	5.0036
0001678	JOHNS-MANVILLE PROD CORP	2570.00	5.6500	5.2226
0002241	A GROSS AND COMPANY	2570.00	.7400	5.2010
0020443	WESTERN ELECTRIC CO	2780.00	2.0000	6.4000
0004821	ANCHOR THREAD CO.	2810.00	.3560	6.5500
0000949	NL INDUSTRIES	2860.00	9.6600	6.8784
0002798	DIAMOND SHAMROCK CORP	2880.00	2.1900	7.0319
0004472	STAUFFER CHEMICAL CO.	3070.00	.5600	8.3000
0002143	LEVER BROTHERS CO.	3090.00	2.4700	8.4116
0002089	EXXON COMPANY USA	3160.00	1.7500	9.0000
0001635	HOWMET CORP	3200.00	2.8170	9.2371
0004499	OWENS-ILLINOIS INC.	3200.00	2.0690	9.2604
0002470	ANHEUSER-BUSCH INC	3260.00	1.2420	9.7281
0004391	TENNECO CHEMICALS INC	3310.00	5.4700	10.1678
0004006	J T BAKER CHEMICAL CO	3460.00	2.9900	11.4000
0003441	PYAH INDUSTRIES INC.	3640.00	3.5820	13.0997
0000574	PUBLIC SERVICE ELEC & GAS	3740.00	5.4600	14.1532
0002500	PICATINNY ARSENAL	4110.00	4.9585	18.2176
0000248	FMC CORP.	4630.00	4.3200	25.2500
0029963	GLASFLEX CORP	4820.00	35.6500	28.3289
0002194	FRANKLIN PLASTICS CORP	4830.00	29.2000	28.4116
0001899	UNITED STATES METALS REFINING	4840.00	6.9000	28.6524
0004120	TOMS RIVER CHEMICAL CORP	5210.00	12.2000	35.1000
0003182	STEPAN CHEMICAL CO.	5370.00	2.0310	38.1300
0002640	E.I. DU PONT DE NEMOUR CORP.	5400.00	11.0000	38.7800
0002283	ESSEX CHEMICAL CORP.	5720.00	6.3450	45.6327
0000779	SEACOAST PRODUCTS INC	5860.00	12.1250	48.7052
0002313	AMERICAN CYANAMID CO.	6050.00	13.5300	53.3210
0005029	MOBIL OIL CORP.	6650.00	10.4000	67.7000
0029521	KOHNER INC	6660.00	20.0000	70.0560
0001058	AMERICAN CYANAMID CO.	6720.00	26.7610	71.8510
0005061	G&W NATURAL RESOURCES GROUP	8000.00	9.5140	118.0000
0004219	E.I. DU PONT DE NEMOURS	8030.00	34.4200	119.2200
0000931	NL INDUSTRIES	8570.00	32.6000	141.5000
0005690	P.S.E. & G.	8900.00	10.8000	160.1000
0002755	JERSEY CENTRAL POWER & LIGHT	9220.00	97.8300	177.0000
0005517	JERSEY CENTRAL POWER & LIGHT	10700.00	67.6700	286.9200
0005002	P.S.G.&E.	10760.00	190.9080	291.5670
0000655	PUBLIC SERVICE ELEC & GAS	12310.00	235.0080	408.4670
0002186	AIR PRODUCTS & CHEMICALS	13550.00	170.0000	540.1359
0002747	JERSEY CENTRAL POWER & LIGHT	14680.00	155.2500	683.2500
0003697	COLLOID CHEMICAL LABORATORIES	15020.00	600.0000	729.7498
0003212	SCIENTIFIC CHEMICAL PROCESSING	15850.00	206.0000	854.2930
0000663	PUBLIC SERVICE ELECTRIC & GAS COMPANY.	16480.00	286.0250	957.1170
0001511	EXXON COMPANY U S A	16930.00	139.0830	1037.0000
0005363	ATLANTIC CITY ELEC.	17310.00	198.8000	1104.5222

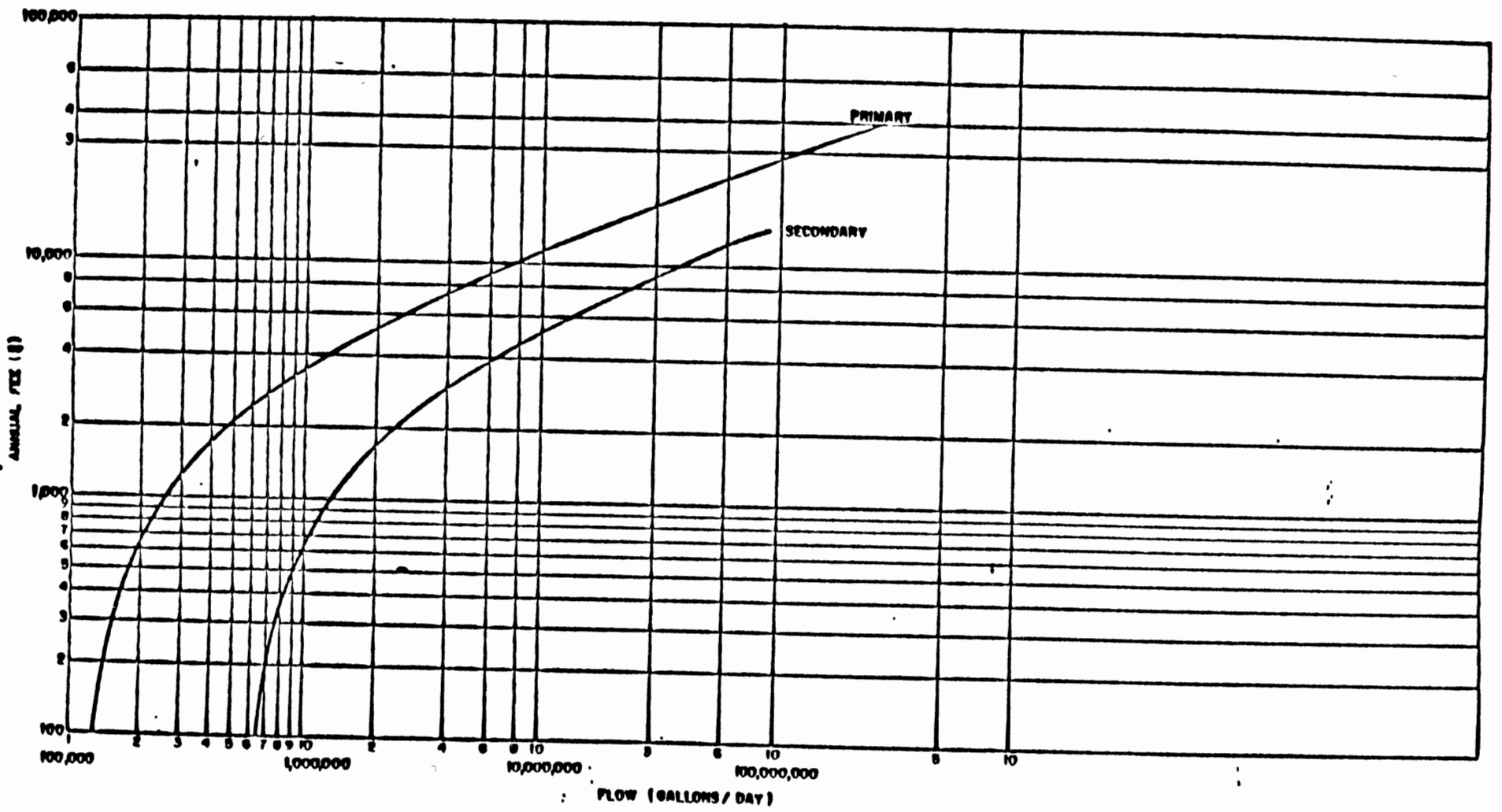
NPDES	NAME	FEE	FLOW(MGD)	MBTU/HOUR
0003344	YOO-HOO BEVERAGE CO	1200.00	.0170	.8100
0004090	MAC ANDREWS & FORRES CO	1240.00	.1100	.8669
0030627	THE STANDARD TALLOW CORP	1240.00	.1300	.8791
0001287	SHULTON INC.	1250.00	.7720	.8954
0003778	LCP CHEMICALS- NEW JERSEY INC	1250.00	.1590	.8896
0003174	HARMON COLORS CORP	1280.00	.0190	.9370
0001333	NATL STARCH & CHEMICAL CORP	1310.00	.4818	.9834
0004359	MINN. MINING & MFG. CO.	1310.00	.5970	.9846
0000507	RIRD & SON INC.	1320.00	.2750	1.0034
0003042	BERKELEY CHEM MILLMASTER-ONYX	1320.00	.6000	1.0000
0001201	UNIVERSAL FOODS CORP.	1330.00	.1600	1.0275
0004278	AIR PRODUCTS & CHEMICALS INC	1330.00	.2004	1.0334
0003450	PFIZER INC.	1360.00	.4197	1.0822
0001236	WELSH FARMS INC	1370.00	.1360	1.0983
0003034	TANATEX CHEM CO DIV OF SYBRON	1380.00	.1330	1.1259
0005665	ETHYL DEV. CORP.	1400.00	.2000	1.1417
0004600	US MINERAL PRODUCTS	1410.00	219.0480	1.1870
0002977	NARISCO INC	1460.00	.3495	1.2746
0031127	DUREX INC	1460.00	.1700	1.2737
0004961	BORDEN INC-SNOW FOOD PROD.	1470.00	.1887	1.3403
0005118	INMONT CORPORATION	1510.00	.6700	1.3872
0001503	LAURIE RUBBER COMPOUNDING CORP.	1520.00	.0500	1.4000
0004308	RICHMAN ICE CREAM CO	1540.00	.3603	1.4442
0000370	GARDEN STATE PAPER CO INC	1560.00	.4597	1.5025
0031437	CHEM FLEUR INC	1560.00	.1080	1.5000
0023744	WEST COMPANY	1580.00	.6800	1.5300
0002933	BROCKWAY GLASS CO. INC.	1600.00	.2030	1.5839
0001210	L A DREYFUS CO	1630.00	.3200	1.6680
0002309	SCHERING CORP.	1650.00	.7473	1.7081
0004286	R.F. GOODRICH CO.	1650.00	.4162	1.7076
0002496	MC WILLIAMS FORGE CO INC	1690.00	.4720	1.8140
0002097	RENDIX CORP.	1700.00	.3589	1.8497
0003606	NESTLE CO. INC.	1710.00	.6400	1.8682
0000540	CIBA-GEIGY CORP	1790.00	.4440	2.0789
0000366	PSFAG CO HARRISON GAS PLANT	1800.00	29.3600	2.1017
0001660	TENNECO CHEMICALS CORP	1820.00	.8120	2.1600
0001155	SANDOZ-WANDER INC.	1850.00	.5710	2.2648
0001457	WHIPPANY PAPERBOARD CO.	1930.00	1.4500	2.4971
0022608	MILES LABORATORIES INC	1930.00	.4800	2.5220
0001147	SANDOZ-WANDER INC.	1970.00	.6680	2.7125
0003743	M POLANER & SON INC	2010.00	.4820	2.7652
0001562	BETHLEHEM STEEL-SHIP BLDG. DIV.	2020.00	2.1677	2.8200
0001651	FRITZCHE DODGE & OLCOTT	2140.00	.7520	3.2423
0000199	E I DU PONT DE NEMOURS	2190.00	1.1970	3.4367
0027162	PETER COOPER CORP	2200.00	1.0080	3.4860
0030775	MACK WAYNE PLASTICS COMPANY	2210.00	.5120	3.5470
0005398	KERR GLASS MFG. CO.	2250.00	.6360	3.6887
0020478	PANTASOTE COMPANY OF NEW YORK INC	2280.00	1.2650	3.8047
0005371	GAF CORP-BLDG. MAT. GROUP	2310.00	.9400	3.9300
0002327	U.S. MILITARY OCEAN TERMINAL	2310.00	1.7190	4.0589
			.7570	4.0511

NPDES	NAME	FEE	FLOW(MGD)	MBTU/HOUR
0000221	CHEVRON U S A INC	17320.00	52.7100	1107.2600
0031089	RECTON DICKINSON MED TECHNIQUE PROD GRP	17540.00	375.0000	1149.3546
0003298	ETHYL CORP.	18010.00	287.0000	1242.6669
0000621	PUBLIC SERVICE ELEC & GAS	18170.00	410.8670	1274.5920
0000680	PUBLIC SERVICE ELEC & GAS	18850.00	705.6580	1420.8500
0000647	PUBLIC SERVICE ELEC & GAS	19430.00	500.8750	1553.9000
0004995	P.S.E. & G MERCER GENER STA	20060.00	579.6080	1706.3170
0005590	JERSEY CENTRAL POWER & LIGHT	26880.00	648.2900	4042.6000
0005622	P.S.E. & G.	60000.00	1282.0000	43900.6980

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ANNUAL FEE FOR MUNICIPAL TREATMENT PLANTS  
AS A FUNCTION OF FLOW

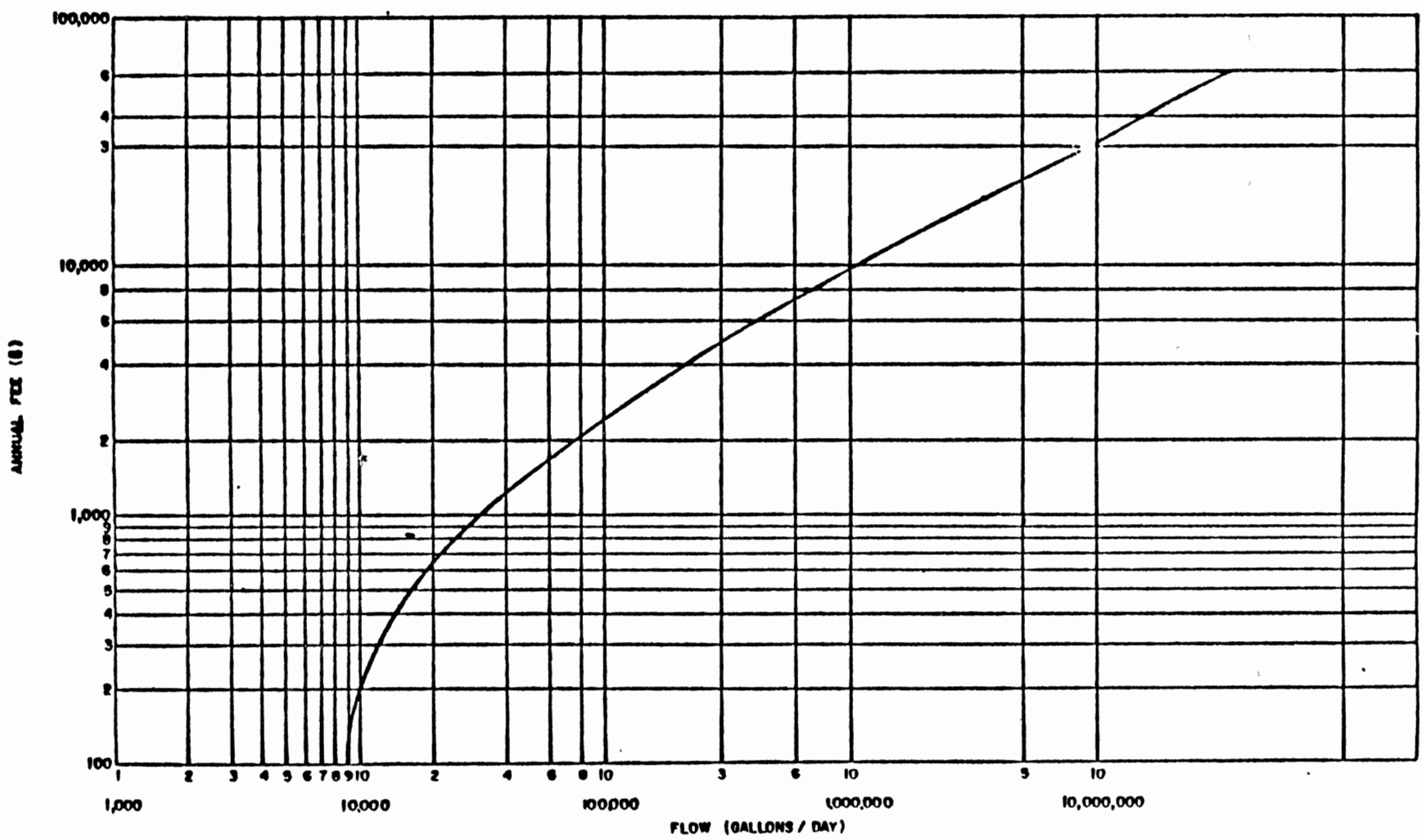
MUNICIPAL FEE STRUCTURE



- 50 -

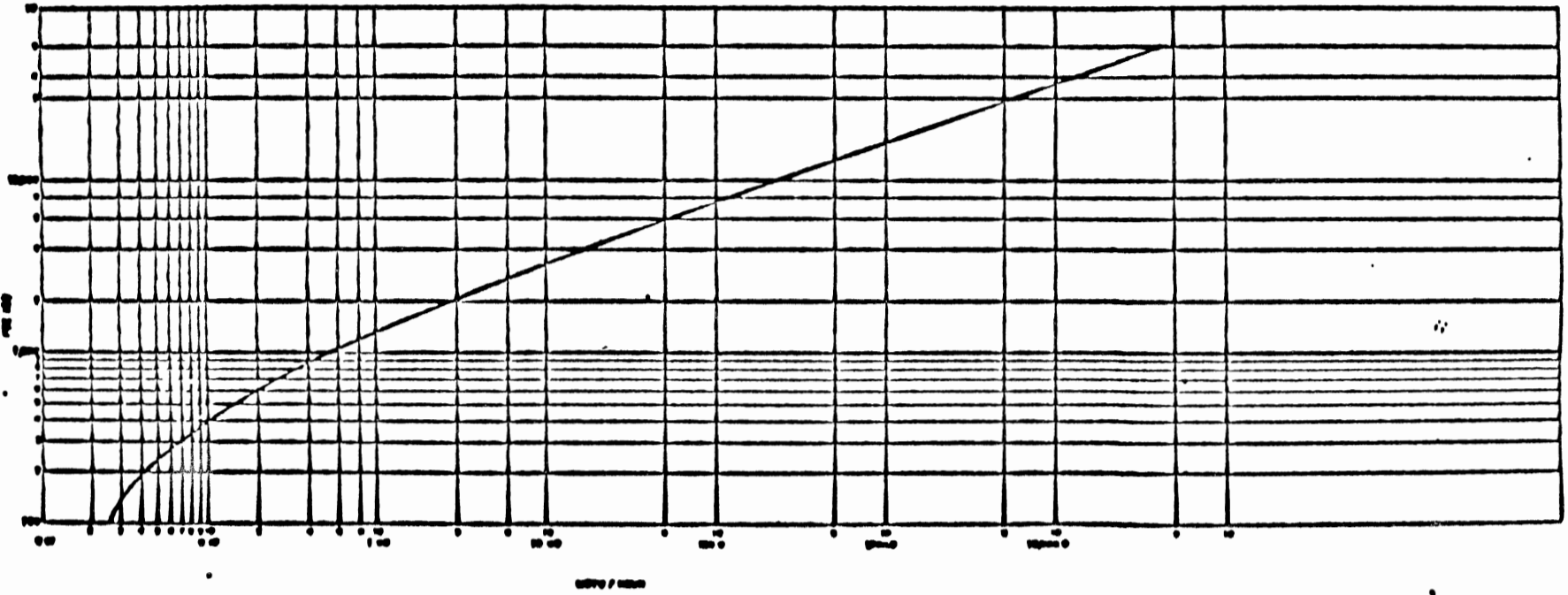
INDUSTRIAL FEE STRUCTURE

ANNUAL FEE FOR INDUSTRIAL/COMMERCIAL  
DISCHARGES AS A FUNCTION OF FLOW



- 51 -

THEWAL FEE SCHEDULE



52

*N.J.A.C. 7:14A-1 et seq.*

STATE OF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

RESPONSE TO COMMENTS CONCERNING THE ADOPTION OF  
THE NEW JERSEY POLLUTANT DISCHARGE ELIMINATION SYSTEM  
REGULATIONS (NJPDES)  
N.J.A.C. 7:14A-1 et seq.

Let's protect our earth



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I. SUMMARY OF PUBLIC PARTICIPATION

The Department considers public participation to be a crucial element in the development of these regulations. In December 1979 the Department developed an initial draft of the regulations concerning the New Jersey Pollutant Discharge Elimination System (NJPDES). A Task Force was formed consisting of representatives from sewerage agencies, industry, environmental groups, representatives from the Council of Engineering Consultants (CEC), and the academic community. Meetings were held in December 1979 and January 1980 to discuss the first draft. The task force meetings were attended by representatives of the following interest groups:

1. Alexander Potter Associates (Consulting Engineers)
2. American Cyanamid Company
3. Bayshore Regional Sewerage Authority
4. Bergen County Utilities Authority
5. Buck, Seifert & Jost, Inc. (Consulting Engineers)
6. Camden County Municipal Utilities Authority
7. Labor & Industry (New Jersey Department of)--Office of Business Advocacy
8. Agriculture (New Jersey Department of)
9. E.I. DuPont DeNemours, Inc.
10. East Windsor Municipal Utilities Authority
11. Exxon Co. USA
12. FMC Corp.
13. Gloucester County Sewerage Authority
14. State of New Jersey--Office of Legislative Services
15. Linden-Roselle Sewerage Authority
16. New Jersey Public Interest Research Group (NJPIRG)
17. Association of New Jersey Environmental Commissions (ANJEC)
18. New Jersey Institute of Technology
19. Public Advocate (New Jersey Department of)
20. Rutgers, The State University (Cook College)
21. Texaco, Inc.

Based on the comments and suggestions of the task force, the Department proceeded to develop another draft of the regulations. This draft document was distributed to approximately 2,500 persons in May, 1980. A press conference also held in May to inform the public of the proposed regulations. Public meetings were held at Rutgers University--Camden on June 24 and at Rutgers University--Cook College--in New Brunswick on June 26, 1980. Approximately 200 persons attended these meetings. Transcripts of these meetings were made available for review by the public. In

-1-

In accordance with Section 14 of the New Jersey "Water Pollution Control Act", N.J.S.A. 58:10A-1 et seq., the proposed regulations were submitted to the Legislative Oversight Committee prior to the above public hearings.

Approximately 200 persons attended these hearings. Transcripts of the hearings were made available for review by the public. Public comments concerning the proposed regulations were accepted until December 15, 1980. Written comments were submitted by:

1. Association of New Jersey Environmental Commissions (ANJEC)
2. American Cyanamid Company
3. American Iron & Steel Institute
4. Atlantic City Electric Company
5. Authorities' Association
6. Bethlehem Steel Corporation
7. BF Goodrich Company
8. New Jersey Builders Association
9. Chemical Industry Council of New Jersey and New Jersey State Chamber of Commerce
10. Debevoise and Liberman - on behalf of PSE&G, Atlantic Electric, and Jersey Central Power and Light Company
11. Diamond Shamrock Corporation
12. E.I. DuPont de Nemours & Company
13. U.S. Environmental Protection Agency
14. Ewing-Lawrence Sewerage Authority
15. Exxon Company, U.S.A.
16. Fuel Merchants Association of New Jersey
17. Garden State Paper Company, Inc.
18. GATX Terminals Corporation
19. Haward Corporation
20. New Jersey Independent Liquid Terminals Association
21. Jersey Central Power and Light Company
22. Johnson and Johnson
23. Merck and Company, Inc.
24. Middlesex County Planning Board
25. Middlesex (County of)--John J. Reiser, Jr., County Engineer
26. Middletown Township Sewerage Authority
27. Monsanto Industrial Chemicals Co.
28. Nestle Enterprises, Inc.
29. Newark (City of)--Alvin L. Zach, Director of Engineering
30. Ocean (Township of)--Board of Health
31. New Jersey Petroleum Council
32. New Jersey Public Interest Research Group (The)--Ann Wrixon--Cook/Douglas Coordinator
33. New Jersey Public Interest Research Group (The)--Guy Calenarano, Research Director, PIRG Water Project
34. New Jersey Public Interest Research Group (The)--Thomas Berry--Essex County Clean Water Action Project
35. Port Authority of NY and NJ (The)

-3-

addition the Department accepted public comment on this draft until the end of August.

Written comments on the draft regulations were submitted by the following:

1. 3M Company
2. Amerada Hess Corporation
3. American Cyanamid Company
4. Anheuser-Busch Companies
5. Haddon Heights (Borough of)
6. Hercules Incorporated
7. Jersey Central Power & Light Company
8. Middlesex County Utilities Authority
9. Miles Laboratories, Inc.
10. New Jersey Builders Association
11. Passaic River Coalition
12. Passaic Valley Sewerage Commissioners
13. Public Service Electric and Gas Company (PSE&G)
14. Public Advocate (New Jersey Department of the)
15. RAS Associates
16. Schweitzer Division--Kimberly Clark Corporation
17. Stauffer Chemical Company
18. Stony Brook Regional Sewerage Authority
19. Transportation (New Jersey Department of)
20. Washington (Borough of)
21. United States Environmental Protection Agency
22. Upper Raritan Watershed Association

In addition, in August 1980 the Department began meeting with the Industrial Advisory Group. The Department met with the group almost bimonthly until the regulations were adopted. The Department also met once with the Water Resources Advisory Group.

In September 1980 the Department prepared revisions to the May draft which included responses to public comment and changes which were necessary as a result of the U.S. Environmental Protection Agency's adoption of the Consolidated Permit Regulations on May 19, 1980. (See Federal Register, Vol. 45, No. 98, pp. 33290.) Approximately 2,500 copies of the regulations, including a Basis and Background Document and notice of proposal of the regulations and public hearings, were mailed to interested persons. Newspaper notice of these proposed regulations and the public hearings was published in twenty two major newspapers in New Jersey.

Formal public notice of the proposed regulations was published in the New Jersey Register on October 9, 1980. The notice indicated that public hearings would be held on October 29 at Stockton State College in Pomona and on October 30 at Rutgers University--Labor Education Center--in New Brunswick.

-2-

36. Schweitzer Division--Kimberly Clark Corporation
37. Stony Brook Regional Sewerage Authority
39. Stony Brook-Millstone Watershed Association
40. Tenneco Chemicals
41. T & M Associates--on behalf of Long Branch Sewerage Authority
42. Toms River Chemical Corporation
43. Trenton (City of)
44. Union Camp Corporation--Clifton
45. Union Camp Corporation--Engelwood
46. Union Camp Corporation--Lawrence Township
47. Union Camp Corporation--Trenton
48. Union Carbide Corporation
49. Upper Rockaway River Watershed Association
50. Welsh Farms

In addition, the New Jersey Clean Water Council published notice in the New Jersey Register on October 9, 1980 that it would hold hearings on November 6, 1980 concerning various programs in the Division of Water Resources, including the proposed NJPDES regulations. The Council submitted relevant comments for consideration.

The administrative record concerning these regulations is available for review at the Division of Water Resources, Water Quality Management Element, 1474 Prospect Street, Trenton, New Jersey 08625.

II. SUMMARY OF COMMENTS AND RESPONSE

A. Introduction

The Department has carefully reviewed the official transcript of the public hearings and the written comments submitted during the comment period. This document includes statements of the major issues raised, the Department's response or clarification and, where necessary, a discussion of that response. "The order in which the issues are listed correspond generally to those sections in which they appear in the NJPDES regulations."

The Department is responding specifically to the major issues raised in these comments. In addition, many minor changes to the proposal have been made in response to comments by the public and by intra and intergovernmental reviewers. Those changes which were made to correct typographical errors, improve grammar or improve readability are not mentioned in this Summary. Some of the changes which are noted in this summary are made in response to comments and are based upon more complete information and analysis; therefore, any statements made in this document which are inconsistent with the

-4-

original Basis and Background supersede the statements made at the time of proposal.

The Department is required to include the requirements stated in 123.7 of the Federal Consolidated Permit Regulations in order to obtain delegation of the NPDES, UIC, and RCRA programs. Appendix A to this document indicates the federal cross-references to these regulations. The basis documents in the Consolidated Permit Regulations should provide further guidance and interpretation of comparable sections of the NPDES regulations.

SUBCHAPTER 1 - GENERAL INFORMATION

ISSUE 1. Section 1.3(a)

One commenter indicated that the Department did not have the statutory authority to require pre-construction approval of wastewater treatment facilities.

**Response:** The New Jersey "Water Pollution Control Act", N.J.S.A. 58:10A-1 et seq. (hereinafter referred to as "the State Act") specifically prohibits "...any person to build, install, modify or operate any facility for the collection, treatment or discharge of any pollutants, except after approval by the Department pursuant to regulations adopted by the commissioner." Section 6 of the State Act clearly authorizes the Department to establish a regulatory framework for the pre-construction approval of treatment works. On July 26, 1977 the Department adopted regulations (commonly known as Treatment Works Approval Regulations) for such approvals, N.J.A.C. 7:14-1.1 et seq. (New Jersey Water Pollution Control Act Regulations).

In response to comments made during the public hearing held on October 30, 1980, those regulations (N.J.A.C. 7:14-1.1 et seq. were included in the NJPDES regulations for easy reference and to reflect the necessary changes as a result of the NJPDES permit program. (See Subchapter 12). Consequently, this subchapter is not subject to challenge to the extent that it reflects the previously adopted N.J.A.C. 7:14-1.1 et seq.

ISSUE 2. Section 1.3(c) Scope. Basis for including indirect discharges into the scope of the NJPDES regulations.

**Response:** The State Act authorizes the Commissioner to promulgate regulations to control the discharge of pollutants into domestic treatment works. Prior to the enactment of the State Act in 1977, the New Jersey Legislature expressed its concern over the impact of the discharge of pollutants into domestic treatment works. This resulted in the passage of the New Jersey "Pretreatment Standards for Sewerage", N.J.S.A. 58:11-49 et seq., (hereinafter the "Pretreatment

Act") in 1972 whereby the Department was given the authority to promulgate regulations to deal with this environmental problem. In addition, on June 26, 1978, and, on January 28, 1981, the USEPA promulgated the "General Pretreatment Regulations for Existing and New Sources of Pollution" (40 CFR Part 403). These regulations establish mechanisms and procedures for enforcing national Pretreatment Standards by controlling the introduction of non-domestic wastes into publicly owned treatment works (POTW).

In order for the State of New Jersey to assume responsibility for administering the National Pollutant Discharge Elimination System (NPDES) Program, a comprehensive pretreatment program in conformance with 40 CFR Parts 403.10 and 11 must be developed by the State of New Jersey. The NJPDES Regulations adopt by reference the federal pretreatment regulations (40 CFR Part 403) which satisfy the federal requirements for the assumption of the NPDES program.

The inclusion of indirect dischargers into the NJPDES permit system is part of the Department's integrated approach to the control of water pollution. Although publicly owned treatment plants are primarily responsible for the implementation of the industrial pretreatment program by federal intention, there are practical constraints on the legal authority and power of sewerage agencies to enforce their ordinances to the extent required under Section 10 of the State Act. These agencies, in general do not have the statutory authority to assess fines against violators of their rules and regulations, which include any federal pretreatment requirement except as minimally authorized under the Pretreatment Act.

In the case of sewerage authorities created under N.J.S.A. 40:14(A) and 40:14(B) the ability to obtain legal remedies under State law is constrained by their service agreements with their member municipalities. Modification of existing service agreements by the sewerage authorities and member municipalities is a long and tedious process which in many instances has resulted in litigation. In some cases such litigation has lasted over a decade. The Department, however, is in a considerably stronger position to enforce and implement the pretreatment program.

The issuance of a state discharge permit to Significant Industrial Users (SIU) (25,000 GPD or more) of POTWs will obligate the permittees to abide by all local sewer ordinances. In addition, where a sewerage agency is willing to develop a permit program, the Department intends to propose amendments to these regulations which will avoid unnecessary duplication and facilitate the permitting process.

The State will in the future, propose a mechanism that would allow the conversion of a sewerage agency's permit to a state permit, in those cases where the sewerage agency adopts local ordinances and permitting procedures which are at least as stringent as the state regulations.

Upon filing with the local sewerage agency and complying with all of its requirements, the permittee would be granted a State permit, after State review.

Sewerage agencies at the public hearing indicated in their testimony that they generally consider themselves to be operating agencies and not regulatory bodies. Abuses by industrial dischargers into POTWs have often resulted in plant upset and concomitant permit violations. Frequently, the sewerage agency is unable to enforce its local ordinance. Until the present, no uniform statewide program for controlling this type of discharge existed.

The impact of industrial discharges on POTWs can be very significant. Industrial pollutants in municipal systems aggravate the problem of sludge disposal, pass through the treatment plant and impact the receiving waters, and in some cases affect the efficiency of treatment of the POTW.

In New Jersey, where high population densities and a limited land area further complicate the sludge disposal problem, the contamination of municipal sludges by industrial pollutants often may prevent some of the sewerage agencies from disposing of their sludge in an environmentally acceptable manner. A number of POTWs in the State which are considering the incineration of sludge for the purpose of steam generation and energy recovery have been preempted from using this technology because of the impact of the heavy metals in their sludges on air quality. Furthermore, moderately high concentrations of heavy metals preclude even the recycling to the land of sludge for its use as a source of organic nutrients and fertilizer. Listed below is a summary table of the average heavy metal concentrations in the sludges of seven New Jersey authorities, for the year of 1980.

Heavy Metal Contamination in NJ Sewerage Authorities Sludge  
mg/kg (dry weight basis)

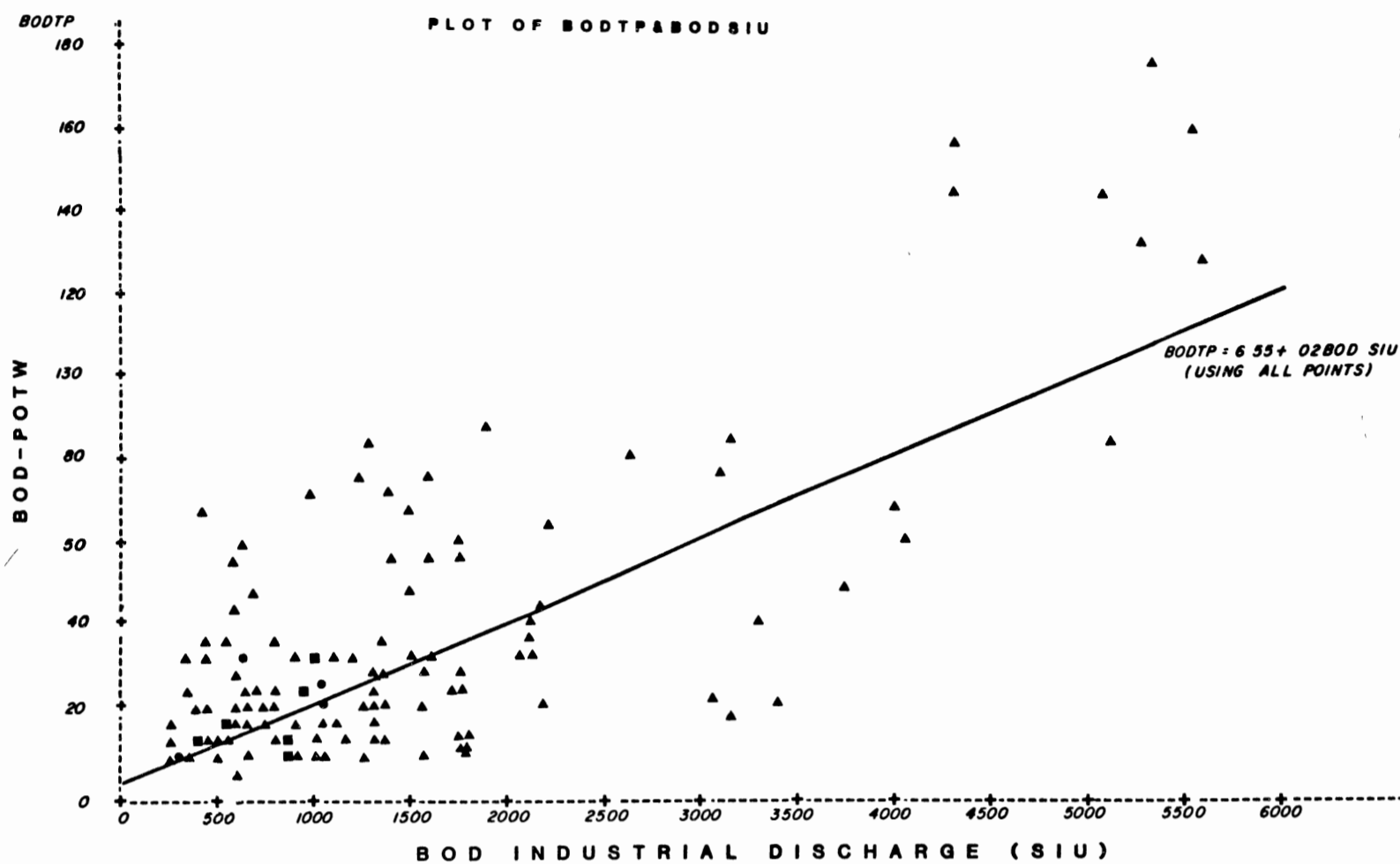
1980 Average	1*	2	3	4	5*	6	7
Arsenic	1.30	4.14	10.10	20.63	1.32	1.73	10.22
Cadmium	5.58	75.7	20.9	97.2	4.0	59.7	93.12
Chromium	285	1212	1153	329	148	714	676
Copper	1165	1937	3625	2691	775	717	3044
Lead	265	1024	1080	1330	153	1513	802
Mercury	4.3	22.6	4.4	4.0	2.3	46.7	31.3
Nickel	14.5	1133	842	68	12.4	136.2	227
Zinc	1408	2684	5922	10,426	969	3424	2679

\*Authorities (1) and (5) are residential; the others are highly industrialized

Two of the authorities are considered to receive strictly domestic waste; the other authorities have substantial industrial waste input. As can be clearly seen, the high concentrations of lead, mercury and cadmium in the sludges from POTWs which are located in highly industrialized areas will have a significant impact on the air quality, should these sludges be incinerated. Similarly, the high cadmium content would make it difficult to use these sludges in land application programs. The impact of the industrial discharges on POTWs is not restricted to sludge contamination. Even discharges of compatible pollutants, such as in industrial waste streams with a high BOD content, can significantly affect the performance of sewage treatment plants.

A classic case involves an industrial discharge consisting primarily of biodegradable contaminants discharging into a municipal system in the State. The strength of the industrial discharge ranges between 500 mg/l and 5000 mg/l BOD at a flow rate of approximately 100,000 gallons per day. The municipal system accepting these wastes was designed for an average flow of 8 million gallons per day. Illustrated graphically on the next page is the relationship between the effluent quality produced by the POTW and the strength of the wastes discharged by the specific industry. A strong statistical correlation indicates clearly that the quality of the effluent of municipal systems rapidly deteriorates as the strength of the industrial waste increases.

STATISTICAL ANALYSIS SYSTEM



The introduction of industrial pollutants into municipal systems will usually reduce the efficiency of biological waste treatment systems commonly used by municipal treatment works. Aniline (used in the dyeing industry), for example, can totally inhibit the nitrification process in concentrations as small as one part per million<sup>1</sup>. In many portions of the State, water is recycled a number of times and expensive treatment systems have been constructed with federal and state grants to treat domestic wastes to an extremely high level of purity which includes nitrification of secondary effluent. Clearly, the discharge of such materials as aniline, if left uncontrolled, could totally eliminate all of the benefits of these expensive treatment systems, which are designed to produce a high quality effluent.

It is not the intent of the Department to abrogate local authority, but rather to supplement the limited enforcement power of the local sewerage agencies with the broad enforcement mechanism available under the statutory authority of the State Act. In the State of New Jersey there are presently 75 sewerage agencies which have been identified by the DEP and the USEPA as subject to the federal requirements of 40 CFR Part 403.

The Federal regulations require the development of a pretreatment program with federal assistance available under Title II of the Federal Clean Water Act. The Department will be responsible for developing the pretreatment programs for 34 of these sewerage agencies. The Department, in addition, is responsible for coordinating and integrating all monitoring data provided by the sewerage agencies as well as for self-monitoring reports which will be required of industries discharging into POTWs.

It is the intent of the Department to closely cooperate with local sewerage agencies and to share its findings with them. Enforcement action will be undertaken as a joint cooperative effort between the DEP and local sewerage agencies. Therefore, until all such problems have been resolved, the Department finds that it is in the interest of the environment that the Department proceed with its effort to develop an effective pretreatment program that is applicable statewide.

On the basis of comments which have been received and on the Department's re-examination of the need to regulate SIUs through the mechanism of a state permit, the Department has concluded that except for non-substantive changes, the regulations concerning the control of SIUs should remain as proposed.

**ISSUE 3.** Section 1.3(c) Scope. Basis for inclusion into the scope of the regulations of discharges due to (a) land application residuals, (b) surface impoundments, (c) discharge of pollutants into wells, (d) land application of effluent by spray irrigation, overland flow, and infiltration percolation lagoons.

A commenter suggested that the State Act authorizes the Department to require permits only for direct discharges to surface and ground waters and that, as such, the inclusion of the discharges listed above are exempt from permit requirements.

**Response:** The State Act clearly includes direct and indirect discharges and no differentiation is made between the two. The State Act grants the Department the authority to regulate and to permit not only those activities which would result in the direct discharge of pollutants into the surface or ground waters of the State, but also those activities which have the potential for releasing pollutants into said waters.

There is specific language in the Act under Section 3(e) which defines "discharge" as "The releasing, spilling...into the waters of the State or onto land or into wells from which it might flow or drain into said waters." Clearly the Department has the authority to regulate all these activities.

The Department finds that the discharges listed above allow or have the potential for pollutants to enter the waters of the State. Therein, when a pollutant is discharged onto the land the pollutants will enter the ground water. The discharge of pollutants into the ground waters has a long lasting effect on these waters and threatens the potential use of one of the State's most valuable resources. The pollution of ground water is not easily remedied and such pollution may last for years, even decades. The Department finds that the activities it proposes to regulate have a significant impact on the ground waters of the State.

The Department conducted a survey of surface impoundments throughout New Jersey using monies provided by an EPA Grant for that purpose<sup>2</sup>. There were found to be a total of 356 sites which are classified as surface impoundments as a result of this study. Presently in the State there are at least 221 active industrial lagoons and 37 surface impoundments which have been abandoned. The Department's survey reveals that 65% of these impoundments are unlined and unmonitored and many of them were rated very high in their potential adverse impact on the ground water. These sites are presently unregulated and it is quite clear that it is the Department's responsibility to institute a mechanism for the control of the discharges from this type of facility into the ground water.

Even more significant are the discharges to ground water from sanitary landfills. In a recent report prepared for the Pinelands Commission by Geraghty and Miller<sup>3</sup> it has been estimated that the average landfill in the Pine Barrens area discharges 18.7 millions of gallons of leachate into the ground water every year. The median value for Biochemical Oxygen Demand (BOD) for this leachate is 5,700 mg/l and the Chemical Oxygen Demand (COD) median value is 8,100 mg/l. In

somewhat more familiar terms, this discharge is equivalent to the discharge of 32,000 gallons per day per acre of raw domestic sewage into the ground water underlying a sanitary landfill. Clearly, the impact of this type of activity on the ground waters of the State is extremely significant and threatens one of the State's most valuable resources.

On the basis of our assessment of the significance of the impact of the discharge of pollutants into the ground waters, and based on the statutory authority granted to the Department by the State Act, it would be remiss for the Department to modify the scope of the regulations to exclude the discharges of pollutants into the ground waters of the State from the requirements of obtaining a NJPDES discharge permit.

#### ISSUE 4. Section 1.5. Consolidation of the permit process.

A commenter has requested that the regulations be modified to mandate the consolidation of all permits for a facility. Another commenter, on the other hand, felt that the consolidation process should be a prerogative of the permittee.

**Response:** The Department feels that in most instances it is desirable to consolidate the permit process and that whenever possible and practicable the different subcategories of NJPDES permits should be given co-terminal expiration dates. This would allow the Department to issue a single NJPDES facilities permit which would be all inclusive and address all the discharges to surface and ground water from that site.

In addition, the State finds that this procedure results in a more efficient use of its resources, including permit administration and any possible adjudication. This allows the Department to evaluate all discharges at a site at one time and this would be indicated in the NJPDES permit as well. Some language changes were made to that section accordingly.

#### ISSUE 5. Sec. 1.8 Application of these Regulations

The Department has indicated that in certain instances the requirements of these regulations may be relaxed. In order to obtain EPA approval of the Federal Programs the Department is limited to minimum compliance with the Federal Consolidated Permit Regulations.

**Comment:** One commenter requested that the State Regulations indicate that where comparable EPA regulations are adopted that such regulations be considered adopted by the State.

**Response:** The Department has included a provision which provides for such adoption provided, the comparable provision is more stringent

than the State NJPDES regulations. The State intends to provide State notice of such new EPA adopted regulations.

#### ISSUE 6. Sec. 1.9 Fee Schedule

A number of commenters indicated that the imposition of annual fees as well as an initial filing fee amounted to double taxation and was not specifically authorized by the Act. Moreover, one commenter stated that the Department's intention in the imposition of annual fees based on the quantity and quality of the discharge would (a) encourage a cleaner effluent, and (b) finance enforcement activities related to the NJPDES permit program. It was stated by this commenter that the Department's proposed fee structures will encourage dischargers to clean up their effluent and that this is clearly unauthorized by the State Act.

Another commenter felt that the fee structure was too expensive and was not equitably distributed between the large and small dischargers. It was also stated that the fee schedule should not be used to recover expenses resulting from the agency's enforcement of the NJPDES permit program. It was suggested that the recovery of enforcement expenses is not authorized by the State Act.

**Response:** It is agreed that the addition of one-time permit fee applications is not specifically authorized in the Act and these one-time filing fee applications have been deleted from the requirements of the regulations. The first year fees which are in the regulations are based on estimates of those administrative costs.

The State Act mandates that "The Commissioner shall in accordance with a fee schedule adopted by regulations establish and charge reasonable annual administrative fees which fees shall be based upon, and shall not exceed, the estimated cost of processing, monitoring and administering the New Jersey permits." It is therefore clear that the Department is mandated by the State Act to assess annual fees so that the program will be self-sustaining.

The estimated costs for the operation of the program for the period March 1, 1981 through March 1, 1982, are \$2,599,817. The detail breakdown of the costs are given in Appendix B of this document.

Enforcement activities are mandated by the Federal Act and are integral to the State's administration of the permit program. The enforcement activities with respect to the permit fall into two categories:

- (1) Permit management and administration
- (2) Permit enforcement.

Permit management and administration includes monitoring, compliance, and surveillance functions. These activities deal with permit management and with insuring that the permittee actually complies with his permit conditions. Some of these activities are accomplished by site inspections of the actual facilities, and technical and administrative review of the discharge monitoring reports (DMR). These functions are performed by staff of the different elements of the Division of Water Resources.

The Element which performs some of the routine surveillance site inspections and the field compliance monitoring is the Enforcement and Regulatory Services Element. Any litigation concerning the enforcement of the permit conditions is, however, a function of the Attorney General's office and is beyond the DEP's jurisdiction. Costs which are incurred by the Attorney's General's office are not included in the estimated costs which are presented in the Basis and Background document dated September 30, 1980.

It was claimed that the DEP exceeds its statutory authority since the fee structure encourages dischargers to clean up their effluent. The Act states that "It is the policy of the state to restore and maintain the chemical physical and biological integrity of its waters to protect health, to safeguard fish and aquatic life and scenic and ecological values, and to enhance the domestic, municipal, industrial, and other uses of water." Thus, the fact that the secondary impact of the fee structure is to encourage dischargers to reduce the loadings of pollutants to the State's waters is clearly not in conflict with the State Act.

Some commenters objected to the formulas for calculating the fees since these formulas are not straight-line functions and they produce a sliding scale fee structure. It has been suggested that there is no relationship between increased discharges and increased administrative costs.

It is clear that the costs for preparing and drafting a permit for major industrial facilities are substantially in excess of the costs which are required to prepare a permit for a small discharger. Hence, there is a relationship between the size of the discharge and the cost of permit drafting. An examination of the Department's files, for the period 1972 through and including 1980, for the purpose of comparing the relative effort in administrative costs for two permits (Dupont Chambers Works and Mideast Anodizing), yielded the following statistics:

Documents	Discharge #1	Discharge #2
Violation notices, Letters, Report, Discharge Monitoring Reports (DMRs), and Routine Monitoring Reports	Flow = 0.038 mgd Fee = \$1,360	Flow = 34.3 mgd Fee = \$50,000
	70	1206

The ratio of the number of documents is 17.30 (1206/70), the ratio of the fees is 36.76 (50,000/1360), while the flow ratio is 901.76 (34.267/0.038). Clearly the fee structure which has been adopted is more representative of the relative costs of permit administration, monitoring and drafting than a linear flow proportional relationship.

The Act requires the Department to assess fees such that the total costs for the total permit program is recovered by the Department. The Act mandates that the Department establish a reasonable fee structure to recover the total cost for "processing, monitoring and administering the NJPDES permits." The fee structure which the Department has adopted accomplishes this purpose. Although many different types of fee schedules could be developed the Department has determined that this fee schedule more closely represents the relative administrative cost for permit processing than straight-line functions.

Some commenters have indicated that Section 1.9 which deals with the fee schedule was unclear. This section was re-written to clearly state the different changes and methodologies of computation of the fees. One commenter stated that it would be imperative that the Department hold public hearings prior to the assessment of the annual fees. It must be pointed out that the regulations call for a public hearing by the Department prior to the adoption of the annual fees. For the period March 15, 1981 through March 15, 1982 the public hearings which were held on October 28 and 29, 1980 are considered to have fulfilled the requirement of the regulations. It is the intent of the Department to hold public hearings every year prior to the adoption of the annual fees for that year. The following section describes the fee structure and methodology.

The first year fees are based on estimates of all the administrative costs for the permit program. The 1981 budget was estimated separately for each category of discharge: municipal, industrial/commercial, and thermal. The budget amount includes costs allocated for permit development, drafting, compliance monitoring, surveillance and administration.

The schedule was designed so that the pollutant load and the fee were related by a continuously increasing and single valued mathematical function.

For each of the categories mentioned above, indicator parameters were selected to be a gauge of the total pollutant load. For municipal wastewater this indicator parameter is BOD; for industrial/commercial effluents it is COD; for thermal discharges it is BTU's. The fee is based on an average pollutant load rather than on concentrations or temperatures, because this provides more equitable treatment for those facilities with small flows.

The formula used to calculate the fee was chosen to meet several specific criteria set forth below:

1. In order to ensure that basic administrative permit processing costs would be covered even for minor dischargers, a minimum fee of \$100 was established.
2. The chosen function is strictly increasing, single valued and continuous.
3. If the fee formula were a straight-line function, that is, if there were a flat per-pound or per-BTU charge, the result would have been that a few very large discharges would have suffered a major portion of the financial burden. For this reason the fee formula was chosen so that the larger the pollutant load, the smaller the per-unit-mass indicator pollutant charge (sliding scale effect). In other words, the slope (or rate of increase) of the fee formula is strictly decreasing.
4. In order to ensure that the total 1981 budget for each category of discharge would be met by permit fees, the sum of all the permit fees for each category was required to equal the budget for that category.
5. For each category, a maximum fee was imposed based on the foreseeable permit development, public hearing, adjudication, compliance monitoring, and surveillance costs of the largest discharges for that category.

In order to meet conditions (2) and (3) above, an inverse power function of the form

$$\text{Fee} = a + bx^{1/3}$$

was chosen, where x represents the average pollutant load, and the constants "a" and "b" were determined separately for each category so that constraints (4) and (5) above would be satisfied. Constraint (1) is imposed by calculating the fee using the formula for the appropriate category and then using either the resulting amount or \$100.00, whichever is greater. That is,

$$\text{Fee} = \text{Max} (100.00, a + bx^{1/3})$$

-15-

Where Max (a,b) is the standard mathematical Maximum function, the fees were rounded to the nearest \$10.

If a facility has discharges falling into two or more of the categories mentioned above because of two or more outfalls with different types of waste, it will be charged a separate fee for each. For purposes of setting the first year fee schedule, a facility is considered to have a thermal discharge if it has a pipe which discharges non-contact cooling water only. Any mixed process and cooling water or process and sanitary wastewater discharge pipes are considered to be strictly industrial discharges.

Certain categories of facilities are exempt from these fees, namely schools and churches.

Certain categories of facilities will only be subject to the \$100.00 minimum fee. These include oil-water separators for stormwater, permits whose sole discharge is a storm sewer or combined sewer, and quarries whose sole discharge is uncontaminated ground water, which is removed from the ground for dewatering purposes and is returned without addition of pollutants or waste heat to a surface water body, provided such discharge has quality at least as good as the ambient surface water quality standards of the receiving water.

The fees for 1981 were calculated based upon the best available 1980 data. The data sources are explained below:

- A. For municipal discharges, the average of the previous twelve monthly operator report values for average daily flow was used. Where these were not available, data from DMR's was used to calculate an average daily flow. An effluent BOD concentration of 100 mg/l was assumed for primary treatment plants, and an effluent BOD concentration of 20 mg/l was assumed for secondary treatment plants. The appropriate BOD concentration multiplied by the average daily flow (as described above) multiplied by appropriate unit conversion factors yields the BOD mass loading in kg/day. This value is used to calculate the fee by the following formula

$$\text{Fee} = -3314.868 + 923.2785 (K-BOD)^{1/3},$$

subject to the minimum fee of \$100.00.

- B. For industrial/commercial discharges, the average of the previous twelve monthly operator report values for average daily flow was used. Where these were not available, data from DMR's was used to calculate an average daily flow. A COD concentration of 60 mg/l was assumed. The COD concentration multiplied by the average daily flow (as described above) multiplied by appropriate unit conversion factors yields the COD mass loading in kg/day. This value is used to calculate the fee by the following formula

-16-

$$\text{Fee} = -4260.047 + 2736.0812 (K-COD)^{1/3}$$

subject to the minimum fee of \$100.00.

- C. For thermal dischargers, the results of the Thermal Survey questionnaires were used when available. If a heat load was reported on the Thermal Survey, this value was used; otherwise the average daily flow and average temperature reported on the thermal survey were used to calculate a heat load based upon an assumed ambient water temperature of 12.8°C. Where thermal survey data was not available, heat load values reported on DMR's was used. If such values were not reported, average daily flows and average temperatures were calculated from DMR data and used to calculate a heat load, assuming an ambient water temperature of 12.8°C. The average heat load expressed in MBTU/hour is used to calculate the fee by the following formula

$$\text{Fee} = -396.7605 + 1712.0768 (\text{MBTU/hr})^{1/3},$$

subject to the minimum fee of \$100.00.

