

(d) The Department shall require on a case-by-case basis any animal feeding operation to obtain a permit upon determining that:

1. It 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 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 wastewaters into waters of the State; and
- v. Other relevant factors;

2. Pollutants are discharged into waters of the State through a manmade ditch, flushing system, or other similar manmade device; or

3. 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.

7:14A-2.14 Specific criteria for concentrated aquatic animal production facilities

(a) Except for indirect discharges, a permit shall be obtained for any discharge from an animal production facility if the animal production facility meets the criteria in (b) below or is required to obtain a permit under (d) below.

(b) An animal production facility shall be considered a concentrated aquatic animal production facility if it is a hatchery, fish farm, or other facility that contains, grows, or holds aquatic animals in either of the following categories:

1. Cold water fish species, including but not limited to, the Salmonidae family of fish (for example, trout and salmon), or other cold water aquatic animals in ponds, raceways, or other similar structures which discharge at least 30 days per year, but does not include:

- i. Facilities which produce less than 9,090 harvest weight kilograms (approximately 20,000 pounds) of aquatic animals per year; and
- ii. Facilities which feed less than 2,272 kilograms (approximately 5,000 pounds) of food during the calendar month of maximum feeding.

2. Warm water fish species, including, but not limited to, the Ameiuride, Centrarchidae and Cyprinidae families of fish (for example, respectively, catfish, sunfish, and minnows), or other warm water aquatic animals in ponds,

raceways, or other similar structures which discharge at least 30 days per year, but does not include:

- i. Closed ponds which discharge only during periods of excess runoff; or
- ii. Facilities which produce less than 45,454 harvest weight kilograms (approximately 100,000 pounds) of aquatic animals per year.

(c) Any aquatic animal production facility which does not meet the criteria in (b) above, shall submit the following information to the Department to determine if a permit is required:

1. The number and type of animals confined;
2. A description of the means of discharge; and
3. The name and address of the owner or operator.

(d) The Department shall require on a case-by-case basis any aquatic animal production facility to obtain a permit upon determining that:

1. It 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 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.

SUBCHAPTER 3. DETERMINATION OF PERMIT FEES

7:14A-3.1 Fee schedule for NJPDES permittees and applicants

(a) Except as provided in (i), (j) and (l) below, the general conditions and applicability of the fee schedule for NJPDES permittees and applicants are as follows:

1. Except as provided by (k) below, the Department shall collect an annual fee for the billing year July 1 to June 30 from all persons that are issued a NJPDES permit or authorization to discharge under a NJPDES general permit or submit a NJPDES permit application or request for authorization.

2. The Department shall not assess any fee to public schools or religious or charitable institutions.

3. All NJPDES permittees/applicants that are issued a draft or final NJPDES permit, or that are issued an

authorization to discharge under a final NJPDES general permit, shall submit payment within 30 days of assessment of the fee by the Department.

i. Upon receipt of a completed application or request for authorization, the Department shall assess the minimum fee as set forth in (h) below.

ii. Upon issuance of the final permit or of an authorization to discharge under a final NJPDES general permit, the annual fee shall be calculated and pro-rated for the period of the fee year remaining. The minimum fee already paid shall then be subtracted from the pro-rated assessment. In no case, however, will such payment of a pro-rated fee result in a fee that is less than the minimum fee for the category of discharge. The permittee may request a fee recalculation as provided at (a)6 below, once the first required monitoring report has been completed.

4. Payment of all fees shall be made by check or money order, payable to "Treasurer, State of New Jersey" and submitted to:

New Jersey Department of Environmental Protection

Bureau of Revenue

PO Box 402

Trenton, New Jersey 08625

5. If the permittee/applicant fails to submit payment to the Department within 30 days of assessment of the fee, the Department may, in its discretion, take one or more of the following actions:

i. Return the NJPDES permit application or request for authorization to the applicant;

ii. Deny issuance of a final permit or authorization under a final general permit;

iii. Revoke a final permit (including revocation of a permittee's authorization to discharge under a general permit); and/or

iv. Assess penalties pursuant to N.J.S.A. 58:10A-10 and N.J.A.C. 7:14-8.

6. If the permittee objects to the assessment, the Department shall recalculate a permit fee upon receipt of a request from the permittee in writing within 30 days of assessment of the fee. The Department shall not recalculate a fee where the permittee has failed to submit information in compliance with its NJPDES permit.

i. A permittee may only contest a fee imposed pursuant to (k) below based on the following:

(1) The Department has no factual basis to sustain the charges assessed in the fee;

(2) The activities for which the fee was imposed did not occur;

(3) The charges are false or duplicative; or

(4) The charges were not properly incurred because they were not associated with the Department's oversight or remediation of the case.

ii. A permittee may not contest a fee imposed pursuant to (k) below if the challenge is based on the following:

(1) An employee's hourly salary rate;

(2) The Department's salary additive rate, indirect rate, or fringe benefit rate; or

(3) Management decisions of the Department, including decisions regarding who to assign to a case, how to oversee the case or how to allocate resources for case review.

iii. A permittee objecting to a fee imposed pursuant to (k) below shall include the following in a request for a fee review:

(1) A copy of the bill;

(2) Payment of all uncontested charges, if not previously paid;

(3) A list of specific fee charges contested;

(4) The factual questions at issue in each of the contested charges;

(5) The name, mailing address and telephone number of the person making the request;

(6) Information supporting the request or other written documents relied upon to support the request.

7. The Department, in calculating Environmental Impact, shall use information reported by the permittee on Discharge Monitoring Reports (DMRs) and/or Monitoring Report Forms (MRFs) for the 12 month period for which data is available on the Department's computer. The selected 12 month monitoring period will be documented in the Annual NJPDES Fee Schedule Report. Where this information is not available, the Department shall use permit limitations, information submitted in permit applications, technical reports prepared by the Department or submitted by the permittee, or other permits issued by the Department.

8. Except as provided by (k) below, the Department, upon the revocation of a NJPDES permit, or revocation of a NJPDES/SIU permit in accordance with N.J.A.C. 7:14A-21.9, shall upon written request of the permittee prorate the fee for the number of days that the facility was in operation or was discharging under a valid NJPDES/SIU permit during the billing year and return to the permittee the amount that is in excess of the minimum annual fee for the specific category of discharge.

9. Except as provided by (k) below, the annual fee for all discharges is calculated by applying the formula:

Fee = (Environmental Impact x Rate) + Minimum Fee, where:

i. Environmental Impact is the Department's assessment of potential risk of discharge to the environment as derived under (c) through (g) below.

ii. Rate is the dollar cost for each weighted unit of Environmental Impact. Rate is calculated as follows:

Rate = (Budget-Sum of Minimum Fees)/Total Environmental Impact

(1) Budget is the total budget for the category of Discharge.

(2) The Sum of Minimum Fees is the total amount of minimum fees to be paid by all dischargers in the category of discharge. The minimum fee is a base cost added to the calculated individual fee. The minimum fees are set forth in (h) below.

(3) Total Environmental Impact is the sum of environmental impact for all dischargers in the category.

(4) The budget and the total environmental impact shall be adjusted to reflect those facilities, if any, assessed a maximum permit fee.

iii. The minimum fee for the permit categories listed in (h) below is calculated by multiplying the total hours allocated by the Department for permit issuance, inspection and data management for a typical permit in each category by the Department's total personnel cost and rounding to the nearest \$50.00 increment.

10. The maximum fee to be assessed for any category of discharge shall be 10 percent of the budget for the category of discharge.

11. If a factual dispute involving a fee imposed pursuant to (k) below cannot be resolved informally, a permittee may request an adjudicatory hearing on the matter pursuant to N.J.A.C. 7:14A-17.2.

(b) The Department shall prepare an Annual NJPDES Fee Schedule Report and provide for a public hearing on the Report.

1. The Annual NJPDES Fee Schedule Report shall include the following:

i. A detailed financial statement of the actual administrative cost of the NJPDES program by account title;

ii. A detailed financial statement of the actual revenue collected, including any surplus which can be credited or any deficit to be assessed in determining the fee schedule;

iii. A detailed financial statement of the anticipated cost of the NJPDES program, including:

(1) A breakdown of the program by account title;

(2) An estimate of the amount of fees that will be collected; and

(3) The current year's fee schedule.

iv. A report of the NJPDES program activities, including:

(1) A list of permits issued;

(2) A list of facilities inspected;

(3) A list of administrative orders and administrative consent orders issued by the Department (by type of order and discharge involved); and

(4) A summary of variance request activities under Section 316 of the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.).

2. The Department shall provide for a hearing on the Annual NJPDES Fee Schedule Report. The Department shall provide public notice of the hearing at least 30 days prior to the date of the hearing:

i. In the New Jersey Register and one newspaper of general circulation; and

ii. By mailing a copy of the Report to each NJPDES applicant/permittee.

(c) The annual fee for discharges to surface water is calculated by using the following Environmental Impact in the annual fee formula:

1. The Environmental Impact of a discharge to Surface Water from an industrial treatment works (ITW) regulated under an individual NJPDES permit is derived by applying the formula:

Environmental Impact = (Total Pollutant Load + Heat Load) where:

i. Total Pollutant Load is the sum of all limited pollutants (in kilograms per day) multiplied by their associated risk factors as listed in Table I below.