After the first year, the fees for any given year will be based on the previous year's monitoring data as submitted on the monthly monitoring reports. Therefore, assumptions used the first year concerning BOD and COD concentrations and ambient water temperature will not be needed: actual reported data will be used. However, in order to satisfy constraints (4) and (5) mentioned above, it will be necessary each year to recalculate the constants a and b for each fee category, and therefore the actual formula used to calculate the fee will vary from year to year. After public hearings, permittees will be mailed a bill at the beginning of the year for the year's activities.

Fees will be charged only for the actual months of operation for a facility. If a facility is closed for a portion of the year, this will be reflected in the average COD, BOD or heat load used to calculate the fee.

These loads are to be calculated as follows:

- A. For municipal discharges, the average BOD load in kilograms, K-BOD, is calculated by the following formula:

$$K-BOD = \frac{3.785}{12} \sum_{i=1}^{12} Q_i (BOD)_i$$

where  $Q_i$  is the average daily flow in MGD for the  $i^{\text{th}}$  month and  $(BOD)_i$  is the average daily BOD concentration in mg/l for the  $i^{\text{th}}$

-17-

month. The resulting sum is multiplied by 3.785, the unit conversion factor for gallons to liters, and divided by 12 to average the BOD load over the 12 months of the year.

The average daily BOD load in pounds per day, L-BOD, is found by multiplying K-BOD by 2.2.

- B. For industrial/commercial discharges the average daily COD load in kilograms, K-COD, is calculated by the following formula:

$$K-COD = \frac{3.785}{12} \sum_{i=1}^{12} Q_i (COD)_i$$

where  $Q_i$  is the average daily flow in MGD for the  $i^{\text{th}}$  month and  $(COD)_i$  is the average daily COD concentration in mg/l for the  $i^{\text{th}}$  month. The resulting sum is multiplied by 3.785, the unit conversion factor for gallons to liters, and divided by 12 to average the COD load over the 12 months of the year.

The average daily COD load in pounds, L-COD, is found by multiplying K-COD by 2.2.

- C. For thermal discharges, the heat load expressed as MBTU/hour,  $H_m$ , is calculated from the following formula

$$H_m = \frac{(1.8)(8.34)}{(24)(12)} \sum_{i=1}^{12} (T_i^d - T_i^a) Q_i$$

where  $Q_i$  is the average daily flow in MGD for the  $i^{\text{th}}$  month,  $T_i^d$  is the average daily discharge temperature in degrees Centigrade for the  $i^{\text{th}}$  month, and  $T_i^a$  is the average daily ambient temperature in degrees Centigrade of the receiving water upstream of the thermal mixing zone. The resulting sum is multiplied by 1.8 and 8.34, the unit conversion factors for degrees Centigrade to degrees Fahrenheit and for gallons to pounds of water, respectively; and divided by 24 to convert from days to hours and by 12 to average the heat load over the 12 months of the year.

#### ISSUE 7 Sec. 1.10. Definitions.

The following definitions were modified in response to comments to clarify the meaning of the definitions: (a) "average monthly

-18-

discharge limitation," (b) "average weekly discharge limitation," (c) "modification".

**ISSUE:** One commenter indicated that the definition of "contaminant" was too broad.

**Response:** The definition which is used in the regulations is the EPA definition as given in the Federal Consolidated Permit Regulations, 40 CFR Parts 122, 123, and 124, referring to the Federal Safe Water Drinking Act, Section 1401(b).

**Response (General):**

The following definitions were added:

A new definition for "new source" was added to reflect the eventual responsibility for the NPDES Program assumed by the State of New Jersey.

**ISSUE:** One commenter suggested that the definition of "Significant Industrial User" be modified so as to include those indirect dischargers whose volume exceeds 50,000 GPD.

**Response:** After careful evaluation of the impact of industrial discharges on treatment plants and, in order to maintain compatibility with the federal definition, the definition of "Significant Industrial User" was left unchanged. It must be noted that the federal Pretreatment Program includes not only Significant Industrial Users but also all discharges within specified industrial categories.

**Response (General):**

The following definitions were added:

In response to comments, definitions for stormwater, biocide, algacide, and non-contact cooling water were added to Section 1.10.

**ISSUE:** Comments were received which requested that the definition for "effluent data" be modified to protect the confidentiality concerning research on any pollutant, method or device.

**Response:** The definition for "effluent data" is the federal definition as given in 40 CFR Part 2.302. The definition in these regulations offers the same protection for confidential data as the federal program.

**ISSUE:** Commenters requested that the definition for "hazardous substances" and "hazardous wastes" be modified to coincide with the federal definitions.

-19-

Federal Register reported the deletion of dichlorodifluoromethane and trichlorofluoromethane (46 FR 2266, January 8, 1981) and bis-(chloromethyl) ether (BCME) (46 FR 10723, February 4, 1981) from the toxic pollutant list under Section 307(a)(1) of the Clean Water Act. However, for testing purposes, they remain in Table II until EPA makes corresponding changes in the NPDES permit application testing requirements.

Table VI lists the pollutants which are regulated by the State in addition to the EPA list. Several chemicals originated from the Radian data have been deleted to reflect more current information.<sup>8,9,10</sup> The list of carcinogens from the NJDEP report has also undergone scrutiny. Only those which are included on the latest CAG list of "Chemicals Having Substantial Evidence of Carcinogenicity"<sup>11</sup> or noted to have positive carcinogenic determination in NIOSH Registry<sup>10</sup> are retained in the NJPDES Regulations.

**ISSUE:** Comments were made concerning the definition of "upset."

**Response:** The definition used in these regulations is the federal definition as stated in the Federal Consolidated Permit Regulations.

**SUBCHAPTER 2 - GENERAL REQUIREMENTS FOR THE NJPDES PERMIT**

**ISSUE 1. Section 2.1(a).**

One commenter indicated that Section 2.1(a) which deals with the general requirements for an application for a discharge permit, was unclear.

**Response:** Additional wording was added to clarify the ambiguities as to which type of discharges are covered by these regulations.

**ISSUE 2. Section 2.1(f)(1).**

Commenters indicated that the need for a discharge allocation certificate (DAC) should not apply to planned facilities which had been approved pursuant to Section 201 of the Federal Act.

**Response:** Appropriate language was added to Section 2.1(f)(1) to indicate that facilities being planned in accordance with the Federal Construction Grants program (Section 201) and which have already received approval for their facilities plan are exempt from the requirement of obtaining a DAC.

**ISSUE 3. Section 2.1(g)(5. and 6.).**

Many commenters indicated that it would be burdensome for industry to list all subsidiaries to the parent corporation in their application.

-21-

**Response:** The issue of the hazardous waste definition will be dealt with separately in the Basis and Background and response documents to the "Hazardous Waste Management Regulations," N.J.A.C. 7:26-1.1 et seq.

**ISSUE:** Comments were made that the definition of "pollutant" is too broad and it was recommended that the definition be narrowed and made more specific.

**Response:** The definition as given in the regulations is the exact definition as given in the State Act and hence has been adopted as stated.

**ISSUE:** Comments were made that the definition for "treatment works" should exclude recycling facilities so as not to discourage their use.

**Response:** The definition of "treatment works" is given in the State Act and has been adopted in the regulations without modification.

**ISSUE:** One commenter indicated that the use of EPA's list of priority pollutants with additional pollutants added by the Department posed problems for industry, and it was further stated that EPA does not use the list of 129 pollutants as standards, only as guidelines.

**Response:** The priority pollutant lists have been adopted after careful consideration of the federal requirements and of the potential public health hazard posed by the pollutants added by the State.

Tables I, III, IV and V are, respectively, Tables I, III, IV and V of the Consolidated Permit Regulations (45 FR 33454, May 19, 1980) adopted in their entirety. Table II of the Federal Regulations was expanded in the proposed NJPDES Regulations to contain additional pollutants which are either:

1. Chemicals produced in the State of New Jersey with high toxicity rating of "3" identified from the Radian Corporation data files, or
2. Proven carcinogens in either animal or man, produced or used in quantities greater than 200,000 kg per year in the U.S. or particularly potent as carcinogens as identified by the NJDEP report<sup>6</sup>.

In order to clearly differentiate the State requirements from the EPA list, Table II has been reorganized as Tables II and VI. Table II is identical to Table II in the Federal Regulations except that 18 V 1,2-dichloropropylene is now designated as 1,3-dichloropropylene (1,3-dichloropropene). The error has been acknowledged by EPA-7, though official correction has not yet appeared in the Federal Register.

-20-

**Response:** The section was modified to require the name of the applicant's parent corporation only. In addition, the language under Section 2.1(g)(6.) was changed to require that only those permits or construction approvals which are relevant to the site on which the facility is constructed should be listed for the Department.

**ISSUE 4. Section 2.1(g)(7.)**

Commenters indicated that it was unreasonable to require that applicants identify all administrative orders against the operation within the previous ten years.

**Response:** The wording of this section was changed to require that administrative orders filed against the operation of the applicant at the site should be identified for the last five years. This is in keeping with the statutory requirements that the Department issue permits for a period not to exceed five years.

**ISSUE 5. Section 2.1(g)(11.)**

Many commenters indicated that it would be difficult and burdensome for industry to submit the material necessary for the application on microfilm or microfiche.

**Response:** After careful consideration of these comments the Department concurs. This requirement has been deleted from the regulations.

**ISSUE 6. Section 2.1(i).**

Comments submitted to the Department indicated that it was unreasonable for the Department to require that applicants keep records of all data used to complete a permit application for a period of three years.

**Response:** In evaluating this comment, the Department has deemed that since permits are issued for a period of five years, the data which has been used for the application should be retained for that same period. Thus the requirement for record keeping for a period of three years has been changed to five years.

**ISSUE 7. Section 2.1(j)(2)iii.**

A number of comments indicated that permit applications should not be submitted to local authorities for endorsement since such authorities have no procedure for handling confidential information.

Another commenter stated that endorsement and comments by local government as called for in the regulations seem unnecessary, and that municipalities seldom possess the technical capabilities to review projects undertaken by those who discharge into waters of the State.

-22-

**Response:** The Department has carefully reviewed these comments and has made some changes in Section 2.1(j) so as to allow the permit application to be processed conditionally upon the applicant having made a formal request to the local government for an endorsement and comments.

**ISSUE 8.** Section 2.4(a)(1)

Comments were made that it was unnecessary that permit applications be signed by a principal executive officer of at least the level of vice president.

**Response:** The Department has been informed by USEPA that this requirement, which is a requirement of the Federal Consolidated Permit Regulations, cannot be changed. (See 40 CFR Part 122.6).

**ISSUE 9.** Section 2.5(a)(1)

Many comments were made with respect to this section. Section 2.5 requires that all parameters reported in a permit application become part of the NJPDES permit. This was deemed to be unnecessary and burdensome.

It was further stated that the discharge of pollutants not specifically limited and controlled in a permit should not constitute a violation of the permit.

**Response:** The language of Section 2.5(a)(1) has been changed to allow the discharge of pollutants which have been listed and quantified in the application. Hence the discharge of a specific pollutant which the applicant has clearly identified in quality and quantity will not constitute a violation of the permit if discharged in concentrations or mass which do not exceed the disclosed values.

It is also clear from the language of this section that the discharge of extraneous pollutants (not listed in the permit application) which are introduced into the permittee's waste stream as a result of contaminants of materials which would routinely be subject to the quality assurance program of the permittee, shall constitute a violation of the permit. Thus, the discharge of a new contaminant present in the raw material used in the manufacturing process of the permittee shall constitute a violation of the permit.

The addition of a pollutant to the permittee's discharge due to a contaminant present in such materials such as hard soaps and detergents which are not routinely subject to the permittee's quality assurance program would not constitute a violation of the permit.

**ISSUE 10.** Section 2.5(a)(2)

-23-

One commenter indicated that the section dealing with the prohibition against attainment of effluent limitations by dilution was unclear.

**Response:** The section was re-written and expanded so as to clearly indicate that the use of dilution as a means of attaining permit limitations or water quality standards is strictly prohibited.

**ISSUE 11.** Section 2.5(c)(2)

One commenter claimed that this section's requirements that the permittee curtail production so as to control pollution of the discharge in the event of a failure is unrealistic. It was requested that the permittee be allowed four weeks to restore the facility to working order.

**Response:** Careful examination of the language in the consolidated Regulations as well as the statutory language in the State and Federal Acts clearly indicates that such a request would be incompatible with the Federal Consolidated Permit Regulations and goals and policies of the Federal and State Acts.

**ISSUE 12.** Section 2.5(i)(1)

One commenter stated that entry to the permittee's premises for the purpose of photographing should be restricted to that portion of the facility relating to the discharge.

**Response:** The State Act clearly places no restrictions on the Department as far as the right of entry and photography. The Department, however, concurs with the commenter that photography should be allowed only as it relates to the discharge, and to the control of pollution from the site. This section was modified accordingly.

**ISSUE 13.** Section 2.5(j)(3)

Commenters indicated that the Department has not presently completed its program for certification of laboratories.

**Response:** Section 2.5(j)(3) was re-written for clarification and to describe the transition period pending full certification of laboratories by the Department.

**ISSUE 14.** Section 2.5(j)(4)

One commenter indicated that some facilities could not economically meet the requirements for accurately calibrated flow-measuring devices.

**Response:** The Department believes that rigid application of this procedure may not be necessary in all cases to attain a reasonable degree

-24-

of accuracy. Therefore, this section was deleted from the regulations.

**ISSUE 15.** Section 2.5(j)(6)

See Issue No. 12.

**ISSUE 16.** Section 2.5(1)(1)

Comments were presented to the Department indicating that permittees should be allowed to give notice to the Department with respect to any planned physical alteration to the facility only when the changes may result in an increase in pollutants.

**Response:** After careful review, it is clear that the Department has a need to know of any planned physical alteration to the facility although such changes may not result in an increase of pollutants or discharge. There are other environmental impacts which are of concern to the Department, and therefore this section was not modified.

**ISSUE 17.** Section 2.5(j)(8). New Section 2.5(j)(6)

One commenter stated that the Department should consolidate all the reporting requirements on a single form.

**Response:** The Department concurs that all monitoring requirements should be consolidated. As a first step to accomplish this, the old monthly operator's report has been deleted and a new monitoring report form (MRF) has been substituted. In order to allow the Department more flexibility in modifying the form to meet such needs the monitoring report form has been deleted from the appendix.

**ISSUE 18.** Section 2.12

Two commenters requested clarification as to what would constitute a substantial alteration or addition to the permittee's facility.

**Response:** This section has been re-written to coincide exactly with the Federal Consolidated Permit Regulations. (See 40 CFR Part 122.15.)

**ISSUE 19.** Section 2.13

It was stated by a commenter that the conditions listed for the termination of a permit failed to take into consideration cases of non-willful noncompliance.

**Response:** The language of this section, moreover, is the same as that given in the Federal Consolidated Permit Regulations. (See 40 CFR Part 122.16.)

-25-

**ISSUE 20.** Section 2.15

A commenter proposed that the frequency of reporting is of questionable practical value.

**Response:** The section on noncompliance and the requirement to produce quarterly, semi-annual, and annual reports are a necessary federal requirement in order for states wishing to assume the NPDES program. The Department has no discretionary power as to the frequency of the reports as required by the NPDES regulations.

**ISSUE 21.** Section 2.15(c)

A commenter requested that copies of the quarterly noncompliance reports be automatically mailed to the noncomplying facilities.

**Response:** Specific language to that effect was added to section 2.15(c) so that permittees who are in noncompliance will automatically be mailed copies of the noncompliance reports.

**SUBCHAPTER 3 - ADDITIONAL REQUIREMENTS APPLICABLE TO DISCHARGES TO SURFACE WATER (DSW) PERMITS**

**ISSUE 1.** Section 3.2(b)

Comments were made that large facilities require long lead time for the development of final engineering designs, specifications, and plans.

**Response:** After carefully evaluating the requirements of this section, the Department finds it appropriate for new sources to delay final design of the facility prior to the issuance of a DAC. It is recognized that monies expended by the applicant for final design documents may amount to considerable expense, perhaps adversely affecting the applicant's willingness to comply with the final effluent limitations set forth in the DAC. An applicant might be reluctant to modify final design documents if the effluent limitations in the DAC do not coincide with those originally specified in the design. Therefore, the Department finds reason for such delay.

**ISSUE 2.** Section 3.3(d)

Comments were submitted to the Department indicating that the requirement for a new source is unreasonable and would be an burdensome requirement.

**Response:** The section dealing with the requirements of the environmental assessment has been revised to allow the exemption from such a requirement for those facilities which will result in the construction of less than 10,000 square feet. In addition, the requirement for the

-26-

assessment has been divided into two parts--the first part sets forth requirements for facilities with moderate impact on the environment, and the second part contains additional requirements needed to assess the impact of major facilities.

**ISSUE 3. Section 3.3(f)**

Comments indicated that the 18 month duration of a DAC was too short, especially for large major industrial facilities.

**Response:** The Department has carefully evaluated these comments and the duration for a DAC has been modified to allow 30 months duration for major industrial and publicly-owned facilities. In addition, the extension has been similarly modified to allow the duration of the DAC for a full five year period for major industrial and publicly-owned facilities.

**ISSUE 4. Section 3.8**

Many commenters indicated that it is unreasonable to include storm-water under the NJPDES permit system.

**Response:** These requirements pertaining to storm sewer systems in the NJPDES regulations for those storm sewers which are: (a) located in an urbanized area, or (b) are designated as a significant contributor of pollution are not discretionary but are required by federal regulations.

**ISSUE 5. Section 3.9**

One commenter noted that the section on general permits is extremely complex and suggested that it be eliminated or more clearly stated in reference to scope, goals to be achieved and methods to be employed.

**Response:** This section is a federal requirement and the language which has been used has been taken directly from the Federal Consolidated Permit Regulations. (See 40 CFR Part 122.59.)

**ISSUE 6. Section 3.10**

Two commenters indicated that the requirement for a two hour notification period in the case of a permit violation was extremely short. They further stated that often the test data on effluent composition may take 24 hours or more to complete.

**Response:** It is clear from the language of Section 3.10(a)(1)i through vi that it is the permittees duty to inform the Department as quickly as possible of any permit violation. This is especially important where an industrial discharge is located upstream from a potable water intake.

-27-

Section 3.10(a) requires permittees to advise the Department as they become aware of permit violations. Hence, in the event of equipment malfunctions, visible upsets, and other causes which are immediate and readily discernable the permittee should advise the Department as soon as possible.

The two hour notification time is clearly sufficient for the permittee to contact the DEP "hotline" and alert the Department of a potential problem.

**ISSUE 7. Section 3.10(b)(2)(i)**

A commenter indicated that Section 3.10(b)(2)(i) increases the notice of anticipated bypass from 10 days, as required by the, Federal Consolidated Permit Regulations, to 30 days.

**Response:** Anticipated bypasses are generally planned well in advance and are mainly due to the necessity to bypass the treatment process for substantial repairs or modifications. The Department's experience has been that the additional 20 days of notice is needed to properly evaluate the environmental impact of the bypass.

**ISSUE 8. Section 3.12**

Three sets of comments were received by the Department concerning the section dealing with the emergency plans requirements. One commenter stated that because of the extensive requirements of this section that the time period required for filing the emergency plan be extended from 24 months to 36 months. Other commenters felt that the requirements were cumbersome and unnecessary.

**Response:** Section 3.12 was modified to allow applicants or permittees who have already prepared an emergency plan required by other regulations or under Section 201 of the Federal Act to submit to the Department that plan which would be determined to satisfy the requirements of the section if the plan meets all the requirements of Section 3.12.

In addition, the time requirement for the implementation of the emergency plans has been extended from 24 months to 36 months.

**ISSUE 9. Section 3.13(j)(3)**

Many comments were received by the Department concerning the requirement that industrial users of POTW's conform with the user charge system and the cost recovery requirements, indicating that the industrial cost recovery requirement of the federal act had been deleted by an amendment to the Clean Water Act.

**Response:** The Department has removed the requirement to comply with the industrial cost recovery requirements of the Federal Act.

-28-

**ISSUE 10. Section 3.14(b)(2)**

One commenter indicated that permit limitations based on actual production rather than design are unrealistic.

**Response:** The production-based limitation requirements included in the NJPDES regulations were adopted without change from the Federal Consolidated Permit Regulations.

**ISSUE 11. Section 3.14(d)(1) and (2)**

A sewerage authority requested that the maximum daily and average weekly discharge limitations should be modified to reflect an annual average with respect to flow.

**Response:** A review of the language used in the Federal Consolidated Permit Regulations and the NJPDES regulations indicate that they coincide. Hence no change in the regulations is permissible.

**ISSUE 12. Section 3.14(h)**

A number of commenters requested clarification of the section dealing with effluent limitations as calculated on a net basis.

**Response:** Review of the language in the Federal Consolidated Permit Regulations and the state regulations indicate that they coincide. Therefore, no change was made to this section.

**ISSUE 13. Section 3.14(i)**

One commenter indicated that the section dealing with internal waste streams should be modified so as to preclude the Department from monitoring internal waste streams.

**Response:** A review of the Federal Consolidated Permit Regulations and the State regulations indicate that the language in both documents coincides and therefore no deviation from the proposed language is necessary.

**ISSUE 14. Section 3.14(1)**

The Department received four sets of comments with respect to the section dealing with gross pollution. Commenters indicated that the section was complex, that the derivation and applicability of the formulas was unclear, and that the values being proposed to control priority pollutants were based on proposed interim ambient water quality criteria which were published by EPA in 1979.<sup>4</sup> It was further stated that the EPA had not published any revised values for these water quality criteria, and in spite of the fact that these values had not been adopted by EPA, the Department had adopted them without any

-29-

basis for adoption. It was stated that such action was arbitrary and capricious.

**Response:** Section 3.14(1) of the regulations is based on numerical values for priority pollutants which were adopted as final by EPA on November 28, 1980 in the Federal Register (pp. 79318 through 79379). It is not the intention of the Department to use the values listed in that document as effluent standards for the priority pollutants listed. These theoretical values will be used to develop a maximum total weight in kilograms per day which may be discharged by the permittee's treatment works over any 24 hour period.

In addition, the application of these criteria is on a net basis. That is to say, it is assumed that the ambient concentrations of any of these substances in a surface stream, estuary, bay or the ocean is assumed to be zero. Hence the permittee is given a maximum limitation equal to the total assimilative capacity of the surface water segment for any specific priority pollutant. The Department, however, reserves the right to set toxic effluent limitations for existing or new dischargers in conformance with rigorous wasteload allocation procedures.

In any event, the limitations derived by the use of the formulas listed in Section 3.14(1)(2)(i) and (ii) may not exceed limitations based on best available or best practicable technology where such limitations have been developed by USEPA. The basis of the equations in 3.14(1)(2)(i) and (ii) is given in the text listed in the references to this document and background document.<sup>12</sup>

In order to simplify the method of calculation, the appropriate conversion constants have been modified so that the concentration which is given in Appendix F of the regulations can be used without any need to convert it from micrograms per liter to milligrams per liter. The first set of equations is based on a simple mass balance while the second and third are based on the classical diffusion equations.

The Department has carefully evaluated whether the limitations which are proposed should be deleted from the regulations, and has concluded that there is a real need to impose some limitations on toxic pollutants which impact the state waters. Many of the streams of New Jersey, especially in the Northeast portion of the state, are used and reused and quite often are the sole source of potable water supply. A significant portion of the flow in these streams results from treated effluent. It is therefore prudent for the DEP to take the necessary measures to protect these sources of potable water from the impact of toxic pollutants.

The procedure which has been adopted for the control of gross pollution from priority pollutants will be a first significant step in the effort of the DEP to implement the policy stated in New Jersey Water

-30-

Pollution Control Act that: "The Legislature finds and declares that pollution of the ground and surface waters of this state continues to endanger public health; to threaten fish and aquatic life, scenic and ecological values; and to limit the domestic, municipal, recreational, industrial, agricultural and other uses of water, even though a significant pollution abatement effort has been made in recent years. It is policy of this State to restore, enhance and maintain the chemical, physical, and biological integrity of its waters, to protect public health, to safeguard fish and aquatic life and scenic and ecological values, and to enhance the domestic, municipal, recreational, industrial and other uses of water." On this basis, it would be inappropriate for the Department to delete this section from the regulations.

#### ISSUE 15. Sec. 3.16(a) (2)

One set of comments submitted to the Department stated that "This is another subsection which appears extremely complex..." The commentor indicated that it was difficult to easily develop the relationship between this section and its applicability to groundwater protection.

**Response:** A review of the language in this section and of the Federal Consolidated Permit Regulations indicates that the language in both sets of regulations coincide. It is therefore not at the discretion of the Department to modify this section.

#### SUBCHAPTER 4 - ADDITIONAL REQUIREMENTS FOR AN INDUSTRIAL WASTE MANAGEMENT FACILITY

Many commenters indicated that there was not a division of jurisdiction between the Solid Waste Administration and the Division of Water Resources concerning the administration of the State RCRA Program.

**Response:** The Department's primary concern in administering RCRA pursuant to this Subchapter was to allow in most instances a DSW or an SIU to obtain all permits from one Division of the Department.

On November 17, 1980, the federal government, pursuant to the Federal Register (Volume 45, No. 223) suspended the RCRA requirements for wastewater treatment units subject to Sections 402 and 307(b) of the Clean Water Act. In addition, the regulations proposed a permit-by-rule for such facilities, with standard requirements applicable to such facilities.

The Department has determined that the proposed federal regulations will provide an adequate control of hazardous wastes at facilities which accept hazardous waste exclusively from intrastate or intracompany sources. Therefore, the Department's previous version of this Subchapter, which required full compliance with the requirements under RCRA, has been modified to require such facilities to be subject to a

-31-

New Jersey's UIC program consists, for the most part, of requirements mandated by the EPA for a State takeover of the program. Sections 5.2 through 5.12 were derived primarily from 40 CFR 122.32 et seq. The technical requirements found in Sections 5.13 through 5.17 are based on requirements in 40 CFR Part 146. The filing requirements for UIC permits are located at Section 10.13 of these regulations.

New Jersey UIC permit program, as part of the NJPDES Program, regulates underground injections under five defined classes of wells. No Class I, II, or III well may be authorized if it results in the movement of fluid into underground sources of drinking water. Technical requirements included in the regulations are designed to insure that such movement will not occur.

#### 5.2 Classification of Injection Wells

- (a) Class I was expanded to include injection of radioactive wastes. Also now included are wells injecting municipal and industrial wastes other than Class IV wells.

Three examples of municipal and industrial waste injection wells which will now be included in Class I are: wells injecting beneath the lowermost formation containing an underground source of drinking water ("USDW"); wells injecting into or above a formation which contains a USDW greater than 2 miles from the well bore; and injection wells where the waste stream meets the primary drinking water standards or applicable groundwater quality standards, whichever are more stringent.

- (d) Class IV was expanded to include wells used to dispose of municipal and industrial wastes into or above a formation containing a USDW within 2 miles of the well bore. The quality of the injection fluid of these wells does not meet primary drinking water standards or applicable groundwater quality standards, whichever are more stringent. (Note that groundwater quality anti-degradation or non-degradation policies are applicable.) These municipal and industrial waste disposal wells were added because the injected wastes contribute to the degradation of a USDW even though the wastes are not considered hazardous.

#### 5.3 Prohibition of Unauthorized Injection

Any underground injection, including injection into a non-USDW, is prohibited unless it is excluded under Section 5.1, or authorized by a permit or by rule.

-33-

permit-by-rule. The Department finds that the permit-by-rule which, although it does not require full RCRA requirements, will provide for protection of the waters of the State, unless the minimal requirements are violated.

This revised Subchapter also clarifies the fact that where these wastewater treatment units generate sludge or residuals such activities at the above facilities will also be subjected to the permit-by-rule instead of the full RCRA or Hazardous Waste Management Regulation requirements.

The Department has provided in these regulations for the treatment, storage and disposal of hazardous waste from two other activities directly affecting water resources. Under this Subchapter all surface impoundments and land application of hazardous wastes, which has been limited to land application of oily wastes, shall be permitted under the NJPDES/IWMF regulations which will incorporate the requirements of the "Hazardous Waste Management Regulations", N.J.A.C. 7:26-1.1 et seq.

While EPA has suspended the regulations for wastewater treatment units for 402 and 307(b) dischargers, the Department has determined that it is in the best interest of the environment that facilities which treat, store or dispose of wastes which are received interstate or intercompany to comply with all of the requirements of the Hazardous Waste Management Regulations (N.J.A.C. 7:26-1.1). The Department finds that such facilities are not as likely to maintain the same type of quality control where waste is accepted on a commercial basis as when it is derived from its own production process.

#### SUBCHAPTER 5 - ADDITIONAL REQUIREMENTS FOR UNDERGROUND INJECTION CONTROL (UIC)

Only one comment was received by the department concerning Subchapter 5. The commentor requested a clarification of the scope of the Underground Injection Control Program (UIC). It is to be noted, however, that the September 1980 Basis and Background did not fully address some of the issues related to the assumption of the UIC program. Therefore, the following sections supplement and supersede the September 1980 Basis and Background Document.

#### Section 5.1 Scope

Section 1422 of the Federal Safe Drinking Water Act authorizes a state to take over the federal program for underground injection control (UIC) in that state. The Department is proposing to implement the UIC program in New Jersey under the authority of the New Jersey Water Pollution Control Act. The program provides that all underground injections are unlawful and subject to penalties unless authorized by a permit or rule.

-32-

#### 5.5 Authorization of Injection into Class V Wells

If Class V wells meet the applicable requirements of Section 5.17, these wells are permitted by rule. If, however, such a well may cause a violation of groundwater quality standards or regulations, or otherwise adversely affect the health of persons, an individual permit may be required. On this basis, the Department may also order remedial action or closure.

- (b) (1) An example of the application of this subparagraph would be where too much injection pressure might cause the rock to fracture, thereby changing the properties of the aquifer.

#### 5.6 Identification of Underground Sources of Drinking Water

The Department may identify aquifers and portions of aquifers which are actual or potential sources of drinking water. This will provide an aid to the Department in carrying out its duty to protect all underground sources of drinking water (USDW). Note that an aquifer is a USDW if it fits the definition, even if it has not been formally "identified." Aquifers which do not fit the USDW definition are not subject to the special protection afforded USDWs.

The option to exempt aquifers has been omitted because it is in contradiction with the State's policy of protecting groundwaters, which are a most important drinking water source.

#### 5.7 Prohibition and Elimination of Class IV Wells

Existing Class IV wells which inject waste into or above a USDW are to be eliminated within six months of the promulgation of these regulations. New Class IV wells are prohibited. These Class IV prohibitions, found in Section 5.7, are significant changes from the federal requirements which only prohibit Class IV wells which inject into a USDW.

The Federal regulations were developed to apply to a nationwide program and consequently must be reasonable in a wide variety of environmental situations, including those where the injection of waste above a USDW may not be an objectionable practice. The particular situation in New Jersey must be considered, however.

Specifically, in New Jersey, no non-USDW aquifers are located above a USDW aquifer. Therefore, the only procedure whereby hazardous waste may be emplaced above a USDW would be through the use of a dry well, a seepage pit, or a cesspool that subsequently discharges the hazardous waste to the unsaturated zone above a USDW.

-34-

Considering the relatively shallow depth of the water-table (unconfined) aquifers in New Jersey, the emplacement of any substance into the unsaturated zone is essentially equivalent to its discharge directly into the USDW. Furthermore, New Jersey is heavily dependent on its groundwater supplies for drinking water. Once a USDW is contaminated, it may never be completely purged of the contaminants and could be lost as a drinking water supply for hundreds of years.

Thus, in an effort to prevent the introduction of wastes into USDWs, the injection of wastes into wells above a USDW will not be allowed in New Jersey. Groundwater supplies half of the State's potable water needs.

#### 5.8 Application for a permit

UIC applicants must note that an application for a well drilling permit, in accordance with N.J.S.A. 58:4A-14, must be submitted along with the application for a UIC permit.

#### 5.9(b) and 5.13(d)(5)

Permittees may be required to monitor and submit reports after the injection well is plugged and abandoned. This may be required to insure that no previously-injected contaminants caused pollution problems in USDWs after the injection well is closed.

#### 5.10 Establishing UIC Permit Conditions

##### (f) Plugging and abandonment

Owners of injection wells should note that under the statute governing well abandonment, N.J.S.A. 58:4A-4.1, the improper maintenance of a well may constitute an abandonment of that well.

#### 5.13 General Criteria and Standards

##### (a) Area of review

The area of review may be either a fixed radius of two miles, or may be determined by a mathematical model. Where the radius, as determined by a model, 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.

#### 5.17 Criteria and Standards Applicable to Class V Injection Wells

-35-

Class V wells must meet the applicable requirements of this section in order to be permitted by rule. All owners and operators of Class V wells must submit an inventory.

All Class V wells must be built in accordance with the construction requirements in N.J.A.C. 7:10-12.1 *et seq.*, where these construction requirements and specifications are appropriate. One exception is septic systems. These wells clearly cannot be appropriately constructed according to the above standards.

New Class V wells cannot be constructed without a well-drilling permit. Septic systems, again, are clearly an exemption. Septic systems and other subsurface sewage disposal systems, however, must comply with the requirements in subchapter (f) (1).

#### SUBCHAPTER 6 - ADDITIONAL REQUIREMENTS FOR DISCHARGES TO GROUND WATER (DGW)

The Department reserved this Subchapter in the September 1980 proposal. This Subchapter now combines the monitoring requirements for Industrial Waste Management Facilities (IWMP) which were proposed in the "Hazardous Waste Management Regulations" N.J.A.C. 7:26-9.3-"General Groundwater Monitoring System" and in the NJPDES Regulations--Subchapter 4 which references 40 CFR Subpart F. It also includes the monitoring requirements which were proposed in Subchapter 10 of the NJPDES Regulations.

The Department placed all of the groundwater monitoring requirements in one Subchapter to facilitate the applicant's and Department's burden of referring to several documents or Sections on a continual basis. The Department finds that this organization will make the process easier for a facility with several DGWs. Therefore, although physically this subchapter did not exist in the September 1980 proposed Regulations, the Subchapter is derived from other proposed sections of the NJPDES and Hazardous Waste Management Regulations, and imposes no new requirement on permits for discharges into ground water.

#### SUBCHAPTER 7 - PROCEDURES FOR DECISION MAKING

##### ISSUE 1. Sec. 7.2(a)(8)

One commenter indicated that since the final draft NJPDES permit serves as a permit to construct a facility, the 18 month duration of the final draft permit was too short.

Response: The duration of final draft permits has been changed to 18 months for minor facilities and 30 months for major industrial and publicly-owned facilities.

-36-

#### ISSUE 2. Section 7.2(a)(11)

One commenter indicated that requiring an applicant to request a final NJPDES permit is unnecessary paper work, and that the approved final draft should automatically become a final permit.

Response: The final draft permit is a substitute for a treatment works approval. It is an approval by the Department for the permittee to construct pollution control facilities. It does not grant an applicant the right to discharge. Furthermore, the Department must be advised by the applicant that the facility is ready to become operating and that the discharge will commence.

It is furthermore the policy of the Department to inspect all new treatment works or modifications to treatment works in order to insure conformance with the plans and specifications which were submitted to the Department. This step is the final step prior to the issuance of the actual NJPDES Permit. Although the final draft permit conditions and limitations are automatically converted to the NJPDES Permit, nonetheless, the final inspection and the notification that the discharge will commence is a necessary part of the NJPDES procedure. On this basis, this section was not modified.

#### ISSUE 3. Sec. 7.2(b)

General comments during the meetings with the Industrial Advisory Group and comments which were made at the public hearing indicated that the procedure involved in issuing Discharge Allocation Certificates (DACs) was overly complicated.

Response: In response to this comment, the Department has re-examined the procedural steps involved in issuing Discharge Allocation Certificates and has made the following changes: (a) modifications of a permit no longer require the issuance of a Discharge Allocation Certificate; (b) the procedural steps required in obtaining a DAC have been considerably simplified and have resulted in a substantially more streamlined process.

#### SUBCHAPTER 8 - PUBLIC COMMENT AND NOTICE PROCEDURES

##### ISSUE 1. Sec. 8.2

One commenter indicated that the third party request for public hearing should include a reasonableness criteria. This would require a party to show reasonable cause for requesting a public hearing.

Response: The reasonableness criteria is implicit in the wording of this section. Section 8.2 states that "A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing." This language clearly indicates that

-37-

the Department will not grant a public hearing for issues which it considers to be frivolous and irrelevant to the tentative determination on a draft permit or a draft DAC.

ISSUE: To what extent may interested parties intervene in Departmental actions.

Response: The Department finds that except as provided and required by the Federal Consolidated Permit Regulations (See Section 8.14) the intervention of third parties shall be regulated in accordance with N.J.S.A. 52:14F-1 *et seq.*

##### ISSUE 2. Sec. 8.10(c)

One commentator indicated that the request for an adjudicatory hearing may place undue burden on the permittee since the requestor is required to make available to appear and testify all officers, directors, and employees consultants and agents of the requestor.

Response: The language adopted in these regulations coincide with the language of the Federal Consolidated Permit Regulations and as such the wording must remain as given.

#### SUBCHAPTER 9 - SPECIFIC PROCEDURES APPLICABLE TO DISCHARGES TO SURFACE WATER (DSW) PERMITS

There were no comments on Subchapter 9.

#### SUBCHAPTER 10 - FILING REQUIREMENTS FOR NJPDES PERMITS

##### ISSUE 1. Sec. 10.3(a)(3)

One commenter indicated that concerned citizens have difficulty in locating the exact location of a discharge pipe.

Response: Section 10.3(a)(3) has been modified to require that the discharge points be indicated on a plot plan prepared by a licensed Professional Engineer or land surveyor. Since the preparation of a plot plan and survey is a necessary requirement of any deed transfer, this requirement would not substantially add to the cost of the permit application. In addition, this will facilitate the Department's own monitoring of discharge points.

##### ISSUE 2. Sec. 10.3(a)(9)(ii)(A)

Two commentators suggested that capillary gas chromatography with confirmatory column be included in the regulations as a viable technique for the analysis of toxic pollutants.

Response: Except where the analysis for certain priority pollutants must be performed by GC/MS after the proposed federal requirements

-38-

become final, capillary gas chromatography is a visible technique. A sample must be collected and analyzed for the pollutant in accordance with 40 CFR Part 136 or comply with Section 2.5 (j) 3.

ISSUE 3. Sec. 10.4

A number of commenters indicated that the filing requirements for an environmental assessment are overwhelmingly burdensome to industry.

Response: This issue has been addressed in Issue No. 29.

ISSUE 4. Sec. 10.4(e) (1) (viii) (B) (2). New Sec. 10.4(e) (1) (viii) (B) (2)

One commenter requested that the paragraph should be revised to indicate that wetlands areas are as delineated by the U.S. Fish and Wildlife Service.

Response: The section was modified as requested.

ISSUE 5. Sec. 10.7

One set of comments which were received by the Department indicated that "By placing the regulations for surface impoundments under the NJPDES Permit Program, the Department is forcing dual regulation on the affected industries. Surface impoundments which treat, store, or dispose of hazardous waste are already regulated under the DEP Hazardous Waste Management Regulations."

Response: Surface impoundments are a significant source of groundwater pollution. The Department has performed a survey of all surface impoundments throughout the State of New Jersey and has concluded that the majority of the impoundment sites have a potential adverse impact on groundwater. A total number of 356 sites were identified using low altitude color aerial photography. These sites are classified by category as follows:

	ACTIVE		ABANDONED
INDUSTRIAL	221		37
MUNICIPAL	56		6
AGRICULTURAL	18		3
MINING	15		0
TOTALS	310	+	46 = 356

One of the most significant findings of this study is that of the over 200 impoundment sites assessed for their potential adverse impact on groundwater, 65% have impoundments which are unlined and unmonitored. And slightly more than 10% of the unlined and unmonitored sites were rated very high in their potential adverse impact upon groundwater.

-39-

It is the intention of the Department to avoid any duplication of permits and to, whenever possible, issue a single permit to a facility. As a first step toward accomplishing this goal, surface impoundments which treat, store or dispose of hazardous waste have been classified into two separate categories. A surface impoundment which treats and stores hazardous waste is required to obtain a NJPDES permit for a DGW and an IWMF. A surface impoundment which stores hazardous waste is required to obtain NJPDES/DGW permit and a "Hazardous Waste Management Facility" Permit.

ISSUE 6. Sec. 10.7(d) (3) (ii)

One commenter indicated that "The general plan of the entire project area should show the location of the impoundment with respect to all inhabited structures and facilities within one half mile of the impoundment and not within one half mile of the site boundary."

Response: Many industrial sites in the State of New Jersey extend over many acres and often measure more than one half mile from border to border. The requirement that the filing application indicate all wells, private and public, and inhabited structures within one half mile of the site boundaries, is necessary to evaluate the environmental and health impact of the facility on its surroundings as well as to arrive at a reasonable assessment of the potential of well contamination from any groundwater discharge. Therefore, the Department finds that the wording in this section should be adopted as proposed.

ISSUE 7. Sec. 10.12(d) (2) (ix) (B) (29)

Two commenters indicated that capillary gas chromatography should be allowed as a substitute to gas chromatography/mass spectrometry.

Response: This change was made in response to the comment.

SUBCHAPTER 11 - PUBLIC ACCESS TO INFORMATION AND REQUIREMENTS FOR DEPARTMENT DETERMINATION OF CONFIDENTIALITY

ISSUE 1. Sec. 11.3(a) (1)

One commenter indicated that the requirement that confidential material be submitted on microfilm was unreasonable.

Response: The Department has re-evaluated the requirement for micro-filing and this requirement was eliminated from the regulations.

ISSUE 2. Sec. 11.4

One commenter indicated that the fee of \$250 required of any person submitting documents to the Department under a claim of confidentiality was unnecessary high.

-40-

Response: The Department has established a procedure whereby the information which is submitted under a claim of confidentiality will be kept in secure areas with limited access. Special procedures and controls will be necessary to maintain the security of these files.

The fee of \$250 is a reasonable document processing charge. It is, however, subject to revision if actual costs incurred substantially exceed this sum. In some situations, the fee may be applied towards administrative costs of adjudicatory hearings in which the Department's estimate of proposed fees is upheld in response to challenge.

SUBCHAPTER 12 - ADDITIONAL REQUIREMENTS FOR TREATMENT WORKS APPROVAL

It was suggested that Subchapter 1 and 3 of the "Water Pollution Control Regulations" N.J.A.C. 7:14-1 et seq., be repealed since such subchapters are basically definitions from the "Water Pollution Control Act", N.J.S.A. 58:10A-1 et seq., and statements of jurisdiction which are no longer applicable with the implementation of the State Act.

Response: The Department has repealed these subchapters, including N.J.A.C. 7:14-2.1 et seq., which has been recodified and incorporated as Subchapter 12 of these regulations. Minor procedural changes were made in order to integrate the treatment works approval into the NJPDES permit program. Because this subchapter had been previously adopted in the "Water Pollution Control Act Regulations" it shall not be considered subject to challenge.

SUBCHAPTER 13 - ADDITIONAL REQUIREMENTS APPLICABLE TO SIU PERMITS

The requirements contained in Subchapter 13 did not exist as a separate subchapter in the September 1980 proposal. The features of this subchapter were contained in other sections of the September 1980 proposed NJPDES regulations. The Department has decided to provide in one Subchapter the specific permit conditions applicable to indirect discharges who are classified as a significant industrial user (SIU) and must obtain a NJPDES permit. In addition, the Department adopts the "General Pretreatment Regulations for Existing and New Sources of Pollution", 40 CFR, Part 403.

Section 1.3(d) (2) explains the intent of the Department to require SIU's to obtain a NJPDES permit. The authority for the Department to require such permits is fully documented in the Department's response in Issue 2 of this document. Section 10.5 provides the filing requirements for SIUs and the information required to be submitted to the Department. Both of these sections were contained in the September 1980 proposal and few and only minor changes were made to that draft.

-41-

Subchapter 13 provides the permit conditions, prohibitions and limitations for SIUs. The requirements are a result of 40 CFR Part 403 which "establishes mechanisms and procedures for enforcing national pretreatment standards controlling the introduction of nonhazardous wastes into publicly owned treatment plants." The Part 403 requirements were promulgated in the Federal Register on June 26, 1978 and require all states desiring delegation of the NPDES program to have regulations in force at least as stringent as the Part 403 requirements. The Department, therefore, incorporates the Part 403 requirements.

The major aspects of the Part 403 regulations were addressed in the September 1980 proposal. Section 2.8(c) requires publicly owned treatment works, which were required to develop a pretreatment program, to develop such a program within the time specified by 40 CFR Section 403.8. Section 3.13(j) (concerning the establishment of DSW permit conditions) requires POTWs to establish pretreatment programs and outlined specific requirements in the Part 403 regulations. The major aspects of the Part 403 regulations were addressed in the September 1980 proposal and the Department has decided to provide in one subchapter the adoption of 40 CFR Part 403.

The Department does not find the addition of Subchapter 13 to be a major change since this Subchapter is derived from other proposed sections of the September 1980 proposal and imposes no new requirements on permits to significant industrial users. In addition, the 40 CFR Part 403 regulations have been effective for 2½ years and the public has been on notice as to their provisions concerning industrial pretreatment and POTW pretreatment program requirements.

-42-

Appendix A

Federal Consolidated Permit Regulation  
and New Jersey Pollutant Discharge  
Elimination System Reference Tables

NJPDES Regulations Sections

NJPDES Regulations Sections

<u>NJPDES Section Number</u>	<u>Federal Reference</u>	<u>NJPDES Section Number</u>	<u>Federal Reference</u>	<u>NJPDES Section Number</u>	<u>Federal Reference</u>	<u>NJPDES Section Number</u>	<u>Federal Reference</u>
<u>Subchapter 1</u>				<u>Subchapter 7</u>			
1.1		2.12	40 CFR 122.15	5.6	40 CFR 122.35	7.1(a)	
1.2		2.13	122.16	5.7	122.36	(b)	40 CFR 124.1(d)
1.3		2.14	122.17	5.8	122.38	7.2	
1.4(a)	40 CFR 122.52(a)	2.15	122.18	5.9	122.41	7.3	124.3
(b)	122.52(f)	<u>Subchapter 3</u>		5.10	122.42	7.4	124.4
(c)	122.52(d)	3.1(a)	40 CFR 122.51(c)	5.11	122.44	7.5	124.5
(d)	122.52(g)	(b)	122.51(c)(2)	5.12	122.45	7.6	124.6
(e)		(c)	122.52(c) and (e)	5.13(a)	146.06	7.7	124.7
1.5(a)		3.2	122.53	(b)	146.07	7.8	124.8
(b)		3.3		(c)	146.08	7.9	124.9
(c)	40 CFR 124.4(a)	3.4	40 CFR 122.54	(d)	146.10		
(d)	124.4(b)	3.5	122.55	5.14(a)	146.11	<u>Subchapter 8</u>	
(e)	124.4(c)	3.6	122.56	(b)		8.1	40 CFR 124.10
1.6		3.7	122.58	(c)	146.12	8.2	124.11
1.7		3.8	122.57	(d)	146.13		
1.8		3.9	122.59	5.15(a)	146.21	8.3	40 CFR 124.12
1.9		3.10	122.60	(b)	146.22	8.4	124.13
1.10	some from 40 CFR 122.3	3.11	122.61	(c)	146.23	8.5	124.14
<u>Subchapter 2</u>				5.16(a)	146.31	8.6	124.15
2.1(a)	40 CFR 122.4(a)	3.12	122.62	(b)	146.32	8.7	124.17
(b)	122.4(b)	3.13	122.63(a)-(j)	(c)	146.33	8.8	124.18
(c)	122.4(c)	3.14(a) to (j)		5.17(a)	146.51	8.9	124.74
(d)		(k) to (l)		(b)	122.37(d)	8.10	124.16
(e)		3.15	122.64	(c)		8.11(a)	124.75(a)(1)
(f)		3.16	122.65	(d)		(b)	124.74(d)
(g)	122.4(d)	3.17		(e)		(c)	124.74(e)
(h)		<u>Subchapter 4</u>		(f)		(d)	124.75(b)
(i)	122.4(e)	4.1		<u>Subchapter 6</u>			
(j)		4.2		6.1		8.12	124.77
2.2		4.3		6.2		8.13	
2.3	40 CFR 122.5	4.4	40 CFR 122.22	6.3	40 CFR 265.90	8.14	
2.4	122.6	4.5	122.23	6.4	265.91		
2.5	122.7	4.6	122.28	6.5	265.92	<u>Subchapter 9</u>	
2.6	122.8	4.7	122.29	6.6	265.93	9.1	40 CFR 124.52
2.7	122.9	4.8	122.26	6.7	265.94	9.2	124.56
2.8(a)	122.10(a)	4.9	40 CFR 266(proposed)	6.8		9.3	124.57(a)
(b)	122.10(b)	<u>Subchapter 5</u>		6.9		9.4	124.59
(c)		5.1(a)		6.10		9.5	
(d)		(b)	40 CFR 122.31(d)	6.11		9.6(a)	122.53(i)
(e)		5.2	146.05(122.32)	6.12		(b)	122.53(j)
2.9	40 CFR 122.11	5.3	122.33	6.13	265.91(c)	(c)	122.53(k)
2.10	122.13	5.4	122.34	6.14		(d)	
2.11	122.14	5.5	122.37				

NJPDES Regulations Sections

<u>NJPDES Section Number</u>	<u>Federal Reference</u>	<u>NJPDES Section Number</u>	<u>Federal Reference</u>
9.7	124.62		
9.8	124.63		
9.9	124.66		
<b>Subchapter 10</b>			
10.1			
10.2			
10.3(a)1. & 2. 3.to16.	40 CFR 122.53(d) (1) to(13)		
(b)	122.53(e)		
(c)			
(d)			
10.4			
10.5(a)			
(b)			
(c)	40 CFR 122.53(d) (1) to(12)		
10.5(d)	40 CFR 122.53(d) (13)		
(e)			
10.6(a)			
(b)			
(c)	40 CFR 122.24(c) to(g)		
(d)	122.25(a)		
10.7			
10.8			
10.9			
10.10			
10.11			
10.12			
10.13(a)	40 CFR 146.14		
(b)	146.24		
(c)	146.34		
<b>Subchapter 11</b>			
<b>Subchapter 12</b>			
<b>Subchapter 13</b>			

Appendix B

Estimated Costs  
For the Administration of the  
NJPDES Permit system for direct  
Surface Water Discharges

Table I

WORKPOWER REQUIREMENTS FOR THE NJPDES (DSW)  
PROGRAM FOR PERMIT ISSUANCE

<b>Industrial Permits</b>
978 Permits x 9 work days x 15% public hearings c 15% adjudications divided by 200 workdays per work year divided by 5 years per permit term = 12 persons plus supervisor.
<b>Municipal Permits</b>
480 permits x 7 work days x 15% public hearings 15% adjudications divided by 200 work days per work years divided by 5 years per permit term = 11 persons plus one supervisor.
<b>Pretreatment*</b>
4000 permits x 2 work days x 15% public hearings x 15% adjudications divided by 200 work days per work years divided by 5 years per permit term = 11 persons plus one supervisor.
<b>Treatment Works Approval (TWA)</b>
1458 permits x 25% requiring a TWA x 10 work days per approval divided by 200 work days per work year divided by 5 years per approval = 3.65 or 4 people needed.
<b>Resource Conservation and Recovery Act Reviews for NJPDES permits</b>
978 industrial permits x 80% requiring a RCRA review x 2 work days for each review divided by 200 work days per work year divided by 5 years per review = 1.56 or 2 people needed.
<b>Spill Prevention, Countermeasure and Control Plan Reviews</b>
978 industrial permit x 40% requiring a SPCC review x 5 work days per review divided by 200 work days per work year divided by 5 years per review = 1.9 or 2 people.
<b>Lab Certification</b>
160 laboratories requiring lab certification x 5.5 work days per lab certification divided by 200 work days per work year divided by 2 years per review = 2.25 people needed.
*Staff necessary for only the NPDES related functions concerning the pretreatment program = 4 persons

Compliance assurance and enforcement staff has been based on the estimated amount of staff of necessary for DSW (formally NPDES) program compliance.

Table II

The Total Budget for the first year operation of the State NPDES program is the following:

	<u>First Year</u>	<u>Second Year</u>
<u>Salaries*</u>	1,987,440	2,312,765
<u>Overtime</u>	20,475	23,826
<u>Seasonal Co-Op</u>	128,018	148,677
<u>Printing and Organization</u>	32,662	37,804
<u>Vehicular</u>	62,692	72,750
<u>Medical/Educational</u>	10,822	12,389
<u>Clothing</u>	5,460	6,353
<u>Other</u>	10,822	12,389
<u>Travel</u>	21,742	25,097
<u>Data Processing</u>	75,000	89,596
<u>Professional Services</u>	155,414	180,764
<u>Other</u>	13,552	15,566
<u>Maintenance-Equipment</u>	2,730	3,176
<u>Maintenance-Vehicles</u>	16,831	19,061
<u>Rent-Central Motor Pool</u>	78,974	91,811
<u>Vehicular Equipment</u>	92,624	107,696
<u>Telephone</u>	9,555	11,119
<u>Postage</u>	5,187	6,036
<b>Total =</b>	<b>2,730,000</b>	<b>3,176,875</b>

\*Includes planning, permitting, public participation, monitoring, enforcement, lab certification and administration.

## Appendix C

## Footnotes

Table III

Commitments of man-years and funding to the State NPDES program are as follows:

PERSONNEL*	MAN-YEARS & FUNDING FY82 <sup>1</sup>			Total	MAN-YEARS & FUNDING FY83 <sup>2</sup>		
	Permit Issuance	Effluent Compliance <sup>3</sup> Assurance	Permit Compliance and Surveillance <sup>3</sup>		\$	TOTAL	\$
Industrial Waste Section	17.5	8	3	28.5	\$1,140,000	30.5	\$1,296,250
Municipal Waste Section	8	2.5	2	12.5	\$500,000	13.5	\$ 573,750
Pretreatment	4.5	4	2	10.5	\$420,000	13	\$ 552,500
Monitoring & Planning	4.25	.5		4.5	\$190,000	4.5	\$ 201,875
Overall Administration	6	4	2	12	\$480,000	13	\$ 552,500
<b>TOTALS</b>	<b>39</b>	<b>18.5</b>	<b>9</b>	<b>68.25</b>	<b>\$2,730,000</b>	<b>74.5</b>	<b>\$3,176,875</b>

\*includes operating expenses for municipal, industrial, and thermal discharges

<sup>1</sup>average man year cost = \$40,000

<sup>2</sup>average man year cost = \$42,500

<sup>3</sup>These costs do not include any costs related to the Attorney's Generals permit enforcement functions.

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NJAC 7:14A-1

SEPTEMBER 1980

REGULATIONS CONCERNING THE  
NEW JERSEY POLLUTANT DISCHARGE  
ELIMINATION SYSTEM

**DRAFT**

SUBCHAPTER 1 - GENERAL INFORMATION

1.1 Authority.....	1
1.2 Purpose.....	1
1.3 Scope.....	1-4
1.4 Prohibitions.....	5-6
1.5 Consolidation of permit processing.....	6-7
1.6 Severability.....	7
1.7 Conflict of interest.....	7-8
1.8 Application of these regulations.....	8
1.9 Fee schedule.....	8-11
1.10 Definitions.....	11-28

SUBCHAPTER 2 - GENERAL REQUIREMENTS FOR THE NJPDES PERMIT

2.1 Application for a permit.....	29-35
2.2 Emergency permits.....	35-37
2.3 Continuation of expiring permit .....	37-38
2.4 Signatories.....	38-39
2.5 Conditions applicable to all permits.....	39-46
2.6 Establishing permit conditions.....	47
2.7 Duration of permits.....	48
2.8 Schedules of compliance.....	49-51
2.9 Requirements for recording and reporting of monitoring results.....	51 52
2.10 Effect of a permit.....	52-54
2.11 Transfers of permits.....	54-57
2.12 Modification or revocation and reissuance of permits.....	58 58-59
2.13 Termination of permits.....	58-59
2.14 Minor modification of permits.....	60-64
2.15 Noncompliance and program reporting by the Department.....	60-64

SUBCHAPTER 3 - ADDITIONAL REQUIREMENTS APPLICABLE TO DSW PERMITS

3.1 Scope.....	65
3.2 Application for a permit.....	65
3.3 Discharge allocation certificate.....	66-67
3.4 Concentrated animal feeding operations.....	68-69
3.5 Concentrated aquatic animal production facilities.....	69-70 70
3.6 Aquaculture projects.....	70-71
3.7 Silvicultural activities.....	71-73
3.8 Separate Storm sewers.....	73-76
3.9 General permits.....	76-79
3.10 Additional conditions applicable to all DSW permits.....	76-79
3.11 Additional conditions applicable to specified categories of DSW permits.....	79-80 81-85
3.12 Emergency plans.....	85-92
3.13 Establishing DSW permit conditions.....	92-99
3.14 Calculating DSW permit conditions.....	92-99

SUBCHAPTER 3 - ADDITIONAL REQUIREMENTS APPLICABLE TO DSW PERMITS (cont'd)

3.15 Duration of certain DSW permits..... 100  
 3.16 Disposal of pollutants into wells, into publicly owned treatment works, or by land application..... 100-101  
 3.17 Criteria and standards for DSW permits..... 102-103

SUBCHAPTER 4 - ADDITIONAL REQUIREMENTS FOR AN INDUSTRIAL WASTE MANAGEMENT FACILITY (IWMF)

4.1 Effective date..... 104  
 4.2 Scope..... 104-105  
 4.3 Application for a permit..... 105-106  
 4.4 Interim Status..... 106-108  
 4.5 Permits by rule..... 109  
 4.6 Additional conditions applicable to all IWMF permits..... 110-111  
 4.7 Establishing IWMF permit conditions..... 111

SUBCHAPTER 5 - ADDITIONAL REQUIREMENTS FOR UNDERGROUND INJECTION CONTROL (UIC)

5.1 Scope..... 112  
 5.2 Classification of injection wells..... 112-115  
 5.3 Prohibition of unauthorized injection..... 115  
 5.4 Prohibition of movement of fluid into underground sources of drinking water..... 115-116  
 5.5 Authorization of Class V injection wells by rule..... 116-118  
 5.6 Identification of underground sources of drinking water and exempted aquifers..... 118  
 5.7 Elimination of Class IV wells..... 118-120  
 5.8 Application for a permit; authorization by permit..... 120  
 5.9 Area permits..... 120-121  
 5.10 Additional conditions applicable to all UIC permits..... 122-123  
 5.11 Establishing UIC permit conditions..... 123-125  
 5.12 Corrective or preventative action..... 125-126  
 5.13 Requirements for wells injecting hazardous waste..... 126-127  
 5.14 General criteria and standards..... 127-131  
 5.15 Criteria and standards applicable to Class I wells..... 131-136  
 5.16 Criteria and standards applicable to Class II wells..... 136-139  
 5.17 Criteria and standards applicable to Class III wells..... 140-144  
 5.18 Criteria and standards applicable to Class V wells..... 144

SUBCHAPTER 6 - (RESERVED)

SUBCHAPTER 7 - PROCEDURES FOR DECISION-MAKING

7.1 Purpose and Scope..... 145  
 7.2 Procedures for decision-making..... 145-147  
 7.3 Application review by the Department..... 147-149  
 7.4 Consolidation of permit processing..... 149  
 7.5 Modification, revocation and reissuance, or termination of permits..... 149-151  
 7.6 Draft permit and DAC's..... 151-152  
 7.7 Statement of basis..... 152  
 7.8 Fact sheet..... 152-153  
 7.9 Administrative record for the DAC and draft permits..... 153-154

SUBCHAPTER 8 - PUBLIC COMMENT AND NOTICE PROCEDURES

8.1 Public notice of permit actions and public comment..... 155-158  
 8.2 Public comments and requests for public hearings..... 158  
 8.3 Public hearings..... 158-159  
 8.4 Obligation to raise issues and provide information during the public comment period..... 159  
 8.5 Reopening of the public comment period..... 159-160  
 8.6 Issuance and effective date of permit..... 160  
 8.7 Stays of contested permit conditions..... 160-161  
 8.8 Response to comments..... 161  
 8.9 Administrative record for final permit..... 162  
 8.10 Requests for adjudicatory hearing..... 163-164  
 8.11 Decision an request for hearing..... 164-165  
 8.12 Obligation to submit evidence and raise issues before a final permit is issued..... 165  
 8.13 Notice of hearing..... 165  
 8.14 Additional parties and issues..... 165-166  
 8.15 Conduct of adjudicatory hearings..... 166

SUBCHAPTER 9 - SPECIFIC PROCEDURES APPLICABLE TO DSW PERMITS

9.1 Permits required on a case-by-case basis..... 167  
 9.2 Fact sheet..... 167-168  
 9.3 Public notice..... 168  
 9.4 Conditions requested by the Corps of Engineers and other government agencies..... 168-169  
 9.5 Issuance and effective date and stays of DSW permits..... 169  
 9.6 Decisions on variances..... 169-170  
 9.7 Procedures for variances..... 170-171

SUBCHAPTER 10 - FILING REQUIREMENTS FOR NJPDES PERMITS

10.1 Schedule for the submission of applications... 172-177  
 10.2 Initial filing fee..... 177-178  
 10.3 Discharges to surface water..... 179-188  
 10.4 Environmental Assessment for a discharge allocation certificate..... 189-198  
 10.5 Indirect discharges..... 199-204  
 10.6 Industrial Waste Management Facility..... 205-206  
 10.7 Surface impoundments..... 207-212  
 10.8 Land application of sludge and septage..... 213-218  
 10.9 Land application of effluents by spray irrigation..... 219-224  
 10.10 Land application of effluents by overland flow..... 225-230  
 10.11 Land disposal infiltration-percolation lagoons..... 231-236  
 10.12 Discharges from sanitary landfills..... 237-246  
 10.13 Underground injection control..... 246-254

SUBCHAPTER 11 - PUBLIC ACCESS TO INFORMATION AND REQUIREMENTS FOR DEPARTMENT DETERMINATION OF CONFIDENTIALITY

11.1 Public access to information..... 255  
 11.2 Confidentiality..... 255  
 11.3 Procedures for asserting or reasserting confidentiality..... 255-257  
 11.4 Fees..... 257  
 11.5 Procedure for confidentiality determinations.. 257-262  
 11.6 Substantive criteria for confidentiality determinations..... 262  
 11.7 Class determinations..... 262-263  
 11.8 Access to an safeguarding of confidential informations..... 263-264  
 11.9 Disclosure of confidential information to Federal interstate, and other State agencies.. 264  
 11.10 Disclosure of confidential information to authorized agents..... 265  
 11.11 Designation by person of an addressee for notices and inquiries..... 265-266

APPENDICES

- Appendix A - DSW Primary Industry Categories
- Appendix B - Interim Ambient Water Quality Criteria
- Appendix C - Monitoring Report Data Forms
- Appendix D - DSW Permit Application Testing Requirements
- Appendix E - Sample Area of Review Formula
- Appendix F - Criteria for Determining a Concentrated Animal Feeding Operation
- Appendix G - Criteria for Determining a Concentrated Aquatic Animal Production Facility

SUBCHAPTER 1 - GENERAL INFORMATION

1.1 Authority

These regulations are promulgated pursuant to the authority of the following acts: (a) New Jersey "Water Pollution Control Act", N.J.S.A. 58:10A-1 et seq.; (b) "Water Quality Planning Act", N.J.S.A. 58:11A-1 et seq.; (c) "Pretreatment Standards for Sewerage", N.J.S.A. 58:11-49 et seq.; (d) "Spill Compensation and Control Act", N.J.S.A. 58:10-23.11 et seq.; (e) "Licensing of Superintendents or Operators of Public Water Treatment Plants, Public Sewage Treatment Plants and Public Water Supply Systems", N.J.S.A. 58:11-18.10 et seq.; (f) N.J.S.A. 13:1D-1 et seq.; and (g) N.J.S.A. 13:1B-5,

1.2 Purpose

It is the purpose of these regulations to:

- (a) Restore, enhance, and maintain the chemical, physical, and biological integrity of the waters of the State;
- (b) Protect public health and safety;
- (c) Protect potable water supplies;
- (d) Safeguard fish and aquatic life and scenic and ecological values;
- (e) Enhance the domestic, municipal, recreational, industrial, and other uses of water;
- (f) Prevent, control, and abate water pollution and to implement the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.

1.3 Scope

- (a) No person shall build, install, modify, or operate any facility for the collection, treatment or discharge of any pollutant, except in conformance with a valid New Jersey Pollutant Discharge Elimination System (NJPDES) permit that has been issued by the Department pursuant to the State Act and these regulations.

- (b) These regulations prescribe procedures and guidelines for implementation and operation of the New Jersey Pollutant Discharge Elimination System (NJPDES) permit program.
- (c) It is the intent of the Department to regulate the following by means of the New Jersey Pollutant Discharge Elimination System (NJPDES) permit program:
1. Discharge of pollutants to surface and ground waters;
  2. Discharge of pollutants into a municipal or privately owned treatment works;
  3. Land application of residuals;
  4. Land application of municipal and industrial wastewaters;
  5. Discharge of leachate to surface waters and into the ground water from facilities under the jurisdiction of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq;
  6. Criteria for the construction and operation of treatment works;
  7. The storage of any liquid or solid pollutant, in a significant quantity, in a manner designed to keep it from entering the waters of the State;
  8. Discharge of pollutants into wells;
  9. Concentrated animal feeding operations as defined in Section 3.4;
  10. Concentrated aquatic animal production facilities as defined in Section 3.5;
  11. Discharges into aquaculture projects as set forth in Section 3.6;
  12. Silvicultural point sources as defined in Section 3.7;
  13. Discharges from separate storm sewers as set forth in Section 3.8.

- (d) The Department may issue, but is not limited to, permits under the NJPDES permit program for:
1. Discharge of pollutants to surface water (DSW), (Subchapter 3) including, where applicable, a discharge allocation certificate (DAC) (Section 3.3);
  2. Discharge of pollutants into a municipal or privately owned treatment works (Indirect discharger);
  3. An industrial waste management facility (IWMF) (Subchapter 4);
  4. Discharge of pollutants into wells (Underground Injection Control (UIC) (Subchapter 5));
  5. Surface impoundments;
  6. Land application of sludge and septage;
  7. Land application of effluents by spray irrigation;
  8. Land application of effluents by overland flow;
  9. Land disposal by infiltration-percolation lagoons;
  10. Discharges from sanitary landfills (a DGW or DSW).
- (e) The following discharges do not require NJPDES permits:
1. Any 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 exclusion does not apply to rubbish, trash, garbage, or other such materials discharged overboard; nor to 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, 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 1510 (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 et seq.;
4. Discharges composed entirely of storm water runoff when these discharges are uncontained by any industrial or commercial activity unless these particular storm water runoff discharges have been identified by the Department as a significant contributor of pollution or unless required to be permitted pursuant to Sections 3.8 or 3.9;
5. Discharges from septic tank systems or other individual subsurface sewage disposal systems which are installed and operating in conformance with the "Realty Improvement Sewerage and Facilities Act" N.J.S.A. 58:11-23 through 42 (commonly known as Chapter 199), and which are not regulated under N.J.S.A. 58:11-43 et seq. (This provision shall not exempt spills, leaks, overflows, or other unapproved or uncontrolled releases or dumping and therein the discharge shall require a NJPDES permit);
6. Discharge from nonpoint sources which are not specifically covered by these regulations;
7. Any introduction of pollutants from nonpoint source agricultural and silvicultural activities, including runoff from orchards, cultivated crops, pastures, range lands, and forest lands but not discharges from concentrated animal feeding operations as defined in Section 3.4, discharges from concentrated aquatic animal production facilities as defined in Section 3.5, discharges to aquaculture projects as defined in Section 3.6, and discharges from silvicultural point sources as defined in Section 3.7;
8. Return flows from irrigated agriculture.

#### 1.4 Prohibitions

A NJPDES permit shall not be issued:

- (a) When the conditions of the permit do not provide for compliance with the applicable requirements of the State and Federal Acts or regulations;
- (b) When the Regional Administrator has objected to the issuance of the permit in accordance with the Memorandum of Agreement;
- (c) When, in the judgment of the United States Secretary of the Army, anchorage and navigation in or on any of the waters of the United States would be substantially impaired by the discharge;
- (d) For the discharge of any radiological, chemical, or biological warfare agent or high-level radioactive waste;
- (e) When the imposition of conditions cannot ensure compliance with the applicable water quality requirements of all affected States;
- (f) For any discharge from a point source inconsistent with any areawide plan or plan amendment;
- (g) For any discharge to the territorial sea, the waters of the contiguous zone, or the oceans in the following circumstances:
  1. Before the promulgation of guidelines under Section 403(c) of the Federal Act, (for determining degradation of the waters of the territorial seas, the contiguous zone, and the oceans) unless the Department determines permit issuance to be in the public interest; or
  2. After promulgation of guidelines under Section 403(c) of the Federal Act, when insufficient information exists to make a reasonable judgment as to whether the discharge complies with any such guidelines.
- (h) To a new source if the discharge from its construction or operation will cause or contribute to the violation of water quality standards or the new source will discharge into a designated FW-1 water of the State. The owner or operator of a new source proposing to discharge into a water

segment which does not meet applicable water quality standards or is not expected to meet those standards even after the application of the effluent limitations required by Section 301(b)(1)(A) and 301(b)(1)(B) of the Federal Act or Section 4 of the State Act and for which the Department has performed a pollutant load allocation for the pollutants to be discharged, must demonstrate, before the close of the public comment period, that:

1. There are sufficient remaining pollutant load allocations to allow for that discharge; and
  2. The existing dischargers into that segment are subject to compliance schedules designed to bring the segment into compliance with applicable water quality standards.
- (i) To any facility which requires the disposal of liquid sludge into a landfill after March 15, 1985.

#### 1.5 Consolidation of Permit Processing

- (a) Whenever a facility or activity has more than one type of discharge covered by these regulations, application for all required permits to discharge shall be made at the earliest required date of filing for any of the permits in accordance with Sections 2.1(f) and 10.1.
- (b) 1. Whenever a facility or activity has more than one type of discharge covered by these regulations, processing of two or more applications for those permits may be consolidated. The first step in consolidation is to prepare each draft permit at the same time.
2. Whenever draft permits are prepared at the same time, the statements of basis (required under Section 6.7) or fact sheets (Section 6.8), administrative records (required under Section 6.9), public comment periods (Section 7.1), and any public hearings (Section 7.3) on those permits should also be consolidated. The final permits may be issued together. They need not be issued together if, in the judgment of the Department, joint processing would result in unreasonable delay in the issuance of one or more permits.

- (c) Whenever an existing facility or activity requires additional permits covered by these regulations, the Department may coordinate the expiration date(s) of the new permit(s) with the expiration date(s) of the existing permit(s) so that all permits expire simultaneously. Processing of the subsequent application for renewal permits may then be consolidated.
- (d) Processing of permit applications under paragraphs (b) or (c) of this section may be consolidated as follows:
1. The Department may consolidate permit processing at its discretion.
  2. Permit applicants may recommend whether or not the processing of their applications should be consolidated.

#### 1.6 Severability

If any provision of this Chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions of this Chapter, and to this end, the provisions of this Chapter are declared to be severable.

#### 1.7 Conflict of Interest

- (a) Any board or body which approves all or portions of a permit shall not include as a member any person who receives, or has during the previous two years received, a significant portion of income directly or indirectly from permit holders or applicants for a permit.
- (b) For the purposes of this section:
1. "Board or body" includes any individual, including the Director, who has or shares authority to approve all or portions of permits either in the first instance, as modified or reissued, or on appeal.
  2. "Significant portion of income" means 10 percent or more of gross personal income for a calendar year, except that it means 50 percent of gross personal income for a calendar year if the recipient is over 60 years of age and is receiving that portion under retirement, pension, or similar arrangement.

3. "Permit holders or applicants for a permit" does not include any department or agency of State government.
  4. "Income" includes retirement benefits, consultant fees, interest, and stock dividends.
- (c) For the purposes of this section, income is not received "directly or indirectly from permit holders or applicants for a permit" when it is derived from mutual fund payments, or from other diversified investments for which the recipient does not know the primary sources of income.

#### 1.8 Application of these regulations.

- (a) These regulations shall be liberally construed to permit the Department to effectuate the purposes of the State Act.
1. The Commissioner or an authorized representative may, upon notice to all persons involved in a specific proceeding, in the interest of justice, relax the application of these regulations.
  2. The Department may require an applicant to provide additional information where such information is necessary, in the opinion of the Department, to fully disclose all relevant facts concerning the permit.

#### 1.9 Fee Schedule

- (a) One time initial application fee. The NJPDES permit applicant shall submit a one-time initial application fee in accordance with the fees designated in Section 10.2. Those applicants for a NJPDES permit which had a NPDES permit or had filed an application for a NPDES permit with EPA prior to the effective date of these regulations are exempt from the submission of this filing fee. This fee is based the estimated cost of processing the permit application.
- (b) Annual operating fee. The Department shall collect annual fees which shall be based upon the estimated cost of administering the NJPDES permit program and processing, monitoring, and enforcing the permits. The fee for each permittee shall be related to the total quantity of pollutants being discharged by the permittee. The yearly fee for a discharge shall be computed according to a sliding scale formula which approximates the relative administrative costs for permits processing, issuance and enforcement.

#### (c) Public Hearing.

The Department shall hold a public hearing concerning the fees each year prior to the assessment of the fees which cover the following year.

#### (d) Annual fee for discharge to surface water.

1. The yearly fee for a direct discharge to surface water shall be based on the average daily biochemical oxygen demand (BOD<sub>5</sub>) or chemical oxygen demand (COD) mass loading and/or heat loading as reported to the Department by the permittee on the monthly operator's report forms shown in Appendix E.

- i. For the purpose of these regulations average daily discharge rate, Biochemical Oxygen Demand mass loading (5 day), (BOD<sub>5</sub>), the average daily chemical oxygen demand (COD) mass loading, and average daily heat loading shall be computed as follows:

- (A) The reported average monthly BOD<sub>5</sub>, COD as submitted to the Department on the monthly operator's report (Form T-VWX-011) shall be multiplied by the average monthly discharge flow rate (Form T-VWX-011) and the appropriate factors. (Appendix C).
- (B) The monthly average BOD<sub>5</sub> or COD mass loading computed in (d)1.i.(A) or the average daily thermal loading reported in the monthly operator's report (Form DEP T-VWX-011) shall be summed for the months of January through and including December. The sum of the appropriate monthly averages shall be divided by 12 to obtain a daily average. For the purposes of fee calculation this daily average shall be interpreted as the average mass loading of BOD<sub>5</sub> or COD per day or as the average heat loading per day for the discharge.
- (C) If the discharge has been in operation less than one year the average daily mass or heat loading shall be based on the actual number of months of operation. This annual fee shall be proportional to the number of months of operation but not less than the minimum amount given in paragraphs ii.(A) through (C).

ii. The annual fee shall be computed as follows:

(A) For municipal discharges the annual fee  $F_m$  in U.S. dollars is given by:

$$F_m = -3314.868 + 716.380 (L-BOD)^{1/3}$$

where L-BOD is the average daily BOD<sub>5</sub> mass loading in lbs. computed according to the procedures described in paragraph (d). The minimum annual fee shall be \$100.

(B) For industrial discharges the annual fee  $F_i$  in U.S. dollars is given by:

$$F_i = -4260.047 + 2103.776 (3(L-COD))^{1/3}$$

where L-COD is the average daily COD mass loading in lbs. computed according to the procedure described in paragraph (d). The minimum annual fee shall be \$100.

(C) For discharges consisting solely of non-contact cooling waters the annual fee  $F_t$  in U.S. Dollars is given by:

$$F_t = -396.7605 + 1712.0768 (H_m)^{1/3}$$

where  $H_m$  is the average daily heat load expressed as million BTU's (British Thermal Units) per hour computed according to the procedure described in paragraph (d).

(D) The Department may from time to time amend these formulas to account for changing conditions and costs.

iii. For calendar year 1980 the annual fees for municipal, industrial and thermal discharges shall be computed according to the formulas in paragraphs ii.(A) through (C). However instead of the actual discharge values the average daily BOD and COD shall be assumed to be as follows:

(A) DTW primary treated effluent  
BOD<sub>5</sub> = 100 mg/l

(B) DTW secondary treated effluent  
BOD<sub>5</sub> = 20 mg/l

(C) Industrial primary treated effluent  
COD = 100 mg/l

(D) Industrial secondary treated effluent  
COD = 20 mg/l

(e) Annual permit fees for discharges to groundwater (Reserved).

(f) Annual permit fees for discharges to domestic treatment works (Reserved).

1.10 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 permanently 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.

"Administrator" means the Administrator of the United States Environmental Protection Agency (EPA) 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 authority" 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.

"Applicable standards and limitations" means all State, interstate, and Federal standards and limitations to which a "discharge" or a related activity is subject under the Federal or State Acts including "effluent limitations," water quality standards, standards of performance, toxic effluent standards or prohibitions, "best management practices," and pretreatment standards under sections 301, 302, 303, 304, 306, 307, 308, 403, and 405 of the Federal Act and Section 4 or 8 of the State Act.

"Applicant" means a person who applies for a NJPDES permit, DAC, or a Departmental approval pursuant to these regulations.

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

"Aquifer" means a geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

"Area of review" means the area surrounding an "injection well" described according to the criteria set forth in Section 5.14 (b).

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

"Average monthly discharge limitation" means the highest allowable average of "daily discharges" over a calendar month or any 30 consecutive days, calculated as the sum of all daily discharges measured during a calendar month or any 30 consecutive days, divided by the number of daily discharges measured during that month.

"Average weekly discharge limitation" means the highest allowable average of "daily discharges" over a calendar week or any seven consecutive days, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

"Best Engineering Judgment" means a limitation determined on a case-by-case basis on any pollutant, combination of pollutants, or practice(s) which is determined necessary to carry out the provisions of the Federal and State Acts. (Such limitations are specifically authorized by Section 402(a)(1) of the Federal Act.) "Best Engineering Judgment" limitations can be used to set Best Available Technology Economically Achievable, Best Conventional Pollutant Control Technology, Best Practicable Control Currently Available, or "Best Management Practices" limitations, as defined in the Federal Act in the absence of an applicable promulgated effluent guideline.

"Best management practices ("BMPs") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of "waters of the State". BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

"Biological Monitoring Method" means a testing method which utilizes any biological system or any of its parts for assessing the presence or effects of one or more pollutants and/or environmental factors, either alone or in combination. Bio-monitoring refers to acute toxic bioassays.

"BMPs" means "best management practices."

"Bypass" means the intentional diversion of wastes from any portion of a treatment facility.

"Casing" means a heavy metal (steel or iron) pipe or tubing of varying diameter and weight, lowered into a borehole during or after drilling in order to support the sides of the hole and thus prevent the walls from caving, to prevent loss of drilling mud into porous ground, or to prevent water, gas, or other fluid from entering the hole.

"Catastrophic collapse" means the sudden and utter failure of overlying "strata" caused by removal of underlying materials.

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

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

"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.

"Contaminant" means any physical, chemical, biological, or radiological substance 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 those pollutants designated under the authority of Section 304(b)(4) of the Federal Act.

"DAC" means "Discharge Allocation Certificate".

"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 over the day.

"DEP" means "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.

"DGW" means a discharge to ground 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.

"Director" means the Director of the Department's Division of Water Resources or an authorized representative.

"Discharge" means the releasing, spilling, leaking, pumping, pouring, emitting, emptying, or dumping of a pollutant into the waters of the State or onto land or into wells from which the pollutant might flow or drain into said waters, and shall include the release of any pollutant into a municipal treatment works.

"Discharge allocation certificate" (DAC) means the certificate issued by the Department pursuant to Section 3.3 which designates the quantity and quality of pollutants, which may be discharged from 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" (DMR) means the EPA uniform national form, including any subsequent additions, revisions or modifications, for the reporting of self-monitoring results by permittees.

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

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground water.

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

"DMR" means "Discharge Monitoring Report".

"Domestic Treatment Works" (DTW) means a treatment works processing primarily domestic wastes together with any ground water, surface water or storm water that may be present.

"Draft permit" means a document prepared under Section 7.6 indicating the Director's tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a "permit". A notice of intent to terminate a permit, and a notice of intent to deny a permit, as discussed in Section 7.5, are types of "draft permits". A denial of a request for modification, revocation and reissuance, or termination, as discussed in Section 7.5, is not a "draft permit". A "proposed permit" is not a "draft permit".

"DSW" means a discharge to surface water.

"DTW" means "Domestic Treatment Works"

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

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

"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).

Notwithstanding the 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:

1. 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
2. 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/or concentration of chemical, physical, thermal, biological, or other constituents of a pollutant;

"Effluent limitation guidelines" means a regulation published by the Administrator under section 304(b) of the Federal Act to adopt or revise "effluent limitations."

"Emergency permit" means a "permit" issued in accordance with section 2.2 of these regulations.

"EPA" means the United States Environmental Protection Agency.

"Exempted aquifer" means an "aquifer" or its portion that meets the criteria in the definition of "underground source of drinking water" but which has been exempted according to the procedures in Section 5.6 (b).

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

"Existing source" means any source which is not a new source.

"Facility" means "treatment works".

"Federal Act" means the "Clean Water Act of 1977" P.L. 95-217, 33 U.S.C. 1251 et seq. and amendments, made thereto.

"Final draft permit" means a document issued according to the procedures in Section 7.2.

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

"Fluid" means material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or any other form or state.

"Food-chain crops" means tobacco, crops grown for human consumption, and crops grown for feed for animals whose products are consumed by humans.

"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 dike and the surface of the waste contained therein.

"Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure.

"General permit" means a NJPDES "permit" authorizing a category of discharges within a geographic area.

"Ground water" means water below the land surface in a zone of saturation.

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

"Hazardous waste" means a hazardous waste as defined in N.J.A.C. 7:26-6.1 et seq.

"Industrial Waste Management facility" means all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, "hazardous waste." A facility may consist of several operational units.

"IWMF" means Industrial Waste Management Facility.

"Indirect discharger" means any person who discharges non-domestic pollutants into a DTW.

"Individual subsurface sewage disposal system" means a system for the disposal of sewage to the ground, which is so designed and constructed to treat sanitary sewage in a manner that will retain most of the settleable solids in a septic tank and to discharge the liquid portion to an adequate disposal area.

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

"Industrial treatment works" means a "treatment works" which handles primarily "industrial pollutants".

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

"Injection well" means a "well" into which "fluids" are being injected.

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

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

"Landfill" means "sanitary landfill"

"Leachate" means any liquid, including any suspended components in the liquid, that has percolated through or drained from any waste.

"Liner" means a continuous layer of natural or man-made materials, beneath or on the sides of a surface impoundment, or landfill, which restricts the downward or lateral escape of any waste, waste constituents or leachate.

"Lithology" means the description of rocks on the basis of their physical and chemical characteristics.

"Major facility" means any "facility" or activity classified as such by the Regional Administrator or the Department.

"Maximum daily discharge limitation" means the highest allowable "daily discharge."

"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 a State NPDES program (NJPDES).

"MGD" means a million gallons per day.

"Minor facility" means any facility or activity not classified a "major facility."

"Modification" means any alteration, expansion, equipment replacement or other change which may reasonably be expected to affect the quantity of flow treated or the quality of the effluent discharged to the waters of the State or to a publicly owned treatment works;

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

"Municipal treatment works" means "POTW."

"National Pollutant Discharge Elimination System" 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.

"New IWMF" means an "Industrial Waste Management Facility" which began operation after or for which construction commenced after October 21, 1976.

"New injection well" means a "well" which begins injection after the State UIC program is approved.

"New Jersey Pollutant Discharge Elimination System" means the New Jersey system for the issuing, modifying, suspending, revoking and reissuing, terminating, monitoring and enforcing, discharge permits pursuant to the State Act. The system includes a discharge allocation certificate and a final draft permit.

"New source" means any person planning to undertake any activity which will require a permit covered by these regulations.

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

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

"Non-point source" means a contributing factor to water pollution that cannot be traced to a specific discernable confined and discrete conveyance, e.g., certain cases of agricultural fertilizer runoff.

"NPDES" means "National Pollutant Discharge Elimination System".

"Owner or operator" means the owner or operator of any facility or activity subject to these regulations.

"Overland flow" means the controlled discharge, by spraying or other means, of effluent onto a sloping land with a large proportion of the wastewater appearing as runoff. As the effluent flows over the land, the suspended solids are filtered out and the organic matter is oxidized by the bacteria living in the vegetative litter.

"Packer" means a device lowered into a well which can be expanded to produce a water tight seal.

"Permit" means an authorization, license, or equivalent control document issued by the Department to implement the requirements of these regulations. Permit does not include UIC authorization by rule or any permit which has not yet been the subject of final agency action, such as a "draft permit" or a "proposed permit."

"Permit by rule" means a provision of these regulations stating that a "facility or activity" is deemed to have a RCRA permit if it meets the requirements of the provisions.

"Person" means an individual, corporation, company, partnership, firm, association, owner, or operator of a treatment works, political subdivision of this State or any State, Federal or inter-state agency or an agent or employee thereof.

"Plugging" means the act or process of stopping the flow of water, oil, or gas in "formations" 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, 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, radioactive materials, thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, agricultural and construction waste or runoff or other residue discharged to the land, ground waters or surface waters of the State;

"POTW" means "publicly owned treatment works."

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

"Pretreatment standard" means any limitation on quantities, quality, rates, and/or concentrations of pollutants discharged into municipal or privately owned treatment works, adopted pursuant to "Pretreatment Standards for Sewerage" N.J.S.A. 58:11-49 et seq. or Section 4 of the State Act.

"Primary industry category" means any industry category listed in the NRDC settlement agreement (Natural 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 Appendix A of 40 CFR Part 122.

"Priority pollutant" means those pollutants listed pursuant to Section 307(a) of the Federal Act or Section 4 of the State Act or Tables I, II, and III of Appendix D.

"Privately owned treatment works" means any device or system which is (a) used to treat wastes from any facility whose operator is not the operator of the treatment works and (b) not a "POTW."

"Process waste water" 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.

"Proposed permit" means a NJPDES "permit" prepared after the close of the public comment period (and when applicable, any public hearing and administrative appeals) which is sent to EPA for review before final issuance by the State. A "proposed permit" is not a draft permit."

"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 hearing" is a legislative type hearing before a representative of the Department providing the opportunity for public comment but which does not include cross-examination.

"Publicly owned treatment works" ("POTW") means any device or system used in the 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.

"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.

"RCRA" means the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580, as amended by Pub. L. 95-609, 42 U.S.C. 6901 et seq.).

"Regional Administrator" means the Regional Administrator of the appropriate Regional Office of the Environmental Protection Agency or the authorized representative of the Regional Administrator.

"Run-off" means any rainwater, leachate, or other liquid that drains over land from any part of a facility.

"Run-on" means any rainwater, leachate, or other liquid that drains overland onto any part of a facility.

"Sanitary landfill" means a land disposal site employing an engineered method of disposal of solid waste in a manner that minimizes environmental hazards, including but not limited to the spreading of the solid waste in thin layers compacting the waste to the smallest practical volume, and applying cover material on a daily or more frequent basis.

"Sanitary sewage" means any liquid waste, containing animal or vegetable matter in suspension or solution of the water carried wastes resulting from the discharge of water closets, laundry tubs, washing machines, sinks, dishwashers, or any other source of water-carried waste of human origin or containing putrescible material.

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

"Schedule of compliance" means a schedule of remedial measures included in a "permit," including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with the appropriate Act and regulations.

"SDWA" means the Safe Drinking Water Act (Pub. L. 95-523, as amended by Pub. L. 95-1900; 42 U.S.C. 300f et seq.).

"Seasonal high water table" means the maximum level to which ground water will be normally expected to rise

"Secretary" means the Secretary of the Army, acting through the Chief of Engineers.

"Septage" means the combination of liquid and solid residues resulting from the treatment of water borne domestic waste in individual subsurface sewage disposal systems.

"Severe property damage" means substantial physical damage to property, damage to the treatment facilities 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 storm water runoff, that are discharged to or otherwise enter a DTW.

"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 solids, residues, and precipitate separated from or created in sewage by the unit processes of a DTW.

"Significant Industrial User" ("SIU") means any user who discharges process wastewater into a POTW in the following manner:

- (i) the volume exceeds 25,000 gallons per day; or
- (ii) the amount of BOD, COD or Suspended Solids in the discharge exceeds the mass equivalent of 25,000 gallons per day of the domestic waste of the affected POTW; or
- (iii) the volume exceeds five percent of the average daily flow of the treatment works; or
- (iv) the discharge contributes five percent or more of the daily mass loading of any of the pollutants listed in Appendices B-2 or B-3 of "Regulations for Sludge Quality Assurance Required of Domestic and Industrial Treatment Works, and Pretreatment Works for Significant Industrial Users", N.J.A.C. 7:14-4.1 et seq.

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

"SIU" means "Significant Industrial User."

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

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

"Solid Waste Administration" means the Solid Waste Administration in the New Jersey Department of Environmental Protection.

"Solid waste facility" means a facility which is so designated and regulated under the "Solid Waste Management Act," N.J.S.A. 13:1E-1 et seq.

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

"Spray irrigation" means a system for land application of wastewater using sprinkler heads or nozzles as a method of application.

"State" means State of New Jersey.

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

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

"Storage" means the holding of "waste" for a temporary period, at the end of which the waste is treated, disposed, or stored elsewhere.

"Stratum (plural strata)" means a single sedimentary bed or layer, regardless of thickness, that consists of generally the same kind of rock material.

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

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

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

"Surface water" means any "waters of the State" which are not "ground water."

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

"Thermal discharge" means that component of any discharge which is comprised of heat, and which shall be limited in accordance with Sections 301, 306, 316 of the Federal Act Section 4 of the State Act or when determined necessary by the Department, 316 of the Federal Act.

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

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

"Trade secret" means the whole or any portion or phase of any scientific, technical or otherwise "proprietary information," design, process, procedure, formula, or improvement which is used in one's business and is secret and of value; and a trade secret shall be presumed to be secret when the owner takes measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes.

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

"Treatment works" means any device or systems whether public or private, used in the storage, treatment, recycling, or reclamation of municipal or industrial waste of a liquid nature including intercepting sewers, outfall sewers, sewage collection systems, cooling towers and ponds, pumping, power and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby

treatment units and clear well facilities; and any other works including sites for the treatment process or for ultimate disposal of residues resulting from such treatment. Additionally, "treatment works" means any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of pollutants, including storm water runoff, or industrial waste in combined or separate storm water and sanitary sewer systems;

"UIC" means the Underground Injection Control program.

"Underground injection" means a "well injection."

"Underground source of drinking water" ("USDW") means an "aquifer" or its portion:

- (1)(i) Which supplies drinking water for human consumption; or
- (ii) In which the ground water contains fewer than 10,000 mg/l "total dissolved solids;" and
- (2) Which is not an "exempted aquifer."

"Unsaturated zone" or "zone of aeration" means the zone between the land surface and the water table.

"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

"U.S.D.A." means United States Department of Agriculture.

"USDW" means "underground source of drinking water."

"U.S.G.S." means United States Geological Survey.

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

"Waste load" means the amount of chemical, physical, or biological matter contained within a waste discharge.

"Waste load allocation" means the assignment of maximum waste loads to point-source discharges so as to maintain water quality standards.

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

"Water quality standards" means the physical, chemical, biological and esthetic characteristics of a water body as described by State water quality criteria 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 this State or subject to its jurisdiction.

"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 a bored, drilled or driven "well"; or through a dug well, where the depth of the dug well is greater than the largest surface dimension.

"Well log" means a log obtained from a well, showing such information as resistivity, radioactivity, spontaneous potential, and acoustic velocity as a function of depth.

"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 (1) surging, (2) jetting, (3) blasting, (4) acidizing, (5) hydraulic fracturing.

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

"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. Wetlands generally include swamps, marshes, bogs, and similar areas.

"Zone of saturation" means "saturated zone."

SUBCHAPTER 2 - GENERAL REQUIREMENTS FOR THE NJPDES PERMIT

2.1 Application for a Permit

(a) General

Any person who discharges or proposes to discharge pollutants to the waters of the State and who does not have an effective permit, with the exception of those persons who are exempted under Section 1.3(e) covered by a general permit under Section 3.9, or who have filed a timely application in accordance with paragraph (f) and Section 10.1, shall complete, sign and submit an application for a NJPDES permit to:

Assistant Director  
Water Quality Management  
Division of Water Resources  
P.O. Box CN-029  
Trenton, N.J. 08625

This application, concerning each existing or proposed discharge described in Section 1.3(d), shall be submitted in accordance with this Section, the schedule for the submission of applications (Section 10.1), and other applicable sections of these regulations, (DSW 3.2, 3.3, and 10.3) (Indirect discharger 10.5) (IWMF 4.3 and 10.6) (UIC 5.8 and 10.13) (DGW Subchapter 6 and 10.7 through 10.12). Application forms are available from the above address. In addition, the Department may issue emergency permits pursuant to Section 2.2.

(b) When a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit, except that for a IWMF permit only, the owner shall also sign the permit application.

(c) The Department shall not issue a permit before receiving a complete application, with the exception of an emergency permit issued pursuant to Section 2.2. An application for a permit is complete when the Department receives all of the information required on the application form and any requested supplemental information and determines the application has been satisfactorily completed. The completeness of each application for any type of discharge permit shall be judged independently of the status of any other permit application or permit for the same facility or activity. An applicant is required to submit the applicable information in Sections 1.8(a)2., 2.1, 3.2, 4.3, 5.8, and Subchapters 6 and 10. The Department shall not make a final determination on any application until such time as the applicant has supplied any missing information and corrected any deficiencies.

- (d) A person whose facility or activity results in more than one discharge at a single site, shall describe each discharge separately in the application.
- (e) Any person with a discharge which is the subject of any of the applications required by these regulations and which threatens public health, causes or contributes to any contravention of applicable water quality standards or effluent limitations, may be required to abate such pollution notwithstanding the filing of an application or pending filing requirement.
- (f) Schedule for submission of applications:
  - 1. Any person planning to undertake any activity which will result in a discharge to surface water (DSW) or a substantial modification in a DSW as defined in Section 3.3 shall apply for a discharge allocation certificate (DAC) in accordance with Section 3.3.
  - 2. Any person planning to undertake any activity which will result in a discharge covered by these regulations (except for a discharge to surface water (DSW)) shall apply for a NJPDES permit in accordance with Section 7.2, 180 days prior to building, installing, or substantially modifying any facility for the collection or treatment of any pollutant.
  - 3. Any person planning to undertake any activity which will result in a discharge covered by these regulations, which does not require a facility for the collection or treatment of waste, shall apply for a NJPDES permit 90 days prior to planned discharge.
  - 4. Any person who had a NPDES permit prior to the effective date of these regulations shall apply for a NJPDES permit in accordance with Section 10.1.
  - 5. Any person planning to continue discharging after the expiration date of an existing NJPDES permit must file an application for renewal at least 180 days prior to expiration of the existing permit.
  - 6. All other applicants for a NJPDES permit(s) shall apply in accordance with Section 10.1.

- (g) All applicants for NJPDES permits shall provide the following information to the Department using the application form provided by the Department:
  - 1. The activities conducted by the applicant which require it to obtain a NJPDES permit.
  - 2. Name, mailing address, and location of the facility for which the application is submitted.
  - 3. The SIC codes which best reflect the principal products or services provided by the facility.
  - 4. The operator's name, address, telephone number, ownership status, and status as Federal, State, private, public or other entity.
  - 5. Name of applicant's parent corporation or subsidiary corporations.
  - 6. A listing of all permits or construction approvals received or applied for by the applicant or its parent corporation or subsidiary corporation within the State under any of the following programs:
    - i. Hazardous Waste Management program under RCRA.
    - ii. NJPDES permits or treatment works approvals under the State Act or construction and operate permits.
    - iii. Prevention of Significant Deterioration (PSD) program under the Clean Air Act.
    - iv. Nonattainment program under the Clean Air Act.
    - v. National Emission Standards for Hazardous Pollutants (NESHAPS) preconstruction approval under the Clean Air Act.
    - vi. Dredge or fill permits under section 404 of the Federal Act.
    - vii. Other relevant environmental permits, including Federal permits.

7. Identification of administrative orders issued or complaints filed, against the operation of the applicant concerning pollution within the previous 10 years.
8. To the extent practicable, the location of all sites involved in the storage of solid or liquid waste at the facility for which the NJPDES application is being made and the ultimate disposal sites of solid or liquid waste generated by any facility with a discharge.
9. A topographic map (U.S. Geological Survey Topographic Map. 7.5 minute Quadrangle Series) extending one mile beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage, or disposal facilities; each well where fluids from the facility are injected underground; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant in the map area.
10. A brief description of the nature of the business.
11. Microfilming.

All information required for the filing of an application shall be submitted on microfilm or microfiche. Filing shall be in accordance with Department specifications or standards. A copy of the Department microfilming specifications shall be included in the application forms. The Department shall provide microfilming service at the request of an applicant. Reasonable fees to shall be prescribed to reimburse to Department for microfilming expenses.

- (h) The Department may require than an applicant for a NJPDES permit provide additional data, reports, specifications, plans or other information concerning the existing or proposed pollution control program. The Department shall not make a final determination an any application until such time as the applicant has supplied the requested information and otherwise corrected any deficiencies.

- (i) Recordkeeping. Applicants shall keep records of all data used to complete permit applications and any supplemental information submitted under Sections 2.1, (3.2 DSW) (4.3 IWMF) (5.8 UIC) and Subchapters 6 and 10 for a period of at least 3 years from the date the application is signed.
- (j) Endorsements and comments
1. Prior to the submission of an application for a new source NJPDES permit, including a DAC, the applicant shall submit (return receipt requested) a copy of the application and the applicable information required pursuant to these regulations to the affected sewerage authority(ies) and to the municipality in which the discharge(s) will be located, with a request that they endorse the application. The applicant shall submit a copy of the request for endorsement and receipt (return receipt requested) when filing an application with the Department. A request for an endorsement is not required when filing applications for renewal of NJPDES permits or discharges which exist as of the effective date of these regulations. Although the applicant must submit a request for an endorsement to the municipality and affected sewerage authority, an endorsement is not required for a Department determination of whether to issue a draft permit in accordance with Section 7.6.
  2. Endorsement by municipality
    - i. An endorsement by a municipality concerning a proposed discharge of industrial pollutants shall include the following statements:
      - (A) The project as proposed is in conformance with the requirements of all municipal ordinances; and
      - (B) The governing body of the municipality accepts and approves of the project as proposed by the applicant.
    - iii. An endorsement must be in the form of a resolution by the governing body.
    - iii. A certified copy of the resolution, shall be submitted to the Department by the applicant with the application.

- iv. An endorsement by a municipality concerning a proposed domestic treatment works, shall be as required on the CP-1 application form.
- v. If the endorsement is to be signed by anyone other than the mayor, the municipality shall file with the Department an official resolution by the governing body delegating such responsibility to a named individual.

3. Endorsement by affected sewerage authority

- i. For purposes of this section, "affected sewerage authority" means the sewerage authority whose service area includes the site where the discharge requiring a NJPDES permit is located.
- ii. An endorsement by an affected sewerage authority concerning the proposed discharge of industrial pollutants shall include the following statements:
  - (A) The project as proposed is in conformance with the applicable 201 facilities plan and all ordinances, rules or regulations of the authority.
  - (B) The governing body of the authority accepts and approves of the project as proposed by the applicant.
- iii. The endorsement must be in the form of a resolution by the governing body.
- iv. A certified copy of the resolution, shall be submitted to the Department by the applicant with the application.
- v. An endorsement by an affected sewerage authority concerning a proposed domestic treatment works shall be as required on the CP-1 application form.

4. Lack of Endorsement

- i. Where the affected sewerage authority or municipality fails to endorse the application or submit comments within sixty (60) days of request for endorsement the Department shall begin the application process without the endorsement.

- ii. Prior to the expiration of the 60 day period, the municipality may request a thirty day extension for review of the request for endorsement.
- iii. Any document issued by a sewerage authority or a municipality which is tentative, preliminary, or a conditional approval shall not be considered an endorsement.
- iv. Where the affected sewerage authority or municipality denies endorsement to a project, it shall state all reasons for rejection or disapproval in a resolution and send a certified copy of the resolution to the Department.

- 5. Where the municipality or affected sewerage authority denies an endorsement or does not issue an endorsement the Department shall review the reasons for denial of the endorsement or any comments received concerning the application for the NJPDES permit. These reasons and comments shall be considered by the Department in a tentative determination of whether to issue a draft permit in accordance with Section 7.6.

2.2 Emergency permits.

- (a) Coverage. Notwithstanding any other provision of these regulations the Department may issue a temporary emergency permit to a person to allow: discharge of pollutants, where such discharge is unpermitted or the discharge consists of pollutants not covered by an effective permit; treatment, and storage or disposal of hazardous waste for a non-permitted IWMF facility or of hazardous waste not covered by the permit for a IWMF facility with an effective permit; or a specific underground injection which has not otherwise been authorized by permit, if:
  - 1. The Department finds that an imminent and substantial endangerment to human health will result unless a temporary emergency permit is granted; or
  - 2. Except with regard to an injection under the UIC program, the Department finds that an imminent and substantial endangerment to the environment will result unless a temporary emergency permit is granted; or

3. A substantial and irretrievable loss of oil or gas resources will occur unless a temporary emergency permit is granted to a Class II well under the UIC program; and
    - i. Timely application for a permit could not practicably have been made; and
    - ii. The injection will not result in the movement of fluids into underground sources of drinking water; or
  4. A substantial delay in production of oil or gas resources will occur unless a temporary emergency permit is granted to a new Class II well under the UIC program, and the temporary authorization will not result in the movement of fluids into an underground source of drinking water.
- (b) Requirements for issuance. This emergency permit:
1. May be oral or written. If oral, it shall be followed within five days by a written emergency permit;
  2. Shall not exceed 90 days in duration, except:
    - i. That underground injections temporarily permitted in order to prevent an imminent and substantial endangerment to the health of persons shall be for no longer term than required to prevent the hazard, or 90 days, whichever is less;
    - ii. That land application of municipal or non-hazardous sludge temporarily permitted in order to prevent an imminent and substantial endangerment to the health of persons shall be for no longer than required to prevent the hazard, or 180 days whichever is less;
  3. Shall clearly specify the hazardous wastes to be received, and the manner and location of their treatment, storage, disposal, or injection;
  4. Shall clearly specify the rate, quantity, and quality of pollutants to be discharged and the monitoring which is required;

5. May be terminated by the Department at any time without process if it determines that termination is appropriate to protect human health and the environment;
6. Shall be accompanied by a public notice published under Section 8.1 including:
  - i. Name and address of the office granting the emergency authorization;
  - ii. Name and location of the permitted facility;
  - iii. A brief description of the wastes involved;
  - iv. A brief description of the action authorized and reasons for authorizing it; and
  - v. Duration of the emergency permit.
7. With regard to underground injections under paragraph (a)4., shall be issued only after a complete permit application has been submitted and shall be effective until final action on the application;
8. With regard to an injection under the UIC program, shall be conditioned in any manner the Department determines is necessary to ensure that the injection will not result in the movement of fluids into an underground source of drinking water; and
9. Shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of these regulations and 40 CFR Parts 264 and 266.

### 2.3 Continuation of expiring permits.

- (a) The conditions of an expired permit are continued in force pursuant to the "Administrative Procedures Act," N.J.S.A. 52:14B-11, until the effective date of a new permit if:
  1. The permittee has submitted a timely and complete application for renewal as provided in Sections 2.1 and (3.2 DSW) (4.3 IWMF) (5.8 UIC) and Subchapter 10; and
  2. The Department through no fault of the permittee, does not issue a new permit with an effective date under Section 8.6 on or before the expiration date of the previous permit (e.g., when issuance is impracticable due to time or resource constraints.)

- (b) Permits continued under this section remain fully effective and enforceable.
- (c) Enforcement. When the permittee is not in compliance with the conditions of the expiring or expired permit the Department may choose to do any or all of the following:
  1. Initiate enforcement action based upon the permit which has been continued;
  2. Issue a notice of intent to deny the new permit under Section 8.1. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;
  3. Issue a new permit under Subchapters 7 and 8 with appropriate conditions; or
  4. Take other actions authorized by these regulations or the State Act.

#### 2.4 Signatories

- (a) All permit applications, except those submitted for Class II wells for a UIC discharge (see paragraph (b)) shall be signed as follows:
  1. For a corporation: by a principal executive officer of at least the level of vice president;
  2. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
  3. For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official.
- (b) Reports. All reports required by permits, other information requested by the Department and all permit applications submitted for Class II wells under Section 5.8 shall be signed by a person described in paragraph (a) of this section or by a duly authorized representative of that person. A person is a duly authorized representative only if:
  1. The authorization is made in writing by a person described in paragraph (a) of this section;

2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as a position of plant manager, operator of a well or well field, superintendent or person of equivalent responsibility; and
  3. The written authorization is submitted to the Department.
- (c) Changes to authorization. If an authorization on under paragraph (b) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph (b) of this section shall be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.
  - (d) Certification. Any person signing any document under paragraph (a) or (b) shall make the following certification: "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 the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

#### 2.5 Conditions applicable to all permits

The following conditions apply to all permits. For additional conditions applicable to all permits for each of the types of discharges programs individually, see Sections (3.10 and 3.11 DSW), (4.6 IWMMF), (5.10 UIC) (Subchapter 6 - DGW). All conditions applicable to all permits, and all additional conditions applicable to all permits for individual programs, shall be incorporated into the permits either expressly or by reference. A specific citation to these regulations shall be given in the permit.

(a) Duty to comply.

1. The permittee shall comply with all conditions of this permit. No pollutant shall be discharged more frequently than authorized or at a level in excess of that which is authorized by the permit. The discharge of any pollutant not specifically authorized in the NJPDES permit shall constitute a violation of the permit, unless the permittee can prove by clear and convincing evidence that the discharge of the unauthorized pollutant did not result from any of permittees industrial activities which contribute to the generation of its wastewaters. Any permit noncompliance constitutes a violation of the State Act or other authority of these regulations and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.
2. No permittee shall achieve any effluent concentration limitation by dilution.
3. The permittee shall comply with applicable effluent standards or prohibitions established under Section 307 (a) of the Federal and Section 4 of the State Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
4. The State Act provide that any person who violates a permit condition implementing the State Act is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing the State Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

(b) Duty to reapply. If the permittee wishes to continue an activity regulated by a NJPDES permit after the expiration date of the permit, the permittee shall apply for and obtain a new permit.

(c) Duty to halt or reduce activity.

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

2. Upon the reduction, loss, or failure of the treatment facility, the permittee shall, to the extent necessary to maintain compliance with its permit, control production or all discharges or both until the facility is restored or an alternative method of treatment is provided. This requirement applies, for example, when the primary source of power of the treatment facility fails or is reduced or lost.

(d) Duty to mitigate. The permittee shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this permit, including but not limited to, accelerated and/or additional types of monitoring, temporary repairs or other mitigating measures.

(e) Proper operation and maintenance. The permittee shall at all times maintain in good working order and operate as efficiently as possible all treatment works, facilities, and systems of treatment and control (and related appurtenances) for collection and treatment which are installed or used by the permittee for water pollution control and abatement to achieve compliance with the terms and conditions of the permit. Proper operation and maintenance includes but is not limited to effective performance based on designed facility removals, adequate funding, effective management, adequate operator staffing and training, (with operators of treatment works, except for sanitary landfills and land application of sludge or septage, satisfying the licensing requirements of the "Licensing of Superintendents or Operators of Public Water Treatment Plants, Public Sewage Treatment Plants and Public Water Supply Systems" N.J.S.A. 58:11-18.10 et seq.) and adequate laboratory and process controls including appropriate quality assurance procedures as described in 40 CFR 136 and applicable State law and regulations. This provision requires the operation of back-up or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the permit or where required by applicable law or regulation.