(1) Net loadings will be used if a net limit has been established in the NJPDES permit. If a permittee reports a pollutant load less than zero, a zero will be used to calculate the Total Pollutant Load.

(2) Volatile organic compounds, acid extractable compounds, base-neutral organic compounds, pesticides and PCB's will be deleted from the Total Pollutant Load, if reported as non-detectable in all samples for the monitoring period. For all other pollutants, and volatile organic compounds, acid extractable compounds, base-neutral organic compounds, pesticides, and PCB's detected at least once in the monitoring period, the Department shall calculate the Total Pollutant Load using one-half the reported minimum detection limit for pollutant concentrations.

ii. Heat Load is the average mBTU's (million British Thermal Units) per hour of the effluent discharged. Where Heat Load is not reported in mBTU's per hour, the Department shall estimate the Heat Load using the calculated difference between the influent and effluent temperature multiplied by the amount (in million gallons per day) of effluent discharged. The Department shall use an average influent temperature of 5.57 degrees centigrade during the period November to April and 18.87 degrees centigrade during the period May to October.

2. The Department shall assess an additional fee to NJPDES permittees who request a variance under Section 316 of the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.). The annual fee shall be assessed on the basis of the administrative cost that is incurred by the Department and the cost of the technical review performed by a consultant hired by the Department.

3. The Environmental Impact of a discharge to surface water from a domestic treatment works (DTW) regulated under an individual NJPDES permit is derived by applying the formula:

Environmental Impact = Average kilograms per day of oxygen demand discharged, as measured by Biochemical Oxygen Demand (BOD₅), Carboneous Biochemical Oxygen Demand (CBOD₅) or other oxygen demand parameter selected by the Department, as determined in accordance with (a)7 above.

4. The Environmental Impact value for any type of discharge to surface water regulated under a general permit shall be zero.

(d) Except as provided by (k) below, the annual fee for discharges to ground water, except for residuals and landfills covered in (e) and (f) below, is calculated by using the following Environmental Impact in the annual fee formula:

1. The Environmental Impact of a Discharge to Ground Water regulated by an individual NJPDES permit is derived by applying the formula:

Environmental Impact = (Risk x Quantity x Ground Water Rating Factor) where:

i. Risk is the sum of the rating numbers, based on the degree of hazard, assigned by the Department to each type of waste stored, treated or discharged. The rating numbers are assigned as follows:

Rating	Risk
1	Non-contact cooling water, treated ground water, filter backwash, sanitary wastewater with at least secondary treatment
2	Other treated and untreated sanitary wastewater, food processing waste, stormwater runoff including runoff from non-hazardous-waste storage areas, sanitary sludge
5	Non-hazardous industrial process waste
15	Metal plating waste, hazardous industrial process waste, landfill leachate, or ground water, wastewater, stormwater runoff or sludge containing hazardous constituents

ii. Quantity is the average daily volume in millions of gallons discharged by the permittee for the monitoring period selected by the Department in (a)7 above.

iii. Ground Water Rating Factor is the sum of the Ground Water Monitoring Status Factor, the Aquifer Factor, Ground Water Use Factor and Permeability Rating divided by 10 where:

(1) Ground Water Monitoring Status Factor is the rating number, assigned to the facility based on the level of monitoring and/or remediation required at the facility, as set forth in the NJPDES permit, administrative order, administrative consent order or directive letter as follows:

Rating	Status
1	Permittee is not required to conduct ground water monitoring under the NJPDES permit
2	Permittee is conducting post-closure or post remediation monitoring
2	Permittee is required to conduct detection monitoring
5	Ground water remediation and/or hydraulic source control is being performed at the site.
5	Alternative concentration limits have been established
10	Compliance monitoring is required as ground water contamination has been identified in detection monitoring phase and/or ground water remediation is required

(2) Aquifer Factor is the rating number, based on ground water yield potential, assigned to each formation listed in Table II below. Where a facility is located on an unlisted formation, the Department shall determine the aquifer factor. Where the facility is located on more than one formation the highest rating number will be assigned.

(3) Ground water use is the rating number assigned to the municipality where the permitted facility is located based on the percentage of the municipality that relies on public or private wells for drinking water and the volume of ground water withdrawn in million gallons per day (MGD). The Department, in the Annual NJPDES Fee Schedule Report, prepared pursuant to (b) above, shall set forth the individual ratings assigned to each municipality. Where a municipality's percent use and volume result in different ratings, the highest Ground Water Use rating number derived below shall apply. Ground Water Use rating numbers are assigned as follows:

Rating	Ground Water Use	Percent Use	Volume in MGD
5	A	>50%	>3
3	B	10%-50%	1-3
1	C	<10%	1

(4) Permeability Factor is the rating number, based on hydraulic conductivity in centimeters per second, of the geological formation immediately beneath the regulated unit or if present, the facility liner material for facilities in detection monitoring. For all other facilities, the permeability factor is based on the hydraulic conductivity of the geological material contaminated. Facilities assigned a Ground Water Monitoring Status factor of 10, that have demonstrated control of the plume of ground water contamination shall be assigned a permeability factor of 10. Where permeability is not provided to the Department by the permittee, the Department shall assume a permeability factor of 10^{-2} . The rating numbers are assigned as follows:

Rating	Permeability
10	$<10^{-7}$
11	10^{-6}
12	10^{-5}
14	10^{-4}
18	10^{-3}
20	10^{-2}
22	$>10^{-2}$

2. The Environmental Impact value of any type of discharge to ground water regulated under a general permit shall be zero.

(e) The Environmental Impact value for facilities which land apply, handle or distribute residuals listed in (h)3 below shall be zero.

(f) Except as provided by (k) below, the annual fee for discharges to ground water from sanitary landfills and sites containing wrecked or discarded equipment is calculated by using the following Environmental Impact in the annual fee formula:

1. The Environmental Impact of a Discharge to Ground Water from sanitary landfills and sites containing wrecked or discarded equipment is derived by applying the formula:

Environmental Impact = (W1 + W2) x (Closure Status Factor + Ground Water Rating Factor) where:

i. W1 is the total number of acres filled as of January 1, 1985 multiplied by the sum of the rating numbers, based on the degree of hazard, assigned by the Department to each waste type (as set forth in N.J.A.C. 7:26-2.13) permitted for disposal before January 1, 1985. The rating numbers are assigned as follows:

Rating	Waste Type
1	Types 13, 23
2	Types 10, 12, 27, 72, 73, 74
4	Types 18, 25
8	Types 26, 70 and wrecked or discarded equipment
16	Types 17, 28, 76, 77

ii. W2 is the total cumulative amount of each waste type received (in cubic yards) since January 1, 1985 divided by 4,840 (the square yards in an acre) and multiplied by the rating number assigned to each waste type as set forth in (f)1i above.

iii. Closure Status Factor is the rating number, based on the operating status of the landfill, assigned by the Department to each facility. The rating numbers are assigned as follows:

Rating	Closure Status
1.0	Operating landfill and sites containing wrecked or discarded equipment
0.5	Landfill terminated after January 1, 1982 without a Department approved closure plan
0.2	Landfill terminated prior to January 1, 1982
0.1	Landfill terminated and properly closed in accordance with a Department approved closure plan

iv. Ground Water Rating Factor is the number derived under (d)1iii above.

(g) The annual fee for discharges by a significant indirect user to a domestic treatment works is calculated by using the following Environmental Impact in the annual fee formula:

1. The Environmental Impact of a discharge by a significant indirect user (SIU) to a domestic treatment works (DTW) is derived by applying the formula:

Environmental Impact = (Total Pollutant Load)

i. Total Pollutant Load is the sum of all limited pollutants (in kilograms per day) multiplied by their associated risk factors as listed in Table I below.

(1) Volatile organic compounds, acid extractable compounds, base-neutral organic compounds, pesticides and PCB's will be deleted from the Total Pollutant Load, if reported as non-detectable in all samples for the monitoring period. For all other pollutants, and for volatile organic compounds, acid extractable compounds, base-neutral organic compounds, pesticides, and PCB's detected at least once in the monitoring period, the Department shall calculate the Total Pollutant Load using one-half the reported minimum detection limit for pollutant concentrations.

(h) Except as provided by (k) below, minimum fees are as set forth below.

1. The minimum fees for domestic treatment works (DTWs) shall be assessed as follows:

i. Minor DTWs issued an individual NJPDES Discharge to Surface Water permit shall be assessed a minimum fee of \$2,400;

ii. Major DTWs issued an individual NJPDES Discharge to Surface Water permit shall be assessed a minimum fee of \$6,400;

iii. Combined sewer overflows (CSOs) authorized to discharge to surface water under a general permit will be assessed a minimum fee of \$5,400;

iv. DTWs constructed under the authority of N.J.A.C. 7:14A and issued an individual NJPDES Discharge to Ground Water permit shall be assessed a minimum fee of \$3,950;

v. DTWs constructed under the authority of the Realty Improvement, Sewerage and Facilities Act, N.J.S.A. 58:11-23 et seq. ("Chapter 199") and subsequently issued an individual NJPDES Discharge to Ground Water permit shall be assessed a minimum fee of \$1,600;

vi. DTWs authorized to discharge to ground water under a general permit, including a Class V injection well permit pursuant to N.J.A.C. 7:14A-8.5, shall be assessed a minimum fee of \$500.