(f) Permit actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

- (g) Property rights. This permit does not convey any property rights of any sort, or any exclusive privilege.
- (h) Duty to provide information. The permittee shall furnish to the Department within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Department upon request, copies of records required to be kept by this permit.
- (i) Inspection and entry. The permittee shall allow the Department or an authorized representative, upon the presentation of credentials and other documents as may be required by law to:
  - 1. Enter upon the permittee's premises where a discharge source is or might be located or in which monitoring equipment or records required by a permit are kept, for purposes of inspection, sampling, copying or photographing.
  - 2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
  - 3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
  - 4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the State Act, any substances or parameters at any location.
- (j) Monitoring and records.
  - 1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
  - 2. The State Act provides that any person who falsifies, tampers, with or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit, shall upon conviction, be punished by a fine or no more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

- 3. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.
- 4. Flow measurement shall be made with standard primary flow devices or with accurately calibrated primary flow nonstandard primary flow devices.
  - i. A standard primary flow device is identical to a device which has undergone detailed testing and which has been accepted as having a verified accuracy. A standard device must be installed and maintained in conformity with the description of the original device. The most current edition of the Water Measurement Manual (U.S. Department of the Interior, Bureau of Reclamation) shall be used to determine if a device is a standard device.
  - ii. A nonstandard primary flow device is accurately calibrated only when independent flow measurement made at fairly close discharge intervals over the full operating range have been used to calibrate the device.
  - iii. Electrical, mechanical, and/or pneumatic sensing devices, recorders, and totalizers used to monitor flow shall be calibrated at least once per year.
- 5. A flow measurement system which indicates a flow which deviates by more than 10% from the flow as measured by an accurate independent method shall be deemed to be a violation of the permit, unless a more stringent accuracy requirement is specifically required in the permit.
- 6. The permittee 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 this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time.

7. Records of monitoring information shall include:
    - i. The date, exact place, and time of sampling or measurements;
    - ii. The individual(s) who performed the sampling or measurements;
    - iii. The date(s) analyses were performed;
    - iv. The individual(s) who performed the analyses;
    - v. The analytical techniques or methods used; and
    - vi. The results of such analyses.
  8. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) and on the Department's Monthly Operator's Report (MOR). (See Appendix C).
  9. If the permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.
  10. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Department in the permit.
- (k) Signatory requirement.
1. All applications, reports or information submitted to the Department shall be signed and certified. (See Section 2.4).
  2. Any person who knowingly makes a false statement, representation, or certification in any application, record, or other document filed or required to be maintained under the State Act, shall upon conviction, be subject to a fine of not more than \$10,000 or by imprisonment for not more than 6 months, or by both.

(1) Reporting requirements.

1. Planned changes. The permittee shall give notice to the Department as soon as possible of any planned physical alternations or additions to the permitted facility.
2. Anticipated noncompliance. The permittee shall give reasonable advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
3. Transfers. This permit is not transferable to any person except after notice to the Department. The Department may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the appropriate Act. (See Section 2.12); in some cases, modification or revocation and reissuance is mandatory).
4. Monitoring reports. Monitoring results shall be reported at the intervals specified in the permit.
5. Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
6. Reporting.
  - i. The permittee shall report any non-compliance which may endanger health or the environment. The permittee shall provide the Department with the following information:
    - (A) A description of the discharge;
    - (B) Steps being taken to determine the cause of noncompliance;
    - (C) Steps being taken to reduce and eliminate the noncomplying discharge;

- (D) The period of noncompliance, including exact dates and times and if the noncompliance has not been corrected, and the anticipated time when the discharge will return to compliance;
  - (E) The cause of the noncompliance; and
  - (F) Steps being taken to reduce, eliminate, and prevent reoccurrence of the noncomplying discharge.
- ii. The permittee shall orally provide the information in i.(A) through (C) to the DEP Hotline (609) 292-7172 within 2 hours from the time the permittee becomes aware of the circumstances.
  - iii. The permittee shall orally provide the information in i.(D) through (E) to the DEP Hotline within 24 hours of the time the permittee becomes aware of the circumstances.
  - iv. A written submission shall also be provided within 5 working days of the time the permittee becomes aware of the circumstances. The written submission shall contain the information in i.(A) through (F).
- 7. Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs 1., 4., 5., and 6. of this section, at the time monitoring reports are submitted. The reports shall contain the information required in the written submission listed in paragraph (1)6. of this section.
  - 8. Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, the permittee shall promptly submit such facts or information.
- (m) Disposal of sludge and septage. The permittee shall conform with the "Sludge Quality Assurance Regulations", N.J.A.C. 7:9-4.1 et seq. and to the extent practicable, with the "Guidelines for the Utilization and Disposal of Municipal Sludges and Septage".

2.6 Establishing permit conditions.

- (a) All programs. In addition to conditions required in all permits for all programs (Section 2.5), the Department shall establish conditions, as required on a case-by-case basis, in permits for all programs under Sections 2.7 (Duration of permits), 2.8(a) (Schedules of compliance), and 2.9 (Monitoring).
- (b) Individual Programs.
  - 1. In addition to conditions required in all permits for a particular program (3.10 and 3.11 DSW), (4.6 IWMF), (5.10 UIC), (Subchapter 6 - DGW), the Department shall establish conditions in permits for the individual programs, as required on a case-by-case basis, to provide for and assure compliance with all applicable requirements of the State and Federal Acts, other applicable authority and the regulations promulgated thereunder.
  - 2. All NJPDES permits shall include any applicable State statutory or regulatory requirement which takes effect prior to final administrative disposition of a permit. Section 8.5 (Reopening of comment period) provides a means for reopening Department 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 Section 2.12.
  - 3. New or reissued permits, and to the extent allowed under Section 2.12 modified or revoked and reissued permits, shall incorporate each of the applicable requirements referenced in Sections 3.10 and 3.11 (DSW), 4.6 (IWMF), 5.10 (UIC), and Subchapter 6.
- (c) Incorporation. All permit conditions shall be incorporated either expressly or by reference. If incorporated by reference, a specific citation to the applicable regulations or requirements must be given in the permit.

2.7 Duration of permits.

- (a) NJPDES permits shall be effective for a fixed term not to exceed 5 years except as provided in Section 2.3.
- (b) The term of a permit shall not be extended by modification beyond the maximum duration specified in this section.
- (c) The Department may issue any permit for a duration that is less than the full allowable term under this section.

2.8 Schedules of compliance.

- (a) General. The permit may, when appropriate, specify a schedule of compliance leading to compliance with the State and Federal Acts and all other applicable authority for these regulations.

- 1. Time for compliance. Any schedules of compliance under this section shall require compliance as soon as possible.

- i. (A) For discharges to surface water (DSW), schedules of compliance shall require compliance not later than the applicable statutory deadline under the State and Federal Acts,

- (B) Where the initial NPDES permit was issued to a new source, which commenced discharge after August 13, 1979, or the initial NJPDES permit is issued to a new source, or to a recommencing discharger, the permit shall not contain a schedule of compliance under this section except as provided in Section 2.12(b)3. Within the shortest feasible time of issuance of the new source recommencing discharge permit (not to exceed 90 days) the owner or operator must meet all permit conditions.

- ii. For UIC. Schedules of compliance for discharges into wells shall require compliance not later 3 years after the effective date of the permit.

- 2. Interim dates. Except as provided in paragraph (b)1.ii. of this section, if a permit establishes a schedule of compliance which exceeds 1 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 1 year.

- ii. If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than 1 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. Examples of interim requirements include: (1) submit a complete Step 1 construction grant (for POTWs); (2) let a contract for construction of required facilities; (3) commence construction of required facilities; and (4) complete construction of required facilities.

- 3. Reporting. The permit shall be written to require that no later than 14 days following each interim date and the final date of compliance, the permittee shall notify the Department in writing of its compliance or noncompliance with the interim or final requirements, or submit progress reports if paragraph (a)1.ii. of this section is applicable.

- (b) Alternative schedules of compliance. A NJPDES permit applicant or permittee may cease conducting activities regulated by the State Act 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 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 schedule requirement already specified in the permit.
2. If the decision to cease conducting regulated activities is made before issuance of a permit whose term will include the termination date, the permit shall contain a schedule leading to termination which will ensure timely compliance with applicable requirements, or for a NPDES discharge, compliance no later than the statutory deadline in the Federal Act.
3. If the permittee is undecided whether to cease conducting regulated activities, the Department may issue or modify a permit to contain two schedules as follows:
- i. Both schedules shall contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date which ensures sufficient time to comply with applicable requirements in a timely manner if the decision is to continue conducting regulated activities;
  - ii. One schedule shall lead to timely compliance with applicable requirements, for NPDES permits compliance shall be no later than the statutory deadline in the Federal Act;
  - iii. The second schedule shall lead to cessation of regulated activities by a date which will ensure timely compliance with applicable requirements, for NPDES permit compliance shall be no later than the statutory deadline in the Federal Act.
  - iv. Each permit containing two schedules shall include a requirement that after the permittee has made a final decision under paragraph (b)3.i. of this section it shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and follow the schedule leading to termination if the decision is to cease conducting regulated activities.

4. The applicant's or 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 publicly owned treatment works (POTW) required to develop a pretreatment program shall have a pretreatment program compliance schedule incorporated into the NJPDES/DSW permit at the time of issuance, reissuance or modification of the permit. The compliance schedule shall require the development of an approvable POTW pretreatment program within three years of the time of permit issuance, reissuance, or modification, or no later than prescribed by 40 CFR Part 403.8, whichever is more stringent.
  - (d) New sources or sources which recommence discharging after terminating operations and those sources which had been indirect dischargers which commence discharging into surface waters of the State do not qualify for compliance schedules under this Section except as provided in Section 2.12(b)3. In addition new sources requiring a discharge to surface water (DSW) permit are also subject to the requirements of Section 3.3.
  - (e) All permittees shall provide a report indicating the status of compliance in accordance with Section 2.5(1)5.
- 2.9 Requirements for recording and reporting of monitoring results.
- All permits shall specify:
- (a) Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods when appropriate);
  - (b) Required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring;
  - (c) Applicable reporting requirements based upon the impact of the regulated activity and as specified in Section 3.13 (DSW), Section 4.7 (IWMF), Sections 5.14 through 5.18 (UIC) and Subchapter 6 (DGW). Reporting shall be no less frequent than specified in the above regulations.

### 2.10 Effect of a Permit

- (a) Except for Class II and Class III wells under UIC and for any toxic effluent standards and prohibitions imposed under Section 307 of the Federal Act or Sections 4 or 7 of the State Act, compliance with a permit during its term constitutes compliance, for purposes of enforcement, with Subtitle C of RCRA, with Sections 301, 302, 306, 307, 318, 403 and 405 of the Federal Act and Sections 6 of the State Act, and Part C of the Federal Safe Drinking Water Act. However, a permit may be modified, revoked and reissued, or terminated during its term for cause as set forth in Sections 2.12 and 2.13.
- (b) The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.
- (c) The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of Federal, State or local law or regulations.
- (d) The issuance of a permit does not preempt any duty to obtain local assent required by law for the discharge.

### 2.11 Transfer of permits.

- (a) Transfers by modification. Except as provided in paragraph (b) of this section, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under Section 2.12(b)2.) or a minor modification made (under Section 2.14(d)), to identify the new permittee and incorporate such other requirements as may be necessary under the State and Federal Acts.
- (b) Automatic transfers. As an alternative to transfers under paragraph (a) of this section, any NJPDES permit, except a UIC permit for a well injecting hazardous waste, may be automatically transferred to a new permittee if:
  - 1. The current permittee notifies the Department of the proposed transfer as follows:

- i. Where production levels, products produced, rates of discharge, and wastewater characteristics will remain unchanged the following information shall be submitted at least 90 days prior to a proposed change of ownership:
    - (A) Name and address of current facility;
    - (B) Name and address of new owners;
    - (C) NJPDES permit number;
    - (D) Names of the new principal persons responsible;
    - (E) Names of persons upon whom legal process can be served; and
    - (F) A notarized statement signed by the new principal officer stating that he has read the NJPDES permit and agrees to abide by all the conditions of the permit and that the production levels, products produced, rates of discharge, and wastewater characteristics will remain unchanged.
  - ii. Where there will be a change in production levels, products produced, rates of discharge, or wastewater characteristics, the information required in paragraph (b)1.i. shall be submitted at least 180 days prior to a proposed change of ownership.
2. The current permittee shall include in the notice of proposed transfer a written agreement between the existing and new permittees which includes a specific date for transfer of permit responsibility, coverage, and liability between the parties. In the case of a UIC permit, the notice shall demonstrate that the financial responsibility requirements of 5.11(g) will be met by the new permittee; and

3. The Department does not notify the existing permittee and the proposed new permittee within thirty (30) days of receipt of notice of proposed transfer of an intent to modify or revoke and reissue the permit or for a discharge to surface water (DSW), require a DAC. A modification under this paragraph may also be a minor modification under Section 2.14. If such notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph (b)2. of this section.

#### 2.12 Modification or revocation and reissuance of permits.

- (a) When the Department receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit (For example see Sections 2.5, (3.10 and 3.11 DSW) (4.16 IWMF) (5.10 UIC)), receives a request for modification or revocation and reissuance under Section 7.5, or conducts a review of the permit file) a determination may be made as to whether cause exists under paragraphs (a) and (b) of this section for modification or revocation and reissuance of the permit. If cause exists, the Department may modify or revoke and reissue the permit accordingly, subject to the limitations of paragraph (c) of this section, and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. See Section 7.5(c)2. If cause does not exist under this section or Section 2.14, the Department shall not modify or revoke and reissue the permit. If a permit modification satisfies the criteria in Section 2.14 for "minor modifications" the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and the procedures in Subchapter 6 and 7 shall apply.
- (b) The following are causes for modification but not revocation and reissuance of permits. However, for Class II or III wells under UIC, the following may be causes for revocation and reissuance as well as modification; and the following may be cause for revocation and reissuance as well as modification under any program when the permittee requests or agrees.

1. Alterations. There are material and substantial alterations or additions (a 20% change in the quantity or quality of the pollutants or total discharge) to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.
2. Information. The Department has received new information. Permits other than for UIC class II and III wells may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance. For UIC area permits (Section 5.9) and DSW general permits (Section 3.9) this cause shall include any information indicating that the cumulative effects on the environment are unacceptable.
3. New regulations. A permit may be modified after the promulgation of any applicable water quality standard, effluent standard, other standard or by judicial decision after the permit is issued. The Department may provide for a schedule of compliance in accordance with Section 2.8 in order for the permittee to meet such standards.
4. Compliance schedules. The Department determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy. However, in no case shall a NJPDES compliance schedule be modified to extend beyond an applicable statutory deadline. See also Section 2.14 (minor modifications) and paragraph (b)5.xi. of this section (DSW innovative technology).
5. For discharges to surface water (DSW) only: the Department may also modify a permit:

- i. When the permittee has filed a request for a variance under Section 4 of the State Act or Sections 301(c), 301(g), 301(h), 301(i), 301(k), or 316(a), or for "fundamentally different factors" under the Federal Act within the time specified in Section 3.2 and the Department processes the request under the applicable provision of Sections 9.6 and 9.8.
- ii. When required to incorporate an applicable toxic effluent standard or prohibition under 307(a) of the Federal Act or Sections 4 and 7 of the State Act (see Section 3.13(b)).
- iii. When required by the "reopener" conditions in a permit, which are established in the permit under 3.13(b) (for toxic effluent limitations) or 40 CFR Section 403.10(e) (pretreatment program).
- iv. Upon request of a permittee who qualifies for effluent limitations on a net basis under Section 3.14(h).
- v. When a discharger is no longer eligible for net limitations, as provided in Section 3.14(h)1.ii.(B).
- vi. As necessary under 40 CFR Section 403.8(e) (compliance schedule for development of pretreatment program).
- vii. Upon 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.
- viii. When 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 40 CFR Part 125.3(c).
- ix. When the permittee begins or expects to begin to use or manufacture as an intermediate or final product or byproduct any toxic pollutant which was not reported in the permit application under Section 10.3(a)11.

- x. To establish a "notification level" as provided in Section 3.13(f).
  - xi. To modify 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 for 100% of 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 the compliance schedule be modified to extend beyond an applicable in the Federal Act statutory deadline for compliance.
  - xii. To include a plan or compliance schedule for the disposal of septage in accordance with "Regulations Concerning the Statewide Management of Septage Disposal" N.J.A.C. 7:14-5.1 et seq.
- (c) Causes for modification or revocation and re-issuance. The following are causes to modify or, alternatively, revoke and reissue a permit:
1. Cause exists for termination under Section 2.13 and the Department determines that modification or revocation and reissuance is appropriate.
  2. The Department has received notification (as required in the permit, See Section 2.5(1)3.) of a proposed transfer of the permit. A permit also may be modified to reflect a transfer after the effective date of an automatic transfer (Section 2.11(b)) but will not be revoked and reissued after the effective date of the transfer except upon the request of the new permittee.
- (d) Facility siting. For UIC and IWMF, suitability of the facility location will not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance.

### 2.13 Termination of permits.

- (a) The following are causes for terminating a permit during its term, or for denying a permit renewal application:
1. Noncompliance by the permittee with any condition of the permit;
  2. Failure to pay applicable fees;
  3. The permittee's failure in the application or during the permit issuance process of a NPDES, NJPDES, treatment works approval or Construct and Operate permit to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or
  4. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination.
  5. Permits may be modified or terminated when there is a change in any condition that requires either a temporary or a permanent reduction or elimination of any discharge controlled by the permit (for example, plant closure or termination of discharge by connection to a DTW).
- (b) The Department shall follow the applicable procedures in terminating any NJPDES permit in accordance with Subchapters 6 and 7.

### 2.14 Minor modifications of permits.

Upon the consent of the permittee, the Department may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this section, without following the procedures of Subchapters 6 and 7. Any permit modification not processed as a minor modification under this section shall be made for cause and with Subchapters 6 and 7 draft permit and public notice as required in Section 2.12. Minor modifications may only:

- (a) Correct typographical errors;
- (b) Require more frequent monitoring or reporting by the permittee;

- (c) 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 requirement;
- (d) Allow for a change in ownership or operational control of a facility where the Department determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Department;
- (e) Construction Schedules. Change the construction schedule for a discharger which is a new source. No such change shall affect a discharger's obligation to have all pollution control equipment installed and in operation prior to discharge under Section 3.3;
- (f) For IWMF and DSW, change the lists of facility emergency coordinators or equipment in the permit's contingency or emergency plan;
- (g) For UIC only,
  1. Change quantities or types of fluids injected which are within the capacity of the facility as permitted and, in the judgment of the Department after reviewing information required under Section 10.13 would not interfere with the operation of the facility or its ability to meet conditions prescribed in the permit, and would not change its classification.
  2. Change construction requirements approved by the Department pursuant to Section 5.10 (establishing UIC permit conditions), provided that any such alteration shall comply with the requirements of these regulations;
- (h) Delete a point source outfall when the discharge from that outfall is terminated and does not result in discharge of pollutants from other outfalls except in accordance with permit limits; or
- (i) List of sewer extensions to a domestic treatment works which are approved by the Department pursuant to the "New Jersey Pollution Control Act Regulations", N.J.A.C. 7:14-1 *et seq.* Public notice of approved sewer extensions shall be published in the DEP Bulletin.

2.15 Noncompliance and program reporting by the Department.

The Department shall prepare quarterly and annual reports as detailed below. Any reports required under this section for DSW, UIC, and IWFM permittees shall be submitted to the Regional Administrator.

- (a) Quarterly reports. The Department shall prepare quarterly narrative reports for major facilities as follows:
1. Format. The report shall use the following format:
    - i. Provide separate lists of each type of discharge covered by these regulations (Section 1.3(d)); the DSW permittees shall be further subcategorized as non-POTW's, POTWs, and Federal permittees;
    - ii. Alphabetize each list by permittee name. When two or more permittees have the same name, the lowest permit number shall be entered first.
    - iii. For facilities or activities with discharges requiring more than one permit, provide an additional list combining information on noncompliance for each such facility. The report submitted by the State to EPA shall only include noncompliance concerning DSW, UIC, and IWFM permits;
    - iv. For each entry on a list, include the following information in the following order:
      - (A) Name, location, and permit number of the noncomplying permittee.
      - (B) A brief description and date of each instance of noncompliance for that permittee. Instances of noncompliance may include one or more of the kinds set forth in paragraph (a)(2) of this section. When a permittee has noncompliance of more than one kind combine the information into a single entry for each such permittee.

- (C) The date(s) and a brief description of the action(s) taken by the Department to ensure compliance.
  - (D) Status of the instance(s) of non-compliance with the date of the review of the status or the date of resolution.
  - (E) Any details which tend to explain or mitigate the instance(s) of noncompliance.
2. Instances of noncompliance to be reported. Any instances of noncompliance within the following categories shall be reported in successive reports until the noncompliance is reported as resolved. Once noncompliance is reported as resolved it need not appear in subsequent reports.
- i. Failure to complete construction elements. When the permittee has failed to complete, by the date specified in the permit, an element of a compliance schedule involving either planning for construction (for example, award of a contract, preliminary plans), or a construction step (for example, begin construction, attain operation level); and the permittee has not returned to compliance by accomplishing the required element of the schedule within 30 days from the date a compliance schedule report is due under the permit.
  - ii. Modification of schedules of compliance. When a schedule of compliance in the permit has been modified under Sections 2.12 and 2.14 because of the permittee's noncompliance.
  - iii. Failure to complete or provide compliance schedule or monitoring reports. When the permittee has failed to complete or provide a report required in a permit compliance schedule (for example, progress report or notice of noncompliance or compliance) or a monitoring report; and the permittee has not submitted the complete report within 30 days from the date it is due under the permit for compliance schedules, or from the date specified in the permit for monitoring reports.

- iv. Deficient reports. When the required reports provided by the permittee are so deficient as to cause misunderstanding by the Department and thus impede the review of the status of compliance.
- v. Noncompliance with other permit requirements. Noncompliance shall be reported in the following circumstances:
  - (A) Whenever the permittee has violated a permit requirement (other than reported under paragraphs (a) (2) (i) or (ii) of this section), and has not returned to compliance within 45 days from the date reporting of noncompliance was due under the permit; or
  - (B) When the Department determines that a pattern of noncompliance exists for a major facility permittee over the most recent four consecutive reporting periods. (For DSW discharges only this pattern of noncompliance is based on violations of monthly averages and excludes parameters where there is continuous monitoring.) This pattern includes any violation of the same requirement in two consecutive reporting periods, and any violation of one or more requirements in each of four consecutive reporting periods; or
  - (C) When the Department determines significant permit noncompliance or other significant event has occurred, such as a discharge of a toxic or hazardous substance by an DSW facility, a fire or explosion at an IWMF, or migration of fluids into a USDW.
- vi. All other. Statistical information shall be reported quarterly on all other instances of noncompliance by major facilities with permit requirements not otherwise reported under paragraph (a) of this section.

- (b) Annual reports. The Department shall prepare an annual report as required in this paragraph. The Department shall submit an annual report to EPA for DSW, UIC, and IWMF permittees.
  - 1. Statistical reports shall be prepared by the Department on nonmajor DSW permittees indicating the total number reviewed, the number of noncomplying nonmajor permittees, the number of enforcement actions, and number of permit modifications extending compliance deadlines. The statistical information shall be organized to follow the types of noncompliance listed in paragraph (a) of this section.
  - 2. A separate list of nonmajor discharges which are one or more years behind in construction phases of the compliance schedule shall also be prepared in alphabetical order by name and permit number.
  - 3. IWMF permits. In addition to the annual noncompliance report, the Department shall prepare a "program report" which contains information on the permit status of regulated facilities; and summary information on the quantities and types of hazardous wastes stored, treated, and disposed during the preceding year. This summary information shall be reported according to EPA characteristics and lists of hazardous wastes at 40 CFR Part 261.
  - 4. UIC permits. In addition to the annual noncompliance report, the Department shall:
    - i. Submit each year a program report to the Administrator (in a manner and form prescribed by the Administrator) consisting of:
      - (A) A detailed description of the State's implementation of its program;
      - (B) Suggested changes if any to the program description (see 40 CFR Section 123.4(f)) which are necessary to more accurately reflect the State's progress in issuing permits;

(C) An updated inventory of active underground injection operations in the State.

ii. In addition to complying with the requirements of paragraph (c)4.i. of this section the Department shall provide the Administrator within 3 months of the completion of the second full year of State operation of the UIC program a supplemental report containing the information required in Sections 5.14 and 5.16 on corrective actions taken by operators of new Class II wells based upon these regulations.

(c) Schedule

1. Quarterly reports.

i. On the last working day of May, August, November, and February, the Department shall submit to the Regional Administrator information concerning noncompliance with DSW, UIC, and IWMF permit requirements by major dischargers in the State in accordance with the schedule below.

ii. The Department shall make noncompliance reports concerning all other NJPDES permits available to the public in accordance with the schedule below.

Quarters Covered by Reports on Noncompliance by All Major Dischargers

January, February, and March.....	May 31	'1
April, May, and June.....	Aug. 31	'1
July, August, and September.....	Nov. 30	'1
October, November, and December.....	Feb. 28	'1

<sup>1</sup>Reports shall be made available to the public for inspection and copying on this date.

2. For all annual reports. The period for annual reports shall be for the calendar year ending December 31, with reports completed and available to the public no more than 60 days later.

SUBCHAPTER 3 - ADDITIONAL REQUIREMENTS APPLICABLE TO DSW PERMITS

3.1 Scope The regulations in this Section contain specific requirements for the DSW permit program. The DSW program requires permits for the discharge of "pollutants" from any "point source" into surface waters of the State. The terms "discharge", "pollutants", "point source" and "waters of the State" are defined in Section 1.10.

3.2 Application for a permit

(a) Duty to apply.

Any person who discharges or proposes to discharge pollutants, as defined in Section 31, and who does not have an effective permit, shall submit a complete application (which shall include a BMP program if necessary under 40 CFR Section 125.102) to the Department in accordance with Section 2.2 or 3.3 and Subchapters 6 and 7.

2. The following are included from the requirements of this section, unless the Department requires otherwise under Sections 3.13(m) or 10.1:

1. Persons covered by general permits under Section 3.9;
2. Persons excluded under Section 1.3(e); or
3. Users of a municipality or privately owned treatment works.

b) Time to apply. Any person planning to undertake any activity which will result in a DSW shall submit an application for a DAC at least 90 days prior to initiation of final engineering designs, specifications and plans in accordance with Section 3.3. A DAC is required prior to the issuance of a DSW permit for such discharge.

(c) Duty to reapply.

1. Any person who had a NPDES permit prior to the effective date of these regulations shall apply for a NJPDES DSW permit in accordance with Section 10.2.

2. Any person planning to continue discharging after the expiration of an existing DSW permit must file an application for renewal at least 180 days prior to expiration of the existing permit.

3.3 Discharge Allocation Certificate (DAC)

(a) Purpose.

The purpose of the DAC is to provide a person, planning to undertake any activity which will result in a DSW discharge or a substantial modification of a DSW discharge, with notice by the Department of the applicable permit conditions required in Section 2.6, and 3.13, including any waste load allocation. Such notice is intended to assist the applicant in planning and designing the treatment works for the DSW.

(b) When to apply.

Any person planning to undertake any activity which will result in a DSW or a substantial modification of an existing DSW permit shall apply for a DAC at least 90 days prior to the initiation of final engineering designs, specifications and plans of a treatment works.

(c) Filing requirements.

Any person planning to undertake any activity which will result in a DSW or a substantial modification of an existing DSW permit shall apply for a DAC in conformance with the requirements of sections 2.1, 3.2, 10.3.

(d) Environmental assessment.

An applicant for a DAC shall submit an environmental assessment as described in Section 10.4.

(e) Issuance.

The Department shall issue a DAC in conformance with the requirements of Subchapters 6 and 7.

(f) Duration.

1. A DAC for non-POTW's shall be issued for a fixed term of eighteen (18) months.
2. A DAC for non-POTW's may be extended for one additional period of eighteen (18) months provided:
  - i. The applicant has demonstrated completion of final engineering design, specifications and plans of the treatment works; and

- ii. The applicant submits a copy of the final engineering design and a certification from a licensed professional engineer who prepared the designs for the treatment works that the treatment works has been designed to meet the applicable conditions in the DAC; and
- iii. The applicant has submitted a written request for the extension 30 days prior to the expiration date of the DAC.

3. A DAC for a POTW shall be valid for a term of 5 years. No extensions of a DAC for a POTW shall be granted. No 201 Facilities Plan shall be approved unless the grantee has obtained a DAC.
4. A POTW may apply for a new DAC at least 180 days but not more than 360 prior days prior to the expiration of a DAC. The terms and conditions of a DAC for a POTW shall expire and shall not be stayed pending the issuance of a new DAC.

(g) Effect of DAC.

Upon issuance of the DAC, the holder of the DAC may proceed to design and construct the facilities for which the DAC has been issued.

(h) Submission of application for DSW permit.

1. The holder of a DAC shall submit an application for a DSW permit in accordance with the requirements of Section 10.3, including the certification described in paragraph (e)2.ii., at least 180 days prior to commencing discharge.
2. The conditions of the DAC shall become conditions of the DSW draft permit, provided the applicant complied with the requirements of this section. This paragraph shall not limit the Department's ability to modify, revoke and reissue, or terminate the permit in accordance with Sections 2.12, 2.13, and 2.14.
3. The draft DSW permit shall be issued in accordance with Subchapters 6 and 7.
4. After issuance of a DSW permit but prior to discharge, the holder of the DAC shall submit to the Department a certification from the person responsible that the treatment works has been constructed in accordance with the original design specifications or with any changes which were approved in writing by the Licensed Professional Engineer who designed the treatment works.

3.4 Concentrated animal feeding operations.

(a) Permit requirement. Concentrated animal feeding operations are point sources subject to the DSW permit program.

(b) Definitions.

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

i. Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and

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

2. Two or more animal feeding operations under common ownership are considered, for the purposes of these regulations, to be a single animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes.

3. "Concentrated animal feeding operation" means an "animal feeding operation" which meets the criteria in Appendix B, or which the Department designates under paragraph (c) of this section.

(c) Case-by-case designation of concentrated animal feeding operations.

1. The Department may designate any animal feeding operation as a concentrated animal feeding operation upon determining that it is a significant contributor of pollution to the waters of the State. In making this designation the Department shall consider the following factors:

i. The size of the animal feeding operation and the amount of wastes reaching waters of the State;

ii. The location of the animal feeding operation relative to waters of the State;

iii. The means of conveyance of animal wastes and process waste waters into waters of the State;

iv. The slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal wastes and process waste waters into waters of the State; and

v. Other relevant factors.

2. No animal feeding operation with less than the numbers of animals set forth in Appendix B shall be designated as a concentrated animal feeding operation unless:

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

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

3. A permit application shall not be required from a concentrated animal reeding operation designated under this paragraph until the Department has conducted an on-site inspection of the operation and determined that the operation should and could be regulated under the permit program.

3.5 Concentrated aquatic animal production facilities.

(a) Permit requirements. Concentrated aquatic animal production facilities, as defined in this section, are point sources subject to the DSW permit program.

(b) Definition. "Concentrated aquatic animal production facility" means a hatchery, fish farm, or other facility which meets the criteria in Appendix C, or which the Department designates under paragraph (c) of this section.

(c) Case-by-case designation of concentrated aquatic animal production facilities.

1. The Department may designate any warm or cold water aquatic animal production facility as a concentrated aquatic animal production facility upon determining that it is a significant contributor of pollution to waters of the State. In making this designation the Department shall consider the following factors:

i. The location and quality of the receiving waters of the State;

- ii. The holding, feeding, and production capacities of the facility;
  - iii. The quantity and nature of the pollutants reaching waters of the State; and
  - iv. Other relevant factors.
2. A permit application shall not be required from a concentrated aquatic animal production facility designated under this paragraph until the Department has conducted on-site inspection of the facility and has determined that the facility should and could be regulated under the permit program.

### 3.6 Aquaculture projects.

(a) Permit requirement. Discharges into aquaculture projects, as defined in this section, are subject to the DSW permit program under section 6 of the State Act, Section 318 of the Federal Act, and in accordance with 40 CFR Part 125, Subpart B.

#### (b) Definitions.

- 1. "Aquaculture project" means a defined managed water area which uses discharges of pollutants into that designated area for the maintenance or production of harvestable freshwater, estuarine, or marine plants and animals.
- 2. "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 or operation (including but not limited, physical confinement) which, on the basis of reliable scientific evidence, is expected to ensure that specific individual organisms comprising an aquaculture crop will enjoy increased growth attributable to the discharge of pollutants, and be harvested within a defined geographic area.

### 3.7 Silvicultural activities.

(a) Permit requirements. Silvicultural point sources, as defined in this section, are point sources subject to the DSW permit program.

#### (b) Definitions.

- 1. "Silvicultural point source" means any discernible, confined, and discrete conveyance related to rock crushing, gravel washing, log sorting, or log storage facilities which are operated in connection with silvicultural activities and from which pollutants are discharged into waters of the State. The term does not include non-point source silvicultural activities such as nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance from which there is natural runoff. However, some of these activities (such as stream crossing for roads) may involve point source discharges of dredged or fill material which may require a 404 permit pursuant to the Federal Act (see 33 CFR Section 209.120 and Part 123, Subpart E).
- 2. "Rock crushing and gravel washing facilities" means facilities which process crushed and broken stone, gravel, and riprap (See 40 CFR Part 436, Subpart B, including the effluent limitations guidelines).
- 3. "Log sorting and log storage facilities" means facilities whose discharges result from the holding of unprocessed wood; for example, logs or roundwood with bark or after removal of bark held in self-contained bodies of water (mill ponds or log ponds) or stored on land where water is applied intentionally on the logs (wet decking). (See 40 CFR Part 429, Subpart J, including the effluent limitations guidelines).

### 3.8 Separate Storm sewers.

(a) Permit requirement. Separate storm sewers, as defined in this section are point sources subject to the DSW permit program. Separate storm sewers may be permitted either individually or under a general permit (see section 3.9). A DSW permit for discharges into waters of the State from a separate storm sewer covers all conveyances which are a part of that separate storm sewer system, even though there may be several owners or operators of these conveyances. However, discharges into separate storm sewers from point sources which are not part of the separate storm sewer systems may also require a permit.

(b) Definition.

1. "Separate storm sewer" means a conveyance or system of conveyances (including pipes, conduits, ditches, and channels) primarily used for collecting and conveying storm water runoff and which is either:
  - i. Located in an urbanized area as designated by the Bureau of the Census according to the criteria in 39 FR 15202 (May 1, 1974); or
  - ii. Not located in an urbanized area but designated under subsection (c) of this section.
2. Except as provided in paragraph (b)(3) of this section, a conveyance or system of conveyances operated primarily for the purpose of collecting and conveying storm water runoff which is not located in an urbanized area and has not been designated by the Department under subsection (c) is not considered a point source and is not subject to the provisions of this section.
3. Conveyances which discharge process wastewater or storm water runoff contaminated by contact with wastes, raw materials, or pollutant-contaminated soil, from lands or facilities used for industrial or commercial activities, into waters of the State or into separate storm sewers are point sources that must obtain DSW permits but are not separate storm sewers.
4. Whether a system of conveyances is or is not a separate storm sewer for purposes of this section shall have no bearing on whether the system is eligible for funding under Title II of the Federal Act; See 40 CFR Section 35.925-21.

(c) Case-by-case designation of separate storm sewers. The Department may designate a storm sewer not located in an urbanized area as a separate storm sewer. This designation may be made to the extent allowed or required by EPA promulgated effluent guidelines for point sources in the separate storm sewer category or when:

1. A Water Quality Management plan under section 208 of the Federal Act and Section 5 of the "New Jersey Water Quality Planning Act" N.J.S.A. 58:11A-1 et seq. which contains requirements applicable to such point sources is approved; or

2. The Department determines that a storm sewer is a significant contributor of pollution to the waters of the State. In making this determination the Department shall consider the following factors:
  - i. The location of the discharge with respect to waters of the State;
  - ii. The size of the discharge;
  - iii. The quantity and nature of the pollutants reaching waters of the State; and
  - iv. Other relevant factors.

3.9 General permits.

(a) Coverage. The Department may issue a general permit in accordance with the following:

1. Area. The general permit shall be written to cover a category of discharges described in the permit under paragraph (a)(2) of this section, except those covered by individual permits, within a geographic area. The area shall correspond to existing geographic or political boundaries, such as:
  - i. Designated planning areas under Sections 208 and 303 of the Federal Act and Section 5 of the "New Jersey Water Quality Planning Act" N.J.S.A. 58:11A-1 et seq.
  - ii. Sewer districts or sewer authorities;
  - iii. City, county, or State political boundaries;
  - iv. State highway systems;
  - v. Standard metropolitan statistical areas as defined by the Office of Management and Budget;
  - vi. Urbanized areas as designated by the Bureau of Census according to criteria in 30 FR 15202 (May 1, 1974); or
  - vii. Any other appropriate division or combination of boundaries.

2. Sources. The general permit shall be written to regulate, within the area described in paragraph (a)(1) of this section, either:
  - i. Separate storm sewers; or
  - ii. A category of point sources other than separate storm sewers if the sources all:
    - (A) Involve the same or substantially similar types of operations;
    - (B) Discharge the same type of wastes;
    - (C) Require the same effluent limitations or operating conditions;
    - (D) Require the same or similar monitoring; and
    - (E) In the opinion of the Department, are more appropriately controlled under a general permit than under individual permits.

(b) Administration.

1. In general. General permits may be issued, modified, revoked and reissued, or terminated in accordance with applicable requirements of Subchapters 7 and 8. Special procedures for issuance are found at 40 CFR Section 123.76.
2. Requiring an individual permit.
  - i. The Department may require any person authorized by a general permit to apply for and obtain an individual DSW permit. Any interested person may petition the Department to take action under this subparagraph. Cases where an individual DSW permit may be required include the following:
    - (A) The discharge(s) is a significant contributor of pollution as determined by the factors set forth in Section 5.8(c)(2);
    - (B) The discharger is not in compliance with the conditions of the general DSW permit;
    - (C) A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;

- (D) Effluent limitation guidelines are promulgated for point sources covered by the general DSW permit;
  - (E) A Water Quality Management plan containing requirements applicable to such point sources is approved; or
  - (F) The requirements of paragraph (a) of this section are not met.
- ii. The Department may require any owner or operator authorized by a general permit to apply for an individual DSW permit as provided in paragraph (b)(2)(i) of this section, only if the owner or operator has been notified in writing that a permit application is required.

This notice shall include a brief statement of the reasons for this decision, an application form, a statement setting a time for the owner or operator to file the application, and a statement that on the effective date of the individual DSW permit the general permit as it applies to the individual permittee shall automatically terminate. The Department may grant additional time upon request of the applicant.
  - iii. Any owner or operator authorized by a general permit may request to be excluded from the coverage of the general permit by applying for an individual permit. The owner or operator shall submit an application under Section 3.2, with reasons supporting the request, to the Department no later than 90 days after the publication by the Department of the general permit in the DEP Bulletin. The request shall be processed under Subchapters 7 and 8. The request shall be granted by issuing of any individual permit if the reasons cited by the owner or operator are adequate to support the request.
  - iv. When an individual DSW permit is issued to an owner or operator otherwise subject to a general DSW permit, the applicability of the general permit to the individual DSW permittee is automatically terminated on the effective date of the individual permit.

- v. A source excluded from a general permit solely because it already has an individual permit may request that the individual permit be revoked, and that it be covered by the general permit. Upon revocation of the individual permit, the general permit shall apply to the source.

3.10 Additional conditions applicable to all DSW permits.

- (a) 1. The following shall be reported to the Department in accordance with section 2.5(1)6.
  - i. In the case of any discharge subject to any applicable toxic pollutant effluent standard under section 307(a) of the Federal Act or under section 4 of the State Act the information required by paragraph 2.5(1)6.i.(A) through (C). regarding a violation of such standard shall be provided to the DEP Hotline (609) 292-7172 within 2 hours from the time the permittee becomes aware of the circumstances. The information required by paragraph 2.5(1)6.i.(D) through (F) shall be provided to the Department within 24 hours from the time the permittee becomes aware of the circumstances. For any information which is provided orally, a written submission covering these points shall be provided within five working days of the time the permittee becomes aware of the circumstances covered by this paragraph.
  - ii. In the case of other discharges which could constitute a threat to human health, welfare, or the environment, including but not limited to, discharge of pollutants designated under section 311 of the Federal Act, under the "Spill Compensation and Control Act," N.J.S.A. 58:11-23.10 et seq., or under the "Safe Drinking Water Act," N.J.S.A. 58:12A-1 et seq., the information required by paragraph 2.5(1)6.i.(A) through (C) shall be provided within 2 hours from the time the permittee becomes aware of the circumstances. The information required by paragraphs 2.5(1)6i(D) through (F) shall be provided within 24 hours from the time the permits becomes aware of the circumstances. Where the information is provided orally (DEP hotline (609) 292-7172) a written submission covering these points must be provided within five working days of the time the permittee becomes aware of the circumstances covered by this paragraph.

- iii. The information required in paragraph 2.5(1)6.i.(A) through (C) shall be provided immediately, where a discharge described under paragraphs (a)1.i. or (a)2.ii. is located upstream of a potable water intake or well field. The permittee shall notify the Department by calling the DEP Hotline (609) 292-7172. The information required by 2.5(1)6.i.(D) through (F) shall be provided within 24 hours. If this information is provided orally a written submission covering these points must be provided within five working days of the time the permittee becomes aware of the discharge.
  - iv. Any unanticipated bypass which exceeds any effluent limitation in the permit shall be reported within 24 hours unless paragraphs i. through iii. are applicable. (See Section 3.10(b) below.)
  - v. Any upset which exceeds any effluent limitation in the permit shall be reported in 24 hours unless paragraphs i through iii are applicable.
  - vi. Violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit shall be reported within 24 hours unless paragraphs i through iii are applicable. (See Section 3.13(g)).
2. The Department may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
- (b) Bypass
- 1. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it is also for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (b) 2. and (b) 3. of this Section.
  - 2. Notice.
    - i. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible, at least thirty (30) days before the date of the bypass.

- ii. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph (a)1.iv. of this section.
3. Prohibition of bypass.
- i. Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless:
    - (A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
    - (B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee could have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
    - (C) The permittee submitted notices as required under paragraph (b)2. of this section.
  - ii. The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three conditions listed above in paragraph (b) 3.i of this section.
- (c) Upset.
- 1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of paragraph (c)2. of this section are met. Where no determination was made during administrative review of claims that noncompliance was caused by upset, and there has been no Departmental action for noncompliance, the lack of such determination is final administrative action subject to judicial review.

- 2. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - i. An upset occurred and that the permittee can identify the specific cause(s) of the upset;
  - ii. The permitted facility was at the time being properly operated; and
  - iii. The permittee submitted notice of the upset as required in paragraph (a) of this section.
  - iv. The permittee complied with any remedial measure required under Section 2.5(f).
- 3. Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

3.11 Additional conditions applicable to specified categories of DSW permits.

The following conditions, in addition to those set forth in Sections 2.5, 3.10 and 3.12, apply to all DSW permits within the categories specified below:

- (a) Existing manufacturing, commercial, mining, and silvicultural dischargers. In addition to the reporting requirements under Section 2.5(1) and Section 3.10, all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Department as soon as they know or have reason to believe:
  - 1. That any activity has occurred or will occur which would result in the discharge of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels."
    - i. One hundred micrograms per liter (100 ug/l);
    - ii. Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

- iii. Five (5) times the maximum concentration value reported for the pollutant in the permit application in accordance with Section 5.2(d)7. or Section 5.2(d)10; or
  - iv. The level established by the Department in accordance with Section 3.13(f).
2. That they have begun or expect to begin to use or manufacture as an intermediate or final product or byproduct any toxic pollutant which was not reported in the permit application under Sections 3.2 and 10.3.
- (b) DTW's. All DTWs must provide adequate notice to the Department of the following:
- 1. Any new introduction of pollutants into that DTW from an indirect discharger which would be subject to sections 301 or 306 of the Federal Act and Section 4 of the State Act, if it were directly discharging those pollutants; and
  - 2. Any substantial change in the volume or character of pollutants being introduced into that DTW by a source introducing pollutants into the DTW at the time of issuance of the permit.

For purposes of this paragraph, adequate notice shall include information on (i) the quality and quantity of effluent introduced into the DTW, and (ii) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the DTW.

3.12 Emergency plans

- (a) All applicants and holders of a DSW permit shall submit an emergency plan report prepared pursuant to paragraph (b) or file for an exemption as provided in paragraph (e), according to the following schedule:
- 1. Existing treatment works
    - i. Industrial treatment works which discharge upstream from a potable water intake shall file a complete emergency plan within 12 months of the effective date of these regulations;
    - ii. All other industrial treatment works shall file a complete emergency plan within 24 months of the effective date of these regulations;
    - iii. All domestic treatment works with an average daily flow which is less than 0.1 MGD shall file a complete emergency plan within 12 months of the effective date of these regulations; and
    - iv. All domestic treatment works with an average daily flow which is equal to, or greater than 0.1 MGD shall file a complete emergency plan within 24 months of the effective date of the regulations.
  - 2. Within three months of notice of deficiency the permittee shall correct any deficiencies in the Emergency Plan and resubmit the Plan for incorporation in the DSW permit.
  - 3. New treatment works shall submit a complete emergency plan report no later than the time of application for a DSW permit.
- (b) The emergency plan report shall be designed to insure effective operation of the facility under emergency conditions, and shall consist, as a minimum, of the following elements:
- 1. A vulnerability analysis which shall estimate the degree to which the facility would be adversely affected by each type of emergency situation which could reasonably be expected

to occur, including but not limited to those emergencies caused by natural disaster, civil disorder, strike, sabotage, faulty maintenance, negligent operation or accident.

2. The analysis shall include, but is not limited to, an estimate of the effects of the emergency upon the following:

- i. Power supply;
- ii. Communication;
- iii. Equipment;
- iv. Supplies;
- v. Personnel;
- vi. Security; and
- vii. Emergency procedures.

3. An evaluation of the possible adverse effects on public health and the environment due to the emergency.

4. An emergency operating plan and a manual of procedures for the implementation of such plan, including procedures for the notification of any relevant regulatory agency, affected water supply purveyors, and any other municipal authority or agency. The plan and manual shall address each of the emergency situations described in the vulnerability analysis.

(c) Any domestic treatment works which meets the following criteria is eligible for an exemption from the requirements of this Section:

- 1. A DTW which has an average daily flow of 0.1 MGD or less and which receives and treats domestic wastes only; or
- 2. A DTW which has an average daily flow which exceeds 0.1 MGD but which is less than 1.0 MGD and which satisfies all of the following conditions:
  - i. Does not receive or treat industrial pollutants from an indirect discharger which belongs to one or more of the Industrial Categories listed in Appendix A.

- ii. Does not discharge any effluent upstream from a potable water intake;
- iii. Does not discharge any effluent into a shellfish area; and
- iv. Does not discharge any effluent which may affect shellfish areas.

(d) Any industrial treatment works which meets the following criteria is eligible for an exemption from the requirements of this Section:

- 1. A treatment works which discharges less than 1 MGD of non-contact cooling water; or
- 2. A treatment works which has an average daily flow less than 50,000 GPD and which satisfies all of the following conditions:
  - i. Has no effluent limitations in its discharge permit for any of the toxic pollutants listed in Appendix D; and
  - ii. Satisfies all of the conditions listed in 2.6(c)(2)ii, iii, and iv.

(e) Filing for an Exemption.

- 1. Any permittee whose treatment works is eligible for an exemption pursuant to paragraph (c) or (d) shall file for an exemption according to the schedule in paragraph (a).
- 2. The permittee shall submit an affidavit affirming that the discharge(s) from that facility satisfies all of the applicable criteria in paragraphs (c) or (d).
- 3. The signatory of the affidavit shall satisfy the requirements of Section 2.4.
- 4. If the quality and/or quantity of the discharge from the facility changes in a such a manner that the facility no longer qualifies for an exemption, the permittee shall notify the Department of the changes, in writing, within thirty days of such change.
- 5. The permittee shall submit an emergency plan report as described in paragraph (b) to the Department within six months of the initial notification required in paragraph (e)4.

(f) Implementation of the emergency plan.

1. After receipt and review of the emergency plan, the Department shall notify the permittee in writing whether the emergency plan is acceptable and complete. Plans should, to the extent practicable, conform to the EPA document entitled, "Emergency Planning for Municipal Wastewater Treatment Facilities," (EPA-430/9-74-013).
2. Existing facilities shall comply with the following schedule for implementation of the emergency plan:
  - i. Within 60 days of acceptance of the plan by the Department:
    - (A) The permittee shall complete implementation of the procedural portions of the plan; and
    - (B) The Department shall incorporate the procedural elements of the plan into the DSW permit for that facility.
  - ii. As soon as possible, but within 36 months of acceptance of the plan by the Department at the latest:
    - (A) The permittee shall complete the implementation of the structural portions of the plan (such as acquisition of spare parts, pumps, etc.); and
    - (B) The Department shall incorporate the structural elements and the emergency manual into the DSW permit for that facility.
3. An emergency plan for a new facility which has been accepted by the Department shall become a condition of that applicant's DSW permit.

(g) Liability.

1. Submission of an emergency plan pursuant to this section shall not exempt a permittee from liability for violations arising from an emergency situation. A permittee shall take all necessary actions to mitigate the damage to the waters of the State arising from an emergency situation. Such actions shall not be limited by the emergency operating plan and the manual of procedures.

2. Exemption from developing an emergency plan under this section does not exempt the permittee from liability for violations arising from an emergency situation. Such permittee shall take all necessary actions to mitigate the damage to the waters of the State arising from an emergency situation.

(h) Violations.

Failure to submit an emergency plan in compliance with paragraph (a) of this section and failure to implement the emergency plan pursuant of paragraph (f) of this section shall each constitute a violation of these regulations.

Section 3.13 Establishing DSW permit conditions.

In addition to the conditions established under Section 2.6(a), each DSW permit shall include conditions meeting the following requirements when applicable.

- (a) Technology-based effluent limitations and standards based on effluent limitations and standards promulgated under Section 301 of the Federal Act or Section 4 of the State Act or new source performance standards promulgated under Section 306 of the Federal Act or Section 4 the State Act, or case-by-case effluent limitations determined under Section 402(a)(1) of the Federal Act or Sections 4 or 8 of the State Act, or on a combination of the two, in accordance with 40 CFR Section 125.3.
- (b) Other effluent limitations and standards under sections 301, 302, 303, 307, 318, and 405 of the Federal Act or Section 4 of the State Act. If any applicable toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under section 307(a) of the Federal Act or Section 4 of the State Act for a toxic pollutant and that standard or prohibition is more stringent than any limitation on the pollutant in the permit, the Department shall institute proceedings under these regulations to modify or revoke and reissue the permit to conform to the toxic effluent standard or prohibition. See also Section 3.10(a).
- (c) Reopener clause: for any discharger within a primary industry category (see Appendix A), requirements under section 307(a)(2) of the Federal Act or Section 4 of the State Act as follows:

1. On or before June 30, 1981:
    - i. If applicable standards or limitations have not yet been promulgated, the permit shall include a condition stating that, if an applicable standard limitation is promulgated under sections 301(b)(2)(C) and (D), 304(b)(2), and 307(a)(2) of the Federal Act or section 4 of the State Act and that effluent standard or limitation is more stringent than any effluent limitation in the permit or controls a pollutant not limited in the permit, the permit shall be promptly modified or revoked and reissued to conform to that effluent standard or limitation.
    - ii. If applicable standards or limitations have been promulgated or approved, the permit shall include those standards or limitations. (If EPA approves existing effluent limitations or decides not to develop new effluent limitations, it will publish a notice in the Federal Register that the limitations are "approved" for the purpose of this regulation.)
  2. After June 30, 1981, any permit issued shall include effluent limitations and a compliance schedule to meet the requirements of sections 301(b)(2)(A), (C), (D), (E) and (F) of the Federal Act and Section 4 of the State Act whether or not applicable effluent limitations guidelines have been promulgated or approved. These permits need not incorporate the clause required by paragraph (c)1. of this section.
  3. The Department shall promptly modify or revoke and reissue any permit containing the clause required under paragraph (c)1. of this section to incorporate an applicable effluent standard or limitation under sections 301(b)(2)(C) and (D), 304(b)(2), and 307(a)(2) of the Federal Act or Section 4 of the State Act which is promulgated or approved after the permit is issued if that effluent standard or limitation is more stringent than any effluent limitation in the permit, or controls a pollutant not limited in the permit.
- (d) Water quality standards and State requirements: any requirements in addition to or more stringent than promulgated effluent limitations guidelines or standards under sections 301, 304, 306, 307, 318, and 405 of the Federal Act or Section 4 of the State Act necessary to:

1. Achieve water quality standards established under Section 303 of the Federal Act or Section 4 of the State Act;
  2. Attain or maintain a specified water quality through water quality-related effluent limits established under Section 302 of the Federal Act or Section 8 of the State Act;
  3. Conform to applicable water quality requirements under Section 401(a)(2) of the Federal Act when the discharge affects a State other than the certifying State;
  4. Incorporate any more stringent limitations, treatment standards, or schedule of compliance requirements established under Federal or State law or regulations in accordance with Section 301(b)(1)(C) of the Federal Act or section 4 or 8 of the State Act;
  5. Ensure consistency with the requirements of a Water Quality Management plan approved by EPA under Section 208(b) of the Federal Act, the New Jersey Water Quality Planning Act; N.J.S.A. 58:11A-1 et seq. or Section 6 of the State Act;
  6. Incorporate Section 403(c) criteria under 40 CFR Part 125, Subpart M, for ocean discharges;
  7. Incorporate alternative effluent limitations or standards where warranted by "fundamentally different factors," under 40 CFR Part 125, Subpart D;
- (e) Toxic pollutants; limitations established under paragraphs (a), (b), or (d) of this section, to control pollutants meeting the criteria listed in paragraph (e)(1) of this section, shall be established in accordance with paragraph (e)(2) of this section. An explanation of the development of these limitations shall be included in the fact sheet under Section 7.8(b)1.i.
1. Limitations must control all toxic pollutants which:
    - i. The Department determines (based on information reported in a permit application under Section 10.3 or in a notification under Section 3.11(a)1. or on other information) are or may be discharged at a level greater than the level which can be achieved by the technology-based treatment requirements appropriate to the permittee under 40 CFR section 125.3(c); or

- ii. The discharger does or may use or manufacture as an intermediate or final product or byproduct.
2. The requirement that the limitations control the pollutants meeting the criteria of paragraph (e)(1) of this section will be satisfied by:
- i. Limitations on those pollutants; or
  - ii. Limitations on other pollutants which, in the judgement of the Department, will provide treatment of the pollutants under paragraph (e)(1) of this section to the levels required by 40 CFR Section 125.3(c).
- (f) Notification level: a "notification level" which exceeds the notification level of Section 3.11(a)1.i., ii, or iii, upon a petition from the permittee or on the Department's initiative. This new notification level may not exceed the level which can be achieved by the technology-based treatment requirements appropriate to the permittee under 40 CFR Section 125.3(c).
- (g) Reporting: Pollutants for which the permittee must report violations of maximum daily discharge limitations under Section 3.10(f)3. shall be listed as such in the permit. This list shall include any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance.
- (h) Durations for permits, as set forth in Sections 2.7(a) and 3.15.
- (i) Monitoring requirements: In addition to Section 2.9 the following monitoring requirements:
- 1. To assure compliance with permit limitations, requirements to monitor:
    - i. The mass (or other measurement specified in the permit) for each pollutant limited in the permit;
    - ii. The volume of effluent discharged from each outfall;
    - iii. Other measurements as appropriate; including pollutants in internal waste streams under Section 3.14(i) pollutants in intake water for net limitations under Section (f); frequency, rate of

- discharge, etc. for noncontinuous discharges under Section 3.14(e); and pollutants subject to notification requirements under Section 3.11(a).
- iv. According to test procedures approved under 40 CFR Part 136 for the analyses of pollutants having approved methods under that Part, and according to a test procedure specified in the permit for pollutants with no approved methods.
2. Requirements to report monitoring results with a frequency dependent on the nature and effect of the discharge, but in no case less than once a year.
- (j) Pretreatment program requirements for POTWS to:
- 1. Identify, in terms of character and volume of pollutants, any significant indirect dischargers into the POTW subject to pretreatment standards under section 307(b) of the Federal Act or Section 4 of the State Act, 40 CFR Part 403, and the "Pretreatment Standards for Sewerage", N.J.S.A. 58:11-49 et seq. and regulations promulgated thereunder;
  - 2. Notify the Commissioner in advance of the quality and quantity of all new introduction of pollutants into a facility and of any substantial change in the pollutants introduced into a facility by an existing user of the facility, except for such introductions of nonindustrial pollutants as the Commissioner may exempt from this notification requirement when ample capacity remains in the facility to accommodate new inflows. Such notifications shall estimate the effects of such changes on the effluents to be discharged into the facility;
  - 3. To establish an effective regulatory program, alone or in conjunction with the operators of sewage collection systems, that will assure compliance and monitor progress toward compliance by industrial users of the facilities with usercharge and cost recovery requirements of the Federal Act or State law and toxicity standards and pretreatment standards adopted pursuant to section 4 of the State Act and the "Pretreatment Standards for Sewerage" N.J.S.A. 58:11-44 et seq.
  - 4. As actual flows to the facility approach design flow or design loading limits, to submit to the

Commissioner for approval, a program which the permittee and the persons responsible for building and maintaining the contributory system shall pursue in order to prevent overload of the facilities.

- 5. Submit a local program when required by and in accordance with 40 CFR Part 403 to assure compliance with pretreatment standards to the extent applicable under section 307(b). The local program shall be incorporated into the permit as described in 40 CFR Part 403. The program shall require all indirect dischargers to the POTW to comply with the reporting requirements of 40 CFR Part 403, Subchapter 3, and "Pretreatment Standards for Sewerage" N.J.S.A. 58:11-49 et seq. and regulations promulgated thereunder.

(k) Best management practices to control or abate the discharge of pollutants when:

- 1. Authorized under section 304(e) of the Federal Act for the control of toxic pollutants and hazardous substances from ancillary activities:
- 2. Numeric effluent limitations are infeasible, or
- 3. The practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the State and Federal Acts.

(l) Reissued permits:

- 1. Except as provided in paragraph 2. of this subsection when a permit is renewed or reissued, interim limitations, standards or conditions which are at least as stringent as the final limitations, standards, or conditions in the previous permit (unless the circumstances on which the previous permit was based have materially and substantially changed since the time the permit was issued and would constitute cause for permit modification or revocation and reissuance under Section 2.12).
- 2. When effluent limitations were imposed under section 402(a)(1) of the Federal Act or section 4 of the State Act in a previously issued permit and these limitations are more stringent than the subsequently promulgated effluent guidelines, this paragraph shall apply unless:
  - i. The discharger has installed the treatment facilities required to meet the effluent limitations in the previous permit and has

properly operated and maintained the facilities but has nevertheless been unable to achieve the previous effluent limitations. In this case the limitations in the renewed or reissued permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by the subsequently promulgated effluent limitation guidelines);

- ii. The subsequently promulgated effluent guidelines are based on best conventional pollutant control technology (section 301(b)(2)(E) of the Federal Act);
- iii. The circumstances on which the previous permit was based have materially and substantially changed since the time the permit was issued and would constitute cause for permit modification or revocation and reissuance under Section 2.12; or
- iv. There is increased production at the facility which results in significant reduction in treatment efficiency, in which case the permit limitations will be adjusted to reflect any decreased efficiency resulting from increased production and raw waste loads, but in no event shall permit limitations be less stringent than those required by subsequently promulgated standards and limitations.

(m) Privately owned treatment works. For a privately owned treatment works, any conditions expressly applicable to any user, as a limited co-permittee, that may be necessary in the permit issued to the treatment works to ensure compliance with applicable requirements under this Section. Alternatively, the Department may issue separate permits to the treatment works and to its users, or may require a separate permit application from any user. (See Section 10.5) The Department's decision to issue a permit with no conditions applicable to any user, to impose conditions on one or more users, to issue separate permits, or to require separate applications, and the basis for that decision, shall be stated in the fact sheet for the draft permit for the treatment works.

(n) Grants. Any conditions imposed in grants made by the Administrator to POTWs under sections 201 and 204 of the Federal Act or by the Department under Section 5 of the State Act which are reasonably necessary for the achievement of effluent limitations under section 301 of the Federal Act or Section 4 of the State Act.

- (o) Sewage Sludge. Requirements under Section 405 of the Federal Act governing the disposal of sewage sludge from publicly owned treatment works, in accordance with any applicable Federal regulations, in accordance with Sections 4 and 6 of the State Act, and applicable regulations the "Sludge Quality Assurance Regulations," N.J.A.C. 7:9-4.1 et seq., the "Regulations Concerning the Statewide Management of Septage" N.J.A.C. 7:14-5.1 et seq., and the "Solid Waste Management Act" N.J.S.A. 13:1D-1 et seq.
- (p) Coast Guard. When a permit is issued to a facility that may operate at certain times as a means of transportation over water, a condition that the discharge shall comply with any applicable regulations promulgated by the Secretary of the department in which the Coast Guard is operating, that establish specifications for safe transportation, handling, carriage, and storage of pollutants.
- (q) Navigation. Any conditions that the Secretary of the Army considers necessary to ensure that navigation and anchorage will not be substantially impaired, in accordance with Section 9.4.

Section 3.14 Calculating NJPDES permit conditions.

- (a) Outfalls and discharge points. All permit effluent limitations, standards, and prohibitions shall be established for each outfall or discharge point of the permitted facility, except as otherwise provided under Section 3.13(k)2. (BMPs where limitations are infeasible) and paragraph (l) of this section (limitations on internal waste streams).
- (b) Production-based limitations.
  1. In the case of POTWs permit limitations, standards or prohibitions shall be calculated based on design flow.
  2. Except in the case of POTWs calculation of any permit limitations, standards, or prohibitions which are based on production (or other measure of operation) shall be based not upon the designed production capacity but rather upon a reasonable measure of actual production of the facility, such as the production during the high month of the previous year, or the monthly average for the highest of the previous 5 years. For new sources actual production shall be estimated using projected production. The time period of the measure of production shall correspond to the time period of the calculated permit limitations; for example,

monthly production shall be used to calculate average monthly discharge limitations.

- (c) Metals. All permit effluent limitations, standards, or prohibitions for a metal shall be expressed in terms for a metal (that is, the sum of the dissolved and suspended fractions of the metal) unless:
  1. An applicable effluent standard or limitation has been promulgated under the Federal or State Act and specifies the limitation for the metal in the dissolved or valent form; or
  2. In establishing permit limitations on a case-by-case basis under 40 CFR Section 125.3, or Section 4 of the State Act, it is necessary to express the limitation on the metal in the dissolved or valent form in order to carry out the provisions of the State and Federal Acts.
- (d) Continuous discharges. For continuous discharges all permit effluent limitations, standards, and prohibitions, including those necessary to achieve water quality standards, shall unless impracticable be stated as:
  1. Maximum daily and average monthly discharge limitations for all dischargers other than publicly owned treatment works; and
  2. Average weekly and average monthly discharge limitations for POTWs.
- (e) Non-continuous discharges. Discharges which are not continuous, as defined in Section 1.10, shall be particularly described and limited, considering the following factors, as appropriate:
  1. Frequency (for example, a batch discharge shall not occur more than once every 3 weeks);
  2. Total mass (for example, not to exceed 100 kilograms of zinc and 200 kilograms of chromium per batch discharge);
  3. Maximum rate of discharge of pollutants during the discharge (for example, not to exceed 2 kilograms of zinc per minute); and
  4. Prohibition or limitation of specified pollutants by mass, concentration, or other appropriate measure (for example, shall not contain at any time more than 0.1 mg/l zinc or more than 250 grams (¼ kilogram) of zinc in any discharge).

(f) Mass limitations.

1. All pollutants limited in permits shall have limitations, standards, or prohibitions expressed in terms of mass except;
  - i. For pH, temperature, radiation, or other pollutants which cannot appropriately be expressed by mass;
  - ii. When applicable standards and limitations are expressed in terms of other units of measurement; or
  - iii. If in establishing permit limitations on a case-by-case basis under 40 CFR Section 125.3 or Section 4 of the State Act, limitations expressed in terms of mass are infeasible because the mass of the pollutant discharged cannot be related to a measure of operation (for example, discharges of TSS from certain mining operations), and permit conditions ensure that dilution will not be used as a substitute for treatment.
2. Pollutants limited in terms of mass additionally may be limited in terms of other units of measurement, and the permit shall require the permittee to comply with both limitations.

(g) Pollutants in intake water. Except as provided in paragraph (b) of this section, effluent limitations imposed in permits shall not be adjusted for pollutants in the intake water.

(h) Net limitations.

1. Upon request of the discharger, effluent limitations or standards imposed in a permit shall be calculated on a "net" basis; that is, adjusted to reflect credit for pollutants in the discharger's intake water, if the discharger demonstrates that its intake water is drawn from the same body of water into which the discharge is made and if:
  - i. (A) The applicable effluent limitations and standards contained in 40 CFR Subchapter N specifically provide that they shall be applied on a net basis; or
  - (B) The discharger demonstrates that pollutants present in the intake water will not be entirely removed by the treatment systems operated by the discharger; and

ii. The permit contains conditions requiring:

- (A) 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
- (B) The permittee to notify the Department if eligibility for an adjustment under this section has been altered or no longer exists. In that case, the permit may be modified accordingly under section 2.12.

2. Permit effluent limitations or standards adjusted under this paragraph shall be calculated on the basis of the amount of pollutants present after any treatment steps have been performed on the intake water by or for the discharger. Adjustments under this paragraph shall be given only to the extent that pollutants in the intake water which are limited in the permit are not removed by the treatment technology employed by the discharger.

In addition, effluent limitations or standards shall not be adjusted to the extent that the pollutants in the intake water vary physically, chemically, or biologically from the pollutants limited in the permit. Nor shall effluent limitations or standards be adjusted to the extent that the discharger significantly increases concentrations of pollutants in the intake water, even though the total amount of pollutants might remain the same.

3. This paragraph shall apply to discharges to ground water only if the discharger demonstrates to the satisfaction of the Department that the discharger did not discharge the pollutants to the ground water.

(i) Internal waste streams.

1. When permit effluent limitations or standards imposed at the point of discharge are impractical or infeasible, 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. In those instances, the monitoring required by Section 3.13(i) shall also be applied to the internal waste streams.

2. Limits on internal waste streams will be imposed only when the fact sheet under section 9.2 sets forth the exceptional circumstances which make such limitations necessary, such as when the final discharge point is inaccessible (for example, under 10 meters of water), the wastes at the point of discharge are so diluted as to make monitoring impracticable, or the interferences among pollutants at the point of discharge would make detection or analysis impracticable.

(j) Disposal of pollutants into wells, into DTWs, or by land application. Permit limitations and standards shall be calculated as provided in section 3.16.

(k) Water quality based effluent limitations applicable to discharges into the surface waters of the State shall be developed in accordance with "Treatment of Wastewater Discharged into Waters of the State," N.J.A.C. 7:9-5.1 et seq.

(l) The following limitations shall apply in order to control gross pollution of surface waters by any of the pollutants listed in Appendix B. The amount of any substance listed in Appendix B and which are discharged by any source shall not exceed the amount (w) determined by the equations, listed below however, the Department may also use more sophisticated ambient water quality models and/or sampling programs to enforce the Water Quality Standards and to set discharge limitations in permits. (Use of more sophisticated procedures will result in more stringent discharge limitations because of greater accuracy in evaluating the relationships with other point and non-point sources, the effects of background concentrations, and the limitations of dispersion in tidal waters):

1. The following limitations shall apply in order to control gross pollution of surface waters by any of the pollutants listed in Appendix B. For discharges into surface waters of the State, other than into a bay or the ocean:

$$W = 86.4 \times C \times Q$$

w = Total weight (maximum) in kilograms over any 24 hour period (kg/d) of a pollutant which may be discharged by a treatment works.

C = Concentration, in milligrams per liter (mg/l) of any pollutant listed in Appendix B.

Q = The seven day, 10 year, low flow (cubic meters/second) of the receiving stream immediately downstream of the treatment works outfall.

2. for effluent discharged into a bay or the ocean within the boundaries of the State:

$$W = 86.4 \times C \times Q_e \times S_o$$

C = the interim ambient water quality criteria concentration in milligram in liter (mg/l) of any pollutant listed in Appendix B. This concentration cannot be exceeded at the water surface at the point indicated as S<sub>o</sub> in figure 1.

W = The maximum total weight in kilograms (kg/d) which may be discharged by the treatment works of any pollutant listed in Appendix B, over any 24 hour period.

Q<sub>e</sub> = The effluent discharge flow rate in cubic meter per second (m<sup>3</sup>/sec) of the treatment works.

S<sub>o</sub> = The dilution factor of the effluent at the surface as shown in figure a, and as determined from figure 2.

Y<sub>o</sub> = Depth of the outfall (in meters) measured from the centerline of diffuser port to the low tide elevation (see Figure 1).

D = The net clear diameter of the diffuser port in meter.

F = A dimensionless coefficient (Froude Number) computed according to the formula

$$F = \frac{V_j}{\sqrt{X^j D_s}} g D$$

where: V<sub>j</sub> = Velocity of the effluent jet from the diffuser port V<sub>j</sub> = Q<sub>e</sub>/A)

A = The net area of the diffuser port in square meters (M<sup>2</sup>)

s = Specific gravity of the sewage.

D<sub>s</sub> = The difference between the specific gravity of the sewage and the specific gravity of the receiving water.

g = gravitational acceleration constant which is equal to 9.80 meters per second square (m/sec<sup>2</sup>)

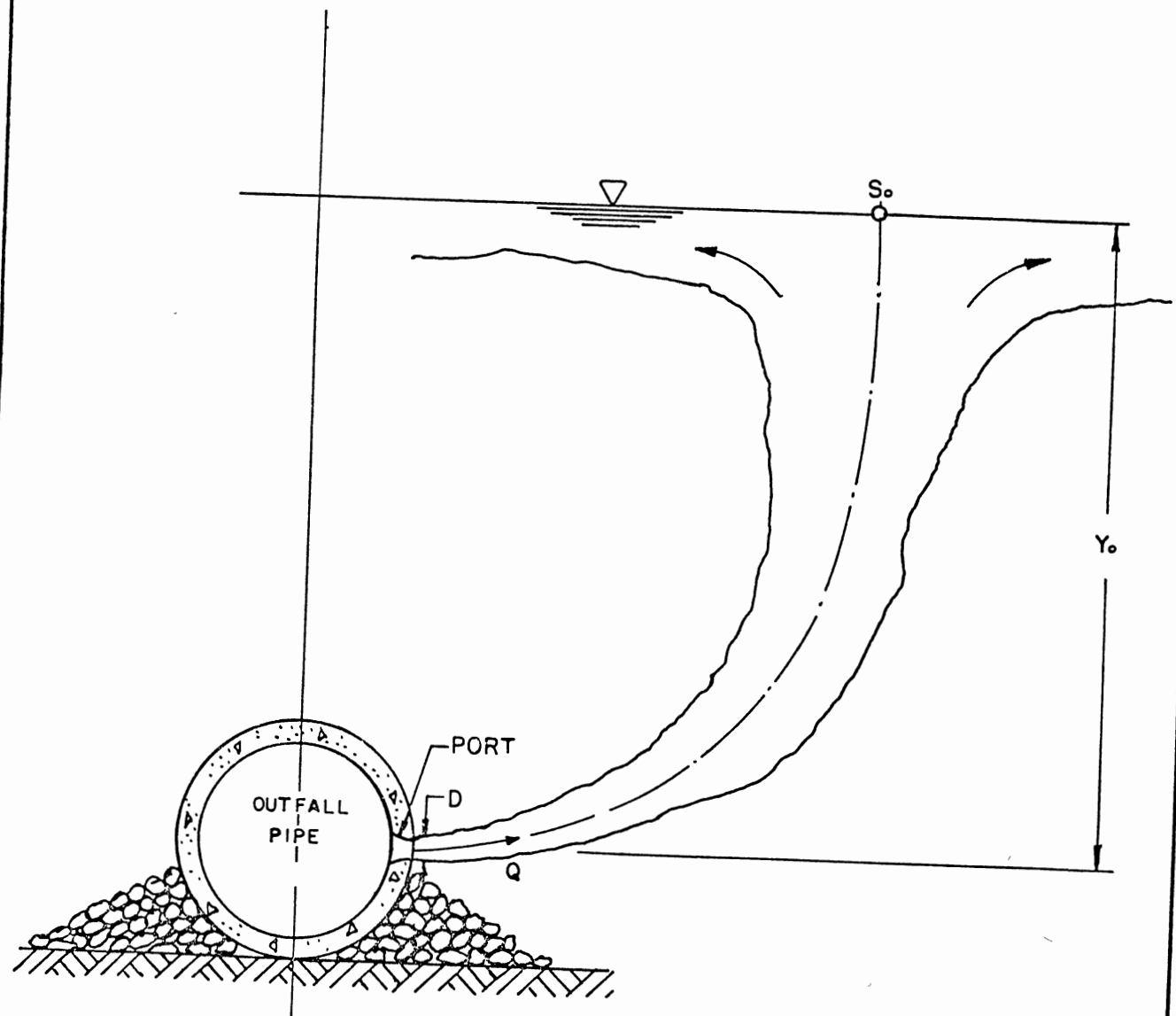
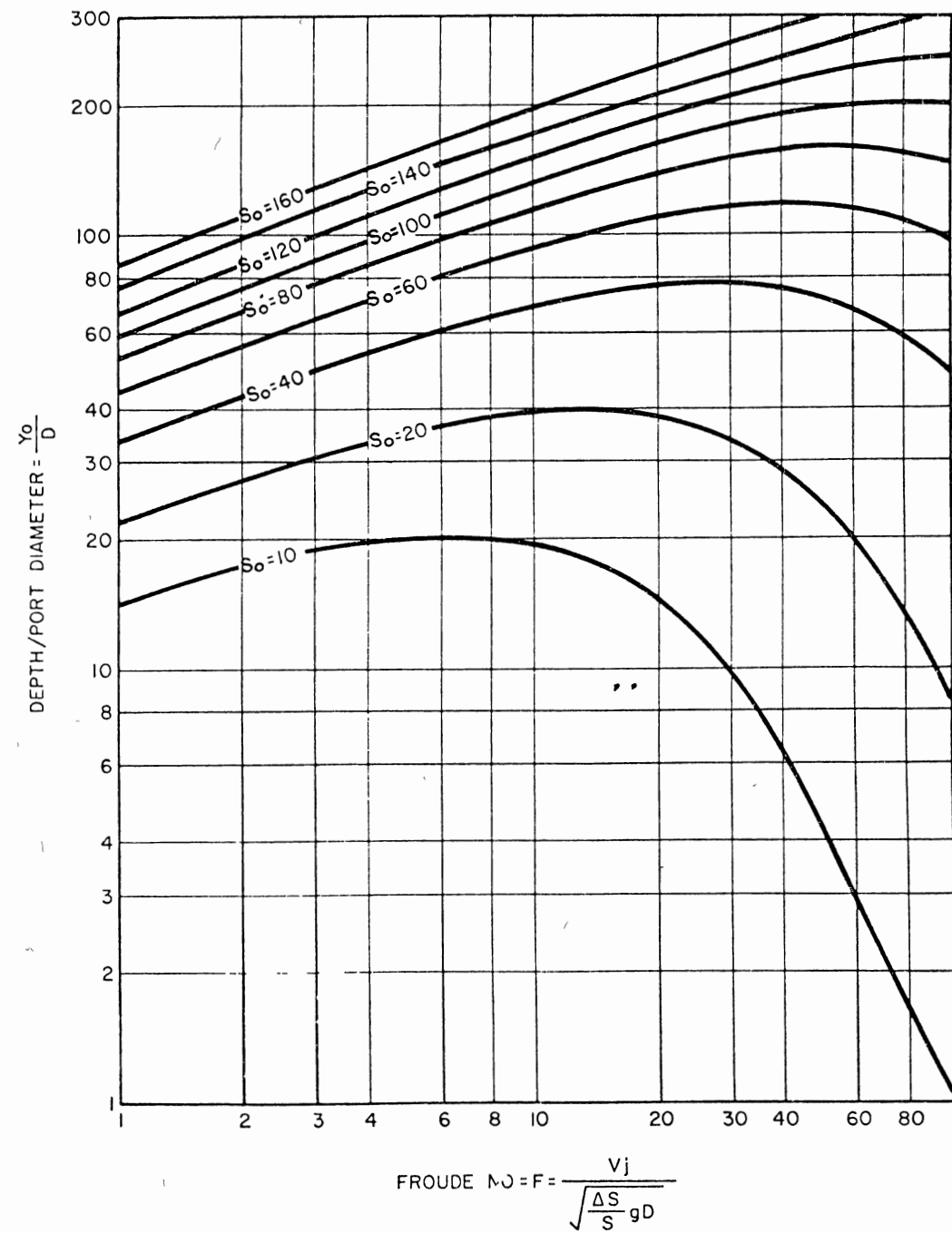


Figure 1.  
Nomenclature for the computation of  
the dilution factors from Figure 2.



INITIAL DILUTION BY TURBULENT JET MIXING  
(AFTER ABRAHAM 1963)

3.15 Duration of certain DSW permits.

- (a) On or before June 30, 1981, any permit issued to a discharger in a primary industry category (see Appendix A):
  - 1. Shall meet one of the following conditions:
    - i. Expire on June 30, 1981;
    - ii. Incorporate effluent standards and limitations applicable to the discharger which have been promulgated or approved under sections 301(b)(2)(C), and (D), 304(b)(2), and 307(a)(2) of the Federal Act or Section 4 of the State Act; or
    - iii. Incorporate the "reopener clause" required by section 3.13(c)1. and effluent limitations to meet the requirements of sections 301(b)(2)(A), (C), (D), (E), and (F) of the Federal Act and Section 4 of the State Act.
  - 2. Shall not be written to expire after June 30, 1981 unless the discharger has submitted to the Department the information required by Section 3.2 and 10.3.
- (b) After June 30, 1981 a permit may be issued for the full term if the permit includes effluent limitations and a compliance schedule to meet the requirements of sections 301(b)(2)(A), (C), (D), (E), and (F) of the Federal Act and Section 4 of the State Act whether or not applicable effluent limitations guidelines have been promulgated or approved.
- (c) A determination that a particular discharger falls within a given industrial category for purposes of setting a permit expiration date under paragraph (e) of this section is not conclusive in that industrial category for any other purposes, and does not prejudice any rights to challenge or change that inclusion at the time that a permit based on that determination is formulated.

3.16 Disposal of pollutants into wells, into DTW or by land application.

- (a) When part of a discharger's process wastewater is not being discharged into surface waters of the State or contiguous zone because it is disposed into a well, into a DTW, or by land application thereby reducing the flow or level of pollutants being discharged into surface waters of the State, applicable effluent standards and limitations for the discharge in an DSW permit

shall be adjusted to reflect the reduced raw waste resulting from such disposal. Effluent limitations and standards in the permit shall be calculated by one of the following methods:

- 1. If none of the waste from a particular process is discharged into surface waters of the State, and effluent limitations guidelines provide separate allocation for wastes from that process, all allocations for the process shall be eliminated from calculation of permit effluent limitations or standards.
- 2. In all cases other than those described in paragraph (a)1. of this Section, effluent limitations shall be adjusted by multiplying the effluent limitation derived by applying effluent limitation guidelines to the total waste stream by the amount of wastewater flow to be treated and discharged into surface waters of the State and dividing the result by the total wastewater flow. Effluent limitations and standards so calculated may be further adjusted under 40 CFR Part 125, Subpart D to make them more stringent if discharges to wells, DTWs or by land application change the character or treatability of the pollutants being discharged to receiving waters.

This method may be algebraically expressed as:

$$P = E \times N/T$$

where P is the permit effluent limitation, E is the limitation derived by applying effluent guidelines to the total waste stream, N is the wastewater flow to be treated and discharged to surface waters of the State, and T is the total wastewater flow.

- (b) Paragraph (a) of this section shall not apply to the extent that promulgated effluent limitations guidelines:
  - 1. Control concentrations of pollutants discharged but not mass; or
  - 2. Specify a different specific technique for adjusting effluent limitations to account for well injection, land application, or disposal into DTWs.
- (c) Paragraph (a) of this section does not alter a discharger's obligation to meet any more stringent requirements established under Sections 2.5, 2.6, 3.10, 3.11 and 3.13.

3.17 Criteria & Standards for the New Jersey Pollutant Discharge Elimination System.

- (a) Criteria and Standards for technology-based treatment requirements in permits.

The criteria and standards for the imposition of technology-based treatment requirements in DSW permits shall be as set forth in 40 CFR Subpart A, under the authority of Section 4 of the State Act.

- (b) Criteria for Issuance of Permits to Aquaculture Projects.

Under the authority of section 4 of the State Act, the criteria for issuance of permit to aquaculture projects shall be as set forth in 40 CFR Part 125, Subpart B.

- (c) Criteria for Extending Compliance Dates for Facilities Installing Innovative Technology.

Under the authority of section 4 of the State Act, the criteria for extending compliance dates for facilities installing innovative technology shall be as set forth in 40 CFR Part 125, subpart C.

- (d) Criteria and Standards for Determining Fundamentally Different Factors.

Under the authority of section 4 of the State Act, the criteria and standards for determining fundamentally different factors shall be as set forth in 40 CFR Part 125, Subpart D.

- (e) Criteria for Determining Alternative Effluent Limitations for the Thermal Component of a Discharge.

Under the authority of section 4 of the State Act, the criteria for determining alternative effluent limitations for the thermal component of a discharge shall be as set forth in 40 CFR Part 125, Subpart H.

- (f) Criteria Applicable to Cooling Water Intake Structures.

Under the authority of section 4 of the State Act the criteria applicable to cooling water intake structure shall be as set forth in 40 CFR Part 125, Subpart I.

- (g) Criteria for Extending Compliance Dates.

Under the authority of sections 4, 6, and 7 of the State Act, extensions of the 1977 deadline in Section 301(i)(1) and (2) of the Federal Act for compliance with certain treatment requirements may be granted as described in 40 CFR 125, Subpart J.

- (h) Criteria and Standards for Best Management Practices

Under the authority of section 4 of the State Act the criteria and standards for best management practices for ancillary industrial activities shall be as set forth in 40 CFR 125, Subpart K.

- (i) Criteria and Standards for Imposing Conditions for the Disposal of Sewage Sludge.

Under the authority of section 4 of the State Act, the criteria and standards for imposing conditions for the disposal of sewage sludge shall be as set forth in 40 CFR 125, Subpart L.

SUBCHAPTER 4 - ADDITIONAL REQUIREMENTS FOR AN INDUSTRIAL WASTE MANAGEMENT FACILITY

4.1 Effective date. This subchapter shall not be effective until the State is granted interim authorization by EPA pursuant to Section 3006 of RCRA.

4.2 Scope

(a) An industrial waste management facility shall obtain a NJPDES permit in accordance with Section 4.3.

(b) Specific inclusions

An industrial waste management facility (IWMF) includes the following:

1. An indirect discharge which treats (before discharge into a domestic treatment works), stores, or disposes of hazardous waste which is received intracompany and intrastate or is part of its production process. "Hazardous wastes" are identified in the "Hazardous Waste Management Regulations," N.J.A.C. 7:26-1.1 et seq. The terms "treatment of hazardous waste", "storage", and "hazardous waste" are defined in Section 1.10.
2. The treatment of hazardous waste in a surface impoundment;
3. The treatment, storage, or disposal, of hazardous waste which is received intracompany and intrastate or is part of its production process by any person with a (DSW) except for a DSW from a landfill;
4. The treatment of hazardous waste by a POTW which does not satisfy the requirements of Section 4.2 (permit by rule);

(c) Exclusions.

1. Owners or operators of totally enclosed treatment facilities as defined in 40 CFR Section 260.10 are not required to obtain a permit under this Subchapter.
2. Any person with a (DSW) who treats, stores, or disposes of hazardous waste which is received intercompany or interstate is not required to obtain a permit under this Subchapter, but shall comply with the "Hazardous Waste Regulations," N.J.A.C. 7:26-1.1 et seq.

3. Any person who uses a surface impoundment for the final disposal of hazardous waste as defined in N.J.A.C. 7:26-1.4 shall comply with the "Hazardous Waste Regulations" N.J.A.C. 7:26-1.1 et seq.

4. Any person who receives a hazardous waste for use in its production process and does not treat the hazardous waste is not required to obtain a permit under this Subchapter, but shall comply with the "Hazardous Waste Regulations," N.J.A.C. 7:26-1.1 et seq.

(d) An IWMF shall comply with Subchapter 7 of the "Hazardous Waste Management Regulations", N.J.A.C. 7:26-1.1 et seq.

4.3 Application for a permit.

(a) The owner and operator of an existing industrial waste management facility (IWMF) as defined in Section 4.2(a) may be required to submit Part B of the permit application to the Department at any time after the promulgation of Phase II as defined in Section 1.10. Any owner or operator shall be allowed at least six months from the date of Departmental request to submit Part B of the application as described in Section 10.6. Failure to furnish a requested Part B application on time, or to furnish in full the information required by the Part B application, is grounds for termination of interim status under Subchapters 7 and 8.

(b) New Facilities

1. No person shall begin physical construction of a new facility without having submitted Part A and Part B of its permit application as described in Section 10.6 and received a finally effective permit.
2. An application for a permit for a new IWMF (including both Part A and Part B) may be filed with the Department any time after promulgation of Phase II. All applications must be submitted at least 180 days before physical construction is expected to commence.
3. A new IWMF must contact the Department to obtain an EPA identification number prior to commencing the treatment, storage, or disposal of any hazardous waste.

(c) Updating permit applications.

1. If any owner or operator of an IWMF has filed Part A of a permit application and has not yet filed Part B, the owner or operator shall file an amended Part A application:
  - i. With the Department no later than the effective date of regulatory provisions listing or designating wastes as hazardous in the "Hazardous Waste Regulations", N.J.A.C. 7:26-1.1 et seq. or in 40 CFR Part 261 if the facility is treating, storing, or disposing of any of those newly listed or designated wastes; or
  - ii. As necessary to comply with provisions of Section 4.4 for changes during interim status during Phase II. Revised Part A applications shall be filed with the Department.
2. The owner or operator of a facility who fails to comply with the updating requirements of paragraph (c)(1) of this section does not receive interim status as to the wastes not covered by duly filed Part A applications.

(d) Reapplications. Any IWMF with an effective permit shall submit a new application at least 180 days before the expiration date of the effective permit.

4.4 Interim status.

- (a) Qualifying for interim status. Any person who owns or operates an "existing IWMF" shall have interim status and shall be treated as having been issued a permit to the extent that the person:
1. Notified the Regional Administrator within 90 days from the promulgation or revision of Part 261 as required in Section 3010 of RCRA (this may be done by completing EPA form 8700-12); and
  2. Complied with the requirements of Section 4.3(a) and (c) governing submission of Part A applications;
  3. When the Department determines on examination or reexamination of a Part A application that the application fails to meet the standards of these regulations, it may notify the owner or operator that the application is deficient and that the owner or operator is therefore not entitled to interim status. The owner or operator will then be subject to Department enforcement action for operating without a permit.

(b) Coverage. During the interim status period the facility shall not:

1. Treat, store, or dispose of hazardous waste which is not specified in Part A of the permit application;
2. Employ any processes not specified in Part A of the permit application; or
3. Exceed the design capacities specified in Part A of the permit application.

(c) Changes during interim status.

1. New hazardous wastes not previously identified in Part A of the permit application may be treated at a facility if the owner or operator submits a revised Part A permit application prior to such a change;
2. Increases in the design capacity of processes used at a facility may be made if the owner or operator submits a revised Part A permit application prior to such a change (along with a justification explaining the need for the change) and the Department approves the change.
3. Changes in the processes for the treatment, storage, or disposal of hazardous waste may be made at a facility or additional processes may be added if the owner or operator submits a revised Part A permit application prior to such a change (along with a justification explaining the need for the change) and the Department approves the change because:
  - i. It is necessary to prevent a threat to human health or the environment because of an emergency situation; or
  - ii. It is necessary to comply with Federal regulations (including the interim status standards at 40 CFR Part 265) or State or local laws.

4. Changes in the ownership or operational control of a facility may be made if the new owner or operator submits a revised Part A permit application no later than 90 days prior to the scheduled change. When a transfer of ownership or operational control of a facility occurs, the old owner or operator shall comply with the requirements of 40 CFR Part 265, Subpart H (financial requirements), and the "Hazardous Waste Regulations", N.J.A.C. 7:26-1.1 et seq. until the new owner or operator has demonstrated to the Department that it is complying with that Subpart and the State regulations. All other interim status duties are transferred effective immediately upon the date of the change of ownership or operational control of the facility. Upon demonstration to the Department by the new owner or operator of compliance with that Subpart and the State regulations, the Department shall notify the old owner or operator in writing that it no longer needs to comply with that Part and the State regulations as of the date of such demonstration.
  5. In no event shall changes be made to an IWMF during interim status which amount to reconstruction of the facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds fifty percent of the capital cost of a comparable entirely new IWMF.
- (d) Interim status standards. During interim status, owners, or operators shall comply with the interim status standards at 40 CFR Part 265. Owners and operators of Surface impoundments should particularly note the requirements of Section 265.220 et seq.
- (e) Grounds for termination of interim status. Interim status terminates when:
1. Final administrative disposition of a permit application is made; or
  2. Interim status is terminated as provided in Section 4.3(a)(3).

4.5 Permits by rule.

Notwithstanding any other provision of this Subchapter or Subchapters 7 and 8 the following shall be deemed to have a IWMF permit if the conditions listed are met:

- (a) Injection wells. Wells disposing of hazardous waste injection well disposes if the owner or operator:
  1. Has a permit for underground injection issued under Subchapter 5; and
  2. Complies with the conditions of that permit and the requirements of Section 5.13 (requirements for wells managing hazardous waste).
- (b) Publicly owned treatment works. A POTW which accepts for treatment hazardous waste, if the owner or operator:
  1. Has a DSW permit;
  2. Complies with the conditions of that permit; and
  3. Complies with the following regulations:
    - i. 40 CFR Section 264.11, Identification number;
    - ii. 40 CFR Section 264.71, Use of manifest system;
    - iii. 40 CFR Section 264.72, Manifest discrepancies;
    - iv. 40 CFR Section 264.73(a) and (b)(1), Operating record;
    - v. 40 CFR Section 264.75, Annual report;
    - vi. 40 CFR Section 264.76, Unmanifested waste report; and
  4. If the waste meets all Federal, State, and local pretreatment requirements which would be applicable to the waste if it were being discharged into the DTW through a sewer, pipe, or similar conveyance.

4.6 Additional conditions applicable to all IWMF permits.

The following conditions, in addition to those set forth in Section apply to all IWMF's:

- (a) In addition to Section 2.5(a) (Duty to comply): the permittee need not comply with the conditions of this permit to the extent and for the duration such noncompliance is authorized in an emergency permit. (see Section 2.2);
- (b) In addition to Section 2.5(j) (Monitoring): the permittee shall maintain records from all ground monitoring wells and associated groundwater surface elevations, for the active life of the facility, and for disposal facilities for the post-closure care period as well;
- (c) In addition to Section 2.5(1)1. (Notice of planned changes): for a new IWMF the permittee may not commence treatment, storage, or disposal of hazardous waste; and for a facility being modified the permittee may not treat, store, or dispose hazardous waste in the modified portion of the facility, until;
  - 1. The permittee has submitted to the Department by certified mail or hand delivery a letter signed by the permittee and a registered professional engineer stating that the facility has been constructed or modified in compliance with the permit; and
  - 2.
    - i. The Department has inspected the modified or newly constructed facility and finds it is in compliance with conditions of the permit; or
    - ii. Within 20 days of the date of submission of the letter in paragraph (c)(1) of this section, the permittee has not received notice from the Department of intent to inspect, prior inspection is waived and the permittee may commence treatment, storage or disposal of hazardous waste;
- (d) The following shall be included as information which must be reported orally to the Department within 2 hours under Section 2.5(1)(6).
  - 1. Information concerning release of any hazardous waste that may cause an endangerment to public drinking water supplies.

- 2. Any information of a release or discharge of hazardous waste, or of a fire or explosion from an IWMF which could threaten the environment or human health outside the facility. The description of the occurrence and its cause shall include:

- i. Name, address, and telephone number of the owner or operator;
- ii. Name, address, and telephone number of the facility;
- iii. Date, time, and type of incident;
- iv. Name and quantity of material(s) involved;
- v. The extent of injuries, if any;
- vi. An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable;
- vii. Estimated quantity and disposition of recovered material that resulted from the incident. The Department may waive the five day written notice requirement in favor of a written report within fifteen days; and

- (e) Annual report: In addition to the reports required by section 2.5(1) (reporting requirements); an annual report must be submitted covering IWMF activities during the previous calendar year (See 40 CFR Section 264.75.)

4.7 Establishing IWMF permit conditions.

In addition to the conditions established under Section 2.6(a) each IWMF permit shall include each of the applicable requirements specified in 40 CFR Parts 264 and 266.

SUBCHAPTER 5 - UNDERGROUND INJECTION CONTROL PROGRAM

5.1 Scope

(a) Specific inclusions. The following wells are included among those types of injection activities which are covered by the underground injection control (UIC) regulations. (This list is not intended to be exclusive but is for clarification only.)

1. Any injection well located on a drilling platform inside the State's territorial waters.
2. Any hole or well that is deeper than its largest surface dimension, where the principal function of the hole is emplacement of fluids.
3. Any septic tank seepage pit, or cesspool used by generators of hazardous waste, or by owners or operators of hazardous waste management facilities, to dispose of fluids containing hazardous waste.
4. Any septic tank, seepage pit, cesspool, or other well used by a multiple dwelling, community, or regional system for the injection of wastes.

(b) Specific exclusions. The following are not covered by these regulations:

1. Injection wells located on a drilling platform or other site that is beyond the State's territorial waters.
2. Individual or single family residential waste disposal systems such as domestic seepage pit or septic systems.
3. Any hole which is not used for emplacement of fluids underground.

5.2 Classification of injection wells.

Injection wells are classified as follows:

(a) Class I.

1. Wells used by generators of hazardous wastes or owners or operators of hazardous waste management facilities to inject hazardous waste, other than Class IV wells.

2. Other disposal wells which inject fluids beneath the lowermost formation containing, within two miles of the well bore, an underground source of drinking water.

(b) Class II. Wells which inject fluids:

1. Which are brought to the surface in connection with conventional oil or natural gas production;
2. For enhanced recovery of oil or natural gas; or
3. For storage of hydrocarbons which are liquid at standard temperature and pressure.

(c) Class III. Wells which inject for extraction of minerals or energy, including:

1. Mining of sulfur by the Frasch process;
2. Solution mining of minerals, including sodium chloride, potash, phosphate, copper, uranium and any other minerals which can be mined by this process;
3. 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
4. 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.

(d) Class IV. Wells used by generators of hazardous wastes or of radioactive wastes, by owners or operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites, to dispose of hazardous wastes or radioactive wastes into or above a formation which, within two (2) miles of the injection well, contains an underground source of drinking water (USDW).

(e) Class V. Injection wells not included in Class I, II, III, or IV. Examples of Class V wells include:

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

2. Cesspools or other devices that receive wastes, which have an open bottom and sometimes have perforated sides. The UIC requirements do not apply to single family residential septic systems.
3. Cooling water return flow wells used to inject water previously used for cooling;
4. Drainage wells used to drain surface fluid, primarily storm runoff, into a subsurface formation;
5. Dry wells used for the injection of wastes into a subsurface formation;
6. Recharge wells used to replenish the water in an aquifer;
7. 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;
8. Sand backfill wells used to inject a mixture of water and sand, mill tailings or other solids into mined-out portions of subsurface mines;
9. Septic system wells used:
  - i. To inject the waste or effluent from a multiple dwelling, business establishment, community or regional business establishment septic tank; or
  - ii. For a multiple dwelling, community or regional waste disposal system. The UIC requirements do not apply to single family residential waste disposal systems;
10. 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;
11. Wells used for the storage of fluids, including, for example, hydrocarbons which are gases at standard temperature and pressure;

12. Geothermal wells used in heating and aquaculture; and
13. Nuclear disposal wells.

5.3 Prohibition of unauthorized injection.

Any underground injection is prohibited, except as authorized by permit or by rule under Section 5.5. The construction of any well required to have a permit under this Subchapter is also prohibited until the permit has been issued.

5.4 Prohibition of movement of fluid into underground sources of drinking water.

- (a) No UIC authorization by permit or by rule shall be allowed in the following circumstances:
  1. Where a Class I, II, or III well causes or allows movement of any contaminant into underground sources of drinking water; or
  2. Where a Class IV or V well causes or allows movement of fluid containing any contaminant into underground sources of drinking water, and the presence of that contaminant may cause a violation of any primary drinking water regulation under N.J.A.C. 7:10-5.1 et seq., or which may adversely affect the health of persons.
- (b) For Class I, II, and III wells, 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 prevent such movement. These additional requirements shall be imposed by modifying the permit in accordance with Section 2.12, or the permit may be terminated under Section 2.13 if cause exists, or appropriate enforcement action may 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 primary drinking water regulations under N.J.A.C. 7:10-5.1 et seq., it shall:
  1. Require the injector to obtain an individual permit;

2. Order the injector to take such actions (including, where required, closure of the injection well) as may be necessary to prevent the violation; or
3. Take enforcement action.

- (d) Whenever the Department learns that a Class V well may be otherwise adversely affecting the health of persons, it may prescribe such actions as may be necessary to prevent the adverse effect, including any action authorized under paragraph (c) of this section.
- (e) Notwithstanding any other provision of this section, the Department may take emergency action upon receipt of information that a contaminant which is present in or is likely to enter a public water system may present an imminent and substantial endangerment to the health of persons.

5.5 Authorization of Class V injection wells by rule.

- (a) All Class V injection wells which comply with the requirements of paragraph (c) of this section, are hereby authorized by rule until requirements under future regulations become applicable.
- (b) Requiring a permit.
1. The Department may require any Class V injection well authorized by rule to apply for and obtain an individual or area UIC permit. Cases where individual or area UIC permits may be required include:
    - i. The injection well is not in compliance with any requirement of the rule;
    - ii. The injection well is no longer a Class V well;
    - iii. The protection of underground sources of drinking water (USDW) requires that the injection operation be regulated by requirements, such as for corrective action, monitoring and reporting, or operation, which are not contained in the rule.

2. The Department may require the owner or operator authorized by rule to apply for an individual or area UIC permit under this paragraph only if the owner or operator has been notified in writing that a permit application is required. The notice shall include a brief statement of the reasons for this decision, an application form, a statement setting a time for the owner or operator to file the application, and a statement that upon the effective date of the UIC permit the rule no longer applies to the activities regulated under the UIC program.
3. Any owner or operator authorized by rule may request to be excluded from the coverage of the rule by applying for an individual or area UIC permit. The owner or operator shall submit an application under Section 5.8, with reasons supporting the request, to the Department. The Department may grant any such request.

(c) Inventory requirements. All Class V injection wells covered by rule shall submit inventory information to the Department. The authorization by rule for any Class V well which fails to comply within the time specified in paragraph (c)(3) of this section shall be automatically terminated.

1. Contents. As part of the inventory, the following information is required:
  - i. Facility name and location;
  - ii. Name and address of legal contact;
  - iii. Ownership of facility;
  - iv. Nature and type of injection well(s); and
  - v. Operating status of injection wells.
2. Notice. Upon the effective date of these regulations, the Department shall notify owners or operators of existing injection wells of their duty to submit inventory information.

3. Deadlines.

- i. Owners or operators of existing injection wells must submit inventory information no later than one year after the authorization by rule.
- ii. Owners or operators of new injection wells must submit inventory information in accordance with the schedule in Section 10.1.

5.6 Identification of underground sources of drinking water and exempted aquifers.

- (a) The Department may identify (by narrative description, illustrations, maps, or other means) and shall protect, except where exempted under paragraph (b) of this section, 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 Section 1.10. 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 Section 1.10.
- (b) After notice and opportunity for public hearing the Department may identify (by narrative description, illustrations, maps, or other means) and describe in geographic and/or geometric terms (such as vertical and lateral limits and gradient) which are clear and definite, all aquifers or parts thereof which the Department proposes to designate as exempted aquifers using the criteria in Section 5.14(a).

5.7 Elimination of Class IV wells.

- (a) The UIC program prohibits:
  1. The construction of any well for the injection of hazardous waste directly into or above a formation which contains an underground source of drinking water (USDW) within two miles of the injection well;
  2. The injection of hazardous waste directly into or above a formation which within two (2) miles of the injection well, contains an USDW, by means of a well that was not in operation prior to the effective date of these regulations;

3. Any increase in the amount of hazardous waste or change in the type of hazardous waste injected into or above a formation which contains an USDW within two (2) miles of the injection well;
4.
  - i. The operation of any Class IV well injecting hazardous waste directly into a formation which within two (2) miles of the injection well contains an USDW, 6 months after EPA's approval of the NJPDES program;
  - ii. (A) The operation of any Class IV wells injecting hazardous waste above a formation which within two (2) miles of the injection well contains a USDW, 6 months after EPA's approval of the NJPDES program;
  - (B) In exceptional circumstances the Department may, in its discretion, authorize by permit the continued operation of such a Class IV well when the Department has determined that, where the well may cause or allow movement of any contaminant into a USDW, the presence of that contaminant shall not adversely affect the health of persons or cause a violation of either primary drinking water standards or applicable ground water quality standards. "Exceptional circumstances" may include situations where the injection is necessitated by public health or environmental considerations.

The owner or operator of a Class IV well must petition the Department for a consideration by the Department within 2 months after the effective date of these regulations, and the burden of proof is on the owner or operator.

- (b) The Department may, in its discretion, authorize the construction of a Class IV well for the injection of hazardous waste above a formation which contains a USDW within 2 (two) miles of the injection well, only when such injection would be an acceptable method, as determined by the Department, to alleviate a situation posing an imminent and substantial danger to public health or safety. Such authorization may only be given when the Department has determined that, where such Class IV well may cause or allow movement of the contaminants into a USDW, the presence of that contaminant shall not adversely affect the health of persons or cause a violation of either primary drinking water standards or applicable ground water quality standards. The owner or operator of such a proposed Class IV well must petition the Department for a consideration by the Department, and the burden of proof is on the owner or operator.

5.8 Application for a permit; authorization by permit.

- (a) Permit application. All underground injections into Class I, II, or III wells are prohibited unless authorized by permit.
- (b) Time to apply. Any person who performs or proposes an underground injection for which a permit is or will be required shall submit an application to the Department in accordance with the State UIC program as follows:
1. For existing injection wells, as soon as possible, but no later than six (6) months after the effective date of the regulations.
  2. For new injection wells, except new wells covered by an existing area permit under Section 5.9(c), in accordance with the schedule in Section 2.1(f) (2).
- (c) The information required by the Department for a UIC application is listed in Section 10.13.

5.9 Area permits.

- (a) The Department may issue a permit on an area basis, rather than for each well individually, provided that the permit is for injection wells:

1. Described and identified by location in permit application(s), if they are existing wells;
  2. Within the same well field, facility site, reservoir, project, or similar unit in the State;
  3. Of similar construction;
  4. Of the same class as determined under Section 5.2; and
  5. Operated by a single owner or operator.
- (b) Area permits shall specify:
1. The area within which underground injections are authorized, and
  2. The requirements for construction, monitoring, reporting, operation, and abandonment, for all wells authorized by the permit.
- (c) The area permit may authorize the permittee to construct and operate new injection wells within the permit area provided:
1. The permittee notifies the Department no later than the date in the permit on which monitoring reports are required to be submitted, pursuant to a procedure which shall be specified in the permit, when and where the new well has been or will be drilled;
  2. The additional well satisfies the criteria in paragraph (a) of this section and meets the requirements specified in the permit under paragraph (b) of this section; and
  3. The cumulative effects of drilling and operation of additional injection wells are considered by the Department during evaluation of the area permit application and are acceptable to the Department.
- (d) If the Department determines that any well constructed pursuant to paragraph (c) of this section does not satisfy any of the requirements of paragraphs (c)(1) and (c)(2) of this section, the Department may modify the permit under Section 2.12, terminate the permit under Section 2.13 or take enforcement action pursuant to the State Act. If the Department determines that cumulative effects are unacceptable, the permit may be modified under Section 2.12.

5.10 Additional conditions applicable to all UIC permits.

The following conditions, in addition to those set forth in Section 2.5, apply to all UIC permits and shall be incorporated into all permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations must be given in the permit.

- (a) In addition to Section 2.5 (duty to comply): The permittee need not comply with the provisions of this permit to the extent and for the duration such noncompliance is authorized in a temporary emergency permit under Section 2.2.
- (b) In addition to Section 2.5(j)(2) (monitoring and records): the permittee shall retain all required monitoring records until five years after completion of any plugging and abandonment procedures specified under Section 5.11(f). The Department may require the owner or operator to deliver the records to the Department at the conclusion of the retention period.
- (c) In addition to Section 2.5(1)(1) (notice of planned changes): a new injection well may not commence injection until construction is complete, and
  1. The permittee has submitted notice of completion of construction to the Department; and
  2.
    - i. The Department has inspected or otherwise reviewed the new injection well and finds 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 twenty (20) days of the date of the notice in paragraph (c)(1) of this section, in which case prior inspection or review is waived and the permittee may commence injection.
- (d) 1. The following shall be included as information which must be reported within 2 hours under Section 2.5(1)(6):
  - i. Any monitoring or other information which indicates that any contaminant may cause an endangerment to a potable supply well.

- ii. Any noncompliance with a permit condition or malfunction of the injection system which may cause fluid migration into a potable supply well.
2. The following information must be reported within 24 hours:
  - i. Any monitoring or other information which indicates that any contaminant may cause an endangerment to a USDW, other than the situation in subparagraph (1)(i).
  - ii. Any noncompliance with a permit condition or malfunction of the injection system which may cause fluid migration into or between USDWs, other than the situation in subparagraph (1)(ii).
- (e) The permittee shall notify 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 Section 5.11(f) and Section 5.14(e).

5.11 Establishing UIC permit conditions.

In addition to the conditions established under Section 2.6(a), each UIC permit shall include conditions meeting the following requirements, when applicable:

- (a) Construction requirements as set forth in Sections 5.15, 5.16, or 5.17. Existing wells shall achieve compliance with such requirements according to a compliance schedule established as a permit condition. The owner or operator of a proposed new injection well shall submit plans for testing, drilling, and construction as part of the permit application. Except as authorized by an area permit, no construction may commence until a permit has been issued containing construction requirements (see Section 5.3). New wells shall be in compliance with these requirements prior to commencing injection operations. Changes in construction plans during construction may be approved by the Department as minor modifications (Section 2.14). No such changes may be physically incorporated into construction of the well prior to written approval of the modification by the Department.

- (b) Corrective or preventative action as set forth in Section 5.12 and Section 5.14(c).
- (c) Operation requirements as set forth in Sections 5.15, 5.16, or 5.17; the permit shall establish any maximum injection volumes and/or pressures necessary to assure 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 assure compliance with the operating requirements in Sections 5.15, 5.16, or 5.17.
- (d) Requirements for wells managing hazardous waste, as set forth in Section 5.13.
- (e) Monitoring and reporting requirements as set forth in Sections 5.15, 5.16, or 5.17. The permittee shall be required to identify types of tests and methods used to generate the monitoring data.
- (f) Plugging and abandonment. Any Class I, II or III permit shall include, and any Class V permit may 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. Any applicant for a UIC permit shall be required to submit a plan for plugging and abandonment, taking into account the requirements of Section 10.13(a)(3), Section 10.13(b)(3), or Section 10.13(c)(3), and of N.J.A.C. 7:9-9.1 *et seq.* (sealing of abandoned wells). Where the plan meets the requirements of this paragraph, the Department shall incorporate it into the permit as a condition. Where the Department's review of an application indicates that the permittee's plan is inadequate, the Department shall require the applicant to revise the plan, prescribe conditions meeting the requirements of this paragraph, or deny the application. For purposes of this paragraph, temporary intermittent cessation of injection operations is not abandonment. Cessation of injection operations for a period of two (2) years or more, however, shall constitute an abandonment.

- (g) Financial responsibility. The permit shall require the permittee to maintain financial responsibility and resources, in the form of performance bonds or other equivalent form of financial assurance approved by the Department to close, plug, and abandon the underground injection operation in a manner prescribed by the Department. In lieu of individual performance bonds, an operator may furnish a bond or other equivalent form of financial guarantee approved by the Department covering all of the operator's injection wells in the State.
- (h) Mechanical integrity. A permit for any Class I, II, or III well or injection project which lacks mechanical integrity shall include, and for any Class V well may include, a condition prohibiting injection operations until the permittee shows to the satisfaction of the Department under Section 5.14(d) that the well has mechanical integrity.
- (i) Additional conditions. 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.

5.12 Corrective or preventative action.

- (a) Coverage. Applicants for Class I, II or III injection well permits shall identify the location of all known wells within the injection well's area of review which penetrate the injection zone. For such wells which are improperly sealed, completed, or abandoned, the applicant shall also 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 preventative action"). Where the plan is adequate, the Department shall incorporate it into the permit as a condition. Where the Department's review of an application indicates that the permittee's plan is inadequate (based on the factors in Section 5.14(c)) the Department shall require the applicant to revise the plan, shall prescribe a plan for corrective or preventative action as a condition of the permit, or shall deny the application.
- (b) Requirements
  1. Existing injection wells. Any permit issued for an existing injection well requiring corrective action shall include a compliance schedule requiring any corrective action accepted or prescribed under paragraph (a) of this section to be completed as soon as possible.

2. New injection wells. No permit for a new injection well may authorize injection until all required corrective or preventative action has been taken pursuant to paragraph (a) of this section.

5.13 Requirements for wells injecting hazardous waste.

- (a) Applicability. The regulations in this section apply to all generators of hazardous waste, and to the owners or operators of all hazardous waste management facilities, or industrial waste management facilities as defined in Section 1.10, using any class of well to inject hazardous wastes accompanied by a manifest. (Note Section 5.7, prohibiting Class IV wells).
- (b) Authorization. The owner or operator of any well that is used to inject hazardous waste accompanied by a manifest or delivery document shall apply for authorization to inject as specified in Section 5.8 within 6 months after the effective date of these regulations.
- (c) Requirements. In addition to requiring compliance with the applicable requirements of this Subchapter, the Department shall, for each facility meeting the requirements of paragraph (b) of this section, require that the owner or operator comply with the following:
  1. Notification. The owner or operator shall comply with the notification requirements of 40 CFR Part 261.
  2. Identification number. The owner or operator shall comply with the requirements of 40 CFR Section 264.11.
  3. Manifest system. The owner or operator shall comply with the applicable recordkeeping and reporting requirements for manifested wastes in 40 CFR Section 264.71.
  4. Manifest discrepancies. The owner or operator shall comply with 40 CFR Section 264.72.
  5. Operating record. The owner or operator shall comply with 40 CFR Section 264.73(a), (b)(1), and (b)(2).
  6. Annual report. The owner or operator shall comply with 40 CFR Section 264.75.

7. Unmanifested waste report. The owner or operator shall comply with 40 CFR Section 264.75.
8. Personnel training. The owner or operator shall comply with the applicable personnel training requirements of 40 CFR Section 264.16.
9. Certification of closure. When abandonment of any well injecting hazardous waste (including Class IV wells) is completed, the owner or operator must submit to the Department certification by the owner or operator and certification by signature and seal by an independent New Jersey licensed professional engineer that the facility has been closed in accordance with the specifications in Section 5.11(f).

5.14 General criteria and standards

- (a) Criteria for exempted aquifers. An aquifer or a portion thereof which meets the criteria for an "underground source of drinking water" as defined in Section 1.10 may be determined under Section 5.6 to be an "exempted aquifer" if it meets the following criteria:
  1. It does not currently serve as a source of drinking water; and
  2. It cannot now and will not in the future serve as a source of drinking water because:
    - i. It is mineral, hydrocarbon or geothermal energy producing;
    - ii. It is situated at a depth or location which makes recovery of water for drinking water purposes economically or technologically impractical;
    - iii. It is so contaminated that it would be economically or technologically impractical to render that water fit for human consumption; or
    - iv. It is located over Class III well mining area subject to subsidence or catastrophic collapse.

(b) Area of Review. The area of review for each injection well or each field, project or area of the State shall be determined according to either subparagraph (1) or (2) of this paragraph. The Department strongly encourages owners and operators of injection wells to give the Department input as to which method is most appropriate for each geographic area or field.

1. Zone of endangering influence. 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 may be based upon the parameters listed below and should be calculated for an injection time period equal to the expected life of the injection well or pattern. The modified Theis equation in Appendix E illustrates one form which the mathematical model may take. This equation is based on the following assumptions:

- i. The injection zone is homogenous 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-600/2-79-170), may be used, as appropriate, for different situations encountered in the field or where the model assumptions match those situations more closely.

2. Fixed Radius. A fixed radius around the well, field or project of not less than two (2) miles may be used. In determining the fixed radius, the following factors shall be taken into consideration: Chemistry of injected and formation fluids; hydrogeology; population and ground-water use and dependence; and historical practices in the area.
3. If the area of review is determined by a mathematical model pursuant to subparagraph (1) of this section, the permissible radius is the result of such calculation even if it is less two (2) miles.

(c) Corrective or preventive action. In determining the adequacy of corrective action proposed by the applicant under Section 5.12 and in determining the additional steps needed to prevent fluid movement into underground sources of drinking water, the following criteria and factors shall be considered by the Department:

1. Toxicity and volume of the injected fluid;
2. Toxicity of native fluids or by-products of injection;
3. Potentially affected population;
4. Geology;
5. Hydrology;
6. History of the injection operation;
7. Completion and plugging records;
8. Abandonment procedures in effect at the time the well was abandoned; and
9. Hydraulic connections with underground sources of drinking water.

(d) Mechanical integrity

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 must be used to evaluate the absence of significant leaks under subparagraph (1)(i):
    - i. Monitoring of annulus pressure; or
    - ii. Pressure test with liquid or gas.
  - 3. One of the following methods must be used to determine the absence of fluid movement under subparagraph (1)(ii):
    - i. For Class II 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 may allow the use of a test to demonstrate mechanical integrity other than those listed in subparagraph (2) and (3)(ii) of this paragraph with the written approval of the EPA. Any other alternate method approved by the EPA and published in the Federal Register may be used by the Department unless its use is restricted at the time of approval by the EPA.
  - 5. In conducting and evaluating the tests enumerated in this section or other tests to be allowed by the Department, the owner or operator 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.
- (e) Plugging and Abandoning Class I-III wells.
- 1. Prior to abandoning Class I-III wells' the well shall be plugged with cement in a manner which will not allow the movement of fluids either into or between underground sources of drinking water.

- 2. Placement of the cement plugs shall be accomplished by one of the following:
    - i. The Balance Method;
    - ii. The Dump Bailer Method; or
    - iii. The Two-Plug Method.
  - 3. The well to be abandoned 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 Sections 5.10(e) and 5.11(f) shall, in the case of a Class III well field which underlies or is in an aquifer which has been exempted under Section 5.14(a), 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 it deems it necessary and feasible to insure that no migration of contaminants from the mined zone into an underground source of drinking water will occur.
- 5.15 Criteria and standards applicable to Class I wells.
- (a) Applicability. This section establishes criteria and standards for underground injection control programs to regulate Class I wells.
  - (b) Construction requirements.
    - 1. All Class I wells shall be sited in such a fashion that they inject into a formation which is beneath the lowermost formation containing, within two (2) miles of the well bore, and underground source of drinking water.
    - 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 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 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. The use of other alternatives to a packer may be allowed with the written approval of the Department. To obtain approval, the operator 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:
    - (A) Depth of setting;
    - (B) Characteristics of injection fluid (chemical content, corrosiveness, and density);

- (C) Injection pressure;
  - (D) Annular pressure;
  - (E) Rate, temperature and volume of injected fluid; and
  - (F) 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, and then enlarging the pilot hole by reaming or another method. Such checks shall be at sufficiently frequent intervals to assure that vertical avenues for fluid migration in the form of diverging holes are not created during drilling.
  - 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. In determining which logs and tests shall be required, the following logs shall be considered for use in the following situations:
    - (A) For surface casing intended to protect underground sources of drinking water:
      - (1) Resistivity, spontaneous potential, gamma ray, and caliper logs before the casing is installed; and
      - (2) A cement bond, temperature, or density log after the casing is set and cemented.

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

- (1) Resistivity, spontaneous potential, porosity, and gamma ray logs before the casing is installed;
- (2) Fracture finder logs; and
- (3) 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 matrix; and
- v. Physical and chemical characteristics of the formation fluids.

(c) Operating, monitoring and reporting requirements.

1. Operating Requirements. 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 assure 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 Section 5.15 (b)(3), the annulus between the tubing and the long string of casings shall be filled with a fluid approved by the Department and a pressure, also approved by the Department shall be maintained on the annulus.

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

- i. The analysis of the injected fluids with sufficient frequency to yield representative data of their 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 Section 5.14(d) 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. Reporting requirements shall, at a minimum, include:

- i. Quarterly reports to the Department on:
  - (A) The physical, chemical and other relevant characteristics of injection fluids;
  - (B) Monthly average, maximum and minimum values for injection pressure, flow rate and volume, and annular pressure; and
  - (C) The results of monitoring prescribed under subparagraph (2)(iv) of this section.

- ii. Reporting the results, with the first quarterly report after the completion, of:
  - (A) Periodic tests of mechanical integrity;
  - (B) Any other test of the injection well conducted by the permittee if required by the Department; and
  - (C) Any well work over.

5.16 Criteria and standards applicable to Class II wells.

(a) Applicability.

This section establishes criteria and standards for underground injection control programs to regulate Class II wells.

(b) Construction requirements.

- 1. 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 known open faults or fractures within the area of review.
- 2. 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 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 specification, and construction material);
  - v. Corrosiveness of injected fluid and formation fluids;

- 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 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 assure that vertical avenues for fluid movement in the form of diverging holes are not created during drilling.
  - 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. In determining which logs and tests shall be required the following shall be considered by the Department in setting logging and testing requirements:
    - (A) For surface casing intended to protect underground sources of drinking water:
      - (1) Resistivity, spontaneous potential, gamma ray and caliper logs before the casing is installed; and
      - (2) A cement bond, temperature, or density log after the casing is set and cemented.
    - (B) For intermediate and long strings of casing intended to facilitate injection:
      - (1) Resistivity, spontaneous potential, porosity, and gamma ray logs before the casing is installed;

- (2) Fracture finder logs; and
- (3) A cement bond, temperature, or density log after the casing is set and cemented.

4. 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.

- 1. Operating requirements. Operating requirements shall, at a minimum, specify that:
  - i. Except during well stimulation for enhanced recovery wells, injection pressure at the wellhead shall not exceed a maximum which shall be calculated so as to assure 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.
  - ii. Injection between the outermost casing protecting under ground sources of drinking water and the well bore shall be prohibited.
- 2. Monitoring requirements. Monitoring requirements shall, at a minimum, include:
  - i. Monitoring of injected fluids at time intervals sufficiently frequent to yield data representative of their characteristics;

- ii. Monitoring of injection pressure, flow rate, and cumulative volume at least with the following frequencies:
    - (A) Weekly for produced fluid disposal operations;
    - (B) Monthly for enhanced recovery operations;
    - (C) Daily during the injection of liquid hydrocarbons and injection for withdrawal of stored hydrocarbons; and
    - (D) Daily during the injection phase of cyclic steam operations.
  - iii. A demonstration of mechanical integrity pursuant to Section 5.14(d) 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 (see Section 5.11(e)); 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 are not required provided the owner or operator demonstrates that manifold monitoring is comparable to individual well monitoring.
3. Reporting requirements.
- i. Reporting requirements shall, at a minimum, include an annual report to the Department summarizing the results of the monitoring required under subparagraph (c)(2) of this section. Previously submitted information may be included by reference.
  - ii. 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.

## 5.17 Criteria and standards applicable to Class III wells

## (a) Applicability.

This section establishes criteria and standards for underground injection control programs to regulate Class III wells.

## (b) Construction requirements.

1. 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, axial loading, etc.;
  - 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 and formation fluids;
  - vi. Lithology of injection and confining zones; and
  - vii. Type and grade of cement.
2. 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 assure that vertical avenues for fluid migration in the form of diverging holes are not created during drilling.

3. 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.
4. Where the injection formation is not a water-bearing formation, the information in subparagraph (3)(iii) of this paragraph must be submitted.
5. Where injection is into a formation which contains water with less than 10,000 mg/l 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 in such a fashion 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.
6. Where injection is into a formation which does not contain water with less than 10,000 mg/l TDS, no monitoring wells are necessary in the injection stratum.

7. Where the injection wells penetrate an underground source of drinking water (USDW) in an area subject to subsidence or catastrophic collapse an adequate number of monitoring wells shall be completed into the USDW 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.
  8. 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 toxicity 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.
1. Operating requirements. Operating requirements prescribed shall, at a minimum, specify that:
    - i. Injection pressure at the wellhead shall not exceed a maximum which shall be calculated so as to assure 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. Monitoring requirements. Monitoring requirements shall, at a minimum, specify:
    - i. Analyses of the injected fluid with sufficient frequency to yield representative data on its characteristics;
    - ii. Installation and use of continuous recording devices to monitor the injection pressure, flow rate and volume;
    - iii. Demonstration of mechanical integrity pursuant to Section 5.14(d) at least once every five years during the life of the well for salt solution mining and geothermal wells only;
    - 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 an USDW.
    - vi. 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.
  3. Reporting requirements. Reporting requirements shall, at a minimum, include:
    - i. Quarterly reporting to the Department on required monitoring;
    - ii. Results of mechanical integrity, and any other periodic test required by the Department, reported with the first regular quarterly report after the completion of the test; and

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

5.18 Criteria and standards applicable to Class V wells.

(a) Applicability.

This section sets forth criteria and standards for the regulation of Class V wells.

1. Generally, wells covered by this section inject non-hazardous fluids into or above formations that contain underground sources of drinking water. It includes all wells listed in Section 5.2(e) but is not limited to those type of injection wells.
2. It also includes wells not covered in Class IV that inject radioactive materials listed in 10 CFR Part 20, Appendix B, Table II, Column 2, and injection wells used to store fluids, including, for example, hydrocarbons which are gases at standard temperature and pressure.

(b) Inventory and assessment.

1.
  - i. The owner or operator of any existing Class V well shall, within one year of the effective date of these regulations, notify the Department of the existence of any well meeting the definitions of Class V under his or her control, and submit the inventory information required in Section 5.5(c)(1).
  - ii. The owner or operator of any new Class V well shall submit inventory information required in Section 5.5(c)(1) in accordance with the schedule requirements in Section 2.1(f)(2).

SUBCHAPTER 7 - PROCEDURES FOR DECISIONMAKING

7.1 Purpose and Scope

- (a) Subchapters 7 and 8 of these regulations contain procedures for issuing, modifying or revoking and reissuing, or terminating all NJPDES permits other than emergency permits and permits by rule. Emergency permits and permits by rule are governed by Subchapter 2. In addition, IWMF interim status is not considered a permit and is covered by Subchapter 2.
- (b) Subchapters 7, 8 and 9 are designed to allow a given facility which requires two or more of the listed discharge permits to have such permits processed separately or jointly at the choice of the Department in accordance with Section 1.5.

7.2 Procedures for Decisionmaking

- (a) Initial issuance of a NJPDES permit (except a DSW which shall comply with Section 3.3 and paragraph (b)) includes the following procedural stages:
  1. No person shall build, install, or substantially modify a facility for the collection or treatment of any pollutant prior to the issuance of a final draft NJPDES permit. The final draft NJPDES permit shall serve as approval for such action in accordance with Section 6 of the State Act, unless the Department specifically requests that the applicant apply for a treatment works approval in accordance with the "New Jersey Water Pollution Control Act" Regulations", N.J.A.C. 7:14-2.1 et seq.
  2. An application for a draft NPDES permit shall be made in proper form in accordance with Section 2.2 and 3.2 (DSW), 4.3 (IWMF), 5.8 (UIC) and Subchapter 10.
  3. The Department prepares a tentative decision to issue or deny a draft permit in accordance with Section 7.6. The decision shall be made available for public comment in accordance with Sections 8.1 and 8.2.
  4. Where the Department issues a draft permit, after consideration of any comments the Department shall issue a final draft permit in accordance with Section 8.6.

5. Any interested person may request an adjudicatory hearing on the factual matters. The Department shall determine whether a hearing request satisfies this requirement and represents a "contested case" as defined in the "Administrative Procedure Act," N.J.S.A. 52:14B-1 et seq.
6. Where the applicant satisfies the criteria in paragraph (5) the Office of Administrative Law shall hold hearings in accordance with the "Administrative Procedure Act," N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq. The Office of Administrative Law shall make the initial decisions concerning the final draft NJPDES permit.
7. The Commissioner shall make all final decisions concerning the final draft NJPDES permit.
8. A final draft NJPDES permit shall be issued for a fixed term of eighteen (18) months.
9. A final draft NJPDES permit may be extended for one additional period of eighteen (18) months provided:
  - i. The applicant has demonstrated commencement of building, installing or substantially modifying a facility for the collection or treatment of any pollutant; and
  - ii. The applicant submits a certification from a Licensed Professional Engineer that the facility has been designed to meet the requirements of the final draft NJPDES permit.
10. No person shall discharge any pollutant prior to the issuance of a NJPDES permit.
11. All holders of a final draft permit shall submit a request for a NJPDES discharge permit sixty (60) days prior to planned discharge.
12. Within sixty (60) days of planned discharge, the Department shall inspect the facility and shall issue a NJPDES discharge permit provided the applicant submits the certifications described in Section 3.3(e)2.ii. and 3.3(g)4. The NJPDES discharge permit shall contain the same terms and conditions as the final draft NJPDES permit.

- (b) Reissuance of NJPDES permits and issuance of DACs include seven major procedural stages. These stages are:
1. An application is made in proper form in accordance with Sections 2.2, 3.2 (DSW), 4.3 (IWMF), 5.8 (UIC), and Subchapter 10.
  2. The Department prepares a tentative decision to issue or deny a draft permit or DAC in accordance with Section 7.6. This decision shall be made available for public comment in accordance with Sections 8.1 and 8.2.
  3. Where the Department issues a draft permit or DAC, after consideration of any comments the Department shall issue a final permit in accordance with Section 8.6.
  4. Any interested person may request an adjudicatory hearing on the factual matters. The Department shall determine whether a hearing request satisfies this requirement and represents a "contested case" as defined in the "Administrative Procedure Act", N.J.S.A. 52:14B-1 et seq.
  5. Where the applicant satisfies the criteria in paragraph 4. the Office of Administrative Law shall hold a hearing in accordance with the "Administrative Procedure Act", N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq. The Office of Administrative Law shall make the initial decisions concerning the NJPDES permit.
  6. The Commissioner shall make all final decisions concerning the NJPDES permit.
  7. A request for permit modification, revocation, reissuance, or termination shall be made in accordance with the procedures applicable to permit issuance, except for minor modifications which shall be made in accordance with Section 2.14.

### 7.3 Application review by the Department

#### (a) Permit Application

1. Any person who requires a NJPDES permit shall complete, sign and submit to the Department an application in accordance with Section 2.1 and 3.2 (DSW), 4.3 (IWMF), 5.8 (UIC), and Subchapter 10. Applications are not required for IWMF and UIC permits by rule (Sections 4.5 and 5.5), and DSW general permits.

2. The Department shall not begin the processing of a permit until the applicant has fully complied with the application requirements for that permit.
  3. Permit applications must comply with signature and certification requirements of Section 2.4.
- (b) Completeness.
1. Upon receipt of a NJPDES application the Department shall have 60 days to review the application for completeness. Upon completing the review, the Department shall notify the applicant in writing whether the application is complete. If the application is incomplete, the Department shall list the information necessary to make the application complete. When the application is for an existing IWMF, an existing UIC injection well or an existing DSW source the Department shall specify in the notice of deficiency a date for submitting the necessary information. Where the Department has deemed an application to be deficient, the processing of the application will be suspended and the applicant given 30 days to correct said deficiencies to the satisfaction of the Department.
  2. If the applicant fails or refuses to correct said deficiencies within the 30 day time period, and if an extension has not been granted by the Department, the permit may be denied and any appropriate enforcement action may be taken under the applicable statutory provisions.
  3. After the application is completed, the Department may request additional information from an applicant but only when necessary to clarify, modify, or supplement previously submitted material. Requests for such additional information will not render an application incomplete.
- (c) The Department shall determine whether a site visit(s) and inspection are necessary requirements and part of the application in order to evaluate the discharge completely and accurately. If the Department decides that a site visit is necessary for any reason in conjunction with the processing of an application, the applicant shall be notified and a date shall be scheduled.

- (d) The Department shall require any applicant who discharges or who proposes to discharge pollutants to the land or to the ground water to install monitoring wells in order to determine background ground water quality. The installation of monitoring wells and any information obtained from said monitoring wells shall be a necessary part of the application. The location and number of monitoring wells shall be approved by the Department. All monitoring wells shall be installed in accordance with applicable Department procedures.
- (e) Completed DSW applications shall be sent to the Regional Administrator by the Department prior to public notice in accordance with the terms of the Memorandum of Agreement.

The Regional Administrator shall have 30 days in which to make comments. After the 30 day comment period public notice shall be initiated. If no comment is received from the Regional Administrator within 30 days the Department will process the draft permit in accordance with Subchapters 7, 8 and 9.

#### 7.4 Consolidation of permit processing

Permit processing shall be consolidated in accordance with Section 1.5.

#### 7.5 Modification, revocation and reissuance, or termination of permits.

- (a) Permits may be modified, revoked and reissued, or terminated either at the request of any interested person (including the permittee) or upon the Department's initiative. However, permits may only be modified, revoked and reissued, or terminated for the reasons specified in Sections 2.12 or 2.13. All requests shall be in writing and shall contain facts or reasons supporting the request.
- (b) If the Department decides the request is not justified, the Department shall send the requester a brief written response giving a reason for the decision. Denials of requests for modification, revocation and reissuance, or termination are not subject to public notice, comment, or hearings.

Denials by the Director may be informally appealed to the Commissioner by a letter briefly setting forth the relevant facts. The Commissioner may direct the Director to begin modification, revocation and reissuance, or termination proceedings under paragraph (c) of this section. The appeal shall be considered denied if the Commissioner takes no action on the letter within 60 days after receiving it. This informal appeal is a prerequisite to seeking judicial review of Department action in denying a request for modification, revocation and reissuance, or termination.

- (c) 1. If the Department tentatively decides to modify or revoke and reissue a permit under Section 2.12, a draft permit shall be prepared under Section 7.6 incorporating the proposed changes. The Department may request additional information and, in the case of a modified permit, may require the submission of an updated permit application. In the case of revoked and reissued permits, the Department shall require the submission of a new application.
- 2. In a permit modification under this section, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued under this section, the entire permit is reopened as if the permit had expired and was being reissued. During any revocation and reissuance proceeding the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.
- 3. "Minor modifications" as defined in Section 2.14 are not subject to the requirements of this section.
- (d) If the Department tentatively decides to terminate a permit under Section 2.13, a notice shall be issued of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under Section 7.6.

- (e) All draft permits and DACs (including notices of intent to terminate) prepared under this section shall be based on the administrative record as defined in Section 7.7.

7.6 Draft permits and draft DAC's

- (a) All draft discharge allocation certificates (DAC) shall be issued in accordance with this section.
- (b) Once an application is complete the Department shall tentatively decide whether to prepare a draft DAC, draft permit, or deny the application.
- (c) If the Department tentatively decides to deny a permit application, a notice of intent to deny shall be issued. Notice of intent to deny the permit application is a type of draft DAC or draft permit which follows the same procedures as any draft permit prepared under this section. See Section 7.6. If the Department's final decision (Section 8.6) is that the tentative decision to deny the permit application was incorrect, the notice of intent to deny shall be withdrawn and the Department shall proceed to prepare a draft DAC or draft permit under paragraph (d) of this section.
- (d) If the Department tentatively decides to issue a DSW general permit, the Department shall prepare a draft general permit under paragraph (e) of this section.
- (e) If the Department decides to prepare a draft permit, the draft permit shall contain the following information:
  - 1. All conditions under Sections 2.5 and 2.6.
  - 2. All compliance schedules under Section 2.8.
  - 3. All monitoring requirements under Section 2.9.
  - 4. For:
    - i. IWMF permits, standards for treatment storage, or disposal and other permit conditions under Section 4.6.
    - ii. UIC permits, permit conditions under Section 5.10.

- iii. DSW permits, effluent limitations, standards, and conditions under section 3.10 and 3.11 and all variances that are to be included under Section 9.7.

(f) All draft permits prepared under this section shall be accompanied by a statement of basis (Section 7.7) or fact sheet (Section 7.8) and shall be based on the administrative record (Section 7.9) publicly noticed (Section 8.1) and made available for public comment (Section 8.2). The Department shall give notice of opportunity for a public hearing (Section 8.3), issue a final decision (Section 8.6) and respond to comments (Section 8.8). For NJPDES permits, an appeal may be taken under Section 8.10. DACs or draft permits shall be accompanied by a fact sheet if required under section 7.8.

7.7 Statement of basis.

The Department shall prepare a statement of basis for every draft permit for which a fact sheet under Section 7.8 is not prepared. The statement of basis shall briefly describe the derivation of the conditions of the draft permit or DAC and the reasons for them or, in the case of notices of intent to deny or terminate, reasons supporting the tentative decision. The statement of basis shall be sent to the applicant and, on request, to any other person.

7.8 Fact Sheet.

(a) A fact sheet shall be prepared for every draft permit for a major facility or activity, for every general permit (40 CFR section 123.95 and section 3.9) for every draft permit that incorporates a variance or requires an explanation under Section 9.2(b) and for every draft permit which the Department finds is the subject of widespread public interest or raises major issues. The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the draft permit. The Department shall send this fact sheet to the applicant and, on request, to any other person.

(b) The fact sheet shall include, when applicable:

1. A brief description of the type of facility or activity which is the subject of the draft permit;
2. The type and quantity of wastes, fluids, or pollutants which are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged.
3. A brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions and appropriate supporting references to the administrative record required by Section 7.9.
4. Reasons why any requested variances or alternatives to required standards do or do not appear justified;
5. A description of the procedures for reaching a final decision on the draft permit including:
  - i. The beginning and ending dates of the comment period under Section 7.1 and the address where comments will be received;
  - ii. Procedures for requesting a hearing and the nature of that hearing; and
  - iii. Any other procedures by which the public may participate in the final decision.
6. Name and telephone number of a person to contact for additional information.
7. For a DSW permit, provisions satisfying the requirements of Section 9.2.

7.9 Administrative record for the draft DAC and draft permits

- (a) The provisions of a draft DAC and draft permit shall be based on the administrative record defined in this section.
- (b) For preparing a draft permit under Section 7.6, the record shall consist of:
  1. The application, if required, and any supporting data furnished by the applicant;

2. The draft permit or notice of intent to deny the application or to terminate the permit;
  3. The statement of basis (Section 7.7) or fact sheet (Section 7.8);
  4. All documents cited in the statement of basis or fact sheet; and
  5. Other documents contained in the supporting file for the draft permit.
  6. For DACs, the environmental assessment.
- (c) Material that is readily available in the offices of the Department, or published material that is generally available, and that is included in the administrative record under paragraphs (a) and (b) of this section, need not be physically included with the rest of the record as long as it is specifically referred to in the statement of basis or the fact sheet.

SUBCHAPTER 8 - PUBLIC COMMENT AND NOTICE PROCEDURES.

8.1 Public notice of permit actions and public comment period.

(a) Scope

1. The Department shall give public notice that the following actions have occurred:
  - i. A permit application has been tentatively denied under Section 7.6(b):
  - ii. A draft permit has been prepared under Section 7.6(d): and
  - iii. A hearing has been scheduled under Section 8.11;
2. No public notice is required when a request for permit modification, revocations and reissuance or termination is denied under Section 7.5(b). Written notice of that denial shall be given to the requester and to the permittee.
3. Public notices may describe more than one permit or permit action.

- (b)
1. Public notice of the preparation of a draft permit (including a notice of intent to deny a permit application) required under paragraph (a) of this section shall allow at least 30 days for public comment.
  2. Public notice of a public hearing shall be given at least 30 days before the hearing. (Public notice of the hearing may be given at the same time as public notice of the draft permit and the two notices may be combined).

- (c) Public notice of activities described in paragraph (a)(1) of this section shall be given by the following methods:

1. By mailing a copy of a notice to the following persons (any person otherwise entitled to receive notice under this paragraph may waive his or her rights to receive notice for any classes and categories of permits):
  - i. The applicant (except for those NJPDES permits where there is no applicant);

- ii. Any other agency which the Department knows has issued or is required to issue a RCRA, PSD, or 404 permit for the same facility or activity (including EPA);
  - iii. Federal and State agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone management plans, the Advisory Council on Historic Preservation, State Historic Preservation Officers, and other appropriate government authorities, including any affected States;
  - iv. Any State agency responsible for plan development under sections 208(b)(2), 208(b)(4) or 303(e) of the Federal Act and the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service;
  - v. Any user identified in the permit application of a privately owned treatment works;
  - vi. Persons on a mailing list developed by:
    - (A) Including those who request in writing to be on the list;
    - (B) Soliciting persons for "area lists" from participants in past permit proceedings in that area; and
    - (C) Notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as State funded newsletters, environmental bulletins, or State law journals. (The Department may update the mailing list from time to time by requesting written indication of continued interest from those listed. The Department may delete from the list the name of any person who fails to respond to such a request.)
2. For major permits and general permits, publication of a notice in a daily or weekly newspaper within the area affected by the facility or activity;

- 3. In a manner constituting legal notice to the public under State law; and
- 4. Any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.

(d) Contents

- 1. All public notices issued under this Subchapter shall contain the following minimum information:
  - i. Name and address of the office processing the permit action for which notice is being given;
  - ii. Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit, except in the case of draft general permits under Section 3.9.
  - iii. A brief description of the business conducted at the facility or activity described in the permit, for general permits when there is no application.
  - iv. Name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit or draft general permit, as the case may be, statement of basis or fact sheet, and the application; and
  - v. A brief description of the comment procedures required by Sections 8.2 and 8.3 and the time and place of any hearing that will be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled) and other procedures by which the public may participate in the final permit decision.
- vi. The location of the administrative record required by Section 7.9, the times at which the record will be open for public inspection, and a statement that all data submitted by the applicant is available as part of the administrative record.

vii. A general description of the location of each existing or proposed discharge point and the name of the receiving water. For draft general permits, this requirement will be satisfied by a map or description of the permit area.

viii. Any additional information considered necessary or proper.

2. Public notices for hearings. In addition to the general public notice described in paragraph (d)1. of this section, the public notice of a hearing under Section 8.3 shall contain the following information:

- i. Reference to the date of previous public notice relating to the permit;
- ii. Date, time, and place of the hearing; and
- iii. A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

(e) In addition to the general public notice described in paragraph (d)(1) of this section, all persons identified in paragraphs (c)(1)(i), (ii), (iii), and (iv) of this section shall be mailed a copy of the fact sheet or statement of basis, the permit application (if any), and the draft permit (if any).

8.2 Public comments and requests for public hearings.

During the public comment period provided under Section 8.1, any interested person may submit written comments on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered as provided in Section 8.8.

8.3 Public hearings.

(a) The Department shall hold a public hearing whenever he or she finds, on the basis of requests, a significant degree of public interest in a draft permit(s). The Department also may hold a public hearing at its discretion, whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision. Public notice of the hearing shall be given as specified in Section 8.1.

(b) Whenever a public hearing will be held the Department shall designate a hearing officer for the hearing who shall be responsible for its scheduling and orderly conduct.

(c) Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under Section 8.1 shall automatically be extended to the close of any public hearing under this section. The hearing officer may also extend the comment period by so stating at the hearing.

(d) A tape recording or written transcript of the hearing shall be made available to the public.

8.4 Obligation to raise issues and provide information during the public comment period.

All persons, including applicants, who believe any condition of a draft permit is inappropriate or that the Department's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, must raise all reasonably ascertainable issues and submit all reasonably available arguments and factual grounds supporting their position, including all supporting material, by the close of the public comment period (including any public hearing) under Section 8.1. All supporting materials shall be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or consist of State or Federal statutes and regulations, EPA documents of general applicability, or other generally available reference materials. Commenters shall make supporting material not already included in the administrative record available at the request of the Department. (A comment period longer than 30 days will often be necessary in complicated proceedings to give commenters a reasonable opportunity to comply with the requirements of this section. Commenters may request longer comment periods and they should be freely established under Section 8.1 to the extent they appear necessary.)

8.5 Reopening of the public comment period.

(a) If any data, information or arguments submitted during the public comment period, including information or arguments required under Section 8.4, appear to raise substantial new questions concerning a permit, the Department may take one or more of the following actions:

- 1. Prepare a new draft permit, appropriately modified, under Section 7.6;

2. Prepare a revised statement of basis under Section 7.7, , a fact sheet or revised fact sheet under Section 7.8, and reopen the comment period under Section 8.5; or
3. Reopen or extend the comment period under Section 8.1 to give interested persons an opportunity to comment on the information or arguments submitted.

- (b) Comments filed during the reopened comment period shall be limited to the substantial new questions that caused its reopening. The public notice under Section 8.1 shall define the scope of the reopening.
- (c) Public notice of any of the above actions shall be issued under Section 8.1.

8.6 Issuance and effective date of permit.

- (a) After the close of the public comment period under Section 8.1 on a draft permit, the Department shall issue a final permit decision. The Department shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. This notice shall include reference to the procedures for contesting a decision on a permit. For the purposes of this section, a final permit decision means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit.
- (b) A final permit decision shall become effective 30 days after the service of notice of the decision under paragraph (a) of this section, unless:
  1. A later effective date is specified in the decision; or
  2. An adjudicatory hearing is requested under Section 8.10.

8.7 Stays of contested permit conditions.

- (a) 1. If a request for review of a permit under Section 8.10 is granted the effect of the contested permit conditions shall be stayed and shall not be subject to judicial review pending final agency action. If the permit involves a new facility or new injection well, new source, or a recommencing discharger, the applicant shall be without a permit for the proposed new facility, injection well, source or discharger pending final agency action. See also Section 9.5.

2. Uncontested conditions which are not severable from those contested shall be stayed together with the contested conditions. Stayed provisions of permits for existing facilities, injection wells, and sources shall be identified by the Department. All other provisions of the permit for the existing facility, injection well, or source shall remain fully effective and enforceable.

- (b) A stay may be granted based on the grounds that an appeal to the Department under Section 8.10 of one permit may result in changes to another Department issued permit only when each of the permits involved has been appealed to the Commissioner and each appeal has been accepted.
- (c) Any facility or activity holding an existing permit must:

1. Comply with the conditions of that permit during any modification or revocation and reissuance proceeding under Section 7.5; and
2. To the extent conditions of any new permit are stayed under this section, comply with the conditions of the existing permit which correspond to the stayed conditions, unless compliance with the existing conditions would be technologically incompatible with compliance with other conditions of the new permit which have not been stayed.

8.8 Response to comments.

- (a) At the time that any final permit is issued the Director shall issue a response to comments. This response shall:
  1. Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and
  2. Briefly describe and respond to all significant comments on the draft permit raised during the public comment period, or during any hearing.
- (b) The response to comments shall be available to the public.

8.9 Administrative record for final permit

- (a) The Department shall base final permit decisions under Section 8.6 on the administrative record defined in this section.
- (b) The administrative record for any final permit shall consist of the administrative record for the draft permit and:
  - 1. All comments received during the public comment period provided under Section 8.1 (including any extension or reopening under Section 8.5);
  - 2. The tape or transcript of any hearing(s) held under Section 8.3;
  - 3. Any written materials submitted at such a hearing;
  - 4. The response to comments required by Section 8.8 and any new material placed in the record under that section;
  - 5. For NJPDES new source permits only, the environmental assessment and any supplement;
  - 6. Other documents contained in the supporting file for the permit; and
  - 7. The final permit.
- (c) The additional documents required under paragraph (b) of this section should be added to the record as soon as possible after their receipt or publication by the Department. The record shall be complete on the date the final permit is issued.
- (d) Material readily available at the issuing Department Office, or published materials which are generally available and which are included in the administrative record under the standards of this section or of Section 8.8 ("Response to comments"), need not be physically included in the same file as the rest of the record as long as it is specifically referred to in the statement of basis or fact sheet or in the response to comments.

8.10 Requests for an adjudicatory hearing.

- (a) Within 30 days following the service of notice of the Department's issuance of a final permit under section 8.6, any interested person may submit a request to the Department under paragraph (b) for an adjudicatory hearing to reconsider or contest the conditions of that permit. If such a request is submitted by a person other than the permittee, the person shall simultaneously serve a copy of the request on the permittee.
- (b) Such requests shall state each legal or factual question alleged to be at issue, and their relevance to the permit decision, together with a designation of the specific factual areas to be adjudicated and the hearing time estimated to be necessary for that adjudication. Information supporting the request or other written document relied upon to support the request shall be submitted as required by the "Administrative Procedure Act" N.J.S.A. 52:14B-1 *et seq.* unless it is already in the administrative record.
- (c) Such request shall also contain:
  - 1. The name, mailing address and telephone number of the person making such requests;
  - 2. A clear and concise factual statement of the nature and scope of the interest of the requester;
  - 3. The names and addresses of the persons whom the requester represents; and
  - 4. A statement by the requester that, upon motion of any party, or upon order of the Administrative Law Judge or the Judges own motion and without cost or expense to any other party, the requester shall make available to appear and testify, the following:
    - i. The requester;
    - ii. All persons represented by the requester; and
    - iii. All officers, directors, employees, consultants and agents of the requester and the persons represented by the requester.

5. Specific references to the contested permit conditions, as well as suggested revised or alternative permit conditions (including permit denial) which, in the judgment of the requester, would be required to implement the purposes and policies of the State and Federal Acts.
  6. In the case of challenges to the application of control or treatment technologies identified in the statement of basis or fact sheet, identification of the basis for the objection, and the alternative technologies or combination of technologies which the requester believes are necessary to meet the requirements of the State and Federal Acts.
  7. Identification of the permit obligations that are contested or are inseverable from contested conditions and should be stayed if the request is granted by reference to the particular contested conditions warranting the stay.
- (d) The Department (upon notice to all persons who have already submitted hearing requests) may extend the time allowed for submitting hearing requests under this section for good cause.

8.11 Decision on request for hearing.

- (a) Following the expiration of the time allowed by Section 8.10 for submitting a request for an adjudicatory hearing, the Department shall decide the extent to which the request shall be granted. The Department shall grant a request either in whole or in part only if the request conforms to the requirements of Section 8.10 and sets forth material issues of fact relevant to the issuance of the permit.
- (b) If the Department grants a request for an adjudicatory hearing, the Department shall identify those contested permit conditions for which an adjudicatory hearing has been granted and whether such conditions are stayed. The Department shall specify these conditions in writing and serve notice in accordance with Section 8.13. Permit conditions which are not contested or for which the Department has denied the hearing request shall not be affected by or considered at the adjudicatory hearing.

- (c) If the Department grants a request for an adjudicatory hearing, in whole or in part, in regard to a particular proposed permit, then any other request for an adjudicatory hearing in regard to that permit shall be treated as a request to be a party and the Department shall grant any such request which meets the requirements of paragraph (a) of this section.
- (d) If a request for a hearing is denied in whole or part, the Department shall briefly state the reasons. Such denial shall be considered the final action of the Department.

8.12 Obligation to submit evidence and raise issues before a final permit is issued.

No evidence shall be submitted by any party to a adjudicatory hearing that was not submitted to the administrative record unless good cause is shown for the failure to submit it. No issues shall be raised by any party that were not submitted to the administrative record unless good cause is shown for the failure to submit them. Good cause includes the case where the party seeking to raise the new issues or introduce new information shows that it could not reasonably have ascertained the issues or made the information available within the time required by section 8.6; or that it could not have reasonably anticipated the relevance or materiality of the information sought to be introduced.

8.13 Notice of hearing.

Public notice of the grant of an adjudicatory hearing regarding a permit shall be given as provided in Section 9.3(b) and by mailing a copy to all persons who commented on the draft permit, testified at the public hearing, or submitted a request for a hearing.

8.14 Additional parties and issues.

- (a) Any person may submit a request to the Department to be admitted as a party within 15 days after the date of mailing, publication or posting of notice of the grant of an evidentiary hearing, whichever occurs last. The Department shall grant such requests as meet the requirements of sections 8.10 and 8.12. Such request also must specifically identify those issues already raised which the requester seeks to address at the hearing.

(b) After the expiration of the time prescribed in paragraph (a) any person may file a motion with the Administrative Law Judge for leave to intervene as a party. This motion must meet the requirements of Section 8.10 and 8.12 and set forth the ground for the proposed intervention. No factual or legal issues besides those raised by timely hearing requests, may be proposed except for good cause. Any motion to intervene must also contain a verified statement showing good cause for the failure to file a timely request to be admitted as a party. The Administrative Law Judge if one has been assigned, shall grant such motion only upon an express finding on the record that:

1. Extraordinary circumstances justify granting the motion;
2. The intervener has consented to be bound by:
  - i. Prior written agreements and stipulations by and between the existing parties; and
  - ii. All orders previously entered in the proceedings; and
3. Intervention will not cause undue delay or prejudice the rights of the existing parties.

8.15 Conduct of Adjudicatory hearing.

Adjudicatory hearings on permit conditions (including denial of a variance request) shall be governed by procedures described in "New Jersey Uniform Administrative Procedure Rules, 1980" N.J.A.C. 1:1-1.1 et seq.

SUBCHAPTER 9 - SPECIFIC PROCEDURES APPLICABLE TO DSW PERMITS

9.1 Permits required on a case-by-case basis.

- (a) Various sections of these regulations allow the Department to determine, on a case-by-case basis, that certain concentrated animal feeding operations (section 3.4), concentrated aquatic animal production facilities (section 3.5), separate storm sewers (section 3.8) and certain other facilities covered by general permits (section 3.9) that do not generally require individual permits may be required to obtain an individual permit because of their contribution to water pollution.
- (b) Whenever the Department decides that an individual permit should be required under this section, the Department shall notify the discharger in writing of the reasons for that decision and shall include an application form in such notice. The discharger shall apply under Section 3.2 for a permit within 60 days of such notice. The question whether the initial designation was proper will remain open for consideration during the public comment period under Subchapter 8 and in any subsequent hearing.

9.2 Fact sheet.

In addition to meeting the requirements of Section 7.8 DSW fact sheets shall contain the following:

- (a) Any calculations or other necessary explanation of the derivation of specific effluent limitations and conditions, including a citation to the applicable effluent limitation guideline or performance standard provisions as required under Section 5.12 and reasons why they are applicable or an explanation of how the alternate effluent limitations were developed;
- (b) 1. When the draft permit contains any of the following conditions, an explanation of the reasons why such conditions are applicable;
  - i. Limitations to control toxic pollutants under Section 3.13.
  - ii. Limitations on internal wastestreams under Section 3.13; or
  - iii. Limitations on indicator pollutants under 40 CFR Section 125.3(g).

2. For every permit to be issued to a treatment works owned by a person other than a State or municipality, an explanation of the Department's decision on regulation of users under Section 3.13.

(c) When appropriate, a sketch or detailed description of the location of the discharge(s) described in the application.

9.3 Public notice.

(a) Section 316(a) request. In addition to the information required under Section 8.1, public notice of an DSW draft permit for a discharge where a request under section 316(a) of the Federal Act and Section 4 of the State Act has been filed under Section 3.3 shall include:

1. A statement that the thermal component of the discharge is subject to effluent limitations under sections 301 and 306 of the Federal Act and section 4 of the State Act and a brief description, including a quantitative statement, of the thermal effluent limitations proposed under section 301 or 306 of the Federal Act and section 4 of the State Act; and

2. A statement that a section 316(a) request has been filed and that alternative less stringent effluent limitations may be imposed on the thermal component of the discharge under section 316(a) and a brief description, including a quantitative statement, of the alternative effluent limitations, if any, included in the request.

3. If the applicant has filed an early screening request pursuant to 40 CFR Section 125.72 for a section 316(a) variance, a statement that the applicant has submitted such a plan.

9.4 Conditions requested by the Corps of Engineers and other governmental agencies concerning DSW permits.

(a) If during the comment period for a draft DSW permit, the District Engineer advises the Department in writing that anchorage and navigation of any of the waters of the United States would be substantially impaired by the granting of a point source surface water discharge permit, the permit shall be denied and the applicant so notified.

If the District Engineer advised the Department that imposing specified conditions upon the permit is necessary to avoid any substantial impairment of anchorage or navigation, then the Department shall include the specified conditions in the permit. Review or appeal of a denial of a permit or of conditions specified by the District Engineer shall be made through the applicable procedures of the Corps of Engineers, and may not be made through the procedures provided in these regulations. If the conditions are stayed by a court of competent jurisdiction or by applicable procedures of the Corps of Engineers, those conditions shall be considered stayed in the DSW permit for the duration of that stay.

(b) If during the comment period, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, or any other, State or Federal Agency with jurisdiction over fish, wildlife, or public health advises the Department in writing that the imposition of specified conditions upon the permit is necessary to avoid substantial impairment of fish, shellfish, or wildlife resources, the Department may include the specified conditions in the permit to the extent they are determined necessary to carry out provisions of 40 CFR 122.12 and the State and Federal Acts.

(c) In appropriate cases the Department may consult with one or more of the agencies referred to in this section before issuing a draft permit and may reflect their views in the statement of basis, the fact sheet, or the draft permit.

9.5 Issuance and effective date of stays of DSW permits.

This section shall conform to the provisions of 40 CFR Section 124.60.

9.6 Decisions on variances.

(a) The Department may grant or deny requests for the following variances (subject to EPA objection under 40 CFR 123.23):

1. Extensions under Section 301(i) of the Federal Act for delay in completion of a publicly owned treatment works;

2. After consultation with the Regional Administrator extensions under Section 301(k) of the Federal Act based on the use of innovative technology; or
  3. Variances under Section 316(a) for the thermal pollution.
- (b) The Department may deny, or forward to the Regional Administrator with a written concurrence, or submit to EPA without recommendation a completed request for:
1. A variance based on the presence of "fundamentally different factors" from those on which an effluent limitations guideline was based;
  2. A variance based on the economic capability of the applicant under Section 301(c) of the Federal Act;
  3. A variance based upon certain water quality factors under Section 301(g) of the Federal Act; or
  4. A variance based on Water Quality related effluent limitations under Section 302(b) (2) of the Federal Act.
- (c) The Regional Administrator may deny, forward, or submit to the EPA Deputy Assistant Administrator for Water Enforcement with a recommendation for approval, a request for a variance listed in paragraph (b) which is forwarded by the Department.
- (d) The EPA Deputy Assistant Administrator for Water Enforcement may approve or deny any variance application or deny any variance request submitted under paragraph (c). If the EPA Deputy Assistant Administrator approves the variance, the Department may prepare a draft permit incorporating the variance. Any public notice of a draft permit for which a variance or modification has been approved or denied shall identify the applicable procedures for appealing that determination under 40 CFR 124.64.

#### 9.7 Procedures for variances.

When a request for a variance is filed as required under Section 3.2 the request shall be processed as follows:

- (a) If at the time that a request for a variance is submitted the Department has received an application under Section 3.2 for issuance or renewal of that permit but has not yet prepared a draft permit under Section 7.6 covering the discharge in question, the Department shall give notice of a tentative decision on the request at the time the notice of the draft permit is prepared as specified in Section 8.1, unless this would significantly delay the processing of the permit. In that case the processing of the variance request may be separated from the permit in accordance with paragraph (c) of this section, and the processing of the permit shall proceed without delay.
- (b) If at the time that a request for a variance is filed the Department has given notice under Section 8.1 of a draft permit covering the discharge in question, but that permit has not yet become final, administrative proceedings concerning that permit may be stayed and the Department shall prepare a new draft permit including a tentative decision on the request, and the fact sheet required by Section 7.8. However, if this will significantly delay the processing of the existing draft permit or the Department, for other reasons, considers combining the variance request and the existing draft permit inadvisable, the request may be separated from the permit in accordance with paragraph (c) of this section, and the administrative disposition of the existing draft permit shall proceed without delay.
- (c) If the permit has become final and no application under Section 7.3 concerning it is pending or if the variance request has been separated from a draft permit as described in paragraphs (a) and (b) of this section, the Department may prepare a new draft permit and give notice of it under Section 8.1. This draft permit shall be accompanied by the fact sheet required by Section 7.8 except that the only matters considered shall relate to the requested variance.

SUBCHAPTER 10 - FILING REQUIREMENTS FOR NJPDES PERMITS

10.1 Schedule for submission of applications

- (a) Any facility which requires a permit covered by these regulations shall apply for a permit in accordance with the requirements of Section 2.1, 3.2 (DSW), 4.3 (IWFM), 5.8 (UIC) and the applicable sections of this Subchapter.
- (b) Any facility which has more than one type of NJPDES discharge shall comply with the filing requirements for each type of discharge that occurs or is proposed at that site.
- (c) Any facility which requires a solid waste landfill permit pursuant to the "Solid Waste Management Act" N.J.S.A. 13:1E-1 et seq. and a NJPDES permit to discharge shall submit the NJPDES application to the Solid Waste Administration of the Department in accordance with the schedule in paragraph (e)2. The application shall conform to the requirements of Section 10.12. This provision shall apply to existing and new landfill facilities under the jurisdiction of "Solid Waste Management Act."
- (d)
  - 1. Whenever a facility has more than one type of discharge covered by these regulations, application for all required permits to discharge shall be made at the earliest required date of filing for any of the discharge permits in accordance with Sections 2.1(f) and 10.1(d)
  - 2. If a proposed facility will have more than one type of discharge, and one or more of the proposed discharges will require a DAC pursuant to Section 3.3, the applicant shall also schedule and attend a pre-application conference for a permit with the Department at the time of application for the DAC concerning all discharges proposed at that site.
- (e) Except as described in Section 2.1(g) and paragraphs (d) and (h) applicants shall apply for a NJPDES permit in compliance with the following schedule except where the Department determines that an application should be submitted in furtherance of a consolidated permit system (see Section 1.5) or where the Department makes a determination that certain dischargers shall file sooner because of potential environmental hazards or threat to the public health or safety or other factors consistent with the intent of the State Act:

1. Land application of sludge and septage:

- i. Dischargers located in the counties of Middlesex, Union, Monmouth and Essex shall submit an application for a NJPDES permit within six (6) months of the effective date of these regulations.
- ii. Dischargers located in the counties of Camden, Burlington, Gloucester, and Mercer shall submit an application between seven (7) to twelve (12) months after the effective date of these regulations.
- iii. Dischargers located in the counties of Passaic, Bergen, Hudson, Sussex, Morris, Somerset, Warren, and Hunterdon shall submit an application between thirteen (13) and eighteen (18) months after the effective date of these regulations.
- iv. Dischargers located in the counties of Salem, Cumberland, Cape May, Atlantic, and Ocean shall submit an application between nineteen (19) and twenty four (24) months after the effective date of these regulations.

2. Sanitary landfills

- i. Those landfills which are in accordance with the District Solid Waste Management Plan adopted and promulgated pursuant to the Solid Waste Management Act Processes (N.J.S.A. 13:1E-1 et seq.) that will be terminated after July 1, 1983 shall submit an application for a NJPDES to the Solid Waste Administration permit no later than December 31, 1981. This section shall not apply to landfills which accept only bulky waste (Type 13).
- ii. Those landfills which accept only bulky waste (Type 13) and landfills which, in accordance with the district Solid Waste Management Plan adopted and promulgated pursuant to the Solid Waste Management Act (N.J.S.A. 13:1E-1), will be terminated on or before July 1, 1983 shall submit an application for a NJPDES permit to the Solid Waste Administration between January 1, 1982 and December 31, 1982.

3. Land discharge or impoundment of effluents or other fluids.
  - i. Dischargers of effluents to land by either percolation or infiltration lagoons or injection wells shall submit an application for a NJPDES permit within six (6) months of the effective date of these regulations.
  - ii. Dischargers of effluents to land by spray irrigation or overland flow shall submit an application between seven (7) and twelve (12) months after the effective date of these regulations.
  - iii. Applicants with surface impoundments shall submit an application between twelve (12) and twenty-four (24) months after the effective date of these regulations.
4. Dischargers in to a domestic treatment works (DTW):
  - i. Dischargers with design or daily average flows greater than one million gallons per day shall submit an application for a NJPDES permit within six (6) months of the effective date of these regulations.
  - ii. Dischargers with design or daily average flows greater than 500,000 gallons per day but less than one million gallons per day shall submit applications between seven (7) and twelve (12) months after the effective date of these regulations.
  - iii. Dischargers with design or daily average flows greater than 100,000 gallons per day but less than 500,000 gallons per day must submit applications between thirteen (13) and twenty-four (24) months after the effective date of these regulations.
  - iv. Dischargers with design or daily average flow greater than 50,000 gallons per day but less than 100,000 gallons per day shall submit applications between twenty-five (25) and thirty-six (36) months after the effective date of these regulations.

- v. Dischargers with design or daily average flow greater than 25,000 gallons per day but less than 50,000 gallons per day, and dischargers with design and daily average flow less than 25,000 gallons per day that are SIUs shall submit applications between thirty-seven (37) and forty-eight (48) months after the effective date of these regulations.
- vi. Dischargers of less than 25,000 gallons per day are exempt unless notified otherwise by Department.

5. Underground Injection Wells (UIC)

Applications for permits for injection well shall be submitted within (6) months of the effective date of these regulations in accordance with Section 5.8(b).

- (f) The Commissioner may require any discharger to file an application for a permit where necessary to implement the intent of the State Act.
- (g) Any person with a discharge which is the subject of any of the applications required by these regulations and which causes or contributes to any contravention of applicable water quality standards and/or effluent standards or limitations, may be required to abate such pollution even if an application has been filed or is not yet due under the schedules contained herein.
- (h) Transition Period for NPDES and NJPDES Permits

As of the date upon which this Chapter becomes effective, any permittee who is required to have a NPDES permit for a discharge shall also be required to have a NJPDES permit for the discharge. As a condition of any NJPDES permit issued pursuant to subparagraphs (1), (2) or (3) of this section, the permittee shall comply with the requirements of Sections 2.2, 2.5, 5.10, and the applicable provisions of Section 5.11 of this Chapter. Any term and condition of the permittee's NPDES permit which has been or is contested and which is stayed pursuant to Sections 8.7 or 9.5 shall be stayed from application to the permittee's NJPDES permit until a final judicial or administrative determination has been made as to the substance and applicability of the term or condition.

A permittee who submits an application for a NJPDES permit within 240 days from effective date of this Chapter shall submit to the Department a copy of the application form submitted to EPA for the permittee's NPDES permit. Any application submitted to the Department for a NJPDES permit subsequent to the 240 days from the effective date of this Chapter shall be made upon forms approved by the Department. Applications for and the issuance of NJPDES permits under this paragraph shall be governed by the following:

1. Any permittee with a NPDES permit which is in effect as of the adoption date of this Chapter shall be issued a NJPDES permit with an effective date which shall be the same as the adoption date of this Chapter. The terms and conditions, including the expiration date, of the permittee's NJPDES permit shall be the same as the permittee's NPDES permit. If the date of expiration of the permittee's NJPDES permit falls within 240 days subsequent to the effective date of this Chapter, the permittee shall apply to the Department for a renewal of its NJPDES permit within the 240 days subsequent to the effective date of this Chapter. If the date of expiration of the permittee's NJPDES permit is subsequent to the 240 days from the date upon which this Chapter becomes effective, the permittee shall apply for a renewal of the NJPDES permit in accordance with Section 2.1 of this Chapter. If the permittee has made a timely application to EPA for renewal of its NPDES permit pursuant to Section 2.3 the terms and conditions of its expired NJPDES permit shall continue until its NJPDES permit is renewed.
  
2. Any permittee who had a valid NPDES permit prior to the effective date of this Chapter, whose NPDES permit expired prior to the effective date of this Chapter, and who has made a timely application to EPA for renewal of its NPDES permit pursuant to Section 2.3 such that the terms and conditions of its former NPDES permit are continued until it is issued a valid NPDES, shall be issued a NJPDES, permit upon the effective date of this Chapter. The terms and conditions of the permittee's NJPDES shall be the same as permittee's former NPDES permit. The issuance of the permittee's NPDES and NJPDES permit shall be as follows:

- i. If EPA issues the permittee a new NPDES permit prior to the date upon which the Department assumes primary responsibility for the administration of the NPDES program in New Jersey, the permittee's NJPDES permit shall be modified by incorporating the terms and conditions, including the expiration date, of the new NPDES permit into the NJPDES permit.
  
- ii. If EPA has not issued a NPDES permit to the permittee prior to the date upon which the Department assumes primary responsibility for the administration of the NPDES program in New Jersey, the permittee shall be issued a NJPDES permit by the Department in lieu of a NPDES permit.

3. Any permittee who was never issued a valid NPDES permit prior to the effective date of this Chapter, and who is issued a NPDES permit by EPA prior to the date upon which the Department assumes primary responsibility for the administration of the NPDES program in New Jersey pursuant to 40 CFR Part 123 shall be issued a NJPDES permit by the Department. The terms and conditions of the NJPDES permit shall be the same as the terms and conditions, including the expiration date, of the NPDES permit issued by EPA.
  
4. As of the date upon which the Department assumes primary responsibility for the administration of the NPDES program in New Jersey pursuant to 40 CFR Part 123, all applications for NPDES permits and the renewal of existing NPDES permits shall be sent to the Department. All qualified applicants shall receive a NJPDES permit for their discharge which shall serve in lieu of a NPDES permit.

10.2 Initial filing fee

- (a) The one-time application fee shall be computed as follows:
  1. i. For an industry or a commercial discharge to surface water (DSW), the one-time application fee is:

\$600 x the maximum design flow of a treatment works in million gallons per day (MGD) or fraction thereof, but in no case less than \$200.

This applies only to treatment works which have or will have effluent limitations for any priority pollutant.

- ii. For facilities which do not presently have or are expected to have any limitations for any priority pollutant, the fee is equal to the maximum daily flow in MGD x \$200, but in no case shall the fee be less than \$100.
- 2. i. For domestic treatment works which are privately funded, the one-time application fee shall be:
  - \$220 x the maximum daily flow in MGD, but in no case less than \$100.
- ii. Municipal treatment works which are constructed under Title II of the Federal Act are exempt from fees.
- 3. For industrial treatment works which discharge into DTW's the one time application fee is equal to the maximum daily flow from the pretreatment treatment works in MGD x \$100, but in no case less than \$100.
- 4. The one time application fee for a discharge to the ground water is as shown in the table below.

TYPE OF WASTE

Type of Facility	Area (acres)	Hazardous		Non-Hazardous	
		Dry	Liquid	Dry	Liquid
Landfills	1 - 5	\$250	\$500	\$100	\$250
	5 - 10	500	1000	200	500
	10 - 15	750	1500	300	750
	15+	50/acre	100/acre	20/acre	50/acre
Lagoons	0.0 to 0.249	For Storage of Non-Hazardous Material		For Storage of Hazardous Material	
	0.25 to 0.499	\$100		\$200	
	0.5 to 1.0	150		300	
	Ea. Addt'l Acre	300		600	

Land Application, Wastewater

\$ 0.00 if there is an existing treatment works approval  
 \$500.00 if there is no existing treatment works approval

Land Application, Sludge

\$ 0.00

10.3 Discharges to surface waters (DSW).

Any person planning to discharge pollutants to surface waters of the State must apply for a Discharge Allocation Certificate (DAC) prior to applying for a NJPDES permit. Any person who is currently discharging pollutants to the surface waters of the State, and who is not presently regulated by a NJPDES or NPDES permit, shall apply for a NJPDES permit immediately. Any person with a valid NPDES or NJPDES permit shall apply for a NJPDES permit in accordance with the schedules in Sections 2.1 and 10.1. In addition to the general requirements of Section 2.1 the following information, where applicable, shall be submitted. Pre-application conferences with the Department are strongly recommended.

(a) Information required for DAC or NJPDES permit.

- 1. State name and location of facility, and type of waste to be discharged.
- 2. State expiration date of existing permit or proposed start up date for new source. Applications must be received at least 180 days prior to expiration of existing permits or 180 days before proposed start up for new sources.
- 3. Outfall location. Show the location of the discharge(s), treatment facilities and receiving stream on a U.S. Geological Survey (Quadrangle) map. The latitude and longitude for each discharge must be given to the nearest 15 seconds and the name and classification of the receiving water must be provided.
- 4. Line Drawing. A line drawing of the water flow through the facility with a water balance, showing operations contributing wastewater to the effluent and treatment units. The water balance must show approximate average flows at intake and discharge points and between units, including treatment units.
- 5. Average flows and treatment. A narrative identification of each type of process, operation, or production area which contributes wastewater to the effluent for each outfall, including process wastewater, cooling water, and storm water runoff, the average flow which each process contributes, and a description of the treatment the wastewater receives, including the ultimate disposal of any solid or fluid wastes other than by discharge. Processes, operations or production areas may be described in general

terms (for example, "dye-making reactor", "distillation tower".) For a privately owned treatment works, this information shall include the identity of each user of the treatment works. If discharge is due to rain runoff, state acres of land drained, give runoff coefficient, and calculate flow based on a 10 year storm frequency.

6. Intermittent flows. If any of the discharges described in paragraph (a)(5) of this section are intermittent or seasonal, a description of the frequency, duration and flow rate of each discharge occurrence.
7. Maximum production. If an effluent guideline promulgated under Section 304 of of the Federal Act applies to the applicant and is expressed in terms of production (or other measure of operation), a reasonable measure of the applicant's actual production reported in the units used in the applicable effluent guideline. The reported measure must reflect the actual production of the facility as required by Section 3.14(b)(2).
8. Improvements. If the applicant is subject to any present requirements or compliance schedules for construction, upgrading or operation of waste treatment equipment, an identification of the abatement requirement, a description of the abatement project, and a listing of the required and projected final compliance dates.
9. Effluent characteristics. Information on the discharge of pollutants specified in this subparagraph. When "quantitative data" for a pollutant is required, the applicant must collect a sample of effluent and analyze it for the pollutant in accordance with analytical methods approved under 40 CFR Part 136. When no analytical method is approved the applicant may use any suitable method but must provide a description of the method. The requirements in paragraphs (a)(9)(iii) and (iv) of this section that an applicant must provide quantitative data for certain pollutants known or believed to be present does not apply to pollutants present in a discharge solely as the result of their presence in intake water; however, an applicant must report such pollutants as present.

Grab samples must be used for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, and fecal coliform. For all other pollutants, 24-hour composite samples must be used. An applicant is expected to "know or have reason to believe" that a pollutant is present in an effluent based on an evaluation of the expected use, production, or storage of the pollutant, or on any previous analyses for the pollutant. (For example, any pesticide manufactured by a facility may be expected to be present in contaminated storm water runoff from the facility).

- i. (A) Every applicant must report quantitative data for every outfall for the following pollutants:
  - (1) Biochemical Oxygen Demand (BOD<sub>5</sub>);
  - (2) Chemical Oxygen Demand;
  - (3) Total Organic Carbon;
  - (4) Total Suspended Solids and Total Dissolved Solids;
  - (5) Ammonia (as N);
  - (6) Temperature (both winter and summer); and
  - (7) pH
- (B) At the applicant's request, the Department may waive the reporting requirements for one or more of the pollutants listed in paragraph (a)(9)(i)(A) of this section.
- ii. Each applicant with processes in one or more primary industry category (see Appendix A) contributing to a discharge must report quantitative data for the following pollutants in each outfall containing process wastewater:

- (A) The organic toxic pollutants in the fractions designated in Table I of Appendix D for the applicant's industrial category or categories unless the applicant qualifies as a small business under paragraph (a)(10) of this section. Table II of Appendix D lists the organic toxic pollutants in each fraction. The fractions result from the sample preparation required by the analytical procedure which uses gas chromatography/mass spectrometry. A determination that an applicant falls within a particular industrial category for the purposes of selecting fractions for testing is not conclusive as to the applicant's inclusion in that category for any other purposes.
  - (B) The pollutants listed in Table III of Appendix D (the toxic metals, cyanide, and total phenols).
- iii. Each applicant must report for each outfall quantitative data for the following pollutants, if the applicant knows or has reason to believe that the pollutant is discharged from the outfall:
- (A) All pollutants listed in Table II or Table III of Appendix D (the toxic pollutants) for which quantitative data is not otherwise required under paragraph (a)(9)(ii) of this section except that an applicant qualifying as a small business under paragraph (a)(10) of this section is not required to analyze for the pollutants listed in Table II of Appendix D (the organic toxic pollutants).
  - (B) All pollutants in Table IV of Appendix D (certain conventional and nonconventional pollutants).

- iv. Each applicant must indicate whether it knows or has reason to believe that any of the pollutants in Table V of Appendix D (certain hazardous substances and asbestos) is discharged from each outfall. For every pollutant expected to be discharged, the applicant must briefly describe the reasons the pollutant is expected to be discharged, and report any quantitative data it has for any pollutant.
  - v. Each applicant must report qualitative data, generated using a screening procedure not calibrated with analytical standards, for 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) if it:
    - (A) Uses or manufactures 2,4,5-trichlorophenoxy acetic acid (2,4,5-T); 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5,TP); 2-(2,4,5-trichlorophenoxy)ethyl 2,2-dichloropropionate (Erbon); 0,0-dimethyl 0-(2,4,5-trichlorophenyl) phosphorothioate (Ronnell); 2,4,5-trichlorophenol (TCP); or hexachlorophene (HCP); or
    - (B) Knows or has reason to believe that TCDD is or may be present in an effluent.
10. Small business exemption. An applicant which qualifies as a small business may be exempt from the requirements in paragraphs (a)(9)(ii)(A) or (a)(9)(iii)(A) of this section to submit quantitative data for the pollutants listed in Table II of Appendix D (the organic toxic pollutants); An applicant may qualify if its gross total annual sales averages less than \$100,000 per year (in second quarter 1980 dollars). Applicants who feel they qualify should submit a request for exemption to the Department.
11. Used or manufactured toxics. A listing of any toxic pollutant which the applicant does or expects that it will during the next 5 years use or manufacture as an intermediate or final product or byproduct.

12. Potential discharges. A description of the expected levels of and the reasons for any discharges of pollutants which the applicant knows or has reason to believe will exceed two times the values reported in paragraph (a) (9) of this section over the next 5 years.
  13. Biological toxicity tests. An identification of biological toxicity tests which the applicant knows or has reason to believe have been made within the last 3 years on any of the applicant's discharges or on a receiving water in relation to a discharge.
  14. Contract analyses. If a contract laboratory or consulting firm performed any of the analyses required by paragraph (a) (9) of this section, the identity of each laboratory or firm and the analyses performed.
  15. When applying for a DAC, submit a stream analysis to include a determination of the seven (7) consecutive day ten (10) year recurrence interval low flow and a water quality analysis program to be developed in coordination with the Department.
  16. Additional information. In addition to the information reported on the application form, applicants shall provide to the Department upon the Department's request, such other information as the Department may reasonably require to assess the discharges of the facility and to determine whether to issue an NJPDES permit. The additional information may include additional quantitative data and bioassays to assess the relative toxicity of discharges to aquatic life and requirements to determine the cause of the toxicity.
- (b) Application requirements for new and existing concentrated animal feeding operations and aquatic animal production facilities. New and existing concentrated animal feeding operations (defined in Section 3.4) and concentrated aquatic animal production facilities (defined in Section 3.5) shall provide the following information:
1. For concentrated animal feeding operations:
    - i. The type and number of animals in open confinement and housed under roof.

- ii. The number of acres used for confinement feeding.
  - iii. The design basis for the runoff diversion and control system, if one exists, including the number of acres of contributing drainage, the storage capacity, and the design safety factor.
2. For concentrated aquatic animal production facilities:
    - i. The maximum daily and average monthly flow from each outfall.
    - ii. The number of ponds, raceways, and similar structures.
    - iii. The name of the receiving water and the source of intake water.
    - iv. For each species of aquatic animals, the total yearly and maximum harvestable weight.
    - v. The calendar month of maximum feeding and the total mass of food fed during that month.
- (c) NJPDES Permit - Upon receipt of a Discharge Allocation Certificate the applicant may design and construct a treatment works to meet the limits stated. Upon completion of the treatment works, the applicant must apply for a NJPDES permit to discharge. The following items and the information required for a DAC must be submitted for the NJPDES permit.
1. Properly completed applications for a NJPDES permit on forms provided by the Department. The application shall be prepared by a professional engineer licensed to practice in the State of New Jersey and shall be signed by a principal officer. The professional engineer must certify that the treatment works will meet all requirements of the Discharge Allocation Certificate and that the treatment works has been constructed in compliance with "Rules and Regulations for the Preparation of Plans for Sewer Systems and Wastewater Treatment Plants" (NJAC 7:9-1 et seq.). This certification must be notarized.

2. Appropriate Endorsement (See Section 2.1(j)).
3. Engineer's Report

An engineer's report as outlined in N.J.A.C. 7:9-1.18 or as required by the Department herein. Engineer's Report shall be signed and sealed by the designing Professional Engineer. Engineer's Report shall contain the following:

- i. Completed Engineering Abstract on forms as provided by the Department;
- ii. Table of Contents;
- iii. Description of the selected complete waste treatment system. The description shall cover all elements of the system, from waste storage, collection, conveyance, through treatment, to the ultimate discharge of treated wastewaters and management and disposal of sludge;
- iv. Average and peak flow requirements and rationale for design;
- v. Expected composition of wastewater;
- vi. Basis of design data;
- vii. Treatment unit sizing calculations;
- viii. Results of treatability or pilot studies;
- ix. Waste load allocation tabulation and expected effluent characteristics;
- x. Evaluation of capability of treatment works to meet applicable effluent limits in the DAC;
- xi. Specific listing of any intermittent flows including potential spills that may enter the treatment works and operation procedures for handling said intermittent flows;
- xii. Specific listing and description of pollutants contained in any regular or intermittent flows that may enter the treatment works;
- xiii. Information in compliance with the Sludge Quality Assurance Regulations - N.J.A.C. 7:14-4.1 et seq.; and

xiv. Discussion on the following:

- (A) treatment unit processes;
- (B) flow sheet, material mass balance, hydraulic profile;
- (C) instrumentation, including flow monitoring and control, alarm systems and sampling equipment;
- (D) reliability of mechanical and electrical equipment, fluid systems and other components;
- (E) storage and handling facilities for chemicals;
- (F) treatment during construction, if applicable;
- (G) safety features such as fencing, railings, chemical handling equipment and electrical safeguards; and
- (H) laboratory facilities and analytical capabilities.

4. Plans and Specifications.

- i. General site plan showing the location of the facility with respect to surface waters, principal roadways, adjacent property boundaries, and inhabited structures within one half mile radius of facility.
- ii. Detailed plans showing longitudinal and transverse sections in sufficient detail to explain the construction of each unit including hydraulic gradient. They shall clearly show the location of existing and proposed sewer outlets, overflows, and the highest known freshets or tides at the outfalls.
- iii. A flow sheet and instrumentation diagram giving heat and material mass balances, location of flow measuring devices, level controls, alarms, pumps and valves.

- iv. A hydraulic profile of flow through the treatment plant. This profile should clearly indicate that the peak flow will pass through the treatment facilities without back-up, flooding, or submerging weirs. The hydraulic gradient should permit discharge into the receiving waters during periods of flood stage.
- v. All plans and specifications shall bear the raised seal of a Professional Engineer registered to practice in the State of New Jersey. The plans shall have title blocks conforming to approved form and practice and shall be properly dated and numbered.

5. Construction Certification.

Upon completion of construction the Professional Engineer shall certify that the treatment works was constructed in accordance with the plans and specifications. Any exceptions to the plans and specifications must be attached with an explanation for such changes.

6. Operation and Maintenance Manual.

An Operation and Maintenance Manual shall be submitted with the application for the NJPDES Permit and shall conform with existing or proposed requirements of the Department. As a minimum it shall outline the responsibilities and duties of the operating staff. It must also provide guidance to the operating staff for emergencies. It shall discuss the obligation to meet the NJPDES Permit and any other State regulations. It should contain lab procedures for analyzing wastewater to determine compliance with the terms of the permit.

7. Emergency Plan, in accordance with the requirements of Section 3.12.

(d) Failure to Comply.

Failure to comply with these submission requirements or failure to provide all information and documents in the proper format may necessitate the return of the submittal and a denial of an NJPDES permit.

10.4 Environmental assessment for a Discharge Allocation Certificate (DAC)

- (a) The environmental assessment shall provide the necessary information for a proper analysis of the significance of the proposed new source's impact on the natural and built environment. The impacts shall be discussed in terms of both short term and long term effects as well as primary and secondary effects. The assessment shall provide sufficient detail to allow independent impact assessment by both agency and public reviewers following the format outlined below.
- (b) If informational requirements in this report are identical to informational requirements of other sections of the permit application, the applicant should not duplicate the work effort. The applicant should simply reference the section of the application which contains the required information.
- (c) The body of the assessment document shall be kept to less than 100 pages. The degree of informational detail required will depend on the size, type, and location of the proposed facility. The assessment requirements have been written attempting to cover all project types. Therefore, preapplication meetings are strongly recommended to assure an understanding of the degree of detail required for the particular project proposal.
- (d) Project description
  - 1. Provide detailed explanation and description of the proposal and required ancillary facilities including information regarding types of discharges and emissions;
  - 2. Discuss the purpose and need of the proposed new source;
  - 3. Describe the project location and study area;
  - 4. The site of the proposed facility shall be located on a U.S.G.S. quadrangle (7.5 minute series) and on a recent available aerial photograph;
  - 5. A topographic map of the site including boundary lines and its surroundings to a distance of 1,500 feet shall be provided at a scale of one inch equals 200 feet, with five foot contour intervals for the site portion; and

6. Describe the construction and operation time schedule.

(e) Description of the existing environment

The description of the existing environmental conditions, both built and natural, must be developed with sufficient detail so that all environment impacts attributable to the proposal may be identified.

1. Natural Resources

i. Soils

- (A) Identify and map soil types using U.S. Soil Conservation Service data.
- (B) Provide the following information for each soil type identified within the site:
  - (1) Drainage class
  - (2) Permeability
  - (3) Depth to seasonal high water table
  - (4) Foundation limitations
  - (5) Agricultural land capability
  - (6) Erodibility
  - (7) Trafficability (dust hazard)
  - (8) Depth to first geologic formation named on New Jersey Geologic Map, Atlas Sheet 40.
  - (9) Natural soil pH per horizon.
  - (10) Limitations of soil for roadcuts, fills, and embankment.
  - (11) Pavement support characteristics.
- (C) The location, nature, and thickness of any areas containing landfill materials.
- (D) Potentially valuable mineral, gravel, or other subsurface resources of the site shall be identified.

ii. Topography

iii. Geology

- (A) Identify and interpret geologic structures in terms of their influence on ground and surface water resources. A map should be provided.

- (B) Identify geologic formation characterized by mineral lenses which produce acid when oxidized.

iv. Climatology

Identify temperature extremes and monthly average, rainfall frequency and quantity, wind direction, wind speed, unusual storm events, growing seasons and frost dates.

v. Hydrology

(A) Groundwater Resources

- (1) Describe the existing groundwater quality using physical, chemical and biological parameters.
- (2) Describe groundwater movement (Direction and velocity)
- (3) Describe groundwater aquifer characteristics.
- (4) Describe groundwater recharge area, rate of recharge and depletion and storage volume.
- (5) Describe present diversions and use.
- (6) Describe aquifer capability of supplying future needs.

(B) Surface Water Resources

- (1) Identify existing natural and man-made water courses and water bodies.
- (2) Describe the existing surface water quality using physical, chemical and biological parameters. Discuss the relationships with existing pollution sources and discharges.

- (3) Describe surface water volume, flow rate, frequency and duration of seasonal variations, and seven (7) consecutive day ten (10) year recurrence low-flow;
- (4) Describe existing utilization and management including applicable water quality standards, water supply uses, recreation, etc.; and
- (5) Indicate and map the 100 year flood level for the study area.

vi. Aquatic Ecosystems

- (A) The aquatic biota that occur in the planning area will be identified by their common and scientific names and described in terms of their trophic relationships and dependencies.
- (B) Identify rare and endangered species indigenous to the planning area as indicated in subparagraph (e)(1)(viii)(B)(6) of this section. Consult with the Department's Endangered Species and Non-game Project.
- (C) Indicate species which have commercial and/or recreational (sport) importance.
- (D) Indicate areas within the proposed site which are critical to the life cycle of any identified species.
- (E) Describe stresses to biota due to existing water quality.

vii. Terrestrial Ecosystems

- (A) Inventory and map vegetative communities, fauna and habitat and describe in terms of their relationships and dependencies.
- (B) Identify species by their common and scientific names.

- (C) Identify rare and endangered species indigenous to the planning area as indicated in subparagraph (e)(1)(viii)(B)(6) of this section. Consult with the Department's Endangered Species & Non-game Project.
- (D) Indicate species which have commercial and/or recreational (sport) importance.
- (E) Indicate areas within the proposed site which are critical to the life cycle of any identified species.

viii. Environmentally sensitive areas

- (A) Environmentally sensitive areas shall be identified and mapped.
- (B) Sensitive areas shall be defined to include the following:
  - (1) Steep slopes 15% (as depicted on the U.S.G.S. 7.5 min. Topographic map);
  - (2) Wetlands (swamps, marshes, bogs, wet meadows and as defined, in N.J. Wetlands Act Ch. 272 NJSA 13:9A-1 et seq. 1970);
  - (3) Floodplains (100 year floods depicted on HUD maps or as delineated by DEP, where available);
  - (4) Aquifer recharge areas for existing and future potable water supply aquifers (sources for delineation: Geologic Map of N.J., Atlas Sheet No. 40, Department of Conservation and Economic Development, U.S.G.S., Bureau of Geology, special reports, SCS soil survey data);
  - (5) Parks and preserves in public ownership (e.g., game and/or water supply preserves);

- (6) Endangered and threatened species habitats (species as identified on the Federal Endangered Species List, the N.J. State Endangered, Threatened, Peripheral and Undetermined Species List, and the Fairbrothers and Hough list of Endangered Vascular Plants);
- (7) Prime farm lands (as defined by SCS Class I, II, III Lands as well as land utilized for cranberry or blueberry production). Consult with the Department of Agricultural (Blue Print Commission) and State Development Guide Plan;
- (8) Water Bodies;
- (9) Unique ecosystems within the planning area (e.g., Pine Plains, mature stands of holly, Atlantic white cedar, or other significant mature woodlands, bogs, areas delineated by local and county Environmental Commissions and the basis for their delineation).
- (10) Historic, archeological and cultural resource areas; and
- (11) Formally proposed or delineated wild and scenic rivers.

ix. Air quality

The ambient air quality must be discussed in terms of particulates, sulfur oxides, nitrogen oxides, hydrocarbons, carbon monoxide and photochemical oxidants. Evaluate trends in air quality. Consult with the Department's Bureau of Air Pollution.

2. Social factors

i. Land uses

Describe Federal, State, Regional and local plans, laws, ordinances and/or regulations that may affect the project. (See Attachment A).

ii. Public services and municipal facilities

(A) Describe the following services in terms of adequacy and future needs:

- (1) Education;
- (2) Health;
- (3) Fire;
- (4) Police;
- (5) Transportation;
- (6) Parks and recreation;
- (7) Waste treatment (solid and liquid);
- (8) Water supply - discuss the adequacy of supply (quality, pressure, volume) including current and anticipated maximum water demand within the entire service area; and
- (9) Storm water drainage and retention systems.

iii. Population

Using the State 208 Water Quality Management Plans, the Department of Labor and Industry Projection, and the local master plan, compare and designate the current and projected population levels.

(f) Environmental effects of the proposal

Impacts on the existing environment as described in paragraph (e) shall be identified, evaluated and described by analyzing each project component requirement and operation, including site preparation and construction. Sources of data and methods of analysis used to identify impacts shall be documented.

1. Process impacts

- i. Examine all waste discharges impacts to air, land and water, including possible synergistic effects.
- ii. Demonstrate conformance with any Federal, State, Regional and local plans, laws, ordinances, standards of performance and/or regulations that may affect the project and govern each source of process waste.
- iii. Describe all pollution control measures (differentiate between in-process and end-of-process measures), waste recovery measures, waste reduction measures, and recycle measures. State reasons for elimination of any of the above measures.

- iv. Monitoring systems for normal control, emergency warning, periodic checks, etc., shall be described.
- v. Supply a pollutant material balance diagram depicting all emissions and discharges including treatment and monitoring systems being applied to each. Quantification and balance of material flows through the network shall be shown.
- vi. Provide a tabular summary of waste constituents standards and regulations as shown in the following format:

<u>Source Identi.</u>	<u>Waste Consti.</u>	<u>Concentration Avg. and Max.</u>	<u>Quantity Flow Rate Avg. &amp; Max</u>	<u>Standard or Regs.</u>	<u>Responsible Regulatory Agency</u>	<u>Other</u>
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- 2. Raw material impacts
 

Evaluate the impacts resulting from raw material operation such as off-loading, conveying, pretreatment, storage, etc., performed on or adjacent to the site.
- 3. Transportation impacts
 

Evaluate the impacts resulting from rights-of-way clearing and construction, increased road usage, etc.
- 4. Site development impacts
  - i. Evaluate the impacts from development and utilization of the proposed site.
  - ii. Demonstrate conformance with any Federal, State, Regional and local plans, laws, ordinances, standards of performance and/or regulation that may affect the project. (See Attachment A)
- 5. Impacts on population and economic growth
 

Discuss the impacts which the proposal may have on the population level (paragraph (e) (2) (iii)).

- 6. Impacts on other programs in the area
 

Describe the extent to which the proposal may interact with any local, state or federal projects.
- 7. Secondary impacts
 

Describe those impacts resulting from an indirect demand of the project upon the environment, society, or economy which may occur at some future time or place. Examples of secondary impacts included increased water supply treatment costs to users downstream of wastewater discharge or increased demand on the natural resources of the area resulting from labor in-flow.

- (g) Alternative to the proposal
 

Environmental factors should be identified and considered early in the project planning effort to enhance proper consideration and selection of alternatives.

The applicant shall present sufficient detail to show why the proposed action is the best alternative.

Alternatives to be considered include, in addition to taking no action, other processes, sites, construction practices, operation and raw materials depending on the specific characteristics of the proposed action that are likely to have an adverse impact.

ATTACHMENT A  
PLANS AND STATUTES AND RESPONSIBLE AGENCY WHICH  
MAY AFFECT THE PROJECT

Wetlands Act of 1970 N.J.S.A. 13:9A-1 <u>et seq.</u>	Department of Environmental Protection Division of Coastal Resources
Waterfront Development Act N.J.S.A. 12:5-3 <u>et seq.</u>	" " "
Coastal Area Facilities Review Act N.J.S.A. 13:19-1 <u>et seq.</u>	" " "
State Development Guide Plan Pursuant to PL 1961 Chapter 47	Department of Community Affairs
201 Wastewater Facilities Plans Pursuant to PL 95-217, Clean Water Act	Department of Environmental Protection Division of Water Resources
208 Water Quality Manage- ment Plans Pursuant to PL 95-217 Clean Water Act	" " "
Stream and Floodplain Protection Act N.J.S.A. 58:1-26 <u>et seq.</u>	Department of Environmental Protection Bureau of Floodplain Management and Corps of Engineer
Endangered and Nongame Species Conservation Act N.J.S.A. 23:2A-1 <u>et seq.</u>	Department of Environmental Protection Division of Fish, Game and Wildlife Endangered Species and Nongame Project
Solid Waste Management Plan Pursuant to N.J.S.A. 13:1e-1 through 37	Department of Environmental Protection Bureau of Solid Waste
Pinelands Comprehensive Management Plan Pursuant to PL 95-625 and N.J.S.A. 13:18A-1-18A-29	Pinelands Environmental Commission
Water Supply Master Plan Pursuant PL 1969 Chap. 127	Department of Environmental Protection Bureau of Water Supply Planning
Hackensack Meadowlands Development Plan N.J.A.C. 13:17-1 <u>et seq.</u>	Hackensack Meadowlands Development Commission

10.5 Indirect Discharges

Any person planning to discharge as an indirect dis-  
charger, as defined in these regulations shall apply  
for a final draft NJPDES permit in accordance with  
Section 7.2. Any person who is currently an indirect  
discharger and who is not presently regulated by an  
NJPDES or NPDES permit shall apply for a NJPDES permit  
in accordance with the schedule outlined in Section  
10.1. In either case the following information is to  
be submitted. Pre-application conferences with the  
Department are strongly recommended.

(a) Significant industrial users (SIU's) shall submit  
the following information:

1. Name, address, location and telephone number  
of facility.
2. Standard Industrial Classification (SIC  
Code).
3. Name, address of all owner(s) of DTW being  
utilized.
4. Discharge location. Show the location of the  
discharge(s) to the DTW on a key map drawn to  
scale.
5. Line drawing. A line drawing of the water  
flow through the facility with a water balance,  
showing operations contributing wastewater to  
the effluent and treatment units. The water  
balance must show approximate average flows  
at intake and discharge points and between  
units, including treatment units.
6. Average flows and treatment. A narrative  
identification of each type of process,  
operation, or production area which contri-  
butes wastewater to the effluent for each  
outfall, including process wastewater,  
cooling water, and storm water runoff, the  
average flow which each process contributes,  
and a description of the treatment the waste-  
water receives, including the ultimate dis-  
posal of any solid or fluid wastes other than  
by discharge. Processes, operations or  
production areas may be described in general  
terms (for example, "dye-making reactor",  
"distillation tower"). This information  
shall include the identity of each user of  
the treatment works. If discharge is due to  
rain runoff, state acres of land drained,  
give runoff coefficient, and calculate flow  
based on a 10 year storm frequency.

7. Intermittent flows. If any of the discharges described in paragraph (a)(6) of this section are intermittent to seasonal, a description of the frequency, duration and rate of each discharge occurrence.
8. Maximum production. If an effluent guideline promulgated under Section 304 of the Federal Act applies to the applicant and is expressed in terms of production (or other measures of operation), a reasonable measure of the applicant's actual production reported in the units used in the applicable effluent guideline. The reported measure must reflect the actual production of the facility as required in Section 3.14.
9. Improvements. If the applicant is subject to any present requirements or compliance schedules for construction, upgrading or operation of waste treatment equipment, or connection to DTW, an identification of the abatement requirement, a description of the abatement project, and a listing of the required and projected final compliance dates.
10. Effluent characteristics. Information on the discharge of pollutants specified in this subparagraph. When "quantitative data" for a pollutant is required, the applicant must collect a sample of effluent and analyze it for the pollutant in accordance with analytical methods approved under 40 CFR Part 136. When no analytical method is approved the applicant may use any suitable method but must provide a description of the method. The requirements in paragraphs (a)(10)(iii) and (iv) of this section that an applicant must provide quantitative data for certain pollutants known or believed to be present does not apply to pollutants present in a discharge solely as the result of their presence in intake water; however, an applicant must report such pollutants as present. Grab samples must be used for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, and fecal coliform.

For all other pollutants, 24-hour composite samples must be used. An applicant is expected to "know or have reason to believe" that a pollutant is present in an effluent based on an evaluation of the expected use, production, or storage of the pollutant, or on any previous analyses for the pollutant. (For example, any pesticide manufactured by a facility may be expected to be present in contaminated storm water runoff from the facility).

- i. (A) Every applicant must report quantitative data for every outfall for the following pollutants:
  - (1) Biochemical Oxygen Demand (BOD<sub>5</sub>);
  - (2) Chemical Oxygen Demand
  - (3) Total Organic Carbon
  - (4) Total Suspended Solids and Total Dissolved Solids
  - (5) Ammonia (as N)
  - (6) Temperature (both winter and summer)
  - (7) pH
- (B) At the applicant's request, the Department may waive the reporting requirements for one or more of the pollutants listed in paragraph (a)(10)(i)(A) of this section.
- ii. Each applicant with processes in one or more primary industry category (see Appendix A) contributing to a discharge must report quantitative data for the following pollutants in each outfall containing process wastewater:
  - (A) The organic toxic pollutants in the fractions designated in Table I of Appendix D for the applicant's industrial category or categories unless the applicant qualifies as a small business under paragraph (a)(11) of this section. Table II of Appendix D lists the organic toxic pollutants in each fraction.

The fractions result from the sample preparation required by the analytical procedure which uses gas chromatography/mass spectrometry. A determination that an applicant falls within a particular industrial category for the purposes of selecting fractions for testing is not conclusive as to the applicant's inclusion in that category for any other purposes.

- (B) The pollutants listed in Table III of Appendix D (the toxic metals, cyanide, and total phenols).
- iii. For each outfall each applicant must report quantitative data for the following pollutants, if the applicant knows or has reason to believe that the pollutant is discharged from the outfall:
- (A) All pollutants listed in Table II or Table III of Appendix D (the toxic pollutants) for which quantitative data is not otherwise required under paragraph (a)(10)(ii) of this section except that an applicant qualifying as a small business under paragraph (a)(11) of this section is not required to analyze for the pollutants listed in Table II of Appendix D (the organic toxic pollutants).
  - (B) All pollutants in Table IV of Appendix D (certain conventional and nonconventional pollutants).
- iv. Each applicant must indicate whether it knows or has reason to believe that any of the pollutants in Table V of Appendix D (certain hazardous substances and asbestos) is discharged from each outfall. For every pollutant expected to be discharged, the applicant must briefly describe the reasons the pollutant is expected to be discharged, and report any quantitative data it has for any pollutant.

- v. Each applicant must report qualitative data, generated using a screening procedure not calibrated with analytical standards, for 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) if it:
  - (A) Uses or manufactures 2,4,5-trichlorophenoxy acetic acid (2,4,5-T); 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5,TP); 2-(2,4,5-trichlorophenoxy)ethyl 2,2-dichloropropionate (Erbon); 0,0-dimethyl 0-(2,4,5-trichlorophenyl) phosphorothioate (Ronnel); 2,4,5-trichlorophenol (TCP); or hexachlorophene (HCP); or
  - (B) Knows or has reason to believe that TCDD is or may be present in an effluent.
- 11. Small business exemption. An applicant which qualifies as a small business may be exempt from the requirements in paragraphs (a)(10)(ii)(A) or (a)(10)(iii)(A) of this section to submit quantitative data for the pollutants listed in Table II of Appendix D (the organic toxic pollutants); An applicant may qualify if its gross total annual sales averages less than \$100,000 per year (in second quarter 1980 dollars). Applicants who feel they qualify should submit a request for exemption to the Department.
- 12. Used or manufactured toxics. A listing of any toxic pollutant which the applicant uses or manufactures, or expects that it will use or manufacture during the next 5 years, as an intermediate or final product or byproduct.
- 13. Potential discharges. A description of the expected levels of and the reasons for any discharges of pollutants which the applicant knows or has reason to believe will exceed two times the values reported in paragraph (a)(10) of this section over the next 5 years.
- 14. Biological toxicity tests. An identification of biological toxicity tests which the applicant knows or has reason to believe have been made within the last 3 years on any of the applicant's discharges or on a receiving water in relation to a discharge.

15. Contract analyses. If a contract laboratory or consulting firm performed any of the analyses required by paragraph (a)(10) of this section, the identity of each laboratory or firm and the analyses performed.
  16. Information in compliance with the Sludge Quality Assurance Regulations N.J.A.C. 7:14-4.1 et seq.
  17. Endorsements from the affected DTW and owner of applicable wastewater conveyance systems stating that the discharge is acceptable.
- (b) Additional information. In addition to the information reported on the application form, applicants shall provide to the Department at its request, such other information as the Department may reasonably require to assess the discharges of the facility and to determine whether to issue an NJPDES permit. The additional information may include additional quantitative data and bioassays to assess the relative toxicity of discharges to a DTW and requirements to determine the cause of the toxicity.
- (c) Failure to Comply. Failure to comply with these submission requirements or failure to provide all information and documents in the proper format may necessitate the return of the submittal and a denial of a NJPDES permit.

#### 10.6 Industrial Waste Management Facilities

- (a) In addition to the information required in Section 2.1 and any other applicable section of subchapter 10, an applicant for a NJPDES permit for an industrial waste management facility (IWMF), as defined in these regulations, shall submit the information required in this section.
- (b) Submission of information required in this section shall not exempt the applicant from compliance with any other filing requirements which apply to that IWMF, or to any other existing or proposed discharges at the facility. Pre-application conferences with the Department are strongly recommended.
- (c) The following information shall be submitted to the Department as Part A of the application.
  1. An indication of whether the facility is new or existing and whether it is a first or revised application;
  2. For existing facilities, a scale drawing of the facility showing the location of all past, present, and future treatment, storage, and disposal areas;
  3. For existing facilities, photographs of the facility clearly delineating all existing structures, existing treatment, and sites for future treatment areas;
  4. A description of the processes to be used for treating of hazardous waste, and the design capacity of these items;
  5. A specification of the hazardous waste listed or designated under 40 CFR Part 261 or the New Jersey "Regulations Concerning Hazardous Waste Management," N.J.A.C. 7:26-1.1 et seq., to be treated at the facility, an estimate of the quantity of such wastes to be treated annually, and a general description of the processes to be used for such wastes.
- (d) The following information shall be submitted to the Department as Part B of the application:
  1. A general description of the facility;

2. Chemical and physical analyses of the hazardous wastes to be handled at the facility. At a minimum, these analyses shall contain all the information which must be known to treat these wastes in accordance with 40 CFR Part 264.
3. A copy of the waste analysis plan required by 40 CFR Section 264.13(b) and if applicable, 40 CFR Section 264.13(c).
4. A description of the security procedures and equipment required by 40 CFR Section 264.14, or a justification demonstrating the reasons for requesting a waiver of this requirement.
5. A copy of the general inspection schedule required by 40 CFR Section 264.15(b).
6. A justification of any request for a waiver(s) of the preparedness and prevention requirements of 40 CFR Section 264.30.
7. A copy of contingency plan required by 40 CFR Part 264, Subpart D.
8. A description of procedures, structures, or equipment used at the facility to:
  - i. Prevent uncontrolled reaction of incompatible wastes (for example, procedures to avoid fires, explosions, or toxic gases);
  - ii. Prevent hazards in unloading operations (for example, ramps, special forklifts);
  - iii. Prevent runoff from hazardous waste handling areas to the facility or environment, or to prevent flooding (for example, berms, dikes, trenches);
  - iv. Prevent contamination of water supplies;
  - v. Mitigate effects of equipment failure and power outages; and
  - vi. Prevent undue exposure of personnel to hazardous waste (for example, protective clothing).
9. Traffic pattern, volume and control (for example, indicate turns across traffic lanes, and stacking lanes (if appropriate); provide access road surfacing and load bearing capacity; indicate traffic control signals; provide estimates of traffic volume (number, types of vehicles)).

10.7 Surface impoundments

- (a) In addition to the information required in Section 2.1, an applicant for a NJPDES permit for a surface impoundment shall submit information to the Department as follows:
  1. Existing dischargers shall submit the information in paragraphs (d) and (f) in accordance with the schedule in section 10.1;
  2. New source discharges shall submit:
    - i. The information in paragraphs (d) and (e) to apply for a final draft NJPDES permit in accordance with Section 7.2; and
    - ii. The information in paragraph (f) to apply for a final NJPDES permit in accordance with Section 7.2.

"Surface impoundment" or "impoundment" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling and aeration pits, and ponds and lagoons.
- (b) Submission of information required in this section shall not exempt the applicant from compliance with any other filing requirements which apply to that surface impoundment, to any system of which the impoundment is a component, or to any other existing or proposed discharges at the facility.
- (c) Pre-application conferences with the Department concerning the information required in paragraph (d) are strongly recommended. If the applicant requires a DAC for any discharge to surface water at the facility, a pre-application conference with the Department must be scheduled by the applicant at the time of submission of the DAC application.
- (d) The following information shall be submitted:
  1. Applicant's name, address, and telephone number;
  2. Wastewater characteristics
    - (i) The origin and volume of the waste water shall be described in the application;

- ii. Degree of treatment of the effluent shall be specified;
- iii. For existing facilities, a sufficient number of dated analyses of the raw and treated effluent shall be submitted to accurately characterize the composition and variability. For proposed facilities, estimates of the quantity and quality of the effluent, the treatment processes, and the anticipated load to the system shall be provided. This shall include a justification for all estimates.
  - (A) All analyses or estimates shall include the following parameters as a minimum:
    - Ammonium nitrogen (NH<sub>4</sub>-N)
    - Nitrate nitrogen (NO<sub>3</sub>-N)
    - Organic nitrogen (N)
    - Total Kjeldahl Nitrogen (TKN)
    - Biochemical Oxygen Demand (BOD)
    - Chemical Oxygen Demand (COD)
    - Total Dissolved Solids (TDS)
    - Suspended Solids (SS)
    - pH
    - Calcium (Ca)
    - Magnesium (Mg)
    - Sodium (Na)
    - Phosphorus (P)
  - (B) When requested by the Department, other parameters shall be required dependent upon the anticipated quality of the effluent including but not limited to:
    - Grease and Oil
    - Metals
    - Pesticides
    - other selected Organics.
- iv. The quality of discharge to lined impoundments shall be characterized for purposes of ground-water monitoring. Evidence shall be submitted as to the compatibility of the natural or man-made liner material in the presence of the effluent or liquid waste being impounded.

- 3. Site related information:
  - i. Municipality and county in which the facility is located or is proposed to be located;
  - ii. A general plan to scale of the entire project area, showing the location of the impoundment with respect to surface waters, roadways, existing wells, adjacent property ownership and all inhabited structures and facilities within one half (1/2) mile of the site boundaries. The well inventory shall include the depth of all existing domestic, municipal and industrial supplies. Yield of all wells exceeding 100,000 gallons per day or 70 gallons per minute shall be indicated on the map. A location or key map shall be included with the drawings;
  - iii. Topographic (contour interval 2 feet), geologic and soil (USDA) maps of the impoundment site and surrounding area sufficient to define conditions and evaluate the probable impact of the impoundment on ground and surface waters;
  - iv. A water table map showing groundwater flow conditions beneath the impoundment site and surrounding area, based on synoptic well data, as defined in these regulations, collected within eighteen (18) months prior to the date of application;
  - v. A plot plan to scale showing the impoundment area, all piping and discharge points, buffer zones, monitor wells, buildings and all attendant equipment;
  - vi. Soils evaluation;
    - (A) A soil log described by a geologist or soil scientist shall be prepared from each boring or backhoe pit at the site of the impoundment. For existing facilities, borings or pits shall be taken immediately adjacent to the impoundment; for proposed facilities, the borings or pits shall be taken within the area of the proposed impoundment. Borings or pits shall extend 20 feet below the bottom of the proposed impoundment or to bedrock. A sufficient number of borings necessary to determine soil characteristics, depth to bedrock (where applicable),

permeabilities and ground water elevations shall be drilled. Where, in the judgment of the Department, submitted information is insufficient to adequately evaluate the site, additional and/or deeper borings, supplemented by excavations, test pits or geophysical methods may be required;

(B) Continuous samples shall be collected and described. Samples shall be classified using the U.S.D.A. Soil Textural Classification System;

(C) Depths to seasonally high water table shall be established and the methodology used in the determination shall be specified.

4. Engineering Considerations:

- i. Engineering plans and specifications of the entire project, describing the proposed treatment process(es) and facilities, including equipment specifications, capacities and all related engineering data shall be submitted.
- ii. A description of all existing and proposed storage facilities including discharge rates to the system, operating and cleaning schedules, construction details, capacity(ies), estimates of bottom and side permeabilities, leakage calculations, a description of liner material, and installation details shall be submitted.

5. Operational and Monitoring Considerations.

- i. Monitoring wells
  - A. Surface impoundment design shall incorporate ground water and surface water quality monitoring locations approved by the Department and/or a leak detection system approved by the Department.
  - B. The proposed location, design, and number of monitoring wells, the constituents to be tested and the sampling schedule shall be submitted.

C. The design, installation and sampling of all monitoring wells shall conform to Departmental specifications.

D. The monitoring plan shall include at least one monitoring well located up-flow of the impoundment to, define and monitor background ground-water quality. In no case shall less than three monitor wells be located at a facility. The number of wells, their design and location shall remain subject to Departmental approval, and must be of sufficient number to define the groundwater hydrology of the site.

E. Water sample parameters shall be proposed by the applicant and approved by the Department. Background sample analyses shall be submitted prior to any utilization of the impoundment and shall be required prior to final design approval.

F. A water sampling schedule shall be proposed by the applicant and reviewed and approved by the Department.

G. A statement of depth to seasonally high water table and methodology used in the determination shall be submitted.

ii. A description of the impoundment operation shall be submitted.

(e) A request for endorsement shall be submitted in accordance with Section 2.1 (new source dischargers only).

(f) The following information shall also be submitted:

- 1. Any further site modification required as a result of Department review;
- 2. Final site outlines on a plot plan including restricted areas, buffer zones and approved impoundment area(s);
- 3. Final ground water monitoring provisions, parameters, and schedules;
- 4. Proposed record-keeping system;

5. Final plans and specifications, an operations and maintenance manual, and proposed schedules for the submission of all required information to the Department; and
6. A notarized affidavit from the responsible New Jersey licensed Professional Engineer that these facilities have been constructed according to the design specifications and will function properly as designed.

10.8 Land application of sludge and septage

- (a) In addition to the information required in Section 2.1, an applicant for a NJPDES permit for land application of sludge or septage shall submit information to the Department as follows:
  1. Existing dischargers shall submit the information in paragraphs (d) and (e) in accordance with the schedule in Section 10.1.
  2. New source dischargers shall submit:
    - i. The information in paragraphs (d) to apply for a final draft NJPDES permit in accordance with Section 7.2; and
    - ii. The information in paragraph (e) to apply for a final NJPDES permit in accordance with Section 7.2.

"Sludge" means the solid residue and associated liquid resulting from physical, chemical or biological treatment of wastewater. "Septage" means the combination of liquid and solid residues resulting from the treatment of waterborn domestic waste in individual subsurface sewage disposal systems.

- (b) Submission of information required in this section shall not exempt the applicant from compliance with any other filing requirements which apply to that sludge or septage application site, to any treatment system of which the sludge or septage application site is a component, or to any other existing or proposed discharges at the facility.
- (c) Pre-application conferences with the Department concerning the information required in paragraph (d) are strongly recommended. If the applicant requires a DAC for a discharge to surface water at the facility, a pre-application conference with the Department must be scheduled by the applicant at the time of submission of the DAC application.
- (d) The following information shall be submitted:
  1. Applicant's name, address and telephone number;
  2. Waste characteristics:
    - i. The origin and volume of the waste must be described in the application;

- ii. Method of stabilization must be specified; and
- iii. A dated analysis of the sludge shall be submitted as mg/kg dry solids basis unless otherwise noted and shall include the following parameters:

(A) Sludge Constituents and Characteristics

Total Solids (TS) (%), Volatile Solids (% of TS), pH (units), Total Kjeldhal Nitrogen (TKN) (%), Ammonium-nitrogen (NH<sub>4</sub>-N) (%), nitrate-nitrogen (NO<sub>3</sub>-N) (%), Potassium (K), Phosphorus (P), Calcium (Ca), Magnesium (Mg), Iron (Fe), Sodium (Na).

(B) Heavy Metals

Arsenic (As), Cadmium (Cd), Chromium (Cr), Copper (Cu), Lead (Pb), Mercury (Hg), Nickel (Ni), Zinc (Zn)

(C) Pesticides and Toxic Organics

Aldrin, Dieldrin, Endrin, Heptachlor, Heptachlor-epoxide, DDT, pp'-DDE, pp'-TDE, Methoxychlor, Chlordane, Lindane, Mirex, PCBs, Toxaphene

(D) Miscellaneous

Cyanide, Oils and Grease (% of TS), Phenols.

- (E) Any other constituents which, in the opinion of the Department, due to the nature of the waste or treatment process, could significantly impact the ground water, surface water or soil resources.

3. Site-related information

- i. Municipality and county in which the facility is located or is proposed to be located;
- ii. A key map showing the location of the proposed application site plotted on 1:24,000 U.S.G.S. topographical quadrangle;

- iii. An up-to-date plot plan shall also be submitted including the following information;
  - (A) Lot and block numbers of the property to be used.
  - (B) Total acreage of property and boundaries and area of the application site including buffer zones;
  - (C) An inventory of the location and depth of all public water supplies, domestic water wells, industrial supplies, streams, lakes, ponds, lagoons, ditches, drains and other water bodies within the site and one-half (1/2) mile of the application site boundary. Yields of all wells exceeding 100,000 gallons per day or 70 gallons per minute shall be indicated on the map;
  - (D) The location of access roads, dwellings buildings and other features within the property and one-half (1/2) mile of the application site boundaries;
  - (E) Ground water elevation and flow direction beneath and adjacent to the site based on actual measurement; and
  - (F) Proposed monitoring plan, including monitoring well locations.

Each drawing sheet shall bear the seal of the New Jersey licensed Professional Engineer.

- iv. A copy of the appropriate Soil Conservation Service soil survey map showing application site along with the soil properties and soil survey interpretations for the soils on the site;
- v. Soil sample results as recommended by the Departments "Guidelines for the Utilization and Disposal of Municipal and Industrial Sludges and Septage." In cases of unusual soil variability or uniformity, the number of soil samples and/or depth of a sampling required by the Department may be revised;

- vi. Site evaluation with regard to permeability, infiltration rate, soil drainage class, flooding, available water holding capacity, slope, depth to seasonally high water table and depth to mottling or bedrock as recommended in the "Guidelines for the Utilization and Disposal of Municipal and Industrial Sludges and Septage;"
- vii. (A) The results of soil borings taken in the proposed sludge application areas shall be provided in accordance with the following table:

<u>Acreage</u>	<u>Minimum number of borings</u>
1-10	3
10-50	6
50-100	12
100-200	18
over 200	minimum 24

- (B) Soil borings shall be taken to a minimum depth of five feet. Continuous soil log descriptions, based on the USDA Soil Textural Classification System, shall be prepared and dated. The borings shall identify the soil texture, color, thickness of horizon, restrictive layers, permeability, estimated CEC, depth to seasonally high water table, and presence and depth of mottling or bedrock.
- (C) The requirement for soil boring analyses may be modified by the Department on a case-by-case basis.

4. Application Rates

- i. The annual and cumulative sludge application rates based on nitrogen and heavy metals shall be specified. "Guidelines for the Utilization and Disposal of Municipal and Industrial Sludges and Septage" should be used for determining these rates. Where the above application rate criteria are not appropriate, additional application rates and criteria shall be developed by the applicant and submitted to the Department for review.

- ii. If the sludge is in liquid form, the volume to be applied at any one time shall be specified.
- iii. For compost application, annual and cumulative rates shall be specified. "Guidelines for the Utilization and Disposal of Municipal and Industrial Sludges and Septage" should be used for determining these rates.

5. Operational Considerations

- i. The method of sludge application shall be submitted.
- ii. The crop management plan shall be submitted and shall include:
  - (A) Types of crops;
  - (B) Rotation of planting;
  - (C) Sludge application rate and schedule including provisions for winter operation and storage;
  - (D) Amount of lime necessary to adjust soil pH to 6.5; and
  - (E) Proposed use of harvested crop.
- iii. Provisions for restriction of public access to sludge application site shall be specified.

(e) For the final NJPDES Permit, the following additional information must be submitted:

1. Any further site modifications or preparations to soil or landscape (i.e. plowing, disking, grading, site clearing, etc.);
2. If dikes, berms, lagoons or any other pollution protection devices or techniques are required, then detailed profile and plan views showing local grades, elevations, construction, and materials specifications shall be submitted;
3. Final site outlines on a plot plan (d3iii) including restricted areas, buffer zones and approved application areas delineated into sub-areas for record-keeping purposes;
4. Ground water monitoring provisions;
5. Proposed record-keeping system;

6. A statement as to the ability to shift to other disposal areas or options if sludge applications must cease;
7. An Operations and Maintenance Manual describing the operations and monitoring plans and schedules for the submission of all required information to the Department; and
8. Designs for any storage facilities and a notarized affidavit from the responsible NJ licensed Professional Engineer that these facilities have been constructed according to the design specifications and will provide the required storage.

- 10.9 Land application of effluents by spray irrigation
- (a) In addition to the information required in Section 2.1, an applicant for a NJPDES permit for land application of effluents by spray irrigation shall submit information to the Department as follows:
    1. Existing dischargers shall submit the information in paragraphs (d) and (f) in accordance with the schedule in section 10.1.
    2. New source discharges shall submit:
      - i. The information in paragraphs (d) & (e) to apply for a final draft NJPDES permit in accordance with Section 7.2; and
      - ii. The information in paragraph (f) to apply for a final NJPDES permit in accordance with Section 7.2.

"Spray irrigation" means a system for land application of wastewater, using sprinkler heads or nozzles as a method of application.

- (b) Submission of information required in this section shall not exempt the applicant from compliance with any other filing requirements which apply irrigation, to any treatment system of which the spray irrigation or is a component, or to any other existing or proposed discharges at the facility.
- (c) Pre-application conferences with the Department concerning the information required in paragraph (d) are strongly recommended. If the applicant requires a DAC for any discharge to surface water at the facility, a pre-application conference with the Department must be scheduled by the applicant at the time of submission of the DAC application.
- (d) The following information shall be submitted:
  1. Applicant's name, address, telephone number.
  2. Wastewater Characteristics - The origin and volume of the waste water must be described in the application.
    - i. Degree of treatment of the effluent must be specified.

- ii. For existing facilities, a sufficient number of dated analyses of the raw and treated effluent shall be submitted to accurately characterize the composition and variability. For proposed facilities, estimates of the quantity and quality of the effluent, the treatment processes, and the anticipated load to the system shall be provided. This shall include a justification for all estimates.
    - (A) All analyses or estimates shall include the following parameters as a minimum:
      - Ammonium Nitrogen (NH<sub>4</sub>-N)
      - Nitrate Nitrogen (NO<sub>3</sub><sup>-</sup>N)
      - Organic Nitrogen (N)<sup>3</sup>
      - Total Kjeldahl Nitrogen (TKN)
      - Biochemical Oxygen Demand (BOD), Chemical Oxygen Demand (COD), Total Dissolved Solids (TDS), Suspended Solids (SS), pH, Calcium (Ca), Magnesium (Mg), Sodium (Na), and Phosphorus (P)
    - (B) When requested by the Department other parameters shall be required, dependent on the anticipated quality of the effluent; including but not limited to:
      - Grease and Oil, Metals, Pesticides, and other selected Organics.
  - iii. The compatibility of the effluent for land disposal shall be substantiated by the applicant.
3. Site Related information
- i. Municipality and county in which the facility is located or is proposed to be located.
  - ii. A general plan to scale of the entire project area, showing the location of the spray field with respect to surface waters, roadways, existing wells, adjacent property ownership and all inhabited structures and facilities within one half (1/2) mile of the spray field boundaries. The well inventory shall include the depth of all existing domestic, municipal and industrial supplies. Yields of all wells exceeding 100,000 gallons per day or 70 gallons per minute shall be indicated on the map. A location or key map shall be included with the drawings.
  - iii. Topographic (contour interval 2 feet), geologic and soil (USDA) maps of the

- land disposal site and surrounding area sufficient to define conditions and evaluate the probable impact of the spray field on ground and surface waters.
  - iv. A water table map showing groundwater flow conditions beneath the disposal site and surrounding area, based on synoptic well data, as defined in these regulations, collected within eighteen (18) months prior to the date of application.
  - v. A plot plan to scale showing the spray field(s), storage facility(ies), all piping and discharge points, buffer zones, monitor wells, buildings and all attendant equipment.
  - vi. Soils evaluation
    - (A) A soil log described by a geologist or soil scientist prepared from each boring or backhoe pit at the existing or proposed site. Borings or pits shall reach a depth of twenty feet or to bedrock. A sufficient number of borings necessary to determine soil characteristics, depth to bedrock (where applicable), permeabilities and ground water elevations shall be drilled. Where, in the judgment of the Department, submitted information is insufficient to adequately evaluate the site, additional and/or deeper borings, supplemented by excavations, test pits or geophysical methods may be required.
 

Continuous samples shall be collected and described. Samples shall be classified using the U.S.D.A. Soil Textural Classification System.
    - (B) Depths to seasonally high water table shall be established and the methodology used in the determinations shall be specified.
4. Application Rates
- Application rates and rest periods shall be specified. "Guidelines for Land Disposal of Effluents by Spray Irrigation" should be used in making these determinations.

5. Engineering Considerations:

- i. Engineering plans and specifications of the entire project, describing the proposed treatment process(es) and facilities, including equipment specifications, capacities and all related engineering data shall be submitted.
- ii. A calculation of surface water runoff across spray irrigation sites shall be prepared using a 25-year design storm, with estimates of the effect of such runoff on treatment capacity, storage capacity, erosion, flooding and related details.
- iii. A description of existing and proposed storage facilities including discharge rates to the spray irrigation system, operating and cleaning schedule, construction details, capacities, estimates of bottom and side permeabilities and leakage calculations and a description of liner material and installation details shall be submitted.

6. Operational and Monitoring Considerations

- i. A description of the proposed cover crop and natural vegetation and a detailed long term vegetation or crop management program, including use or disposal of the crop, shall be provided.
- ii. A description of the spray irrigation system operation shall be submitted.
  - (A) Storage requirements shall be determined and method of determination shall be specified.
  - (B) An operation manual and maintenance schedule shall be submitted. "Guidelines for Land Disposal of Effluents by Spray Irrigation" should be used as a reference.
- iii. Monitoring wells
  - (A) Spray irrigation systems shall incorporate ground water and surface water quality monitoring locations approved by the Department.

- B. The proposed location, design, and number of monitoring wells, the constituents to be tested and the sampling schedule shall be submitted.
  - C. The design, installation and sampling of all monitoring wells shall conform to Departmental specifications.
  - D. The monitoring plan shall include at least one monitoring well located up-flow of the spray field to define and monitor prevailing background ground water quality.
  - E. Water sample parameters shall be proposed by the applicant and approved by the Department. Background sample analyses shall be submitted prior to any utilization of the spray field(s) and shall be required prior to final design approval.
  - F. Water Sampling schedule shall be proposed by the applicant and reviewed and approved by the Department.
  - G. A statement of the depth to seasonally high or other water table and methodology, used in the determination shall be submitted.

In no case shall less than three monitor wells be located at a facility. The number of wells, their design and location shall remain subject to Departmental approval, and must be of sufficient number to define the ground-water hydrology of the site.
7. Final ground water monitoring provisions, parameters, and schedules.
  8. Proposed record-keeping system.
  9. Final plans and specifications, an operations and maintenance manual, and proposed schedules for the submission of all required information to the Department.
  10. A notarized affidavit from the responsible NJ licensed Professional Engineer that these facilities have been constructed according to the design specifications and will function properly as designed.

11. Transcript from a public hearing on the proposed project if such a public hearing has been required by the Department.
- (e) A request for endorsement shall be submitted in accordance with Section 2.1.
- (f) The following information shall also be submitted:
1. Any further site modifications required as a result of Department review.
  2. Final site outlines on a plot plan including restricted areas, buffer zones and approved application areas delineated into sub-areas for record keeping purposes.

- 10.10 Land application of effluents by overland flow
- (a) In addition to the information required in Section 2.1, an applicant for a NJPDES permit for land application of effluents by overland flow shall submit information to the Department as follows:
1. Existing dischargers shall submit the information in paragraphs (d) and (f) in accordance with the schedule in Section 10.1.
  2. New source dischargers shall submit:
    - i. The information in paragraphs (d) and (e) to apply for a final draft NJPDES permit in accordance with Section 7.2; and
    - ii. The information in paragraph (f) to apply for a final NJPDES permit in accordance with Section 7.2.
- "Overland flow" means the controlled discharge, by spraying or other means, of effluents onto a sloping land with a large proportion of the wastewater appearing as runoff. As the effluent flows over the land, the suspended solids are filtered out and the organic matter is oxidized by the bacteria living in the vegetative litter.
- (b) Submission of information required in this section shall not exempt the applicant from compliance with any other filing requirements which apply to that overland flow site, to any treatment system of which the overland flow site is a component, or to any other existing or proposed discharges at the facility.
- (c) Pre-application conferences with the Department concerning the information required in paragraph (d) are strongly recommended. If the applicant requires a DAC for any discharge to surface water at the facility, a pre-application conference with the Department must be scheduled by the applicant at the time of submission of the DAC application.
- (d) The following information shall be submitted;
1. Applicant's name, address, telephone number;
  2. Wastewater Characteristics - The origin and volume of the waste water shall be described in the application.

- i. Degree of treatment of the effluent shall be specified.
- ii. For existing facilities a sufficient number of dated analyses of the raw and treated effluent shall be submitted to accurately characterize the composition and variability. For proposed facilities, estimates of the quantity and quality of the effluent, the treatment processes, and the anticipated load to the system shall be provided. This shall include a justification for all estimates.
  - (A) All analyses or estimates shall include the following parameters as a minimum;
    - Ammonium nitrogen ( $\text{NH}_4\text{-N}$ )
    - Nitrate Nitrogen ( $\text{NO}_3\text{-N}$ )
    - Organic - Nitrogen
    - Total Kjeldahl Nitrogen (TKN)
    - Biochemical Oxygen Demand (BOD)
    - Chemical Oxygen Demand (COD)
    - Total Dissolved Solids (TDS)
    - Suspended Solids (SS)
    - pH
    - Calcium (Ca)
    - Magnesium (Mg)
    - Sodium (Na)
    - Phosphorus (P)
  - (B) When requested by the Department, other parameters shall be required dependent on the anticipated quality of the effluent, including but not limited to:
    - Grease and Oil
    - Metals
    - Pesticides
    - Other selected Organics.
- iii. The compatibility of the effluent for land application shall be substantiated by the applicant.

3. Site Related Information

- i. Municipality and county in which the facility is located or is proposed to be located.
- ii. A general plan to scale of the entire project area, showing the location of the overland flow facility with respect to surface waters, roadways, existing wells, adjacent property ownership and all inhabited structures and facilities within one half (1/2) mile of the overland flow site boundaries. The well inventory shall include the depth of all existing domestic, municipal and industrial supplies. Yields of all wells exceeding 100,000 gallons per day or 70 gallons per minute shall be indicated on the map. A location or key map shall be included with the drawings.
- iii. Topographic (contour interval 2 feet), geologic and soil (USDA) maps of the land disposal site and surrounding area sufficient to define conditions and evaluate the probable impact of the overland flow facility on ground and surface waters.
- iv. A water table map shall be prepared showing groundwater flow conditions beneath the disposal site and surrounding area, based on synoptic well data, as defined in these regulations, collected within eighteen (18) months prior to the date of application.
- v. A plot plan to scale showing the overland flow area, storage facility(ies), all piping and discharge points, buffer zones, monitor wells, buildings and all attendant equipment.
- vi. Soils evaluation:
  - (A) A soil log described by a geologist or soil scientist prepared from each boring or backhoe pit at the existing or proposed site. Borings or pits shall reach a depth of twenty feet or to bedrock. A sufficient number of borings necessary to determine soil characteristics, depth to bedrock (where applicable), permeabilities and ground water elevations shall be drilled.

Where, in the judgment of the Department, submitted information is insufficient to adequately evaluate the site, additional and/or deeper borings, supplemented by excavations, test pits or geophysical methods may be required. Continuous samples shall be collected and described. Samples shall be classified using the U.S.D.A. Soil Textural Classification System.

- (B) Depths to seasonally high water table and the methodology used in the determinations shall be specified.

4. Application Rates

Application rates and rest periods shall be specified. "Guidelines for Land Disposal of Effluents by Overland Flow" should be used in making these determinations.

5. Engineering Considerations:

- i. Engineering plans and specifications of the entire project, describing the proposed treatment process(es) and facilities, including equipment specifications, capacities and all related engineering data shall be submitted.
- ii. A calculation of surface water runoff across overland flow sites shall be prepared using a 25-year design storm, with estimates of the effect of such runoff on treatment capacity, storage capacity, erosion, flooding and related details.
- iii. A description of existing or proposed storage facilities including discharge rates to the overland flow system operating and cleaning schedules, construction details, capacity(ies), estimates of bottom and side permeabilities and leakage calculations and a description of liner material, and installation details shall be submitted.

6. Operational and Monitoring Considerations.

- i. A description of the proposed cover crop and natural vegetation and a detailed long term vegetation or crop management program, including use or disposal of the crop shall be provided.

ii. Monitoring wells

- (A) All overland flow systems shall incorporate ground water and surface water quality monitoring locations approved by the Department.
- (B) The proposed location, design, and number of monitoring wells, the constituents to be tested and the sampling schedule shall be submitted.
- (C) The design, installation and sampling of all monitoring wells shall conform to Departmental specifications.
- (D) The monitoring plan shall include at least one monitoring well located up-flow of the overland flow area to define and monitor prevailing background groundwater quality. In no case shall less than three monitor wells be located at a facility. The number of wells, their design and location shall remain subject to Departmental approval and must be of sufficient number to define the groundwater hydrology of the site.
- (E) Water sample parameters shall be proposed by the applicant and approved by the Department. Background sample analyses shall be submitted prior to any utilization of the overland flow field and shall be required prior to final design approval.
- (F) Water sampling frequency shall be proposed by the applicant and reviewed and approved by the Department.

- (G) A statement of the depth to seasonally high water table and methodology used in the determinations shall be submitted.
- iii. A description of the overland flow system operation shall be submitted.
  - (A) Storage requirements shall be determined and method of determination shall be specified.
  - (B) An operation manual and maintenance schedule shall be submitted. "Guidelines for Land Disposal of Effluents by Overland Flow" should be used as a reference.
- (e) Request for endorsement in accordance with Section 2.1.
- (f) The following information shall also be submitted:
  1. Any further site modifications required as a result of Department review.
  2. Final site outlines on a plot plan including restricted areas, buffer zones and approved application areas delineated into sub-areas for record keeping purposes.
  3. Final ground water monitoring provisions, parameters, and schedules.
  4. Proposed record-keeping system.
  5. Final plans and specifications, an operations and maintenance manual and proposed schedules for the submission of all required information to the Department.
  6. A notarized affidavit from the responsible NJ licensed Professional Engineer that these facilities have been constructed according to the design specifications and will function properly as designed.

- 10.11 Land disposal by infiltration-percolation lagoons
    - (a) In addition to the information required in Section 2.1, an applicant for a NJPDES permit for land disposal by infiltration-percolation lagoons shall submit information to the Department as follows:
      1. Existing dischargers shall submit the information in paragraphs (d) and (f) in accordance with the schedule in section 10.1.
      2. New source discharges shall submit:
        - i. The information in paragraphs (d) & (e) to apply for a final draft NJPDES permit in accordance with Section 7.2; and
        - ii. The information in paragraph (f) to apply for a final NJPDES permit in accordance with Section 7.2.
- "Infiltration-percolation lagoon" means a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials) which is designed to hold and transmit fluids to the subsurface and which is not an injection well.
- (b) Submission of information required in this section shall not exempt the applicant from compliance with any other filing requirements which apply to the infiltration-percolation lagoon, to any treatment system of which the infiltration-percolation lagoon is a component, or to any other existing or proposed discharges at the facility.
  - (c) Pre-application conferences with the Department concerning the information required in paragraph (d) are strongly recommended. If the applicant requires a DAC for any discharge to surface water at the facility, a pre-application conference with the Department must be scheduled by the applicant at the time of submission of the DAC application.
  - (d) The following information shall be submitted:
    1. Applicant's name, address, telephone number.
    2. Wastewater Characteristics - The origin and volume of the waste water shall be described in the application.

- i. Degree of treatment of the effluent shall be specified.
- ii. For existing facilities a sufficient number of dated analyses of the raw and treated effluent shall be submitted to accurately characterize the composition and variability. For proposed facilities, estimates of the quantity and quality of the effluent, the treatment processes, and the anticipated load to the system shall be provided. This shall include a justification for all estimates.
  - (A) All analyses or estimates shall include the following parameters as a minimum:
    - Ammonium Nitrogen (NH<sub>4</sub>-N)
    - Nitrate Nitrogen (NO<sub>3</sub>-N)
    - Organic Nitrogen (N)
    - Total Kjeldahl Nitrogen (TKN)
    - Biochemical Oxygen Demand (BOD)
    - Chemical Oxygen Demand (COD)
    - Total Dissolved Solids (TDS)
    - Suspended Solids (SS)
    - pH
    - Calcium (Ca)
    - Magnesium (Mg)
    - Sodium (Na)
    - Phosphorus (P)
  - (B) When requested by the Department, other parameters shall be required dependent on the anticipated quality of effluent including but not limited to:
    - Grease and Oil
    - Metals
    - Pesticides
    - other selected Organics.
- iii. The compatibility of the effluent for land disposal shall be substantiated by the applicant.

3. Site Related Information

- i. Municipality and county in which the facility is located or is proposed to be located.
- ii. A general plan to scale of the entire project area, showing the location of the infiltration-percolation lagoon with respect to surface waters, roadways, existing wells, adjacent property ownership and all inhabited structures and facilities within one half (1/2) mile of the infiltration-percolation lagoon boundaries. The well inventory shall include the depth of all existing domestic, municipal and industrial supplies. Yields of all wells exceeding 100,000 gallons per day or 70 gallons per minute shall be indicated on the map. A location or key map shall be included with the drawings.
- iii. Topographic (contour interval 2 feet), geologic and soil (USDA) maps of the land disposal site and surrounding area sufficient to define conditions and evaluate the probable impact of the infiltration-percolation lagoon on ground and surface waters.
- iv. A water table map shall be prepared showing ground-water flow conditions beneath the disposal site and surrounding area based on synoptic well data, as defined these regulations, collected within eighteen (18) months prior to the date of application.
- v. A plot plan to scale showing the infiltration-percolation lagoon, storage facility(ies) all piping and discharge points, buffer zones, monitor wells, buildings and all attendant equipment.
- vi. Soils evaluation
  - (A) A soil log described by a geologist or soil scientist prepared from each boring or backhoe pit at the existing or proposed site. Borings or pits shall reach a depth of twenty feet or to bedrock. A sufficient number of borings necessary

to determine soil characteristics, depth to bedrock (where applicable), permeabilities and ground water elevations shall be drilled. Where, in the judgement of the Department, submitted information is insufficient to adequately evaluate the site, additional and/or deeper borings, supplemented by excavations, test pits or geophysical methods may be required. Continuous samples shall be collected and described. Samples shall be classified using the U.S.D.A. Soil Textural Classification System.

(B) Depths to seasonally high water table and the methodology used in the determinations shall be specified.

4. Application Rates

Application rates and rest periods shall be specified. "Guidelines for Land Disposal by Infiltration-Percolation Lagooning" should be used in making these determinations.

5. Engineering Considerations:

- i. Engineering plans and specifications of the entire project describing the proposed treatment process(es) and facilities, including equipment specifications, capacities and all related engineering data shall be submitted.
- ii. A calculation of surface water runoff across infiltration-percolation lagoon sites shall be prepared using a 25-year design storm, with estimates of the effect of such runoff on treatment capacity, storage capacity, erosion, flooding and related details.
- iii. A description of existing and proposed storage facilities including discharge rates to the infiltration-percolation lagoon, operating, and cleaning schedules, construction details, capacity(ies), estimates of bottom and sides permeabilities and leakage calculations and a description of liner material, and installation details shall be submitted.

6. Operational and Monitoring Considerations.

- i. A description of the proposed cover crop and natural vegetation and a detailed long term vegetation or crop management program, including use or disposal of the crop, shall be provided.
- ii. Monitoring wells
  - (A) All infiltration-percolation lagoons shall incorporate ground water and surface water quality monitoring locations approved by the Department.
  - (B) The proposed location, design, and number of monitoring wells, the constituents to be tested and the sampling schedule shall be submitted.
  - (C) The design, installation and sampling of all monitoring wells shall conform to Departmental specifications.
  - (D) The monitoring plan shall include at least one monitoring well located up-flow of the infiltration-percolation lagoon to define and monitor prevailing background groundwater quality. In no case shall less than three monitor wells be located at a facility. The number of wells, their design and location shall remain subject to Departmental approval and must be of sufficient number to define the ground-water hydrology of the site.
  - (E) Water sample parameters shall be proposed by the applicant and approved by the Department. Background sample analyses shall be submitted prior to any utilization of the infiltration-percolation lagoon and shall be required prior to final design approval.
  - (F) Water sampling frequency shall be proposed by the applicant and reviewed and approved by the Department.
  - (G) A statement of the depth to seasonally high water table and methodology used in the determinations shall be submitted.

iii. A description of the infiltration-percolation lagoon operation shall be submitted.

(A) Storage requirements shall be determined and method of determination shall be specified.

(B) An operation manual and maintenance schedule shall be submitted. "Guidelines for Land Disposal Infiltration-Percolation Lagooning" should be used as a reference.

(e) Request for endorsement in accordance with Section 2.1.

(f) The following information shall also be submitted:

1. Any further site modifications required as a result of Department review.
2. Final site outlines on a plot plan including restricted areas, buffer zones and approved application areas delineated into sub-areas for record keeping purposes.
3. Final ground water monitoring provisions, parameters, and schedules.
4. Proposed record-keeping system and associated details.
5. Final plans and specifications, an operations and maintenance manual, and proposed schedules for the submission of all required information to the Department.
6. A notarized affidavit from the responsible NJ licensed Professional Engineer that these facilities have been constructed according to the design specifications and will function properly as designed.

10.12 Discharges from sanitary landfills

(a) In addition to the information required in Section 2.1, an applicant for a NJPDES permit for a discharge from a sanitary landfill shall submit information to the Department as required by this section.

"Sanitary landfill" means a land disposal site employing an engineered method of disposal of solid waste in a manner that minimizes environmental hazards, including but not limited to the spreading of the solid waste in thin layers, compacting the waste to the smallest practical volume, and applying cover material on a daily or more frequent basis.

(b) Submission of information required in this section shall not exempt the applicant from compliance with any other filing requirements which apply to that sanitary landfill, to any treatment system of which the sanitary landfill is a component, or to any other existing or proposed discharges at the facility.

(c) Pre-application conferences with the Department concerning the information in paragraph (d) are strongly recommended. If the applicant requires a DAC for any discharge to surface water at the facility, a pre-application conference with the Department must be scheduled by the applicant at the time of submission of the DAC application.

(d) The following information shall be submitted:

1. Applicant's name, address, telephone number.
2. Maps, cross sections and reports. Some of the maps may be combined if all required features are clearly shown.

i. Location map

(A) The site shall be located on a U.S. Geological Survey 7.5 minute Topographic Quadrangle. The quadrangle shall be the most recent revision.

(B) The site shall be shown by legal boundaries surveyed by a New Jersey licensed Land Surveyor indicating roadways, adjacent property ownerships and all inhabited structures and facilities within one half(1/2) mile of site boundaries.

ii. Topographic Map(s)

(A) Topographic map of the facility shall have a horizontal scale of at least 1 inch equals 200 feet and a contour interval of 5 feet. Contour elevations shall be based on established N.J. Geological Control Survey Datum and the map shall be keyed into the NJ plane coordinate systems. The topographic map(s) shall indicate original, existing, and proposed topography.

(B) A second topographic map shall indicate all surface waters within one-half (1/2) mile of the landfill site and all water supply reservoirs and public recreational bodies of water within one mile of the landfill boundary.

iii. Ground-Water Supply Map

The depth and location of wells with one-half (1/2) mile radius and all public supply wells or wells permitted to pump over 100,000 gallons per day or 70 GPM within one and one-half (1/2) miles of the proposed facility shall be plotted. Pump capacity or diversion allocation for all wells yielding greater than 70 GPM shall be reported and keyed to map. All occupied buildings, including private dwellings, within one-half (1/2) mile radius of the proposed facility shall be plotted and identified as to type (e.g. industrial, commercial, or residential). The service areas, if any, of municipal or community water supply systems shall be identified.

iv. Geologic Map

A detailed geologic map of the entire site shall be submitted including all the area outside the landfill site boundary to a distance of one-half mile. The base data for this map shall be compiled by a geologist. The scale of the geologic map shall be at least 1" = 400 feet and shall show the following information:

- (A) Bedrock outcrops
- (B) Dip and strike of sedimentary formations and foliation trends and dip angles of igneous and metamorphic rocks

- (C) Fault(s) and prominent shear zone(s) trends
- (D) Joint or fracture trends in bedrock outcrops including dip angles
- (E) Trend direction of solution channels in carbonate rocks and sink holes.
- (F) Location of any active or abandoned mine workings.

A geologic report describing the major characteristics of the formation(s), including thickness, lithology, structural features, degree of weathering, and amount of overburden shall accompany the map.

v. Geologic Cross-Section(s)

Where the geologic map indicates complex or highly variable geology the Department may require geological cross-sections.

vi. Soils map and borings

- (A) A soils map shall be submitted with a scale of at least 1 inch equals 400 feet. Soils information should be drawn from the U.S.D.A. Soil Conservation Service Report(s) with site specific soils data determined by a soil scientist using the U.S.D.A. classification system on data obtained from the required borings and other available data.
- (B) A sufficient number of borings necessary to determine soil characteristics, depth to bedrock (where applicable), permeability and ground water elevations shall be drilled. Where, in the judgment of the Department, submitted information is insufficient to adequately evaluate the site, additional and/or deeper borings, supplemented by excavations, test pits or geophysical methods may be required.
  - (1) Subsurface data obtained by borings shall be collected by a split spoon drive method, shelly tube or diamond bit coring. Auger borings are not acceptable.

- (2) All borings shall be a minimum depth of ten (10) feet below the seasonally high water table. In no case shall borings be less than 20 feet below the lowest elevation by the landfill.
- (3) Split spoon, shelby tube and diamond bit core samples shall be labeled and properly stored for a minimum period of one year from the date of the application to this Department.
- (4) Profiles shall be shown for each boring giving the depths and texture of each soil strata or horizon and the elevation of any groundwater or aquifer encountered, and shall include the date each boring was taken.

vii. Hydrogeologic report

A hydrogeologic report shall be provided for the site and for a one-half (1/2) mile radius of the proposed site. The hydrologic report shall include:

- (A) A piezometric map based upon stabilized groundwater elevations below the site showing direction(s) and rate(s) of groundwater flow and an indication as to whether the groundwater is unconfined, confined (artesian) or both for the proposed facility.
- (B) A generalized piezometric map based upon available data including, but not limited to, existing topography, surface drainage and existing well data, shall be provided for the area within a 1/2 mile radius of the site boundary.
- (C) A survey of wells identified under ground-water supply map ((d) 2.iii) shall be conducted, and the use, approximate yield, and depth of well shall be provided.

- (D) All public water supplies and wells capable of pumping over 70 GPM or 100,000 gallons per day within a one and one-half (1 1/2) mile radius of the proposed facility shall be located and the potential impact on those supplies by the proposed facility shall be assessed.

viii. Monitoring

Ground water monitoring wells are required for detection of ground water contamination from landfill leachate.

- (A) The location and construction of all existing and proposed monitor wells shall be shown. No new monitoring wells shall be drilled until locations have been approved by the Department.
- (B) All monitor well construction shall comply with the specifications supplied by the Department. Special construction or deviation from the approved specifications shall be submitted in writing to the Department for approval.
- (C) A well drillers permit, as required by N.J.S.A. 58:4A, shall be obtained prior to the installation of any groundwater monitoring well.
- (D) The well log for each ground water monitoring well installed shall be submitted with the initial analysis.
- (E) All monitoring wells installed per the requirements of the Department shall be properly maintained and kept in proper working order.
- (F) The elevation of the top of the well casing for each ground water monitoring well shall be established and said elevation shall be permanently marked on the well casing. The elevation established shall be in relation to the New Jersey Geodetic Control Survey datum.
- (G) Each monitor well casing shall be permanently marked with a number to be assigned by the Department.

ix. Water Quality

(A) All sanitary landfills shall have a groundwater monitoring system constructed and located in accordance with instructions furnished by this Department. The registrant shall notify the Solid Waste Administration, in writing, seven (7) days prior to the commencement of the installation of the approved groundwater monitoring system.

(B) No sanitary landfill shall operate without installing a groundwater monitoring system as approved by this Department and obtaining groundwater samples, and analyses thereof, for the purpose of establishing existing groundwater quality data. The initial sampling of each monitoring well shall include analyses for the following parameters:

- (1) Presence of organisms of the Coliform Group
- (2) Turbidity
- (3) Color
- (4) Odor
- (5) Mercury (Hg)
- (6) Arsenic (As)
- (7) Barium (Ba)
- (8) Cadmium (Cd)
- (9) Chromium (hexavalent Cr+6)
- (10) Cyanide (CN)
- (11) Fluoride (F)
- (12) Lead (Pb)
- (13) Selenium (Se)
- (14) Silver (Ag)

(15) A.B.S./L.A.S. (Alkyl-Benzene-Sulfonate and Linear-Alkyl-Sulfonate or similar methylene blue reactive substances contained in synthetic detergents.)

(16) Chloride (Cl)

(17) Copper (Cu)

(18) Hardness (as CaCO<sub>3</sub>)

(19) Iron (Fe)

(20) Manganese (Mn)

(21) Nitrogen (including NO<sub>3</sub>-N and NH<sub>4</sub>-N)

(22) Phenolic Compounds (as phenol)

(23) Sodium (Na)

(24) Sulfate (SO<sub>4</sub>)

(25) Total Dissolved Solids

(26) Zinc (Zn)

(27) Chemical Oxygen Demand (C.O.D.)

(28) Biochemical Oxygen Demand (B.O.D.)

(29) Total Organic Carbon (TOC)

In addition, a gas chromatograph/mass spectrometer (GC/MS) scan for volatile organics, acid extractables, base neutral extractables and pesticides/PCB's is required for the initial analysis.

(C) All sanitary landfills shall submit an annual analysis from each groundwater monitoring wells for the parameters 1 through 29 listed in subsection (b) of this section. Organic scans shall be accomplished as required by the Department.

(D) All sanitary landfills shall submit a quarterly analysis from each groundwater monitoring well for the following parameters:

- (1) Chloride (Cl)
- (2) Lead (Pb)
- (3) Iron (Fe)
- (4) Phenol Compounds as phenol
- (5) Total Dissolved Solids (T.D.S.)
- (6) Sulfate (SO<sub>4</sub>)
- (7) Chemical Oxygen Demand (C.O.D.)
- (8) Biochemical Oxygen Demand B.O.D.)
- (9) Total Organic Carbon (T.O.C.)
- (10) \*Coliform Group
- (11) pH
- (12) ABS/LAS
- (13) Color
- (14) Zinc (Zn)
- (15) Sodium (Na)
- (16) Copper (Cu)
- (17) Odor
- (18) Nitrate Nitrogen (NO<sub>3</sub>-N)
- (19) Ammonium Nitrogen (NH<sub>4</sub>-N)

\*Only required for facilities that accept sewage sludge, septic tank and catch-basin clean-outs or other fecal material.

- (E) Where analytical results indicate a significant increase in the levels of any of the parameters tested for, the Department may require additional and/or more frequent analysis.
- (F) The taking and analyses of samples shall be done by a laboratory acceptable to the State and using methods recognized as acceptable by the Department. Copies of analyses shall be forwarded to this Department within thirty days of the sampling date.
- (G) Where appropriate, initial, annual and quarterly sampling and analyses of surface waters in the vicinity of a sanitary landfill may be required by this Department. If required, it shall be accomplished in accordance with the requirements of Subsections (b) through (d) of this Section.

x. Cover Materials

A report indicating the location(s), type(s), and quantities of cover materials to be utilized in the operation of the facility shall be submitted.

xi. Land use -Zoning map

A land use - zoning map of all areas within one (1) mile of the existing or proposed landfill site shall clearly indicate all local zoning restrictions, and all existing land uses.

xii. Leachate Generation

Leachate generation calculations shall be provided by performing a water balance calculation in accordance with the guidelines provided by the Department.

10.13 Underground injection control

(a) Class I wells.

This paragraph sets forth the information which must be considered by the Department in authorizing Class I wells. Certain maps, cross-sections, tabulations of wells within the area of review and other data may be included in the application by reference provided they are current, readily available to the Department (for example, in the Department's files) and sufficiently identified to be retrieved.

1. Prior to the issuance of a permit for an existing Class I well to operate or the construction or conversion of a new Class I well the Department shall consider the following:
  - i. Information required Sections 2.1 and 5.11;
  - ii. A map showing the injection well(s) for which a permit is sought and the applicable area of review. Within the area of review, the map must show the number, or name, and location of all producing wells, injection wells, abandoned wells, dry holes, surface bodies of water, springs, mines, (surface and subsurface), quarries, water wells and other pertinent surface features including residences and roads. The map should also show faults, if known or suspected. All of the above information, whether or not of public record, is required to be included on this map;
  - iii. 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, data drilled, location, depth, record of plugging and/or completion, and any additional information the Department may require;
  - iv. 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;

- v. Maps and cross section detailing the geological structure of the local area;
- vi. Generalized maps and cross sections illustrating the regional geologic setting;
- vii. Proposed operating data:
  - (A) Average and maximum daily rate and volume of the fluid to be injected;
  - (B) Average and maximum injection pressure; and
  - (C) Source and an analysis of the chemical, physical radiological and biological characteristics of injection fluids;
- viii. Proposed formation testing program to obtain an analysis of the chemical, physical and radiological characteristics of and other information on the receiving formation;
- xi. Proposed stimulation program;
- x. Proposed injection procedure;
- xi. Engineering drawings of the surface and subsurface construction details of the system;
- xii. Contingency plans to cope with 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 in Section 5.15(c)(2);
- 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 Section 5.12;
- xv. Construction procedures including a cementing and casing program, logging procedures, deviation checks, and a drilling, testing, and coring program; and

- xvi. A certificate that the applicant has assured, through a performance bond or other appropriate means, the resources necessary to close, plug or abandon the well as required by Section 5.11(g).
2. Prior to granting approval for the operation of a Class I well the Department shall consider the following information:
- i. All available logging and testing program data on the well;
  - ii. A demonstrating of mechanical integrity pursuant to Section 5.14(d);
  - 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 action on defective wells in the area of review.
3. Prior to granting approval for either a plan for or the actual plugging and abandonment of a Class I well, the Department shall consider the following information:
- 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 Section 5.14(e)(3).

(b) Class II wells.

This paragraph sets forth the information which must be considered by the Department in authorizing Class II wells. Certain maps, cross-sections, tabulations of wells within the area of review, and other data may be included in the application by reference provided they are current, readily available to the Department (for example, in the Department's files) and sufficiently identified to be retrieved.

1. Prior to the issuance of a permit for an existing Class II well to operate or the construction or conversion of a new Class II well the Department shall consider the following:
- i. Information required in Sections 2.1 and 5.11;
  - ii. A map showing the injection well(s) for which a permit is sought and the applicable area of review. Within the area of review, the map must show the number, or name, and location of all producing wells, injection wells, abandoned wells, dry holes, surface bodies of water, springs, mines (surface and subsurface), quarries, water wells and other pertinent surface features including residences and roads. The map should also show faults, if known or suspected. Only information of public record is required to be included on this map. The Department, however, may request additional information as it becomes necessary;
  - iii. A tabulation of data on all wells within the area of review which penetrate the proposed injection zone. Such data shall include a description of each well's type, construction, date drilled, location, depth, record of plugging and/or completion, geological and geophysical logs, and any additional information the Department may require.
  - iv. Proposed operating data:
    - (A) Average and maximum daily rate and volume of fluids to be injected;
    - (B) Average and maximum injection pressure; and

- (C) Source, and an analysis of the chemical, physical, radiological and biological characteristics of the injection fluid;
  - v. Appropriate geological data on the injection zone and confining zones including lithologic description geological name, thickness, depth and lateral extent;
  - vi. Geologic name, lateral extent and depth to top and bottom of all underground sources of drinking water which may be affected by the injection;
  - vii. Engineering drawings of the surface and subsurface construction details of the system;
  - viii. Proposed formation testing program;
  - ix. Proposed stimulation program;
  - x. Proposed injection procedure;
  - xi. Contingency plans to cope with all shut-ins or well failures so as to prevent migration of contaminating fluids into any underground source of drinking water;
  - xii. Plans for meeting the monitoring requirements of Section 5.16(c) (2);
  - xiii. In the case of new injection wells, the corrective-preventative action proposed to be taken by the applicant under Section 5.12;
  - xiv. A certificate that the applicant has assured, through a performance bond or other appropriate means, the resources necessary to close, plug or abandon the well as required by Section 5.11(g).
2. Prior to granting approval for the operation of a Class II well the Department shall consider the following information:
- i. All available logging and testing program data on the well;

- ii. A demonstration of mechanical integrity pursuant to Section 5.14(d);
  - iii. The actual operating data;
  - iv. The results of the formation testing program;
  - v. The actual injection procedure; and
  - vi. For new wells the status of corrective action on defective wells in the area of review.
3. Prior to granting approval for a plan for or the actual plugging and abandonment of a Class II well the Department shall consider the following information:
- i. The type, and number of plugs to be used;
  - ii. The placement of each plug including the elevation of top and bottom;
  - iii. The type, grade, and quantity of cement to be used;
  - iv. The method of placement of the plugs; and
  - v. The procedure to be used to meet the requirements of Section 5.14(e) (3).

(c) Class III wells

This paragraph sets forth the information which must be considered by the Department in authorizing Class III wells. Certain maps, cross sections, tabulations of wells within the area of review, and other data may be included in the application by reference provided they are current, readily available to the Department (for example, in the Department's files) and sufficiently identified to be retrieved.

1. Prior to the issuance of a permit for an existing Class III well or area to operate, or the construction of a new Class III well the Department shall consider the following:
- i. Information required in Sections 2.1 and 5.11;

- ii. A map showing the injection well(s) for which the permit is sought and the applicable area of review. Within the area of review, the map must show the number, or name, and location of all producing wells, injection wells, abandoned wells, dry holes, surface bodies of water, mines (surface and subsurface), quarries, public water systems, water wells and other pertinent surface features including residences and roads. The map should also show faults if known or suspected. Only information of public record is required to be included on this map. However, the Department may request additional information as needed.
- iii. A tabulation of data on all wells within the area of review which penetrate the proposed injection zone. Such data shall include a description of each well's type, construction, date drilled, location, depth, record of plugging and completion, geological and geophysical logs, and any additional information the Department may require;
- iv. Maps and cross sections indicating the vertical and lateral limits of all underground sources of drinking water within the area of review, their positions relative to the injection formation, and the direction of water movement, where known, in every underground source of drinking water which may be affected by the proposed injection;
- v. Maps and cross sections detailing the geologic structure of the local area;
- vi. Generalized map and cross sections illustrating the regional geologic setting;
- vii. Proposed operating data:
  - (A) Average and maximum daily rate and volume of fluid to be injected;
  - (B) Average and maximum injection pressure; and

- (C) Source and an analysis of the chemical, physical, biological and radiological characteristics of the injection fluid.
  - viii. Proposed formation testing program to obtain an analysis of the physical, chemical and radiological characteristics of the receiving formation;
  - ix. Proposed stimulation program;
  - x. Proposed injection procedure;
  - xi. Engineering drawings of the surface and subsurface construction details of the system;
  - xii. Plans (including maps) for meeting the monitoring requirements of Section 5.17(c)(2);
  - xiii. Expected changes in pressure, native fluid displacement, direction of movement of injection fluid;
  - xiv. Contingency plans to cope with all shut-ins or well failures so as to prevent the migration of contaminating fluids into underground sources of drinking water;
  - xv. A certificate that the applicant has assured, through a performance bond or other appropriate means, the resources necessary to close, plug or abandon the well as required by Section 5.11(g);
  - xvi. The corrective-preventative action proposed to be taken under Section 5.12.
2. Prior to granting approval for the operation of a Class III well the Department shall consider the following information:
- i. All available logging and testing data on the well;
  - ii. A satisfactory demonstration of mechanical integrity for all new wells and for all existing salt solution and geothermal wells pursuant to Section 5.14(d);

- iii. The actual operating data;
  - iv. The results of the formation testing program;
  - v. The actual injection procedures; and
  - vi. The status of corrective action on defective wells in the area of review.
3. Prior to granting approval for a plan for or the actual plugging and abandonment of a Class III well the Department shall consider the following information:
- 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, grade and quantity of cement to be used;
  - iv. The method of placement of the plugs, and
  - v. The procedure to be used to meet the requirements of Section 5.14(e)(3).

SUCHAPTER 11 - PUBLIC ACCESS TO INFORMATION AND REQUIREMENTS FOR DEPARTMENT DETERMINATION OF CONFIDENTIALITY

11.1 Public access to information

All permit applications, documented information concerning actual and proposed discharges, comments received from the public, and draft and issued permits shall be made available to the public for inspection and duplication in accordance with Section 9 of the State Act.

11.2 Confidentiality

(a) Other than the types of information listed in Section 11.1 or paragraph (b) of this section the Department shall protect from disclosure "any other records, reports, plans or information pertaining to permit applicants and permittees," under Section 9 of the State Act, upon a showing by any person that the information, if made public, would divulge methods or processes entitled to protection as trade secrets of such person. The Department's decision on the claim of confidentiality shall be made in accordance with the substantive criteria listed in Section 11.6.

(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 or permittee;
- 2. Permits;
- 3. Effluent data as defined in Section 1.10;
- 4. For permits under the UIC program, information which deals with the existence, absence, or level of contaminants in drinking water;
- 5. Information required by NJPDES application forms provided by the Department under Section 2.1. This includes information submitted on the forms themselves and any attachments used to supply information required by the forms.

11.3 Procedures for asserting or reasserting confidentiality

(a) Reasserting a confidentiality claim. With regard to NPDES permits issued by EPA and taken over by the Department upon the date of EPA approval of the State NPDES program (NJPDES/DSW): any person who has made a confidentiality claim under 40 CFR Part 2 shall reassert such claim as follows:

1. Within 30 days of EPA approval of the State NPDES program, submit to the Department two sets of any documents that were originally submitted to the EPA under a claim of confidentiality. The sets shall be on microfilm or microfiche: The first set shall contain all information requested by the Department, including any information which the person alleges to be confidential. The second set, which will go into the public file and shall be identical to the first set except that it shall contain no information which the person alleges to be confidential. The sets shall be marked and submitted in accordance with the procedures in paragraphs (d), (e), (f), and (g) of this section.
  2. Failure to reassert. If the claim is not reasserted in the above manner, the Department shall notify the affected person by certified mail (return receipt requested) or by telegram that such person must reassert the confidentiality claim within 10 days of receipt of the notice. Failure to timely reassert the confidentiality claim shall result a waiver of the claim and the release of the information into the public file.
  3. The fee schedule in Section 11.4 shall be applicable to claims reasserted under this paragraph.
- (b) Asserting a confidentiality claim. Any person who submits "other records, reports, plans or information pertaining to permit applicants and permittees," under Section 9 of the State Act, may assert a confidentiality claim covering part or all of the information by following the procedures set forth in subsections (c) through (g) of this section.
- (c) Any person submitting information to the Department and asserting a confidentiality claim covering such information shall submit two sets of documents to the Department. The sets shall be on microfiche or microfilm. 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 contain no information which the person alleges to be entitled to confidential treatment.

- (d) 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.
- (e) All parts of the text of the first set which the person alleges to be entitled to confidential treatment shall be underscored.
- (f) 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.
- (g) The person submitting the sets of information shall send them to the Department by certified mail (return receipt requested), by personal delivery, or by other means which allows verification of the fact of receipt and the date of receipt.

#### 11.4 Fees.

Any person submitting documents to the Department under a claim of confidentiality, or reasserting a confidentiality claim under Section 11.3(a), must submit a check in the amount of \$250 for the first fifty (50) confidential pages and \$1 for each page thereafter, to cover the additional costs of processing and protecting the confidential information.

#### 11.5 Procedure for confidentiality determinations.

Information for which a confidentiality claim has been asserted will be treated by the Department as entitled to confidential treatment, unless the Department determines that the information is not entitled to confidential treatment as provided in this section.

- (a) The Department shall determine whether 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.

(b) Initial determination

1. If, in connection with any person's claim, the Department determines that the information may be entitled to confidential treatment, the Department shall:
  - i. Furnish the notice of opportunity to submit comments prescribed by paragraph (c) of this section to each 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;
  - 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 determination: that the information may be entitled to confidential treatment under this subpart, that further inquiry by the Department pursuant to this subpart 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 will 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 paragraph (f) of this section.

(c) Notice to affected persons; opportunity to comment.

1. Whenever required by paragraph (b) (1) (i) of this section, the Department shall promptly furnish each affected person a written notice stating that the Department is 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 allows verification of the fact and date of receipt. 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 subparagraph (2) (ii) of this paragraph. 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.

2.
  - 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 comments shall be 10 working days after the date of the affected person's receipt of the written notice. In other cases, the period for comments shall be 20 working days after the person's receipt of the written notice. In all cases, the notice shall reference the provisions of subparagraph (2) (ii) of this paragraph.
  - 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, 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 et seq. is pending.
3. The written notice required by paragraph (1) of this section shall inform the affected person of the requirement to submit comments on the following points (subject to paragraph (4) of this subsection):
  - 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 EPA or by other agencies, and a copy of any such determination, or reference to it, if available;
  - iv. Whether the person asserts that disclosure of the 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.

4. Confidential treatment of comments. If information submitted to the Department by an affected person as part of his or her comments under this section, pertains to the person's claim, is not otherwise possessed by the Department, and is marked when received in accordance with Section 11.3, it will be regarded by the Department as entitled to confidential treatment and will 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.

(d) 1. Waiver of claim.

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 person that asserted the claim.

(e) Determination that information is entitled to confidential treatment.

If, in accordance with the criteria listed in Section 11.6, the Department determines that the information is entitled to confidential treatment, it shall maintain the information in confidence subject to court order and any applicable court rules, Sections 11.9, 11.10, 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.

(f) Determination that information is not entitled to confidential treatment; notice, waiting period; release of information.

1. If, in accordance with the criteria listed in Section 11.6, the Department determines that the information is not entitled confidential treatment, the Department shall so notify the affected person. Such notice of denial (or partial denial) of a confidentiality claim shall be written, and shall be furnished by certified mail (return receipt requested).

2. 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 ten (10) days after the date of the affected person's receipt of the notice.

(g) Emergency situations. 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:

1. Prescribe and make known to interested persons such shorter comment period (paragraph (c)(2) of this section), post-determination waiting period (paragraph (f)(2) of this section), or both, as it finds necessary under the circumstances; or
2. 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. 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.

(h) If the Department receives a request under the Right to Know Law, N.J.S.A. 47:1A-1 *et seq.*, for information submitted to the EPA regarding a NPDES permit which the Department has since taken over, and, in the Department's opinion, the person might be expected to assert a claim if he or she knew that the Department proposed to disclose the information, but no claim of confidentiality was asserted, the Department shall contact the person to learn whether he or she asserts a claim covering the information.

However no such inquiry need be made to any person:

1. Who failed to assert a claim covering the information when responding to an EPA request or demand, or supplying information on an EPA form, which contained the substance of the statements prescribed by 40 CFR Section 2.203 (a); or
2. Who otherwise failed to asserted a claim covering the information after being informed by EPA or the Department that such failure could result in disclosure of the information to the public; or
3. Who has otherwise waived or withdrawn a claim covering the information.

11.6 Substantive criteria for confidentiality determinations.

A determination made under Section 11.5 shall hold that information is entitled to confidential treatment if:

- (a) The person has asserted a confidentiality claim;
- (b) The person has satisfactorily shown that he has taken reasonable measures to protect the confidentiality of the information, and that he intends to continue to take such measures;
- (c) The information is not, and has not been, reasonably obtainable without the person's consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding);
- (d) No statute requires disclosure of the information; and
- (e) The person has satisfactorily shown that disclosure of the information would be likely to cause substantial harm to the person's competitive position.

11.7 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 Section 11.6 of this Subchapter, and is therefore ineligible for confidential treatment; or
2. Satisfies the applicable criteria in Section 11.6 of this Subchapter, and is therefore eligible for confidential treatment.

11.8 Access to and safeguarding of confidential information.

(a) Unless specifically provided for by Federal or State law, no person shall have access to information which has been determined to be entitled to confidential treatment, other than: the designated Department personnel; Federal or other State agencies, subject to the provisions of Section 11.9 of this Subchapter; or authorized representatives of the Department, subject to the provisions of Section 11.10 of this Subchapter.

(b) Each Department officer or employee who has custody or possession of confidential information shall take appropriate measures to properly safeguard such information and to protect against its improper disclosure.

(c) No Department officer or employee may disclose, or use for his or her private gain or advantage, any confidential information which came into his or her possession, or to which he or she gained access, by virtue of his or her official position of employment, except as authorized by this subpart.

(d) If the Department finds that any person has violated the regulations of this Subchapter, it may:

1. Commence a civil action in Superior Court for a restraining order and an injunction barring that person from further disclosing confidential information.

2. Pursue any other remedy available to it by law.

(e) In addition to any other penalty that may be sought by the Department, violation of this Subchapter by a Department employee, thereby exceeding the scope of his or her authority, shall constitute grounds for dismissal, suspension, fine, or other adverse personnel action.

11.9 Disclosure of confidential information to Federal, Interstate, and other State agencies.

(a) The Department may disclose information which has been determined to be entitled to confidential treatment to Federal, Interstate, and other State agencies if:

1. The Department receives a written request for disclosure of the information from a duly authorized officer or employee of the other agency;
2. The request sets forth the official purpose for which the information is needed;
3. The Department notifies the other agency of its determination that the information is entitled to confidential treatment;
4. The other agency has first furnished to the Department a written opinion from the agency's chief legal officer or counsel stating that under applicable law the agency has the authority to compel the person who submitted the information to the Department to disclose such information to the other agency; and
5. The other agency agrees not to disclose the information further, unless the other agency has statutory authority both to compel production of the information and to make the proposed disclosure.

(b) Except as provided in the section on emergency disclosure in Section 11.5(g), the Department shall notify the affected person in writing of its intention to disclose it to any other governmental agency at least ten (10) working days in advance of the disclosure.

11.10 Disclosure of confidential information to authorized agents

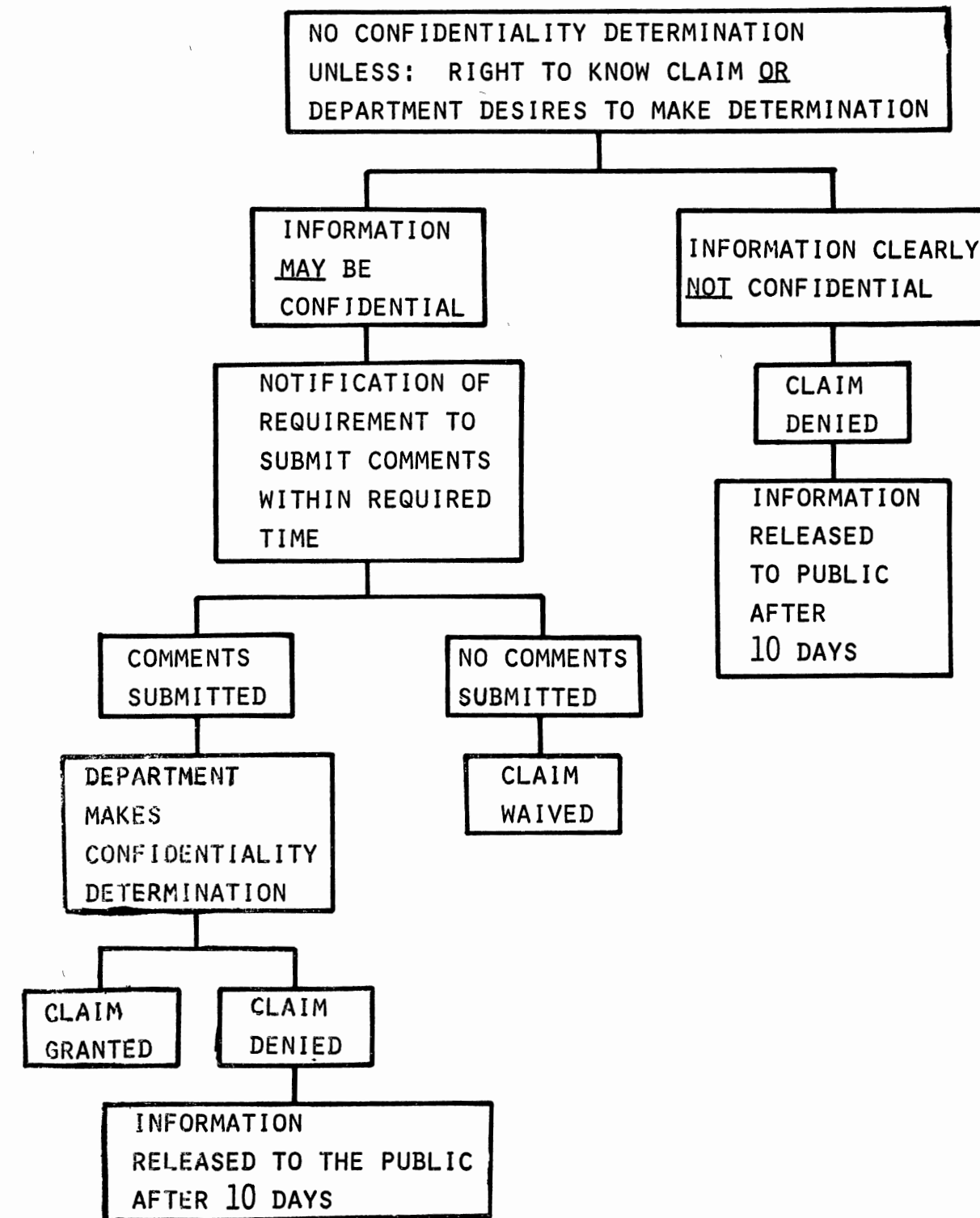
- (a) The Department may disclose information which has been determined to be entitled to confidential treatment to an authorized agent of the Department if the Department determines that such disclosure is necessary in order for the agent to carry out the work required by the contract, if the Department notifies the affected person, and, if the affected person so requests, the agent contracts with the affected person to protect the confidentiality of the information.
- (b) No information shall be disclosed under subsection (a) of this section unless the contract in question provides that the agent and the agent's employees shall use the information only for the purpose of carrying out the work required by the contract, shall refrain from disclosing the information to anyone other than the Department, and shall return to the Department all copies of the information (and any abstracts or extracts therefrom) upon request by the Department or whenever the information is no longer required by the contractor for the performance of the work required by the contract.
- (c) Violation of the contractual provisions of paragraph (b) by the agent or the agent's employee in question shall constitute grounds for debarment or suspension, as provided in "Debarment, Suspension and Disqualification from Department Contracting", N.J.A.C. 7:1-5.1 et seq.

11.11 Designation by person of an addressee for notices and inquiries.

- (a) Any affected person who wishes to designate a specific person or office as the proper addressee of communications from the Department under this Subpart may do so by furnishing in writing to the Department the following information: the name and address of the person making the designation; the name, address, and telephone number of the designated person or office; and a request that Department inquiries and communications (oral and written) under this Subpart be furnished to the designee pursuant to this section. Only one person or office may serve at any one time as an affected person's designee under this Subpart.
- (b) If an affected person has named a particular designee under this section, the following department inquiries and notices to the affected person shall be addressed to the designee:

1. Notices to submit comments, under Section 11.5(c);
2. Notices of denial of confidential treatment and proposed disclosure of information, under Section 11.5(f);
3. Notices concerning shortened comment and/or waiting periods under Section 11.5(g);
4. Notices to affected persons under Sections 11.9 and 11.10.

ALL NJPDES APPLICANTS AND PERSONS SUBMITTING INFORMATION REQUESTED BY THE DEPARTMENT



INFORMATION PREVIOUSLY SUBMITTED TO EPA PURSUANT TO A  
NPDES PERMIT ISSUED BY EPA AND TAKEN OVER BY THE DEPARTMENT  
ON THE DATE OF APPROVAL OF THE STATE NPDES PROGRAM