2. The minimum fees for industrial treatment works (ITWs) shall be assessed as follows:

i. ITWs authorized to discharge to surface water under a general permit shall be assessed a minimum fee of \$1,300;

ii. Minor ITWs issued an individual NJPDES Discharge to Surface Water permit shall be assessed a minimum fee of \$2,400;

iii. Major ITWs issued an individual NJPDES Discharge to Surface Water permit shall be assessed a minimum fee of \$5,700;

iv. ITWs issued a Significant Indirect User (SIU) permit shall be assessed a minimum fee of \$3,600;

v. ITWs issued an individual permit for the discharge of stormwater runoff shall be assessed a minimum fee of \$2,350;

vi. ITWs constructed pursuant to N.J.A.C. 7:14A and issued an individual NJPDES Discharge to Ground Water permit shall be assessed a minimum fee of \$3,950;

vii. ITWs not constructed pursuant to N.J.A.C. 7:14A but subsequently issued an individual NJPDES Discharge to Ground Water permit shall be assessed a minimum fee of \$1,600; and

viii. ITWs issued a general permit for discharge to ground water, including a Class V injection well general permit pursuant to N.J.A.C. 7:14A-8.5, shall be assessed a minimum fee of \$500.00.

3. The minimum fees for facilities which land apply, handle or distribute residuals shall be assessed as follows:

i. Facilities issued a permit for land application, handling, or distribution of residuals shall be assessed a minimum fee of \$6,700;

ii. Permit exemptions authorizing the land application of sludge-derived products at specific sites in accordance with a Department-approved distribution program shall be assessed a fee of \$250.00 for the duration of the permit exemption. The Department will not consider a request for a permit exemption complete unless the request is accompanied by the fee;

iii. General distribution permit exemptions providing Department approval of a sludge derived product distribution program which is not directly regulated for residuals handling through an individual NJPDES permit shall be assessed a fee of \$2,700 for the duration of the exemption. The Department will not consider a request for a permit exemption complete unless the request is accompanied by the fee;

iv. Facilities issued an individual permit for land application, handling, or distribution of food processing residuals shall be assessed a minimum fee of \$2,550; and

v. Facilities authorized to land apply residuals pursuant to a general permit shall be assessed a minimum fee of \$500.00.

4. The minimum fee for sanitary landfills shall be assessed as follows:

i. Landfills that are operating or terminated after January 1, 1982 without an approved closure plan shall be assessed a minimum fee of \$2,500;

ii. Terminated Landfills properly closed with a Department approved closure plan, or closed prior to January 1, 1982 shall be assessed a minimum fee of \$500.00;

iii. Operating sanitary landfills issued an individual NJPDES Discharge to Ground Water permit shall be assessed a minimum fee of \$3,950.

5. The minimum fee for an emergency permit issued pursuant to N.J.A.C. 7:14A-6.14 shall be determined based on (h)1 through 4 above.

(i) For NJPDES Permit No. NJ0088315 (N.J.A.C. 7:14A-11, Appendix A, incorporated herein by reference), the annual fee collected under (a) above shall be \$500.00. A request for authorization under that permit shall not be complete unless this fee is included in that request, or unless this permit has been reissued and this fee has already been paid for the billing year in which the RFA is submitted.

(j) For NJPDES Permit No. NJ0088323 (N.J.A.C. 7:14A-11, Appendix B, incorporated herein by reference), there is no annual or minimum fee. Instead, a fee of \$200.00 shall be paid by check or money order, payable to "Treasurer, State of New Jersey," and submitted to the soil conservation district along with each request for authorization submitted under that permit. The soil conservation district shall forward all such checks and money orders to the State Soil Conservation Committee in the Department of Agriculture, which shall cause such checks and money orders to be deposited to the credit of the State. The soil conservation committee shall not certify any request for authorization that is not accompanied by this fee.

(k) The fee for discharges to ground water required for conducting remediation, as defined by N.J.A.C. 7:26E, of contaminated sites is calculated by using the following formula:

1. Fee = A + B, where:

A = (Number of coded hours x Hourly Salary Rate) x Salary Additive x Fringe Benefit Rate x Indirect Cost Rate.

B = any contractual costs or sampling costs of the Department directly attributable to a specific permittee.

i. Number of coded hours represents the sum of hours each employee has coded to the site-specific project activity code (PAC) for the case. Actual hours for all staff members including, without limitation, managers, geologists, technical coordinators, samplers, inspectors, supervisors, section chiefs, using the specific PAC, will be included in the formula calculations.

ii. The hourly salary rate is each employee's annual salary divided by the number of working hours in a year.

iii. The NJDEP salary additive rate represents the prorated percentage of charges attributable to employees' reimbursable "down time." This time includes vacation time, administrative leave, sick leave, holiday time, and other approved "absent with pay" allowances. The calculation for the salary additive is the sum of the reimbursable leave salary divided by the net Department regular salary for a given fiscal year. The direct salary charges (number of coded hours x hourly salary rate) are multiplied by the calculated percentage and the result is added to the direct salaries to determine the total reimbursable salary costs for a particular case.

iv. The fringe benefit represents the Department's charges for the following benefits: pension, health benefits including prescription drug and dental care program, workers compensation, temporary disability insurance, unused sick leave and FICA. The fringe benefit rate is developed by the Department of Treasury's Office of Management and Budget (OMB). OMB negotiates the rate with the United States Department of Health and Human Services on an annual basis. The rate is used by all State agencies for estimating and computing actual charges for fringe benefit costs related to Federal, dedicated and non-State funded programs.

v. The indirect cost rate represents the rate which has been developed for the recovery of indirect costs in the Site Remediation Program. This rate is developed by the Department on annual basis in accordance with the New Jersey Department of Treasury OMB Circular Letter 86-17 and the Federal OMB Circular A-87, "Cost Principals for State and Local Governments." Indirect costs are defined as those costs which are incurred for a common or joint purpose benefiting

more than one cost objective and not readily assignable to the cost objective specifically benefited without effort disproportionate to the results achieved.

(1) The components of the indirect cost rate include operating and overhead expenses that cannot be coded as direct salary charges for a particular case, such as the salary and non-salary costs incurred by the Division of Publicly Funded Site Remediation and the Division of Responsible Party Site Remediation. In addition, the indirect rate includes the Site Remediation Program's proportionate share of the costs associated with the Offices of the Commissioner, Assistant Commissioner for Site Remediation, Division Directors and Assistant Directors, the Division of Financial and General Services and the Division of Personnel.

(2) The indirect rate includes operating costs such as office and data processing equipment, and telephones as well as building rent and the Department's share of the statewide costs as determined by the Department of Treasury in the Statewide Cost Allocation Plan. The Statewide Cost Allocation Plan pertains to central services costs of the State Department on a fixed basis and included as part of the costs of the State Department during a given fiscal year ending June 30. The total of these indirect costs is divided by the total direct hours of the Site Remediation Program to determine the indirect cost rate.

vi. Sampling costs and contractor expenses represent non-salary direct, site specific costs. These costs are billed directly as an add on to the formula.

2. The Department shall develop on an annual basis and publish notice of the salary additive rate, fringe benefit rate, and the indirect cost rate for the fiscal year in the New Jersey Register. These rates are developed on an annual basis after the close of the fiscal year.

3. The Department will charge fixed and non-refundable fees for the following categories of activities:

i. The fee for an emergency permit is \$700.00 and is due and payable upon issuance.

ii. The fee for a permit application is \$350.00 and is due and payable with the application.

4. The Department will bill permittees at regular intervals throughout the life of the permit based upon the formula in (k)1 above. The permittee shall submit the fee to the Department within 30 calendar days after receipt from the Department of a summary of the Department's oversight costs for the period being charged. The Department shall include the following information in the summary: description of work performed, staff member(s) performing work, number of hours worked by the staff member(s) and the staff members' hourly salary rate.

(l) The Department shall assess, where applicable, the fee for laboratory certification pursuant to the schedule set forth at N.J.A.C. 7:18.

(m) Any fee under this section that is subject to N.J.A.C. 7:1L shall be payable in installments in accordance with N.J.A.C. 7:1L.

Table I
RISK CATEGORIES

<u>Risk Factor</u> 100	<u>101</u>	<u>102</u>	<u>103</u>	<u>104</u>	<u>105</u>
SURFACE WATER					
TDS Chloride Sulfate Fluoride Iron	TSS Phosphorus Phtahalic Acid Sulfide Molybdenum Bismuth Manganese Zinc	Tin Aluminum Antimony Barium Chromium-trivalent Oil & Grease Surfactants N(nitrite, nitrate Kjeldhal, diss. & Total) Oxidizable Matter Petroleum Hydrocarbons	Styrene Nickel Copper Silver Cobalt Ammonia Cyanide Selenium	Arsenic Beryllium Asbestos Acid fraction compounds Base-Neutral Compounds Volatile Organics	Lead Mercury Cadmium Chromium-hex Pesticides PCBs PBB
INDIRECT USERS					
BOD TSS COD Oil & Grease	TDS Iron Antimony Bismuth Tin Manganese Inorganic Sulfur Compounds	1,1 Dichloroethylene Copper Zinc Chromium-Trivalent Barium Cyanide Dimethyl phthalate Surfactants Petroleum Hydrocarbons Total Toxic Metals** Nitrogen Compounds/ Ammonia Phenols	Nickel Silver Asbestos Cobalt Selenium Benzene 1,2-Dichloroethane Chloroform Ethylbenzene 1,2,4-Trichlorobenzene Naphthalene Vinyl Chloride Base Neutral Compounds* Acid Extractable Compounds 1,1,2,2- Tetrachloroethane Bromoethane 1,2-Dichloropropane 1,1-Dichloroethane 1,1,2-Trichloroethane Dichlorobenzene Di-n-butyl Phthalate Anthracene Tetrachloroethylene Pentachlorophenol Butyl Benzyl phthalate Di-n-octyl Phthalate	Beryllium 1,1,1-Trichloroethane Lead Arsenic Bis(2-ethylhexyl)phthalate Dichlorodifluoromethane Trichlorofluoromethane Total Toxic Organics** Volatile Organics* TVOS as in N.J.A.C. 7:27-17.3** Chlorobenzene Toluene 1,2-Trans-Dichloroethylene Trichloroethylene	Carbon Tetrachloride Mercury Cadmium Chromium, hex Total Pesticides PCBs Dioxin

* Unlisted

** Not Itemized

Table II
FORMATION RATINGS

<u>System</u>	<u>Formation</u>	<u>Potential</u>	<u>Points</u>
Quaternary Pleistocene	Glacial drift Mercer, Middlesex Other Counties Cape May Pennsauken Bridgeton	Poor Mod to Very Good Moderate to Good Moderate to Minor Moderate to Minor	2 10 8 6 6
Tertiary Pleistocene Pleistocene Miocene Eocene	Beacon Hill Cohansey Kirkwood Piney Point Shark River Manasquan	Poor Very Good Good to Moderate Minor None Poor	2 10 8 4 1 2

<u>System</u>	<u>Formation</u>	<u>Potential</u>	<u>Points</u>
Paleocene	Vincentown	Poor to Good	8
	Hornerstown	None to Poor	2
Cretaceous	Tinton	None to Poor	2
	Red Bank	None to Minor	4
	Navesink	None to Poor	2
	Mount Laurel	Moderate	6
	Wenonah	Minor	4
	Marshalltown	None to Poor	2
	Englishtown	Good to Moderate	8
	Woodbury	None	1
	Merchantville	None	1
	Raritan-Magothy	Very Good	10
Triassic	Watchung	Minor	4
	Diabase	Minor	4
	Brunswick	Minor to Good	8
	Lockatong	Poor	2
	Stockton	Moderate to Good	8
	Border Conglomerates	Minor	4
Devonian	Skunnemunk	Poor	2
	Bellvale	Poor to Minor	4
	Cornwall/Pequanac	Poor	2
	Kanouse	Poor	2
	Marcellus	Poor	2
	Onondaga	Moderate	6
	Schoharie	Minor	4
	Esopus	Poor	2
	Oriskany (includes Glenerie and Port Ewen)	Poor	4
	Becraft (Minisink)	Poor	2
	New Scotland	Minor	4
	Kalkberg (Stormville)	Minor	4
	Cocymans	Minor	4
Silurian	Manlius	Minor	4
	Rondout	Minor	4
	Decker	Minor	4
	Bossardville	Minor	4
	Poxono Island	Minor	4
	High Falls	Minor	4
	Longwood	Minor	4
	Shawangunk and Green Pond	Poor	2
Ordovician	Jacksonberg	Minor	4
	Ontelaunee	Minor	4
	Epier	Minor	4
	Rickenback	Moderate	6
Cambrian	Allentown Upper	Minor	4
	Allentown Lower	Moderate to Very Good	10
	Leithsville	Very Good	10
	Hardystown	Poor	2
Precambrian	Franklin	Minor to Moderate	6
	Crystalline Rocks	Minor to Moderate	6

Administrative correction.

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

In (c)4, substituted "general permit" for "general plan"; and in (d)1i, changed the rating in the table from "21" to "2".

Case Notes

DEP could issue discharge permit to owner of closed landfill, only if Department had substantial evidential basis for believing that landfill actually was discharging pollutants that might flow or drain into State's waters. *V. Concrete Co. v. Department of Environmental Protection*, 115 N.J. 1, 556 A.2d 761 (1989).

Fee structure for pollutant discharge elimination system permits issued under Water Pollution Control Act did not have to be determined on a permit-specific cost-related basis; graduated fee schedule proportional to the deleterious impact of the permittee's discharge was reasonable; use of a bioassay factor in determining toxicity and calculating the NJPDES fees was neither arbitrary nor unreasonable. *GAF Corp. v. New Jersey Dep't of Environmental Protection*, 214 N.J. Super. 446, 519 A.2d 931 (App.Div.1986).

Fee schedule adopted to recover cost of surface water pollutant discharge permitting system proper as based on aggregate, rather than individual permit, costs: volume-based system for thermal dischargers proper: refunds due industrial users properly limited to credit on behalf of suit parties. *Public Service Electric and Gas Co. v. Dept. of Environmental Protection*, 101 N.J. 95, 501 A.2d 125 (1985).

Former regulation's method of assessing fees for discharges to surface waters invalid as unrelated to legislative policy and not established in a reasonable manner; Department's determination as to excess fee assessment credits supported by substantial credible evidence. *Public Service Electric and Gas Co. v. Dept. of Environmental Protection*, 193 N.J. Super. 676, 475 A.2d 665 (App.Div.1984), affirmed 101 N.J. 95, 501 A.2d 125 (1985).

SUBCHAPTER 4. PERMIT APPLICATION REQUIREMENTS

7:14A-4.1 Purpose and scope

This subchapter sets forth the minimum NJPDES permit application requirements, which apply to all applicants for NJPDES permits, unless otherwise specified.

7:14A-4.2 Application requirements

(a) Any person who is engaged in an activity or proposes to commence an activity that requires an individual NJPDES permit pursuant to N.J.A.C. 7:14A-2 shall submit a complete application to the Department in accordance with this subchapter. Any person wishing to be authorized under a general permit shall comply with the application requirements in the applicable general permit.

(b) Once an applicant has complied with N.J.A.C. 7:14A-4.3(a)13, requiring submittal of the application to the local agency or sewerage entity and municipality, the applicant shall submit two copies of all NJPDES permit applications to:

New Jersey Department of Environmental Protection
Bureau of Permit Management
Division of Water Quality
PO Box 029
Trenton, NJ. 08625
Attn: Administrative Review Unit

(c) It is the duty of any person who is or will be an operating entity for any part of a facility which includes a discharge or activity regulated pursuant to this chapter to obtain a NJPDES permit. When a facility or activity is owned by one or more persons, but is currently operated by another person, it is the operating entity's duty to obtain a NJPDES permit. However, the property owner (record owner of fee title interest) shall sign the "Property Owner's Certification" in the NJPDES-1 Form for all DGW permits.

(d) Whenever pursuant to (c) above, more than one person is required to obtain an individual NJPDES permit for one or more discharges or activities at a specific site, the Department may issue a single permit and may list all of these persons as permittees. Such a permit may identify permit conditions that apply to one or more of those permittees.

(e) The schedule for submission of applications (or requests for authorization under a general permit) is as follows:

1. Any person proposing a new facility or activity, which requires a NJPDES permit pursuant to N.J.A.C. 7:14A-2.4 and is not exempt pursuant to N.J.A.C. 7:14A-2.5, shall submit an application at least 180 days before the date on which the activity is proposed to commence, unless an alternative date has been established by the Department. Facilities proposing a new discharge of stormwater associated with industrial activity shall submit an application 180 days before that facility intends to commence industrial activity which may result in a discharge of stormwater associated with that industrial activity. Construction activities discharging stormwater as described under subparagraph 1x of the definition of "stormwater discharge associated with industrial activity" in N.J.A.C. 7:14A-1.2 shall submit applications at least 90 days before the date on which construction is to commence.

2. For general permits, alternate dates for submitting requests for authorization may be specified under the terms of the applicable general permits.

3. Any person planning to continue discharging after the expiration date of an existing NJPDES permit shall file an application for renewal or a request for authorization under a general permit at least 180 calendar days prior to the expiration of the existing permit, unless:

- i. Otherwise required under (e)4 below;

- ii. The existing permit is a general permit that provides for automatic renewal of authorization when that general permit is renewed (see N.J.A.C. 7:14A-6.13(d)9), or that provides for retroactive renewal of authorization after a new request for authorization is submitted or granted under the renewed general permit; or

- iii. The existing permit is an individual permit where: