

SUBCHAPTER 1. ABBREVIATIONS, ACRONYMS, AND DEFINITIONS

7:14A-1.1 Abbreviations and acronyms

- (a) As used in this chapter, the following abbreviations and acronyms shall have the following meaning:

"*ACR*" means acute to chronic ratio.

"*BAT*" means best available technology.

"*BCT*" means best conventional technology.

"*BOD*" means biochemical oxygen demand.

"*BPJ*" means best professional judgment.

"*BPT*" means best practical control technology.

"*BMP*" means best management practices.

"*BR*" means baseline report.

"*CI*" means Category One waters.

"*C2*" means Category Two waters.

"*CBOD*" means carbonaceous biochemical oxygen demand.

"*CI*" means confidence interval.

"*CCC*" means the criteria continuous concentration.

"*CERCLA*" means Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.

"*CFR*" means the Code of Federal Regulations.

"*CMC*" means the criteria maximum concentration.

"*COD*" means chemical oxygen demand.

"*CPO*" means chlorine produced oxidants.

"*CSO*" means combined sewer overflow

"*CV*" means coefficient of variation.

"*CWA*" means the Federal Act or the Clean Water Act.

"*CWEA*" means the Clean Water Enforcement Act, P.L. 1990, c.28; N.J.S.A. 58:10A-1 et seq.

"*DAC*" means Discharge Allocation Certificate.

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

"*DGW*" means Discharge to Ground Water.

"*DLA*" means delegated local agency.

"*DMR*" means Discharge Monitoring Report.

"*DOC*" means dissolved organic carbon.

"*DRBC*" means the Delaware River Basin Commission.

"*DSW*" means Discharge to Surface Water.

"*DTW*" means domestic treatment works.

"*ECRA*" means Environmental Cleanup Responsibility Act.

"*EC50*" means the median effective concentration resulting in at least 50 percent mortality to the test species.

"*EDP*" means effective date of permit.

"*ERP*" means enforcement response plan.

"*FSOD*" means first stage oxygen demand.

"*FW*" means freshwater

"*GIS*" means Geographic Information System.

"*GPD*" means gallons per day.

"*GWQS*" means the Ground Water Quality Standards as defined in N.J.A.C. 7:9-6.

"*IC*" means the inhibition concentration.

"*IPP*" means industrial pretreatment program.

"*ISRA*" means Industrial Site Recovery Act.

"*ITW*" means industrial treatment works.

"*IWMF*" means industrial waste management facility.

"*kg/day*" means kilograms per day.

"*LA*" means load allocation.

"*LC50*" means the median lethal concentration resulting in at least 50 percent mortality to the test species.

"*LLAMA*" means Letter of Land Application Management Approval.

"*LTA*" means long term average effluent concentration.

"*MA1CD10*" means the minimum average one day flow with a statistical recurrence interval of ten years.

"*MA30CD5*" means the minimum average 30 consecutive day flow with a statistical recurrence interval of five years.

"*MA7CD10*" means the minimum average seven consecutive day flow with a statistical recurrence interval of 10 years.

"*MCL*" means maximum contaminant level

"*MDL*" means method detection level.

"*MF*" means membrane filter technique.

"*MGD*" means million gallons per day.

"*mg/L*" means milligrams per liter.

"*ml/L*" means milliliters per liter.

"*MOA*" means Memorandum of Agreement.

"*MOU*" means Memorandum of Understanding.

"*MPN*" means most probable number.

"*MRF*" means Monitoring Report Form.

"*MSWLF*" means a municipal solid waste landfill as defined in 40 CFR part 258.2.

"*NBOD*" means nitrogenous biochemical oxygen demand.

"*NCCW*" means non-contact cooling water.

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

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

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

"*NOAEC*" means no observed adverse effect concentration.

"*NOEC*" means no observable effect concentration.

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

"*NT*" means non-trout waters.

"*OEP*" means the Office of Environmental Planning.

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

"*POTW*" means publicly owned treatment works.

"*PPSNC*" means pretreatment program significant noncompliance.

"*PQL*" means practical quantification level.

"*PVSC*" means Passaic Valley Sewerage Commissioners.

"*RCRA*" means Resource Conservation and Recovery Act.

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

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

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

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

"*SESCP*" means soil erosion and sediment control plan.

"*SIC*" means Standard Industrial Classification.

"*SIU*" means significant indirect user.

"*SNC*" means significant non-compliance.

"*SOD*" means sediment oxygen demand.

"*SSMP*" means Statewide Sludge Management Plan.

"*TDS*" means total dissolved solids.

"*TKN*" means total Kjeldahl nitrogen.

"*TM*" means trout maintenance.

"*TMDL*" means total maximum daily load.

"*TOC*" means total organic carbon.

"*TP*" means trout production.

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

"*TSS*" means total suspended solids.

"*TTO*" means total toxic organics.

"*TU_A*" means toxic units acute

"*TU_C*" means toxic units chronic

"*TWA*" means Treatment Works Approval.

"*TWTDS*" means treatment works treating domestic sewage.

"*UIC*" means Underground Injection Control program.

"*ug/L*" means micrograms per liter.

"*USEPA*" means the United States Environmental Protection Agency.

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

"*USDA*" means the United States Department of Agriculture.

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

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

"USGS" means United States Geological Survey.
"USNRC" means the United States Nuclear Regulatory Commission.
"UST" means underground storage tank.
"VOC" means volatile organic compounds.
"WET" means whole effluent toxicity.
"WLA" means wasteload allocation.
"WQBEL" means water quality based effluent limitation.
"WQM plan" means Water Quality Management plan.
"WSC" means Written Statement of Consent.

7:14A-1.2 Definitions

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

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

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

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

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

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

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

"*Adequate conveyance capacity*" means:

1. In the downstream sewers, the peak dry weather flow does not exceed 80 percent of the depth of the pipe and the peak wet weather flow does not

result in overflows or discharges from any unpermitted discharge location;
and

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

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

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

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

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

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

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

1. To provide the amount of nitrogen or other nutrients needed by the food crop, feed crop, fiber crop, cover crop or vegetation grown on the land;
2. To minimize the amount of nitrogen or other nutrients from residual and all other fertilizer sources that passes below the root zone of the crop or vegetation grown on the land to the ground water or that runs off to surface waters; and
3. To provide the amount of calcium or magnesium oxides capable of neutralizing soil acidity.

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

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

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

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

"*Animal feeding operation*" means a lot or facility (other than an aquatic animal production facility) where the following conditions are met:

1. 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
2. Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

"*Animal units*" means the unit of measurement for any animal feeding operation calculated as follows: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 25 kilograms (approximately 55 pounds) multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

"*Annual pollutant loading rate*" means the maximum amount of a pollutant listed in 40 CFR 503.13 that can be applied to a unit area of land during a 365 day period.

"*Annual whole residual application rate*" means the maximum amount of a residual (dry weight basis) that can be applied to a unit area of land during a 365 day period.

"*Applicant*" means any person, corporation, government body or other legal entity which applies for a NJPDES permit or Departmental approval pursuant to this chapter.

"*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.

"*Apply residual or residual applied to the land*" means land application of residual. This definition shall include apply sludge or sludge applied to the land as well as apply sewage sludge or sewage sludge applied to the land.

"*Approved industrial pretreatment program*" means an industrial pretreatment program prepared by a local agency and approved by the Department in accordance with 40 CFR Part 403 and N.J.A.C. 7:14A-19.

"*Aquatic substrata*" means soil material and associated biota underlying the water.

"*Aquaculture projects*" 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.

"Aquifer" means a geologic formation, group of geologic formations, or a portion of a geologic formation capable of yielding a significant amount of ground water to wells or springs.

"*Area of review*" means the area surrounding an injection well described by the criteria set forth in N.J.A.C. 7:14A-8.13.

"*Areawide plan*" means any water quality management plan adopted pursuant to 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.

"*Authorized representative*" means those persons whose presence is in place of the actual entity, person, or Department, with all rights and responsibilities.

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

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

"Background ground water quality" is the ground water quality that is not influenced by the discharge.

"*Base flood*" means a flood that has a one percent chance of occurring in any given year (that is, a flood with a magnitude equaled once in 100 years).

"*Baseline Report*" means a report required following promulgations of a Federal categorical standard, pursuant to 40 CFR 403.12(b).

"*Batch discharge*" means a "discharge" which occurs with interruption throughout the operating hours of the facility.

"*Best management practices*" or "*BMPs*" for purposes of this chapter means:

1. Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State; or
2. Methods, measures, or practices selected by an agency to meet its nonpoint source control needs.

BMPs also include treatment requirements, operating procedures, and techniques to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMPs include, but are not limited to, structural and nonstructural controls and operation and maintenance procedures. BMPs can be applied before, during, and after pollution-producing activities to reduce or eliminate the introduction of pollutants into receiving waters.

"*Bimonthly*" means occurring every two months.

"*Bioaccumulation*" means the increase of the concentration of a substance within the tissues of an organism, to levels in excess of that substance's ambient environmental concentration, directly from the water or through the ingestion of food (usually other organisms).

"*Bioassay*" means a toxicity test using aquatic organisms to determine the concentration or amount of a toxic substance causing a specified response in the test organisms under stated test conditions.

"*Biocide*" means chemical agents with the capacity to destroy biological life forms. Bactericides, insecticides, and pesticides are examples of biocides.

"*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.

"*Biochemical oxygen demand*" or "BOD" means the quantity of dissolved oxygen in milligrams per liter (mg/l) either in an effluent or in a waterbody, required during stabilization of decomposable organic matter by aerobic biochemical action as determined by analytical procedures set forth in the Manual of Methods for Chemical Analysis of Water and Wastes (USEPA, Office of Technology Transfer, Washington, D.C., March 1983).

"*Biota*" means the animal and plant life of an ecosystem; flora and fauna collectively.

"*Biweekly*" means occurring every two weeks.

"*Board or body*" means any governmental entity, who has or shares authority to approve all or portions of permits either in the first instance, as modified or reissued, or on appeal.

"*Bulk residual*" means residual that is not sold or given away in a bag or other container for application to the land. This definition shall include bulk sludge or bulk sewage sludge.

"*Bunker silo*" means a structure with low walls, a sloping floor of an impervious material (usually concrete), and a leachate collection system, designed to hold dewatered residuals.

"*Bypass*" means the anticipated or unanticipated intentional diversion of waste streams from any portion of a treatment works.

"*Carbonaceous biochemical oxygen demand*" or "CBOD" means that portion of the biological oxygen depletion either in an effluent or in a waterbody which is due to the oxidation of carbon containing compounds.

"*Casing*" means a 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. For injection wells in Classes I, II, III, and IV, the pipe or tubing shall be a heavy metal (steel or iron).

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

"*Category one waters*" means those waters designated in the tables in N.J.A.C. 7:9B-1.15(c) through (h), for purposes of implementing the antidegradation policies as set forth at N.J.A.C. 7:9B1.5(d), the SWQS, for protection from measurable changes in water quality characteristics because of their clarity, color, scenic setting, other characteristics of aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, or exceptional fisheries resources(s). These waters may include, but are not limited to:

1. Waters originating wholly within Federal, Interstate, State, County, or municipal parks, forests, fish and wildlife lands, and other special holdings that have not been designated as FW1 in N.J.A.C. 7:9B-1.15(h), Table 6;
2. Waters classified in N.J.A.C. 7:9B-1.15(c) through (g) as FW2 trout production waters and their tributaries;
3. Surface waters classified in this subchapter as FW2 trout maintenance or FW2 nontrout that are upstream of waters classified in this subchapter as FW2 trout production;
4. Shellfish waters of exceptional resource value; or
5. Other waters and their tributaries that flow through, or border, Federal, State, county or municipal parks, forest, fish and wildlife lands, and other special holdings.

"*Category Two waters*" means those waters not designated as Outstanding National Resource Waters or Category One in N.J.A.C. 7:9B-1.15, the SWQS, for purposes of implementing the Antidegradation Policies.

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

- "Certified laboratory" means a laboratory certified by the Department in accordance with N.J.A.C. 7:18.
- "*Chemical oxygen demand*" or "*COD*" means a measure of the oxygen required to oxidize all compounds in water, both organic and inorganic (in milligrams per liter, mg/l) in a waste sample under specific conditions of an oxidizing agent, temperature and time as determined by analytical procedures set forth in the for Chemical Analysis of Water and Wastes (USEPA, Office of Technology Transfer, Washington, D.C., March 1983).
- "*Chlorine produced oxidants*" means the sum of free and combined chlorine and bromine as measured by the methods approved under N.J.A.C. 7:18. In fresh waters the oxidants measured are comprised predominantly of hypochlorous acid (HOCl), hypochlorite ion (OCl⁻), monochloramine and dichloramine. In saline waters the oxidants measured are comprised predominantly of the oxidants listed for fresh waters plus hypobromous acid (HOBr), hypobromous ion (OBr⁻) and bromamines.
- "*Chronic toxicity*" means death or other adverse impacts that affect the growth, survival, or reproductive success of an organism or its progeny after a relatively long exposure period to toxic substances. Chronic toxicity is measured using intermediate-term or long-term bioassays.
- "*Class 1 sewage sludge management facility*" means any domestic treatment works (DTW) required to have an approved industrial pretreatment program under 40 CFR 403.8(a) (including any DTW located in a state that has elected to assume local program responsibilities pursuant to 40 CFR part 403.10(e)) and any treatment works treating domestic sewage classified as a Class 1 sewage sludge management facility by the Regional Administrator, or, in the case of State sewage sludge management program approval, the Regional Administrator in conjunction with the Commissioner, because of the potential for its sewage sludge use or disposal practice to affect public health and the environment adversely.
- "*Clean Water Act*" (CWA) also known as the Federal Act or Federal Clean Water Act (33 U.S.C. §§1251 et seq.) including all subsequent supplements and amendments.
- "*Clean Water Act and regulations*" means the Clean Water Act (CWA) and applicable regulations promulgated thereunder. In the case of an approved State program (NJPDES), it includes State program requirements.
- "*Closed conduit*" means any closed natural or artificial duct, such as a pipe, for conveying fluids.
- "Coefficient of variation" means the statistical measure of variability calculated as the standard deviation divided by the estimated mean.
- "*col/100 mL*" means the coliform colonies per 100 milliliters.

- "*Cold water aquatic animals*" means, but is not limited to, the Salmonidae family of fish (for example, trout and salmon).
- "*Combined sewer overflow*" means the excess flow from the combined sewer system which is not conveyed to the domestic treatment works for treatment, but transmitted by pipe or other channel directly to waters of the State.
- "*Combined sewer system*" means a sewer system that is designed to carry sanitary sewage at all times and that also is designed to collect and transport stormwater from streets and other sources, thus serving a combined purpose.
- "*Commercial unit*" means one or more buildings, or one or more rooms within a building, which will be occupied by a single individual, corporation, company, association, society, firm, partnership or joint stock company, and used for nonresidential purposes.
- "*Commissioner*" means the Commissioner of the New Jersey Department of Environmental Protection or an authorized representative.
- "*Committed flow*" means the sum of the actual flow plus the sum of all flows which are anticipated from connections which have been approved but are not yet in operation. The flow to be anticipated from any such connections shall be that flow approved by the Department.
- "Complete permit application" means a permit application which is both administratively and technically complete. An administratively complete permit application is a permit application which complies with all of the requirements in the permit application checklist referenced in N.J.A.C. 7:14A-15.3(c). A technically complete permit application is a permit application which has been determined to be administratively complete and satisfactorily addresses the requirements in the permit application checklist and any specific permit application requirements for the particular type of discharge set forth in this chapter.
- "*Compliance monitoring report*" means a report periodically submitted by a permittee to verify continued compliance. This term includes a Discharge Monitoring Report (DMR) and any report required in an SIU permit pursuant to 40 CFR 403.12(e).
- "Composite sample" means a sample composed of several discrete samples combined in a known proportion. For NJPDES wastewater monitoring, a composite sample is a sample composed of several discrete samples collected at equal time intervals, or proportionally to the flow rate of the discharge.
- "*Composting*" means the biological decomposition of dewatered organic residuals under controlled conditions of temperature, pH, oxygen and

moisture, by which the volatile fraction, the putrescibility, and the pathogen concentrations in the residuals are reduced.

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

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

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

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

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

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

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

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

"*Connection*" means any physical or operational change, associated with an increase in projected flow, to a collection system of any building, facility, or other structure either proposed or existing for which a building permit or other municipal approval including site plan or subdivision approval is required, and which connects directly or indirectly to any portion of a treatment works.

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

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

- "Conservative parameter" means any parameter which is not significantly degraded by physical, chemical, or biological processes which may occur in a waterbody.
- "*Construction*" means any placement, assembly or installation of facilities, equipment or treatment works, or modification of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities, equipment or treatment works, or entering into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering and design studies do not constitute a contractual obligation for the purposes of this definition.
- "*Control authority*" means the entity responsible for administering an industrial pretreatment program pursuant to 40 CFR 403 and N.J.A.C. 7:14A-19 and shall be the Department in areas of the State served by a local agency without an approved industrial pretreatment program or the delegated local agency in all other areas of the State.
- "*Controlled streams*" means any uni-directional waterbody where the quantity or timing of water flow is determined by dams which restrict or otherwise regulate the flow in the waterbody.
- "*Construction waste*" means a construction waste as defined in N.J.A.C. 7:26-1.4, examples of which are identified in N.J.A.C. 7:26-1.7(e)1iii.
- "*Contaminant*" means any physical, chemical, biological, or radiological pollutant or matter in water.
- "*Contiguous zone*" means the entire zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone.
- "*Continuous discharge*" means a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.
- "*Conventional pollutant*" means a pollutant designated under Section 304(b)(4) of the Federal Act.
- "*Co-permittee*" means, for purposes of N.J.A.C. 7:14A-11.5 only, a permittee to a NJPDES permit that is only responsible for permit conditions relating to the discharge for which it is operating entity.
- "*Cover crop*" means a crop of close growing grasses, legumes, or small grains grown primarily for seasonal protection and soil improvement. A cover crop usually is grown for one year or less, except where there is permanent cover as in orchards.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- "*Designated use*" means those surface water or ground water uses, both existing and potential, that have been established by the Department for waters of the State.
- "*Design flow*" means the average daily volume of wastewater which a domestic treatment works was designed to treat or convey, or the maximum permissible volume of flow to a domestic treatment works as established by a NJPDES permit or a treatment works approval, whichever is most stringent.
- "*Designated project area*" means the portions of the waters of the State within which the permittee or permit applicant plans to confine the cultivated species, using a method or plan of operation (including, but not limited to, physical confinement) which, on the basis of reliable scientific evidence, is expected to ensure that specific individual organisms comprising an aquacultural crop will enjoy increased growth attributable to the discharge of pollutants, and be harvestable within a defined geographic area.
- "*Diadromous fish*" means fish that spend most of their life in one type of water, either fresh or saline, and migrate to the other type to spawn.
- "*Diffuser*" means a device which is attached to the outfall pipe to improve the mixing of the effluent with the receiving water.
- "*Dike*" means an embankment or ridge of either natural or man-made materials used to prevent the movement of liquids, sludges, solids or other materials.
- "*Direct discharge*" means a discharge to surface water. A direct discharge includes any discharge through a separate storm sewer that does not lead to a DTW..
- "*Director*" means the Director of the Department's Division of Water Quality, it's predecessor or successor, or an authorized representative.
- "*Discharge*" means an intentional or unintentional action or omission resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying, or dumping of a pollutant into the waters of the State, onto land or into wells from which the pollutant might flow or drain into such waters, or into waters or onto lands outside the jurisdiction of the State which pollutant enters the waters of the State, and shall include the release of any pollutant into a municipal treatment works. A leak into a secondary containment system which does not involve a release into the waters or lands of this State is not a "discharge" for purposes of applying the rules under this chapter to violations of the Underground Storage of Hazardous Substances Act, N.J.S.A. 58:11-49 et seq. and the rules promulgated pursuant thereto, N.J.A.C. 7:14B.
- "*Discharge Allocation Certificate*" or DAC means the certificate issued by the Department which designates the quantity and quality of pollutants which may be discharged by any person planning to undertake any activity which

will result in a discharge to surface water or a substantial modification in a discharge to surface water.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"*EC50*" means the median effective concentration of a toxic substance expressed as a statistical estimate of the concentration that has a specified adverse effect on 50 percent of the test organisms under specified test conditions, based on the results of an acute bioassay.

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

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

1. For a given pollutant parameter, the 95th percent value for the 30-day average effluent quality achieved by a treatment works in a period of at least two years, excluding values attributable to upsets, bypasses, operational errors, or other unusual conditions; and
2. A seven-day average value equal to the product of the value derived under paragraph 1 of this definition, multiplied by 1.5.

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

1. Information necessary to determine the identity, amount, frequency, concentration, temperature, or other characteristics (to the extent related to water quality) of any pollutant which has been discharged by the source (or of any pollutant resulting from any discharge from the source), or any combination of the foregoing;
2. Information necessary to determine the identity, amount, frequency, concentration, temperature, or other characteristics (to the extent related to water quality) of the pollutants which, under an applicable standard or limitation, the source was authorized to discharge (including, to the extent necessary for such purpose, a description of the manner or rate of operation of the source); and
3. A general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).
4. Notwithstanding 1 through 3 above, the following information shall be considered to be "effluent data" only to the extent necessary to allow the Department to disclose publicly that a source is (or is not) in compliance with an applicable standard or limitation, or to allow the Department to demonstrate the feasibility, practicability, or attainability (or lack thereof) of an existing or proposed standard or limitation:
 - i. Information concerning research, or the results of research, on any product, method, device, or installation (or any component thereof) which was produced, developed, installed, and used only for research purposes; and
 - ii. Information concerning any product, method, device, or installation (or any component thereof) designed and intended to be marketed or used commercially but not yet so marketed or used.

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

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

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

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

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

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

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

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

"*Existing uses*" means the following:

1. As related to the Ground Water Quality Standards, means those uses of ground water actually attained, whether or not they are included in the Ground Water Quality Standards, N.J.A.C. 7:9-6; and
2. For surface waters, those uses actually attained in the waterbody on or after November 28, 1975, whether or not they are included in the Surface Water Quality Standards, N.J.A.C. 7:9B.

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

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

1. The BOD5 and TSS effluent concentrations consistently achievable through proper operation and maintenance of the treatment works exceed the minimum level of the effluent quality set forth in N.J.A.C. 7:14A-12;
2. A trickling filter or waste stabilization pond is used as the principal process; and
3. The treatment works provide significant biological treatment of municipal wastewater.

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

Pollution Control Act, N.J.S.A. 26:2C-1 et seq., and the appropriate provisions of the Pollution Prevention Plan prepared by the owner of operator of the priority industrial facility pursuant to N.J.S.A. 13:1D-41 and 42.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"*Ground Water Quality Standards*" means the New Jersey rules at N.J.A.C. 7:9-6 which set forth a designated use or uses for the ground waters of the State, use classifications, water quality criteria for the State's waters based upon such uses, and the Department's policies concerning these uses, classifications and criteria.

"*Grit and screenings*" means solid waste generated during the preliminary treatment of domestic sewage in a treatment works. Grit includes sand, gravel, cinders or other materials with a high specific gravity. Screenings include relatively large materials such as rags typically removed by mechanical screening of domestic wastewater prior to primary or secondary treatment at a DTW.

"Hazardous pollutant" means:

1. Any toxic pollutant;
2. Any hazardous substance as defined by the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10-23.11; or
3. Any substance regulated as a pesticide under the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§136 et seq.; or
4. Any substance the use or manufacture of which is prohibited under the Federal Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; or
5. Any substance identified as a known carcinogen by the International Agency for Research on Cancer; or
6. Any hazardous waste designated pursuant to the New Jersey Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. or the Federal Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq.

"*Hazardous substance*" means any substance designated under 40 CFR 116 pursuant to Section 311 of the Federal Act, the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., or Section 4 of the State Act.

"*Hazardous waste*" means any waste that is defined or identified as a hazardous waste pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., N.J.A.C. 7:26G, or 40 CFR Part 261.

"*Headworks analysis*" means a mathematical method used to determine the maximum allowable loading of a pollutant at the "headworks" or influent to the treatment plant.

"*Heating oil*" means any grade of petroleum product including, but not limited to, No. 1, 2, 4 (light and heavy), 5 (light and heavy), and fuel oils, diesel and kerosene or any grade or type used to heat residential buildings.

" *Holding time* " means the length of the time from collection of the sample until the time of initiation of the analysis.

" *Hydraulic jump* " means the sudden passage of water in an open channel from low depth to high depth, during which the velocity changes from supercritical ($Fr > 1$) to subcritical ($Fr < 1$), where Fr stands for Froude Number.

" *Hypolimnion* " means the lower region of a stratified waterbody that extends from the thermocline to the bottom of the waterbody, and is isolated from circulation with the upper waters, thereby receiving little or no oxygen from the atmosphere.

" *Important species* " means species that are commercially valuable (for example, within the top ten species landed, by dollar value); recreationally valuable; threatened or endangered; critical to the organization and/or maintenance of the ecosystem; or other species necessary in the food web for the well-being of the species identified in this definition.

" *Impoundment* " means a body of water confined by a dam, dike, floodgate, or other barrier.

" *Incineration* " means the combustion of organic or inorganic matter, or both, at high temperatures in an enclosed device.

" *Income* " means all sources of revenue from wherever derived, including wages, retirement benefits, consultant fees, interest, and stock dividends.

" *Incorporated place* " means the District of Columbia, or a city, town, township, or village that is incorporated under the laws of the State in which it is located.

" *Indirect discharge* " means any discharge, excluding any discharges by municipal collection systems, into any domestic treatment works.

" *Indirect user* " means an entity with an indirect discharge.

" *Individual subsurface sewage disposal system* " means a system for the disposal of sewage into the ground, which is designed and constructed to treat sanitary sewage in a manner that will retain most of the settleable solids in a septic tank and discharge the liquid effluent to a disposal field.

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

" *Industrial pretreatment program* " means a program designed to regulate the introduction of pollutants into a local agency's treatment works from any nondomestic source.

" *Industrial Pretreatment Program Permit* " or "IPP Permit" means authorization, license, or equivalent control document issued by a delegated local agency to implement the requirements of the IPP. An IPP

Permit includes a letter of agreement entered into between a delegated local agency and a user of its municipal treatment works, setting effluent limitations and other conditions on the user of the agency's municipal treatment works.

"Industrial treatment works" means a treatment works which treats primarily process wastewater and/or industrial pollutants as determined by the percentage of process wastewater, or mass loading of BOD, COD or suspended solids in the wastewater flow. Industrial treatment works shall also include any treatment works, whether publicly or privately owned, which treats primarily wastewater or leachate from a municipal solid waste facility or a potable water treatment plant. This definition shall include SIU pretreatment works.

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

"Industrial wastewater treatment system" means any structure or structures by means of which industrial liquid waste or sludges are subjected to any treatment process.

"Industrial water supply" means water used for processing or cooling.

"Infiltration percolation lagoon" means 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 transmit pollutants to the subsurface and which is not an injection well.

"Inhibition concentration" means that concentration of effluent which produces the specified inhibition effect in a chronic whole effluent toxicity test. An IC25 is the concentration of effluent which produces an inhibition of 25 percent for the monitored effect as compared to the control.

"Injection well" means a well, septic system, subsurface disposal bed, cavity, tube or pipe, or any structure used to deliver fluids directly to a point below the ground surface.

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

"Interference" means:

1. Inhibiting or disrupting the operation of a DTW or its treatment processes so as to contribute to, or cause a violation of any condition of a State or Federal permit;
2. Discharging industrial process wastewater which, in combination with existing domestic flows, is of such quantity and/or quality as to exceed the treatment process design capacity; or

3. Preventing the use or disposal of sludge produced by the DTW in accordance with Section 405 of the Federal Act, the Federal Resource Conservation and Recovery Act (42 U.S.C. §§3251 et seq.), the Federal Clean Air Act (42 U.S.C. §§7401 et seq.), the Federal Toxic Substances Control Act (15 U.S.C. §§2601 et seq.), the Marine Protection, Research and Sanctuaries Act (33 U.S.C. §§1401 et seq. and 16 U.S.C. §§1431 et seq.), Sections 2, 4 and 6 of the State Act, and any regulations, criteria, or guidelines developed pursuant thereto, including, but not limited to, N.J.A.C. 7:14A-20, and the Statewide Sludge Management Plan.

"Intermittent stream" means a stream with a MA7CD10 flow of less than one-tenth (0.1) cubic foot per second.

"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.

"Irreparable harm" means significant undesirable effects occurring after the date of permit issuance which cannot be reversed after cessation or modification of the discharge.

"Joint meeting" means the meeting or assembly of the members of the governing bodies or boards of the several municipalities having authority to make and enter into contracts for the construction jointly of the works or improvements authorized by N.J.S.A. 40:63-70.

"Lake, pond, or reservoir" means any impoundment, whether naturally occurring or created in whole or in part by the building of structures for the retention of surface water, excluding sedimentation control and stormwater retention/detention basins and ponds designed for treatment of wastewater. Lakes, ponds, and reservoirs are characterized by a long term or permanent downgradient restriction of surface water flow from the impoundment and areas of quiescent water within the body of the impoundment. Lakes, ponds, and reservoirs are frequently characterized by greater water depths within the impoundment than either the upgradient or downgradient surface water flow and by shallow water lateral edges containing emergent or submerged plant species. For regulatory purposes, the upgradient boundary of a lake, pond, impoundment, or reservoir shall be considered to be the point at which areas of greater depth and relatively quiescent water can be differentiated from the upgradient surface water input into the impoundment under average flow conditions.

"Landfill" see sanitary landfill.

"Land application" means the controlled discharge of pollutants onto or into the surface soil horizon in such a manner that the materials are treated by and/or become incorporated into and blended with the soil.

"Land application of residual" means the spraying or spreading of residual onto the land surface; the injection of residual below the land surface; or the incorporation of residual into the soil so that the residual can either condition the soil or fertilize crops or vegetation grown in the soil. This definition shall include the land application of sludge and the land application of sewage sludge.

"Land-based sludge management criteria" means those standards established by the Department in the Statewide Sludge Management Plan adopted pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., or established pursuant to the Federal Act, or any regulations adopted pursuant thereto.

"Large municipal separate storm sewer system" means all municipal separate storm sewers that are either:

1. Located in an incorporated place with a population of 250,000 or more as determined by the latest Decennial Census by the Bureau of Census. See 40 CFR Part 122, Appendix F (As of May 5, 1997, Newark is listed); or
2. Located in the counties listed in 40 CFR Part 122, AppendixH (As of May 5, 1997, no New Jersey counties are listed), except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties; or
3. Owned or operated by a municipality other than those described in paragraph 1 or 2 of this definition and that are designated by the Director as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under paragraph 1 or 2 of this definition. In making this determination the Director may consider the following factors:
 - i. Physical interconnections between the municipal separate storm sewers;
 - ii. The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in paragraph 1 of this definition;
 - iii. The quantity and nature of pollutants discharged to waters of the United States;
 - iv. The nature of the receiving waters; and
 - v. Other relevant factors; or
4. Upon petition, designated by the Director as a large municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a stormwater management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in paragraphs 1, 2, or 3 of this definition.

"LC50" means the median lethal concentration of a toxic substance, expressed as a statistical estimate of the concentration that kills 50 percent of the test organisms under specified test conditions, based on the results of an acute bioassay.

"Leachate" means liquid that has been in contact with solid waste.

"Leachate collection system" means a system or device installed immediately above a liner that is designed, constructed, maintained, and operated to collect and remove leachate.

"Lead planning agency (delegated)" means the POTW which, by agreement with the District as defined in the Statewide Sludge Management Plan, is to execute sludge management and planning for that District.

"Letter of Land Application Management Approval" or "LLAMA" means the letter issued by the Department pursuant to N.J.A.C. 7:14A-20 and the Statewide Sludge Management Plan, containing a determination that use of residual or the operations at a residual land application site satisfy the requirements of the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 *et seq.*, if operated consistently with the requirements stated within the letter.

"Level of pollutant control actually achieved" means:

1. For conventional and nonconventional pollutants, the effluent concentration consistently achieved through proper operation and maintenance as defined in this section with a 30-day and seven-day average effluent limitation.
2. For toxic pollutants, the effluent limitations based on existing effluent quality as defined at N.J.A.C. 7:14A-13.8 with a 30 day average and a daily maximum effluent limitation.

"Level of treatment" means the degree of waste removal and accompanying residual wastewater effluent to be attained by any discharger.

"Limiting nutrient" means a nutrient whose absence or scarcity exerts a restraining influence upon an aquatic biological population.

"Liner" means a continuous layer of soil or synthetic material which restricts the downward or lateral escape of any waste, waste constituents, or leachate. For the purposes of N.J.A.C. 7:14A-20, a liner shall have a hydraulic conductivity of 1×10^{-7} centimeters per second or less.

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

"Load allocation" means the portion of a receiving water's total maximum daily load (TMDL) for a specific pollutant that is allocated to existing or future nonpoint sources of pollution.

"Local agency" means a political subdivision of the State, or an agency or instrumentality thereof, that owns or operates a municipal treatment works.

"Local limits" means any restriction on quantities, quality, or concentrations of pollutants discharged into a local agency's treatment works, developed to prevent upset, interference, or pass-through of pollutants to the treatment works, and to protect worker health and safety, and protect/improve the quality of the sludge generated by the treatment works.

"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 I, including the effluent limitations guidelines).

"Long term average effluent concentration" means the statistical estimation of the true mean of the entire population of effluent data points, considering effluent variability and the number of actual data points available to estimate the mean.

"Long term harmonic mean flow" means the number of daily flow measurements divided by the sum of reciprocals of the measured flows. It is the design flow used in calculating pollutant allocations for surface water quality standards which protect for health effects occurring after long term exposures. It is calculated by:

$$\text{Flow} = \frac{n}{\sum \frac{1}{Q_1} + \frac{1}{Q_2} + \dots + \frac{1}{Q_n}}$$

where n is the number of recorded flows and Q is the combined receiving water and effluent flow.

"Lower explosive limit for methane gas", for the purpose of N.J.A.C. 7:14A-20, means the lowest percentage of methane gas in air, by volume, that propagates a flame at 25 degrees Celsius and atmospheric pressure.

"Major facility" means:

1. For industrial facilities, any facility which scores 80 or more points on the NPDES permit rating work sheet using the USEPA rating criteria. A facility with less than the required score of 80 may still be classified as a Major facility by the Regional Administrator or the Department. In those situations, the Department shall state the reasons for doing so; and
2. For municipal facilities, any POTW with a design flow of 1.0 Million Gallons per Day or greater.

"*Major modification to a permit*" means any change to a permit the scope of which is described in N.J.A.C. 7:14A-16.4.

"*Manmade*" for purposes of this chapter, means constructed by man.

"*Marketable residual product*" or "*sludge-derived product*" means any residual or material derived from a residual which has been prepared for land application of residual in accordance with a permit issued pursuant to N.J.A.C. 7:14A-20 and which, at a minimum, meets the pollutant concentrations in 40 CFR 503.13(b)(1), the Class B pathogen requirements in 40 CFR 503.32 and one of the vector attraction reduction requirements in 40 CFR 503.33(b)(1) through (b)(8).

"*Maximum daily discharge limitation*" means the highest allowable "daily discharge" during the reporting period.

"*Maximum projected effluent concentration*" means the maximum effluent concentration that would be expected, based on the maximum reported concentration and the statistical variability of the reported effluent data.

"*Maximum sewage treatment capacity*" means the hydraulic, biological and sludge handling capacity limitations necessary to assure compliance with the terms and conditions of the NJPDES or NPDES Permit.

"*Maximum value*" means the highest value measured during the monitoring period.

"*Medical waste*" means isolation wastes; infectious agents; human blood and blood products; pathological wastes; sharps; body parts; contaminated bedding; surgical wastes and potentially contaminated laboratory wastes; dialysis wastes; and such additional medical items as the Administrator shall prescribe by regulation.

"*Medium municipal separate storm sewer system*" means all municipal separate storm sewers that are either:

1. Located in an incorporated place with a population of 100,000 or more but less than 250,000, as determined by the latest Decennial Census by the Bureau of Census (40 CFR Part 122, Appendix G) (As of May 5, 1997, only Elizabeth, Jersey City, and Paterson are listed); or
2. Located in the counties listed in 40 CFR 122.26 Appendix I, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties (As of May 5, 1997, no New Jersey counties are listed); or
3. Owned or operated by a municipality other than those described in paragraph 1 or 2 of the definition of "large municipal separate storm sewer system" and that are designated by the Director as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under paragraph 1 or 2 of

the definition of “large municipal separate storm sewer system” . In making this determination the Director may consider the following factors:

- i. Physical interconnections between the municipal separate storm sewers;
 - ii. The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in paragraph 1 above;
 - iii. The quantity and nature of pollutants discharged to waters of the United States;
 - iv. The nature of the receiving waters; or
 - v. Other relevant factors; or
4. The Director may, upon petition, designate as a medium municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a stormwater management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in paragraphs 1, 2, or 3 above.

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

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

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

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

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

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

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

"*Monthly*" means one normal operating day each calendar month, on which, a reasonably representative sample of the discharge may be obtained. This day should be the same day every month (for example, the 2nd Tuesday of

each month), unless otherwise directed in the permit. A normal operating day shall be a period of time reasonably representative of normal operating conditions.

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

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

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

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

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

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

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

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

1. Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States;
2. Designed or used for collecting or conveying storm water;
3. Which is not a combined sewer; and
4. Which is not part of a POTW.

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

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

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

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

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

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

1. From which there is or may be a discharge of pollutants;
2. Was not an existing source prior to August 13, 1979;
3. Which is not a new source; and
4. Which has never received a final NJPDES permit for discharges at that site.

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

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

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

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

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

1. After promulgation of standards of performance under Section 306 of the Federal Act which are applicable to such source;
2. After proposal of standards of performance in accordance with Section 306 of the Federal Act, which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within 120 days of their proposal; or
3. After the publication of the Pretreatment Standards under Section 307(c) of the Act which will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:
 - i. The building, structure, facility or installation is constructed at a site at which no other source is located;
 - ii. The building, structure, facility or installation totally replaces the process or production equipment that cause the discharge of pollutants at an existing source; or
 - iii. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.
4. Construction of a new source as defined under this definition has commenced if the operating entity has:
 - i. Begun, or caused to begin as part of a continuous onsite construction program:
 - (1) Any placement, assembly, or installation of facilities or equipment; or
 - (2) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary

for the placement, assembly, or installation of new source facilities or equipment; or

- ii. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.

"*Nitrogenous biochemical oxygen demand*" or "NBOD" means that portion of the biochemical oxygen depletion either in an effluent or in a waterbody which is due to the oxidation of nitrogen containing compounds.

"*No observed adverse effect concentration*" or "NOAEC" means the lowest concentration at which the organisms are adversely affected as compared to the control determined using hypothesis testing technique.

"*No observable effect concentration*" or "NOEC" means the maximum effluent concentration which results in no observable effect for the evaluated endpoint. The NOEC is usually determined as the next lower tested concentration than the concentration which results in the lowest observable effect as compared to the controls. For discharge permits where the limitation is expressed as an NOEC, the results shall be reported as the calculated IC25 and shall be considered equivalent to the observed NOEC.

"*No measurable acute toxicity*" or "NMAT" means a type of water quality based acute whole effluent toxicity limit imposed in accordance with N.J.A.C. 7:9B-4.6(c)5i(2), which requires that no mortality occurs in any acute toxicity test concentration, including 100 percent effluent, above normal background mortality levels for the test organism population. The normal background mortality level is the acceptable level of control mortality for a valid test specified in N.J.A.C. 7:18-6.6(v).

"Non-contact cooling water" means water used to reduce temperature for the purpose of cooling. Such waters do not come into direct contact with any raw material, intermediate product (other than heat) or finished product. Non-contact cooling water may however contain algacides, or biocides to control fouling of equipment such as heat exchangers, and/or corrosion inhibitors.

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

"*Non-delegated local agency*" means a local agency which does not have an industrial pretreatment program approved by the Department.

"*Nonexcessive infiltration*" means the quantity of flow which is less than 120 gallons per capita per day (domestic base flow and infiltration) or the

quantity of infiltration which cannot be economically and effectively eliminated from a sewer system as determined in a cost-effectiveness analysis. For domestic treatment works receiving wastewater from combined sewers, nonexcessive infiltration means the quantity of flow attributable to infiltration during dry weather shall be less than 40 gallons per capita per day (gpcd) or 1,500 gallons per day per inch diameter per mile of sewer.

"*Nonexcessive inflow*" means the maximum total flow rate during storm events which does not result in chronic operational problems related to hydraulic overloading of the treatment works or which does not result in a total flow of more than 275 gallons per capita per day (domestic base flow plus infiltration plus inflow) during a significant rainfall event which causes surface ponding and surface runoff. Chronic operational problems may include surcharging, backups, bypasses, and overflows.

"*Non-hazardous waste*" means a solid waste which is not a hazardous waste.

"*Nonpersistent*" means degrading relatively quickly, generally having a half-life of less than 96 hours.

"Nonpoint source" means:

1. Any man-made or man-induced activity, factor, or condition, other than a point source, from which pollutants are or may be discharged;
2. Any man-made or man-induced activity, factor, or condition, other than a point source, that may temporarily or permanently change any chemical, physical, biological, or radiological characteristic of waters of the State from what was or is the natural, pristine condition of such waters, or that may increase the degree of such change; or
3. Any activity, factor, or condition, other than a point source, that contributes or may contribute to water pollution.

"*Nontrout waters*" means fresh waters that have not been designated in N.J.A.C. 7:9B-1.15(c) through (h) as trout production or trout maintenance. These waters are generally not suitable for trout because of their physical, chemical, or biological characteristics, but are suitable for a wide variety of other fish species.

"*Nutrient*" means a chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the growth and development of organisms.

"*Ocean waters*" means those waters of the open seas lying seaward of the base line from which the territorial sea is measured, as provided for in the Convention on the Territorial Sea and the Contiguous Zone.

"*Oil and grease*" includes the nonpetroleum-based pollutants of animal and vegetable origin, and petroleum-based pollutants, which are analyzed by an EPA and/or New Jersey State Certified Laboratory approved method

for oil and grease referenced in 40 CFR Part 136, as amended, including subsequent amendments, and the petroleum-based pollutants analyzed by an EPA and/or New Jersey State Certified Laboratory approved method for petroleum hydrocarbons cited in Methods for Chemical Analysis of Water and Wastes, USEPA, as amended.

"*Open channel*" means any natural or artificial waterway or closed conduit, including a gravity sewer, in which water flows with a free surface.

"Operating entity" or "operator" means any person who alone or along with other persons has primary management and operational decision-making authority over any part of a facility. This definition is not applicable to "operator" as that term is used in N.J.A.C. 7:14A-4.9(b)2, 22.6(a)4, 22.6(c)3, 23.25(a)3, or 23.25(a)4i.

"*Other container*" means either an open or closed receptacle that has a load capacity of one metric ton or less and may include, but is not limited to, a bucket, a box, a carton, and a vehicle or trailer.

"*Outfall*" means any point source which discharges directly to waters of the United States and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other waters of the United States and are used to convey waters of the United States.

"*Outstanding National Resource Waters*" means high quality waters that constitute an outstanding national resource (for example, waters of National/State Parks and Wildlife Refuges and waters of exceptional recreational or ecological significance) as designated in N.J.A.C. 7:9B-1.15(i).

"*Owner or operator*" means the owner or operator of any facility or activity subject to this chapter.

"*Overburden*" means any material of any nature, consolidated or unconsolidated, that overlies a mineral deposit, excluding topsoil or similar naturally-occurring surface materials that are not disturbed by mining operations.

"*Overland flow*" means the controlled discharge, by spraying or other means, of pollutants onto sloping land with maintained vegetation where a proportion of the wastewater may appear as runoff. Overland flow is also the movement of pollutants across the surface of the land where infiltration may occur.

"*Packer*" means a device lowered into a well to produce a fluid-tight seal.

"*Participating municipality*" means a municipality or other body which is a member of an affected sewerage entity or which has contracted to obtain sewage treatment services from a sewerage entity or other domestic treatment works.

- "*Passaic Valley Sewerage Commissioners*" means the body described by that name under N.J.S.A. 58:14-2.
- "*Pass through*" means a discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NJPDES permit (including an increase in the magnitude or duration of a violation).
- "*Pasture*" means, for the purpose of N.J.A.C. 7:14A-20, land on which animals feed directly on feed crops such as legumes, grasses, grain stubble, or stover.
- "*Pathogen-free material*" means a residual material generated from non-domestic processes where there is no contact with human wastes, animal wastes or other wastes which may contain pathogenic organisms. Pathogen-free material may include, but is not limited to, water treatment plant residual and certain types of food processing residual.
- "*Pathogenic organisms*" means disease-causing organisms. These include, but are not limited to, certain bacteria, protozoa, viruses, and viable helminth ova.
- "*Percent removal*" means a percentage expression of the removal efficiency across a treatment plant for a given pollutant parameter, as determined from the 30-day average values of the raw wastewater influent pollutant concentrations to the facility and the 30-day average values of the effluent pollutant concentrations for a given time period.
- "*Performance based limitations*" means effluent limitations calculated using the existing effluent quality or the anticipated performance of a facility.
- "*Periodic report*" means compliance monitoring report required pursuant to N.J.A.C. 7:14A-21.3(f).
- "*Permit*" means an authorization, license, or equivalent control document issued by the Department or a delegated local agency to implement the requirements of this chapter even where any or all of the conditions of the permit have been stayed. Permit does not include any permit which has not yet been the subject of final agency action, such as a "draft permit". Permit includes a letter of agreement entered between a delegated local agency and a user of its municipal treatment works, setting effluent limitations and other conditions on the user of the agency's municipal treatment works. Permit also includes a general permit and a permit-by-rule.
- "*Permit by rule*" means a provision of this chapter stating that a "facility or activity" is deemed to have a NJPDES permit if it meets the requirements of the applicable regulations.

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

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

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

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

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

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

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

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

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

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

formation location, formation thickness, and location of plugging structures.

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

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

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

"Pond" see the definition for lake.

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

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

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

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

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

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

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

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

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

1. Used to treat wastes from any facility whose operator is not the operator of the treatment works; and
2. Is not a "POTW."

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

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

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

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

1. Operation means the control of the unit processes and equipment which make up the treatment works, including financial and personnel management, records, laboratory control, process control, safety and emergency operation planning.
 2. Maintenance means the preservation of functional integrity and efficiency of equipment and structures. This includes preventative maintenance, corrective maintenance and replacement of equipment as needed.
- "Proprietary information"* means commercial or financial information which is used in one's business and is of a type customarily held in strict confidence or regarded as privileged and not disclosed to any member of the public by the person to whom it belongs.
- "Public contact site"* means, for the purpose of N.J.A.C. 7:14A-20, land with a high potential for contact by the public. This includes, but is not limited to, public parks, ball fields, cemeteries, plant nurseries, turf farms, and golf courses.
- "Public hearing"* is a hearing before a representative of the Department which provides the opportunity for public comment, but which does not include cross-examination.
- "Publicly owned or operated"* means owned or operated by the State, a county, a municipality, or other public body.
- "Publicly owned treatment works"* or "POTW" means any device or system used in the storage and treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by a State or municipality. This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment. Treatment works associated with potable water treatment and solid waste facilities shall be considered industrial treatment works for purposes of this chapter.
- "Quarterly monitoring"* means monitoring conducted at a minimum frequency of once every three calendar months.
- "Radioactive waste"* means any waste which contains radioactive material in concentrations which exceed those listed in 10 CFR Part 20, Appendix B, Table II, Column 2, or exceed the "Criteria for Identifying and Applying Characteristics of Hazardous Waste and for Listing Hazardous Waste" in 40 CFR Part 261, whichever is applicable.
- "Range land"* means, for the purpose of N.J.A.C. 7:14A-20, open land with indigenous vegetation.
- "RCRA"* means the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. §§6901 et seq.

"*Reclamation site*" means drastically disturbed land that is reclaimed using residual. This includes, but is not limited to, strip mines and construction sites.

"*Regional Administrator*" means the Regional Administrator of the appropriate Regional Office of the USEPA or an authorized representative of the Regional Administrator.

"*Regional pump station*" means any wastewater pumping station which conveys wastewater from more than one municipality or from at least 25 percent of a single municipality's sewer service area, and has a design capacity of at least 0.5 MGD.

"*Reissuance of a permit*" means the process of issuing a NJPDES permit after a permit has been revoked, or the process of renewing a permit.

"*Remediation effluent standards*" means the set of effluent limitations in N.J.A.C. 7:14A-12 Appendix C which have been developed using a specified technology and which are used for limitations for remediation projects in the absence of an adopted TMDL.

"*Request for authorization*" is the document submitted under N.J.A.C. 7:14A-6.13 to obtain authorization to discharge under a general permit.

"*Reservoir*" see the definition for lake.

"*Residual*" means a solid waste that consists of the accumulated solids and associated liquids which are by-products of a physical, chemical, biological, or mechanical process or any other process designed to treat wastewater or any other discharges subject to regulation under the State Act. For purposes of this chapter, residual includes, but is not limited to, marketable residual product, sludge and sewage sludge. Residual excludes screened vegetative waste and grit and screenings.

"*Residual land application site*" means the site used for land application of residual.

"*Residual leachate collection system*" means a system or device installed immediately above a liner that is designed, constructed, maintained, and operated to collect and remove leachate from a surface disposal site. This definition includes a sewage sludge leachate collection system.

"*Residual-only facility*" means any treatment works treating domestic sewage whose methods of sludge use or disposal are required to obtain a permit under 40 CFR 122.1(b)(3) or N.J.A.C. 7:14A-20. This term shall also apply to any treatment works whose method of residual use or disposal is required to obtain a permit under N.J.A.C. 7:14A-20.

"*Residual stabilization*" means the reduction of the volatile and putrescible fraction of sludge with attendant reduction in the numbers of pathogens. Residual stabilization processes include, but are not limited to, digestion, composting, heat treatment, and alkaline stabilization.

"Residual transport container" means a leakproof, closed, modular receptacle which is maintained in a nuisance-free manner, including, but not limited to, containing residual and odor.

"Residual use or disposal practice" means the collection, storage, treatment, transportation, processing, monitoring, use, or disposal of residual. This definition includes a sewage sludge use or disposal practice.

"Revocation of a permit" means the process of terminating of a permit.

"Reynolds number" means the numerical quantity used to characterize the type of flow in a closed conduit from which a representative grab sample may be taken for the purposes of this subchapter.

"River mile" or "R.M." means the distance, measured in statute miles, between two locations on a stream, with the first location designated as mile zero. For example, mile zero for the Delaware River is located at the intersection of the center line of the navigation channel and a line between the Cape May Light, New Jersey, and the tip of Cape Henlopen, Delaware.

"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).

"Run-off" means, for purposes of N.J.A.C. 7:14A-10 only, any stormwater, leachate, or other liquid that drains overland from any part of a facility.

"Runoff" means, for the purpose of N.J.A.C. 7:14A-20, rainwater, leachate, or other liquid that drains overland on any part of a land surface and runs off of the land surface.

"Run-off coefficient" means the fraction of total rainfall that will appear at a conveyance as runoff.

"Run-on" means, for purposes of N.J.A.C. 7:14A-10 only, any stormwater, leachate, or other liquid that drains overland onto any part of a facility.

"Saline waters" means waters having salinities generally greater than 3.5 parts per thousand at mean high tide.

"Sanitary landfill" means a solid waste facility, as defined in N.J.A.C. 7:26, at which solid waste is deposited on or into the land as fill for the purpose of permanent disposal or storage for a period of time exceeding six months, except that it shall not include any waste facility approved for disposal of hazardous waste pursuant to N.J.A.C. 7:26.

"Sanitary sewage" means any liquid waste containing animal or vegetable matter in suspension or solution, or 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. This term specifically excludes industrial, hazardous or toxic wastes and materials.

"*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*" or "*compliance schedule*" means a schedule of remedial measures including an enforceable sequence of actions, operations leading to compliance with water quality standards, an effluent limitation or other limitation, prohibition or standard.

"*Seasonal high water table*" means the maximum level to which ground water will be normally expected to rise due to the effects of natural precipitation and infiltration of water.

"*Secondary contact recreation*" means recreational activities where the probability of water ingestion is minimal and includes, but is not limited to, boating and fishing.

"*Secondary liner*" is a liner consisting of either soil or earthen materials at least three feet (0.91 meters) in thickness with a saturated hydraulic conductivity under maximum hydrostatic head conditions not more rapid than 1×10^{-7} centimeters per second, or synthetic material at least 30 millimeters (0.03 inches) in thickness designed to prevent the flow of liquid from surface impoundments. A secondary liner shall have properties of such a nature so as to ensure the prevention of the flow of liquids from surface impoundments throughout their active life, closure, and post-closure periods.

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

"*Sediment oxygen demand*" means that portion of the oxygen depletion present in a receiving waterbody which is due to the substrate present in the waterbody.

"*Separate sewer system*" means a sewer system that is designed to only carry sanitary sewage and not designed to collect and transport stormwater from streets and other sources, thus serving a combined purpose.

"*Separate storm sewer*" means a conveyance or system of conveyances (including roads with drainage systems, streets, catch basins, gutters, ditches, man-made channels, or storm drains):

1. Designed or used for collecting or conveying stormwater;
2. Which is not part of a combined sewer system; and
3. Which is not part of a publicly owned treatment works (POTW).

"*Septage*" means the liquid and solid material pumped from a septic tank, cesspool, or similar domestic sewage treatment system, or a holding tank when the system is cleaned or maintained.

"*Serious violation*" means an exceedance, as set forth in a permit, administrative order, or administrative consent agreement, including interim enforcement limits, as follows:

1. For effluent limitations for pollutants that are measured by concentration or mass, except for whole effluent toxicity;
 - i. Violations of an effluent limitation that is expressed as a monthly average;
 - (1) By 20 percent or more for a hazardous pollutant; and
 - (2) By 40 percent or more for a nonhazardous pollutant;
 - ii. Violations of an effluent limitation that is expressed as a daily maximum or daily minimum without a monthly average;
 - (1) By 20 percent or more of the average of all of the daily maximum or minimum values for hazardous pollutant; and
 - (2) By 40 percent or more of the average of all of the daily maximum or minimum values for a nonhazardous pollutant;
2. For effluent limitations for whole effluent toxicity as follows:
 - i. For any violation of an LC50 or a NOEC limit when, upon subtracting the toxicity test result from the whole effluent toxicity limit, the difference is as follows:

Whole Effluent Toxicity

<u>Limit (Percent Effluent)</u>	<u>Difference (Percent Effluent)</u>
Greater than or equal to 80 and less than or equal to 100	Greater than or equal to 20
Greater than or equal to 50 and less than 80	Greater than or equal to 15
Greater than 10 and less than 50	Greater than or equal to 10
Less than or equal to 10	Greater than or equal to 9

- ii. For any violation of whole effluent toxicity limitations expressed as no measurable acute toxicity (NMAT) with greater than or equal to 50

percent mortality in any test concentration, including 100 percent effluent; and

3. The greatest violation of a pH effluent range in any one calendar day which violation deviates from the midpoint of the range by at least 40 percent of the midpoint of the range excluding the excursions specifically excepted by a NJPDES permit with continuous pH monitoring. For example: Assuming that a permittee's effluent limitation range for pH is 6.0 to 9.0, the midpoint would be 7.5.

If the five separate readings of pH during a given day were 4.3, 5.8, 6.5, 6.0 and 6.5, the reading of 4.3 would be a serious violation as follows:

$$\frac{7.5 \text{ (midpoint)} - 4.3 \text{ (greatest exceedance)} \times 100}{7.5 \text{ (midpoint)}} = 42.6\%$$

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

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

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

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

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

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

"*Sewage authority*" see sewerage entity.

"*Sewage from vessels*" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes that are

discharged from vessels, including graywater and regulated under Section 312 of the Federal Act or under the State Act. For the purposes of this definition, "graywater" means galley, bath, and shower water.

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

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

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

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

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

1. Will extend along an easement through more than two properties, a roadway, or public right-of-way;
2. Conveys flows from more than two buildings; or
3. Conveys, or will convey, 8,000 gallons per day or more of sewage flow determined in accordance with the criteria specified in N.J.A.C. 7:14A-23.3. This includes all sewer lines from a single building if the building utilizes more than one sewer line to convey waste to the sewer system and the aggregate waste flow is 8,000 gallons per day or more.

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

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

"*Shellfish waters*" means waters classified as Approved, Seasonally Approved, Special Restricted, Seasonally Special Restricted or Condemned that support or possess the potential to support shellfish which are within the Coastal Area Facility Review Act (CAFRA) zone as delineated in 1973, (excluding: 1—The Cohansey River upstream of Brown's Run; 2—The Maurice River upstream of Route 548; 3—The Great Egg Harbor River upstream of Powell Creek; 4—The Tuckahoe River upstream of Route 50; 5—The Mullica River upstream of the Garden State Parkway) plus the

adjacent areas between Route 35 (from its juncture with the CAFRA zone just north of Red Bank to its juncture with the CAFRA zone just south of Keyport) and the CAFRA zone and the area from the C.A.F.R.A. zone on the south northwesterly along Route 35 to the northern shore of the Raritan River, then easterly along the northern shore of the Raritan River to the southeast point of Perth Amboy, then due east to the New Jersey jurisdictional limit, and seaward along the jurisdictional limit to the Atlantic Ocean.

"*Significant biological treatment*" means the use of an aerobic or anaerobic biological treatment process in a treatment works to consistently achieve a 30-day average of at least 65 percent removal of BOD5.

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

1. Any user in the State including, but not limited to, any significant industrial user as defined in 40 CFR 403.3(t) but excluding municipal collection systems, who discharges wastewater into a local agency where:
 - i. The user is subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N;
 - ii. The user's average volume of process wastewater exceeds 25,000 gallons per day;
 - iii. The amount of BOD, COD or Suspended Solids in the industrial process wastewater discharge exceeds the mass equivalent of 25,000 gallons per day of the domestic waste of the affected local agency;
 - iv. The volume of industrial process wastewater in the discharge exceeds five percent or more of the average daily dry weather flow of the local agency;
 - v. The user's discharge of process wastewater contributes, five percent or more of the daily mass loading of any of the pollutants listed in N.J.A.C. 7:14A-4, Appendix A Tables II through V;
 - vi. The user is designated as an SIU by the control authority on the basis that the user has a reasonable potential for adversely affecting the local agency's operation;
 - vii. The user is designated as an SIU by the control authority on the basis that the user has been in violation of any Federal, State, or local pretreatment standard or requirement, including, but not limited to, significant noncompliance as defined in 40 CFR 403.8(f)(2)(vii); or
 - viii. The control authority determines it would be consistent with the intent of the Pretreatment Act or State Act to require a permit for the indirect user; and
2. Any user in areas of the State in which the Department is the control authority where:

- i. The user is determined to be a hazardous waste facility that received a permit in accordance with N.J.A.C. 7:26G-12;
 - ii. The user's discharge consists of landfill leachate, which is either pure, treated, or diluted; or
 - iii. The user's discharge consists of 25,000 gallons per day or more of process wastewater and/or polluted ground water which is pumped from the ground in order to decontaminate an aquifer; however
3. Upon finding that any user in the State has no reasonable potential for adversely affecting the local agency's operation or for violating any Federal, State, or local pretreatment standard or requirement, the control authority may at any time, on its own initiative or in response to a petition received from a user or a local agency, and in accordance with 40 CFR 403.8(f)(6), determine that any user specified in paragraphs 1 or 2 above, unless the user is subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N, is not a significant indirect user.

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

"Significantly more stringent limitations" means BOD5 and TSS limitations necessary to meet the percent removal requirements of at least five mg/l more stringent than the otherwise applicable concentration-based limitations (for example, less than 25 mg/l in the case of the secondary treatment limits for BOD5 and TSS), or the percent removal limitations in N.J.A.C. 7:14A-12, if such limit as would, by themselves, force significant construction or other significant capital expenditure.

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

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

2. Exceedance of an effluent limitation expressed as a monthly average, for the same pollutant, at the same discharge point source, by any amount in any four months of any consecutive six month period;
3. If there is not an effluent limitation for a particular pollutant expressed as a monthly average, exceedance of the monthly average of the daily maximums for the effluent limitation, for the same pollutant, at the same discharge point source, by any amount in any four months of any consecutive six month period;
4. Any exceedance of an effluent limitation for pH by any amount, excluding the excursions specifically excepted by a NJPDES permit with continuous pH monitoring, at the same discharge point source in any four months of any consecutive six month period; or
5. Failure to submit a completed discharge monitoring report in any two months of any consecutive six month period.

"Significant portion of income" means 10 percent or more of gross personal income for a calendar year, except that it means 50 percent or more of gross 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.

"Silviculture" means the management of forest land for timber. This practice sometimes contributes to water pollution as in clear-cutting.

"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 United States. 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 CWA section 404 permit (See 33 CFR 209.120 and part 233).

"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 incidental to the industrial, manufacturing, or water pollution treatment processes.

"Site specific allocation" means a wasteload allocation for a specific pollutant to an existing or future point source based on site specific considerations rather than from a total maximum daily load (TMDL).

"*SIU pretreatment works*" means any treatment works serving exclusively a SIU facility and treating the facility's industrial process wastewater, or a combination of its process and domestic wastewater, prior to the discharge thereof into a domestic treatment works.

"*Six hour composite sample*" means a combination of individual aliquots obtained at a minimum frequency of one aliquot at 30-minute intervals over a six-hour period.

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

"*Slug discharge*" means any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge.

"*Slurry tank*" means a stationary, above or below ground tank, usually made of steel or preformed concrete, designed to hold liquid residuals. These tanks are generally uncovered and conventionally used for storage of manures.

"Small business exemption" means an exemption from submitting specific quantitative data for any business that qualifies as a small business as specified in N.J.A.C. 7:14A-4.3(c).

"Small minor facility" means any facility which discharges to surface water and meets one of the following descriptions:

1. Facilities receiving domestic wastewater with an effluent design flow or effluent permitted flow less than 0.5 MGD with no significant industrial or commercial component;
2. Elementary schools and churches with no off-site contributors;
3. Commercial dischargers, high schools, and technical schools with an effluent design flow or effluent permitted flow less than 0.1 MGD; or
4. Industrial facilities that meet the definition of a small business at N.J.A.C. 7:14A-4.3(c) and discharges less than 10,000 gallons per day, conditional upon approval by the Department.

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

"*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.

"Solids/floatables" means any wastes or debris, floating, suspended, or otherwise contained in wastewater capable of being discharged to waters of the State.

"*Solid waste*" means a solid waste as defined in N.J.A.C. 7:26-1.6.

"*Solid waste facility*" means a facility as defined at N.J.A.C. 7:26-1.4.

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

"*Spray irrigation*" means a system for land application of pollutants, over maintained vegetated ground surfaces using sprinkler heads or nozzles as a method of application.

"*Standards for residual use or disposal*" means the standards at N.J.A.C. 7:14A-20, 7:26, 7:27 and 40 CFR Parts 257, 258 and 503 which govern minimum requirements for residual quality, management practices, and monitoring and reporting applicable to residual or the use or disposal of residual by any person. These standards may include, but are not limited to, standards for sewage sludge use or disposal.

"*Standards for sewage sludge use or disposal*" means the standards at N.J.A.C. 7:14A-20, 7:26, 7:27 and 40 CFR Part 258 and 503 which govern minimum requirements for sewage sludge quality, management practices, and monitoring and reporting applicable to sewage sludge or the use or disposal of sewage sludge by any person.

"*State*" means the State of New Jersey.

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

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

"*Statewide sludge management plan*" ("SSMP") means the most recent version of the document which has been adopted by the Department under the authority of N.J.S.A. 13:1E-46, as the component of the State Solid Waste Management Plan and the Statewide Water Quality Management Plan that establishes the objectives, criteria, and standards for the management of sewage sludge and domestic septage in New Jersey. The SSMP includes district and directed generator sludge management plans approved by the Department.

"*Storage of residual*" means the containment or placement of residual on land on which the residual remains for six months or less. The storage of residual does not include the treatment of residual. This definition includes the storage of sewage sludge.

"*Storage pad*" means a large, gently sloping surface, constructed of an impervious material (usually concrete), surrounded by a curb, with a drainage system for collection of leachate, designed to hold dewatered residuals.

"*Stormwater*" means stormwater runoff, snow melt runoff, and surface runoff and drainage.

"*Stormwater discharge associated with industrial activity*" means:

1. A discharge to surface water, from a point source or a nonpoint source, of stormwater which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NJPDES program under N.J.A.C. 7:14A-2.5. For the categories of industries identified in subparagraphs 1i through 1x below, the term includes, but is not limited to, stormwater discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined in 40 CFR part 401); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to stormwater. For the categories of industries identified in subparagraph 1xi below, the term includes only stormwater discharges from all the areas (except access roads and rail lines) that are listed in the previous sentence where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery are exposed to stormwater. For the purposes of this paragraph, material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with stormwater drained from the above described areas. Industrial facilities (including industrial facilities that are Federally, State, or municipally owned or operated that meet the description of the facilities listed in subparagraphs 1i through 1xi below) include those facilities designated under the provisions of N.J.A.C. 7:14A-11.5(a)1v. The following categories of facilities are considered to be engaging in "industrial activity" for purposes of this paragraph:
 - i. Facilities subject to stormwater effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR subchapter N (except facilities with toxic pollutant effluent standards which are exempted under subparagraph 1xi below);

- ii. Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283), 29, 311, 32 (except 323), 33, 3441, 373.
- iii. Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(1) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or except for areas of non-coal mining operations which have been released from applicable State or Federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge stormwater contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations; (inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operating entity; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim);
- iv. Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under subtitle C of RCRA;
- v. Landfills, land application sites, and open dumps that receive or have received any industrial wastes (waste that is received from any of the facilities described under this paragraph) including those that are subject to regulation under subtitle D of RCRA;
- vi. Facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5015 and 5093;
- vii. Steam electric power generating facilities, including coal handling sites;
- viii. Transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221-25), 43, 44, 45, and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under subparagraphs 1i through 1vii above or subparagraphs 1ix through 1xi below are associated with industrial activity;

- ix. Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 MGD or more, or required to have an approved pretreatment program under 40 CFR part 403. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with section 405 of the Federal Act;
 - x. Construction activity including clearing, grading and excavation activities except: operations that result in the disturbance of less than five acres of total land area which are not part of a larger common plan of development or sale; and
 - xi. Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, 4221-25, (and which are not otherwise included within subparagraphs 1ii through 1x above); and
2. Any discharge to surface waters of stormwater that does not meet paragraph 1 above, but that the Department classifies as a "stormwater discharge associated with industrial activity" at the request of the permittee, applicant, or prospective applicant for that discharge. Such requests may be withdrawn at any time before or after such classification.

"*Stratum*" means a single sedimentary bed or layer, regardless of thickness, that consists of generally homogeneous rock material.

"*Stream temperature*" means the temperature of a stream outside of a designated heat dissipation area.

"*Subsidence*" means the lowering of the natural land surface in response to any of the following: 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 solids; or added load on the land surface.

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

"*Surface disposal site*" means an area of land where sewage sludge is placed or was left in place for final disposal. For the purposes of this chapter, "place sewage sludge" or "sewage sludge placed" shall refer to the surface disposal of sewage sludge. This definition does not include an area of land used for the land application of residual.

"*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 include a liner), which is designed to hold an accumulation of liquid or solid 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 water at or above the land's surface which is neither ground water nor contained within the unsaturated zone, including, but not limited to, the ocean and its tributaries, all springs, streams, rivers, lakes, ponds, wetlands, and artificial waterbodies.

"*Surface water classifications*" means names assigned by the Department in N.J.A.C. 7:9B to waters having the same designated uses and water quality criteria (for example, FW1, PL, FW2-NT, SE1, SC, Zone 1C).

"Surface Water Quality Standards" means the rules at N.J.A.C. 7:9B which set forth, for the surface waters of the State, designated uses, use classifications, and water quality criteria, and the Department's policies concerning these uses, classifications and criteria.

"Surrogate parameter" means a parameter which is used as an indicator of the pollutant concentration for one or more other parameters.

"*Suspended Solids*" see "total suspended solids."

"*Suspension of a permit*" means the temporary revocation of a permit for a specified period of time during the five year permit cycle.

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

"*Thermal alterations*" means the increase or decrease in the temperature of surface waters, above or below the natural temperature, that may be caused by the activities of man.

"*Thermal discharge*" means the 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 6 of the State Act.

"*Thermocline*" means the plane of maximum rate of change in temperature with respect to depth.

"30 day average" or "monthly *average value*" means the sum of all daily discharges measured during a calendar month, divided by the number of daily discharges measured during that month. Results are commonly expressed in loading (kg/day) and/or concentration (mg/L).

"*Tidal waters*" means fresh or saline water under tidal influence, up to the head of tide.

- "*Time proportional composite*" means a single sample which receives equal aliquots at equal time intervals.
- "*Total dissolved solids*" or "TDS" means the total dissolved (filterable) solids as determined by use of the method specified in 40 CFR Part 136.
- "*Total Kjeldahl nitrogen*" or "TKN" means the summation of the organic nitrogen containing compounds present in effluent or ambient waters which is measured by the total Kjeldahl nitrogen analytical methodology in 40 CFR Part 136, Method 351.
- "Total maximum daily load" or "TMDL" means a total maximum daily load formally established pursuant to Section 7 of the Water Quality Planning Act (N.J.S.A. 58:11A-7) and Section 303(d) of the Clean Water Act, 33 U.S.C. §§12512 et seq. A TMDL is the sum of individual wasteload allocations for point sources, load allocations for nonpoint sources of pollution, other sources such as tributaries or adjacent segments, and allocations to a reserve or margin of safety for an individual pollutant.
- "Total recoverable metal" means the concentration of metal in an unfiltered sample following treatment with hot dilute mineral acid (as defined in Methods for Chemical Analysis of Water and Wastes, EPA-600/4-79-020, March 1979).
- "*Total suspended solids*" or "TSS" means the total nonfilterable residue as determined by analytical procedures set forth in the Manual of Methods for Chemical Analysis of Water and Wastes (USEPA Office of Technology Transfer, Washington, D.C. March 1983).
- "Total suspended solids concentrations achievable with waste stabilization ponds" means a TSS value, determined by the Department subject to USEPA approval, which is equal to the effluent concentration achieved 90 percent of the time within the State or appropriate contiguous geographical area by waste stabilization ponds that are achieving the monthly average values for BOD5 specified in N.J.A.C. 7:14A-12.
- "*Toxicity test*" see "bioassay."
- "*Toxic pollutant*" or "*toxic substance*" means any pollutant identified pursuant to the Federal Act, or any pollutant or combination 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 Department, 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, or in the case of "sludge use or

disposal practices," any pollutant identified pursuant to Section 405(d) of the Federal 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. 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. A trade secret shall not apply to effluent data as provided in Section 9(c) of the State Act and as defined in this section.

"*Treatment of hazardous waste*" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of 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 reduce in volume.

"*Treatment of residual*" means the preparation of a residual for final use or disposal. Treatment of residual includes, but is not limited to, thickening, stabilization, and dewatering of the residual. Treatment of residual does not include storage of the residual. This definition includes the treatment of sewage sludge.

"*Treatment works*" means any device or system 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 stormwater runoff, or industrial waste in combined or separate stormwater and sanitary sewer systems.

"*Treatment works treating domestic sewage*" means a DTW or any other sewage sludge or wastewater treatment devices or systems, regardless of ownership (including Federal facilities) used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated for the disposal of sewage sludge. This definition does not include septic tanks or similar devices. The Regional Administrator or Commissioner may designate any person subject to the standards for sewage sludge use or disposal in 40 CFR Part 503 or N.J.A.C. 7:14A-20,

as a "treatment works treating domestic sewage" through issuance of a permit where it is found that there is a potential for adverse effects on public health and the environment from sludge quality or sludge handling, or residual use or disposal practices, or where there is a finding that such designation is necessary to ensure that such person is in compliance with 40 CFR Part 503 or N.J.A.C. 7:14A-20.

"*Treatment works approval*" means an approval issued pursuant to N.J.S.A. 58:10A-6 and N.J.A.C. 7:14A-22, or pursuant to former N.J.S.A. 58:12-3 (Repealed by P.L. 1977, c. 74, Section 14 effective July 24, 1977).

"*Trout maintenance waters*" means waters designated in N.J.A.C. 7:9B for the support of trout throughout the year.

"*Trout production waters*" means waters designated in N.J.A.C. 7:9B for use by trout for spawning or nursery purposes during their first summer.

"*24-hour composite sample*" means a combination of individual aliquots obtained at a minimum frequency of one aliquot at hourly intervals over a 24- hour period.

"*201 Facilities Plans*" means plans for wastewater treatment facilities adopted pursuant to Section 201 of the Federal Act.

"Type I error" means an error that occurs when a true null hypothesis is rejected erroneously. In the monitoring context a Type I error occurs when a test incorrectly indicates contamination or an increase in contamination at a regulated unit.

"*UIC permit*" means a NJPDES-DGW permit issued for underground injection control.

"*Ultimate sludge management alternative*" means the final management of sludge at a facility or operation such that no additional permit or approval actions are required for further processing or movement.

"*Uncontrolled sanitary landfill*" means a landfill or open dump, whether in operation or closed, that does not meet the requirements for runoff or runoff controls established pursuant to subtitle D of RCRA.

"*Underground injection*" means a well injection.

"Underground source of drinking water" or "USDW" means an aquifer or its portion which supplies any public water system; or

1. Which contains a sufficient quantity of ground water to supply a public water system; and
 - i. Currently supplies drinking water for human consumption; or
 - ii. Contains fewer than 10,000 mg/1 total dissolved solids; and
2. Which is not Class III ground water, in accordance with N.J.A.C. 7:9-6.5(f).

- "*Unsaturated zone*" means the subsurface volume between the land's surface and the top of the saturated zone (water table), where moisture does not fill all the pore spaces in the formation or soil.
- "*Unstable area*" means land subject to natural or human-induced forces that may damage the structural components of a surface disposal site. This includes, but is not limited to, land on which the soils are subject to mass movement.
- "*Uppermost aquifer*" means the geologic formation nearest the natural ground surface that is an aquifer, as well as, lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.
- "*USEPA approved model*" means water quality models which have been accepted by the USEPA Center for Exposure Assessment Modeling in Athens, Georgia, and for which the Center provides technical support.
- "*USEPA Technical Support Document*" means the USEPA Technical Support Document for Water Quality Based Toxics Control, (EPA/505/2-90-001), dated March 1991, as amended, incorporated herein by reference.
- "*User*" means any person, individual, firm, company, partnership, corporation, association, group or society, mobile source, and includes political subdivisions of this State and any Federal, State or interstate agency discharging to a DTW.
- "*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 Section 301(c), 301(g), 301(h), 301(i), or 316(a) of the Federal Act.
- "*Vector attraction*" means the characteristic of a residual that attracts rodents, flies, mosquitoes, or other organisms capable of transporting infectious agents.
- "*Warm water aquatic animals*" means and includes, but is not limited to, the Ameiuride (catfish), Centrarchidae (sunfish) and Cyprinidae (minnow) families of fish.
- "*Wasteload*" means the amount of chemical, physical, radiological, or biological matter contained within a waste discharge.
- "*Wasteload allocation*" means the portion of a receiving water's total maximum daily load for a specific pollutant that is allocated to one of its existing or future point sources of pollution. WLAs constitute a type of water quality-based effluent limitation.

- "*Waste management unit boundary*" means a vertical surface located at the hydraulically downgradient limit of the MSWLF unit. This vertical surface extends down into the uppermost aquifer.
- "*Water quality based effluent limitations*" means effluent limitations established so that the quality of the waters receiving a discharge will meet the Surface Water Quality Standards of N.J.A.C. 7:9B, after the introduction of the effluent.
- "*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 management plans*" or "WQMPs" means the plans prepared pursuant to Sections 208 and 303 of the Federal Act and the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., including the Statewide, areawide, and county WQM plans.
- "*Water quality standards*" means the physical, chemical, biological and esthetic characteristics of a water body as described by State water quality criteria, N.J.A.C. 7:9B, or the water quality which would result from existing discharges under design conditions, whichever is more stringent as determined by the Department.
- "*Waters of the State*" means the ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.
- "*Weekly*" means every seventh day (the same day each week) and a normal operating day, unless otherwise specified in the permit. A normal operating day shall be a period of time reasonably representative of normal operating conditions, on which a representative sample of the discharge may be obtained.
- "*Weekly monitoring*" means monitoring conducted at a minimum of once every seven calendar day period.
- "*Well*" means a bored, drilled or driven shaft, or a dug hole, whose depth is greater than the largest surface dimension.
- "*Well injection*" means the subsurface emplacement of fluids through an injection well.
- "*Well log*" means a log obtained from a well showing such information as relative location and depth of soils horizons and geologic units indicating textural and other petrologic characteristics. Well logs may also show geophysical properties such as resistivity, radioactivity, spontaneous potential and acoustic velocity as in function of depth.
- "*Well monitoring*" means the measurement by on-site instruments or laboratory methods of the quality of water in a well.

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

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

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

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

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

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

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

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

"*Zone of saturation*" means saturated zone.

Subchapter 2. General Program Requirements

7:14A-2.1 Purpose and Scope

- (a) This chapter establishes the regulatory framework under the authority of N.J.S.A. 58:10A- 1 et seq., 58:11A- 1 et seq., 58:11-49 et seq., 58:10-23.11 et seq., 58:11-18.10 et seq., 13:1D-1 et seq., 13:1E-1 et seq., 58:4A- 5, 58:4A-4.1, 58:12A- 1 et seq. 42 U.S.C. §§300F et seq., and 33 U.S.C. §§1251 et seq., within which the Department regulates the discharge of pollutants to the surface and ground waters of the State.
- (b) The intent of these rules is to:
 - 1. Restore, enhance, and maintain the chemical, physical, and biological integrity of the waters of the State;
 - 2. Protect public health and safety;
 - 3. Protect potable water supplies;
 - 4. Safeguard fish and aquatic life and scenic and ecological values;
 - 5. Enhance the domestic, municipal, recreational, industrial, agricultural and other uses of water; and
 - 6. Prevent, control, and abate water pollution.
- (c) This chapter sets forth the rules concerning implementation and operation of the New Jersey Pollutant Discharge Elimination System (NJPDES) permit program and the Treatment Works Approval (TWA) program. Each delegated local agency (DLA) shall issue and administer permits in accordance with an approved industrial pretreatment program, and the requirements of N.J.A.C. 7:14A-19 and applicable sections of N.J.A.C. 7:14A-21.
- (d) It shall be unlawful for any person to discharge any pollutant except in conformity with a valid NJPDES permit issued by the Department, unless specifically exempted by this chapter.
- (e) It shall be unlawful for any person to build, install, modify, or operate any facility for the collection, treatment, or discharge of any pollutant, except in conformance with the TWA requirements contained in N.J.A.C. 7:14A-22 and 23.

7:14A-2.2 Liberal Construction and Severability

- (a) This chapter shall be liberally construed to permit the Department to effectuate the purposes of the State and Federal Acts.
- (b) If any subchapter, section, subsection, provision, clause, or portion of this chapter or the application thereof to any person is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the subchapter, section, subsection, clause, portion, or application directly involved in the controversy in which such judgment shall have been rendered and it shall not affect or impair the remainder of this chapter or the application thereof to other persons.

7:14A-2.3 Incorporation by Reference

- (a) The requirements applicable to the NJPDES program of the Federal Clean Water Act (33 U.S.C. §§1251 et seq.), the Federal Safe Drinking Water Act (42 U.S.C. §§300F et seq.), the State Act, and all Federal regulations cited in this chapter, including, but not limited to, 40 CFR Parts 110, 122, 123, 124, 125, 129, 133, 136, 144, 258, 264, 403, and National Pretreatment Standards in 40 CFR chapter I, subchapter N, and including all amendments and supplements thereto, are incorporated into this chapter by reference unless the context clearly indicates otherwise. A copy of the Federal Act, the State Act, or any Federal regulation cited in this chapter may be obtained at the State Library.
- (b) The Delaware River Basin Commission Water Quality Regulations, including all amendments and supplements thereto, and the Interstate Sanitation Commission Water Quality Regulations, including, all amendments and supplements thereto, are incorporated into this chapter by reference unless the context clearly indicates otherwise.
- (c) Wherever the requirements of this chapter are more stringent than existing requirements of a Federal regulation, the requirements of this chapter shall apply.
- (d) For provisions of this chapter that incorporate Federal statutory requirements, amendments to the Federal statutes after the promulgation of these rules supersede these rules, as of the effective date of such amended Federal statute, to the extent that such Federal statutory amendments are not inconsistent with State statutory requirements. For provisions of this chapter that incorporate State statutory requirements, amendments to the State statute after the promulgation of these rules supersede these rules, as of the effective date of such amended State statute. The Department shall, subsequently, amend this chapter as necessary in accordance with the State Administrative Procedure Act.

7:14A-2.4 Activities That Require a NJPDES Permit.

- (a) The NJPDES permitting program shall regulate and issue permits for the discharge of pollutants to surface and ground waters of the State, pursuant to the State and Federal Acts, except for those activities specifically prohibited or exempted pursuant to N.J.A.C. 7:14A-2.4(d) and 2.5, respectively.
- (b) The Department shall, at a minimum, issue NJPDES permits for the following activities:
 1. Discharge of pollutants to surface and ground waters;
 2. A discharge from an indirect user;
 3. The land application of municipal wastewaters and/or industrial wastewaters, including, but not limited to, spray irrigation, overland flow, and infiltration-percolation lagoons;
 4. The discharge from facilities under the jurisdiction of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.;
 5. The storage of any liquid or solid pollutant, in a manner designed to keep it from entering the waters of the State;

6. The discharge of pollutants into wells;
 7. Discharges from concentrated animal feeding operations as specified in N.J.A.C. 7:14A-2.13;
 8. Discharges from concentrated aquatic animal production facilities as specified in N.J.A.C. 7:14A-2.14;
 9. Discharges from aquaculture projects;
 10. Discharges from silvicultural point sources;
 11. Discharges of stormwater to surface waters, including discharges through storm sewers, as set forth in N.J.A.C. 7:14A-11.5;
 12. Discharges from site remediation projects;
 13. The treatment, storage or disposal of hazardous waste which is not regulated by the Hazardous Waste Management Regulations, N.J.A.C. 7:26; and
 14. Those treatment works treating domestic sewage, or residual use or disposal practices, pursuant to Section 405(d) of the Federal Act and Sections 4 and 6 of the State Act, including, but not limited to, the land application of residual.
- (c) The Department shall determine, on a case-by-case basis, that facilities which are otherwise eligible for general permits and which do not generally require individual permits may be required to obtain an individual permit because of their contributions to water pollution. Whenever the Department determines that an individual permit is required under this section, the Department shall notify the discharger in writing of the reasons for such a determination and shall include an application form with such notice. The discharger shall apply under N.J.A.C. 7:14A-4 for a permit within 60 days of receipt of such notice, except for a discharger of stormwater associated with industrial activity under N.J.A.C. 7:14A-11.5(g)1i, who shall apply within 180 days. In such a case, comment regarding the appropriateness of the initial determination to require an individual permit may be submitted during the public comment period under N.J.A.C. 7:14A-15.11 and in any subsequent hearing.
- (d) The Department shall not issue a permit when prohibited by 40 CFR 122.4 or N.J.S.A. 58:10A-6(e).

7:14A-2.5 Exemptions

- (a) The following activities are exempt from the requirements to obtain a NJPDES permit from the Department:
1. Any direct discharge of sewage from vessels, effluent from properly functioning marine engines, laundry, shower, and galley sink wastes, or any other discharge incidental to the normal operation of a vessel. This exemption does not apply to the following:
 - i. Rubbish, trash, garbage, or other such materials discharged overboard; or
 - ii. Other discharges when the vessel is operating in a capacity other than as a means of transportation such as when used as an energy or mining facility, a

storage facility or a seafood processing facility, a residence, or when secured to a storage facility or a seafood processing facility, or when secured to the bed of the ocean, contiguous zone, or waters of the United States for the purpose of mineral or oil exploration or development.

2. Discharges of dredged or fill material into waters of the United States which are regulated under Section 404 of the Federal Act;
3. Any discharge in compliance with the instructions of an On-Scene Coordinator pursuant to 40 CFR 300 (The National Oil and Hazardous Substances Pollution Plan) or 33 CFR 153.10(e) (Pollution by Oil and Hazardous Substances), and the State Spill Compensation and Control Act, N.J.S.A. 58:10-23.11.
4. Any introduction of pollutants from nonpoint source agricultural and silvicultural activities, including runoff from orchards, cultivated crops, pastures, range lands, and forest lands. This paragraph does not exempt the point source discharges from concentrated animal feeding operations as defined at N.J.A.C. 7:14A-1.2, from concentrated aquatic animal production facilities as defined at N.J.A.C. 7:14A-1.2, from silvicultural point sources as defined at N.J.A.C. 7:14A-1.2, or to aquaculture projects as defined at N.J.A.C. 7:14A-1.2;
5. Return flows from irrigated agriculture;
6. Indirect users which do not meet the SIU definition in N.J.A.C. 7:14A-1.2;
7. Indirect users which meet the SIU definition in N.J.A.C. 7:14A-1.2 and discharge to a delegated local agency. IPP permits issued by delegated local agencies to indirect users under this chapter are NJPDES permits. An exemption under this section does not limit the authority of a delegated local agency to require a IPP permit; and
8. Discharges into a privately owned treatment works, except as the Department may otherwise require on a case-by-case basis. In such a case, the Department shall specify in the statement of basis or fact sheet prepared in accordance with N.J.A.C. 7:14A-15.7 and 15.8 the reason for requiring the user to apply for a permit. Such dischargers shall comply with N.J.A.C. 7:14A-4.

(b) (Reserved)

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

1. Limit the administrative, civil, or criminal liability of any discharger; or
2. Exempt any discharger from approval or permit requirements under any other provision of law.

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

initial determination may be received during the public comment period under N.J.A.C. 7:14A-15.11 and in any subsequent hearing.

7:14A-2.6 Conflict of Interest

- (a) Any board or body which approves all or portion of a permit shall not include as a member any person who receives, or has during the previous two years received, a significant portion of direct or indirect income from permit holders or applicants for a permit.
- (b) For the purposes of this section, "direct or indirect income from permit holders or applicants for a permit" is not received when it is derived from mutual fund payments, or from other diversified investments for which the recipient does not know the primary sources of income.
- (c) For the purposes of this section, "permit holders or applicants for a permit" does not include any department or agency of the State government, such as the Division of Fish, Game, and Wildlife within the Natural and Historic Resources Program of the New Jersey Department of Environmental Protection, or the New Jersey Department of Transportation.

7:14A-2.7 Permit Duration and Renewal

- (a) All NJPDES permits shall be issued for fixed terms not to exceed five years. The Department shall issue any permit for a duration that is less than the full allowable term under this section when:
 - 1. A shorter permit duration will facilitate issuance of a discharge permit in accordance with a watershed management plan;
 - 2. The permittee requests a shorter permit duration; or
 - 3. The discharge is anticipated to cease in less than five years.
- (b) Any permittee who wishes to continue the regulated activity after the expiration date of the permit shall file a timely and complete application or request for renewal as provided in N.J.A.C. 7:14A-4.2(e)(3).
- (c) A NJPDES permit may be modified, revoked and reissued, renewed, suspended, or revoked in accordance with N.J.A.C. 7:14A-16.3. The filing of a request for a permit modification, revocation and reissuance, renewal, suspension, or revocation, or a notification of planned changes or anticipated noncompliance, in and of itself, shall not stay any permit condition. A permit condition may be administratively stayed by the Department in accordance with N.J.A.C. 7:14A-17.6.
- (d) A NJPDES permit shall be administratively expired if the regulated activity is not continued beyond the expiration date, or for continuing discharges where the conditions of N.J.A.C. 7:14A-2.8(a) have not been met. A permittee may request that a permit be revoked prior to the scheduled expiration date of the permit. A formal notification shall be made to the permittee if a permit has been administratively expired, suspended, or revoked.

7:14A-2.8 Administrative Continuation of Permits

- (a) The conditions of an expired NJPDES permit are continued in force pursuant to the "Administrative Procedure Act," N.J.S.A. 52:14B-11, until the effective date of a new permit or of authorization under a general permit, or until the effective date of denial of a permit application, if:
1. The permittee submits a timely and complete application, request for renewal, or request for authorization under a general permit, if required, as provided in N.J.A.C. 7:14A-4.2(e)(3); and
 2. The Department, without fault on the part of the permittee, fails to issue a new permit with an effective date on or before the expiration date of the previous permit (for example, when issuance is delayed due to constraints of time or resources).
- (b) Permits continued under this section remain fully effective and enforceable.
- (c) When the permittee is not in compliance with the conditions of the administratively continued permit, the Department will take one or more of the following actions:
1. Initiate enforcement action;
 2. Suspend or revoke the permit in accordance with N.J.A.C. 7:14A-16.6. If the permit is suspended or revoked, the permittee shall cease the activities that were previously authorized by the suspended or revoked permit. Otherwise, the permittee shall be considered to be operating without a permit, and be subject to appropriate enforcement action;
 3. Issue a notice of intent to deny a permit application for a new permit or permit renewal, in accordance with N.J.A.C. 7:14A-15.6(a)(2) and 15.10;
 4. Deny a request for authorization for a general permit, in accordance with N.J.A.C. 7:14A-6.13;
 5. Issue a new permit under N.J.A.C. 7:14A-15 with appropriate conditions, or issue authorization under an appropriate general permit under N.J.A.C. 7:14A-6.13; or
 6. Take other appropriate actions authorized by this chapter or the State Act.
- (d) In the event that the permittee fails to submit a timely and complete application for renewal or request for authorization under a general permit if required under N.J.A.C. 7:14A-4.2(e)3, or fails to comply with (f) below, all discharges of pollutants from the permittee's facility shall cease and the permit shall be administratively expired in accordance with N.J.A.C. 7:14A-2.7(d), unless the Department determines that termination of the discharge will have widespread social or economic impact.
- (e) A permittee with an administratively expired permit that continues discharging pollutants after the expiration date is operating without a permit from the time of expiration of the old permit to the effective date of any new permit or approval and is subject to enforcement action in accordance with N.J.A.C. 7:14-8. In any new permit or approval, the Department may require the submittal of any additional information, specifying a date for its submittal.
- (f) In the event that the Department denies a timely and complete request for authorization under a general permit submitted under (a)1 above, the Department's written notice of denial under N.J.A.C. 7:14A-6.13(m) may require that permittee to

apply for an individual permit or seek authorization under another general permit. A notice that contains such a requirement shall include:

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

7:14A-2.9 Enforcement Action

- (a) Any permit noncompliance constitutes a violation of the State and Federal Acts or other authority of this chapter and is grounds for enforcement action, permit suspension, revocation, revocation and reissuance, modification, or for denial of a permit renewal application.
- (b) The need to halt or reduce activity is not a defense for permit noncompliance in accordance with the following:
 1. It shall not be a defense in an enforcement action for a permittee that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.
 2. Upon the reduced capacity, loss, or failure of the treatment facility, a 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.
- (c) For all discharges to surface water, except toxic effluent standards and prohibitions imposed under Section 307 of the Federal Act or Section 4 or 7 of the State Act and "standards for sewage sludge use or disposal" under Section 405(d) of the Federal 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 CWA.
- (d) Compliance with a permit condition which implements a particular "standard for sewage sludge use or disposal" shall be an affirmative defense in any enforcement action brought for a violation of that "standard for sewage sludge use or disposal" pursuant to Sections 309 and 405 of the CWA.

7:14A-2.10 Subpoenas

The Department may issue subpoenas requiring attendance and testimony under oath of witnesses before, or the production of documents or information, in whatever form stored or recorded, to him or her or to a representative designated by the Commissioner. Service of a subpoena shall be by certified mail or personal service. A person receiving a request for information pursuant to a subpoena shall comply with the provisions in N.J.A.C. 7:14A-2.11(d).

7:14A-2.11 Duty to Provide Information

- (a) When the Department has reason to believe that a person has, or may have, information relevant to a discharge or potential discharge of a pollutant, that person shall, upon receipt of written notice from the Department, provide information regarding the discharge or potential discharge to the Department. Such persons include, but are not limited to, any persons having generated, treated, transported, stored, or disposed of the pollutant, or any persons having arranged for the transportation, storage, treatment or disposal of such pollutant. The following information shall be provided to the Department:
1. The nature, extent, source, and location of the discharge, or potential discharge;
 2. Identification of the nature, type, quantity, source, and location of the pollutant or pollutants;
 3. The identity of, and other relevant information concerning, the generator or transporter of the pollutant, or any other person subject to liability for the discharge or potential discharge; and
 4. The ability of any person liable, or potentially liable, for the discharge, or potential discharge, to pay for, or perform, the cleanup and removal, including the availability of appropriate insurance coverage.
- (b) (Reserved.)
- (c) Information requested by the Department shall be provided in the form and manner prescribed by the Department, which may include documents or information in whatever form stored or recorded. Any failure to submit information requested by the Department listed in (a) above, shall constitute a violation of this chapter.
- (d) A person receiving a request for information made pursuant to (a) above, or pursuant to a subpoena issued pursuant to N.J.A.C. 7:14A-2.10, shall:
1. Be required to conduct a diligent search of all documents in his or her possession, custody, or control, and to make reasonable inquiries of present and past employees who may have knowledge or documents relevant thereto;
 2. Have a continuing obligation to supplement the information if additional relevant information is discovered, or if it is determined that the information previously provided was false, inaccurate, or misleading; and
 3. Grant the Department access, at reasonable times, to any vessel, facility, property, or location to inspect and copy all relevant documents or, at the Department's request, copy and furnish to the Department all such documents.
4. A person shall allow an authorized representative of the Department, upon the presentation of credentials, to:
4. Enter upon a person's premises, for purposes of inspection, sampling, copying or photographing where:
 4. A discharge source or regulated facility or activity is or might be located; or
 4. In which monitoring equipment or records required by a permit are kept;

- 4. Have access to and copy, at reasonable times, any records that must be kept under the conditions of a NJPDES permit;
 - 4. Inspect, at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under a NJPDES permit; and
 - 4. Sample or monitor, at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Federal or State Acts, any substances or parameters at any location.
- (e) Where a permittee becomes aware that any relevant facts have not been submitted in a permit application, or request for authorization, or that incorrect information has been submitted in a permit application, request for authorization, or in any report to the Department, the permittee shall promptly submit such facts or information within 10 days of the time the permittee becomes aware of the correct information.
- (e) A person providing information pursuant to this section or N.J.A.C. 7:14A-2.10, may assert a claim of confidentiality pursuant to N.J.A.C. 7:14A-18.3.

7:14A-2.12 Ambient Water Quality Studies

- (a) Ambient water quality studies may be required to develop TMDLs in accordance with N.J.A.C. 7:15-7. Where such studies are necessary, the ambient water quality sampling and data analysis and interpretation may be performed by the Department, affected cities or municipalities, permittees, or other interested parties.
- (b) Ambient studies consist of water quality and/or biological studies and shall be used to supplement the Department's ongoing sampling programs. Where the data necessary to make a determination of effluent limitations have already been collected and analyzed by the Department, or are anticipated to be collected and analyzed prior to the determination of effluent limitations, duplicative studies shall not be required. Where the data do not exist and/or are incomplete, the Department may require the permittee or the applicant to undertake any and all studies that it determines necessary to determine permit limits and conditions. Such studies may include but are not limited to dilution analysis/mixing zone studies (including stream design flows), dissolved oxygen studies, effluent characterizations, studies to demonstrate compliance with the ocean discharge criteria, antidegradation analysis, in-stream water quality studies to develop water quality based effluent limitations, and biological, nutrient, and toxics impact analysis, along with related quality assurance/quality control project plan requirements in accordance with 40 C.F.R. 30.503.

7:14A-2.13: Specific Criteria for Concentrated Animal Feeding Operations

- (a) Except for indirect discharges, a permit shall be obtained for any discharge from an animal feeding operation if the animal feeding operation meets the criteria for a concentrated animal feeding operation under (b) below or is required to obtain a permit under (d) below.
- (b) An animal feeding operation shall be considered concentrated if either (b)1 or (b)2 are met:

1. More than the numbers of animals specified in any of the following categories are confined:
 - i. 1,000 slaughter and feeder cattle;
 - ii. 700 mature dairy cattle (whether milked or dry cows);
 - iii. 2,500 swine each weighing over 25 kilograms (approximately 55 pounds);
 - iv. 500 horses;
 - v. 10,000 sheep or lambs;
 - vi. 55,000 turkeys;
 - vii. 100,000 laying hens or broilers (if the facility has continuous overflow watering);
 - ix. 30,000 laying hens or broilers (if the facility has a liquid manure handling system);
 - x. 5,000 ducks; or
 - xi. 1,000 animal units; or
2. More than the following number and types of animal are confined:
 - i. 300 slaughter or feeder cattle;
 - ii. 200 mature dairy cattle (either milked or dry cows);
 - iii. 750 swine each weighing over 25 kilograms (approximately 55 pounds);
 - iv. 150 horses;
 - v. 3,000 sheep or lambs
 - vi. 16,500 turkeys;
 - vii. 30,000 laying hens or broilers (if the facility has continuous overflow watering);
 - viii. 9,000 laying hens or broilers (if the facility has a liquid manure handling system),;
 - ix. 1,500 ducks; or
 - x. 300 animal units; and either

- xi. Pollutants are discharged into waters of the State; or
 - xii. Pollutants are discharged directly into waters of the State which originate outside of and pass over, across, or through the facility or otherwise come in contact with the animals confined in the operation.
 - 3. An animal feeding operation shall not be considered a concentrated animal feeding operation as defined above if such animal feeding operation discharges only in the event of a 25 year, 24-hour storm event.
- (c) Any animal feeding operation 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 will 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 (e.g. 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 (e.g. 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 will 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 (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 the Treasury

Division of Revenue

PO Box 417

Trenton, New Jersey 08625-0417
5. If the permittee/applicant fails to submit payment to the Department of the Treasury 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.
- (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.

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- iii. The minimum fee is a base cost to which the product of the Environmental Impact and the Rate identified under (a)9i and ii above is added. The minimum fee for any permit category is calculated by using the following formula and rounding to the nearest \$50.00 increment:

$$\text{Minimum Fee} = \frac{\text{Hours} \times \text{Cost Per Hour}}{5}, \quad \text{where:}$$

Hours = Total hours allocated by the Department on the administration, including permit issuance, inspection and data management, of the permit per facility over a five year period in each category.

Cost Per Hour = Total personnel cost per hour, including fringe benefits and indirect costs.

The minimum fees are set forth in Table III below. For any new or revised category of discharge, the Department shall calculate a minimum fee and shall list it in the Annual NJPDES Fee Schedule Report for public comment under (b) below.

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.).
- v. A list of all minimum fees calculated in accordance with (a)9iii above, and the basis for any new or revised minimum fee.
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 the Department identifies as subject to a NJPDES annual fee.
3. The Department shall publish a Notice of Adoption of the Annual NJPDES Fee Schedule Report, which shall include a summary of the public comments and Department responses. Upon publication of this Notice of Adoption in the New Jersey Register, any adopted new or revised minimum fee(s) identified in the Notice of Adoption shall be incorporated into Table III as an administrative change.
- (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) Any pollutant listed in Table I will be deleted from the Total Pollutant Load, if reported as non-detectable in all samples for the monitoring period. When any of the pollutants listed in Table I is 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 (in degrees celsius) multiplied by the amount (in million gallons per day) of effluent discharged and a unit conversion factor of 0.6255. The Department shall use an average influent temperature of 5.57 degrees celsius during the period November to April and 18.87 degrees celsius 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), Carbonaceous 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 groundwater, 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 Groundwater regulated by an individual NJPDES permit is derived by applying the formula:

Environmental Impact = (Risk x Quantity x Groundwater 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:

<u>Rating</u>	<u>Risk</u>
1	Non-contact cooling water, treated groundwater 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, discharge from quarry operations including sand and gravel operations
5	Non-hazardous industrial process waste
15	Metal plating waste, hazardous industrial process waste, landfill leachate, or groundwater, 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. Where quantity is unavailable or is unknown, the Department shall assign a default quantity of 0.002 million gallons per day for discharges from domestic treatment works and a default quantity of 0.001 million gallons per day for other discharges.

- iii. Groundwater Rating Factor is one tenth of the sum of the Groundwater Monitoring Status Factor, the Aquifer Factor, Groundwater Use Factor and Permeability Rating where:

- (1) Groundwater 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:

<u>Rating</u>	<u>Status</u>
---------------	---------------

1	Permittee is not required to conduct groundwater monitoring under the NJPDES permit
2	Permittee is conducting post-closure or post remediation monitoring
2	Permittee is required to conduct detection monitoring
5	Groundwater 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 groundwater contamination has been identified in detection monitoring phase and/or groundwater remediation is required

- (2) Aquifer Factor is the rating number, based on groundwater 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) Groundwater 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 groundwater 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 Groundwater Use rating number derived below shall apply. Groundwater 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 Rating 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 rating is based on the hydraulic conductivity of the geological material contaminated. Facilities assigned a Groundwater Monitoring Status factor of 10, that have demonstrated control of the plume of groundwater contamination shall be assigned a permeability rating of 10. Where permeability is unavailable or is unknown, the Department shall assume a permeability rating of 20. The rating numbers are assigned as follows:

<u>Rating</u>	<u>Permeability</u>
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 groundwater 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 groundwater 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 Groundwater from sanitary landfills and sites containing wrecked or discarded equipment is derived by applying the formula:

$$\text{Environmental Impact} = (W1 + W2) \times (\text{Closure Status Factor} + \text{Groundwater Rating Factor})$$
 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. Groundwater 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:

$$\text{Environmental Impact} = (\text{Total Pollutant Load})$$

- 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) Any pollutant listed in Table I will be deleted from the Total Pollutant Load, if reported as non-detectable in all samples for the monitoring period. When any of the pollutants listed in Table I is 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) The fees for exemptions for certain types of residual use or disposal operations shall be assessed as follows:
 1. Permit exemptions or Letters of Land Application Management Approvals 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 or Letter of Land Application Management Approval. The Department will not consider a request for a permit exemption or Letter of Land Application Management Approval complete unless the request is accompanied by the fee; and
 2. 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.
 - (i) (Reserved)
 - (j) For NJPDES Permit No. NJ0088323 (referred to as the category 5G3 “construction activity” stormwater general permit), 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 district shall not certify any request for authorization that is not accompanied by this fee.
 - (k) The fee for discharges to groundwater required for conducting remediation, as defined by N.J.A.C. 7:26E, of contaminated sites, and for any NJPDES discharge to groundwater permits issued by the Site Remediation Program, is calculated and billed through requirements specified in N.J.A.C. 7:26C-9.3.
 - (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

Risk

Factor
10⁰

10¹

10²

10³

10⁴

10⁵

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
& 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

Risk Factor	10 ⁰	10 ¹	10 ²	10 ³	10 ⁴	10 ⁵
BOD	TDS	1,1 Dichloroethylene	Nickel	Beryllium	Carbon	
TSS	Iron	Copper	Silver	1,1,1-Trichloroethane	Tetrachloride	
COD	Antimony	Zinc	Asbestos	Lead	Mercury	
Oil & Grease	Bismuth	Chromium-Trivalent	Cobalt	Arsenic	Cadmium	
	Tin	Barium	Selenium	Bis(2-ethylhexyl)phthalate	Chromium, hex & Total	
	Manganese	Cyanide	Benzene	Dichlorodifluoromethane	Pesticides	
	Inorganic	Dimethyl phthalate	1,2-Dicloroethane	Trichlorofluoromethane	PCBs	
	Sulfur	Surfactants	Chloroform	Total Toxic Organics**	Dioxin	
	Compounds	Petroleum	Ethylbenzene	Volatile Organics*		
		Hydrocarbons	1,2,4-Trichlorobenzene	TVOS as in N.J.A.C. 7:27-17.3**		
		Total Toxic Metals**	Naphthalene	Chlorobenzene		
		Nitrogen Compounds/Ammonia	Vinyl Chloride	Toluene		
		Phenols	Base Neutral Compounds*	1,2-Trans-Dichloroethylene		
			Acid Extractable Compounds*	Trichloroethylene		
			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			

* Unlisted
 ** Not Itemized

Table II
FORMATION RATINGS

System	Formation	Potential	Points
Quarternary Pleistocene	Glacial drift		
	Mercer, Middlesex	Poor	2
	Other Counties	Mod to Very Good	10
	Cape May	Moderate to Good	8
	Pennsauken	Moderate to Minor	6
	Bridgeton	Moderate to Minor	6
Tertiary Pleistocene Pleistocene Miocene	Beacon Hill	Poor	2
	Cohansey	Very Good	10
	Kirkwood	Good to Moderate	8

<u>System</u>	<u>Formation</u>	<u>Potential</u>	<u>Points</u>	
Eocene	Piney Point	Minor	4	
	Shark River	None	1	
	Manasquan	Poor	2	
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	
Lokatong		Poor	2	
Stockton		Moderate to Good	8	
Border Conglomerates		Minor	4	
Tertiary 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	
	Coeymans	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	

<u>System</u>	<u>Formation</u>	<u>Potential</u>	<u>Points</u>
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

Table III

<u>Permit Fee Category</u> ¹	<u>Minimum Fees</u>	<u>Min Fee Code</u>	<u>Minimum Fee</u>
1. Major DSW Domestic Treatment Works (DTW) – Individual Permit		MMJ	\$6,400
2. Minor DSW Domestic Treatment Works (DTW) – Individual Permit		MMI	\$2,400
3. Combined Sewer Overflow – Individual Permit Component or General Permit		CSO	\$5,400
4. Major Industrial DSW – Individual Permit		IMJ	\$5,700
5. Minor Industrial DSW – Individual Permit		IMI	\$2,400
6. General Permit – Industrial DSW, DGW, or both (unless otherwise listed)		IGN	\$1,300
7. Industrial Stormwater - Individual Permit		IST	\$2,350
8. Stormwater - Basic Industrial General Permit (5G2)		SBG	\$500.00
9. DGW – Initial Individual Permit ²		GWN	\$3,950
10. DGW – Renewed or Continued Individual Permits ²		GWE	\$1,600
11. DGW - General Permit (I1 and I2)		GGN	\$500.00
12. DGW - General Permit (T1)		GT1	\$300.00
13. DGW - Operating Landfill Individual Permit		LND	\$3,950
14. Residuals Use or Disposal Operations (unless otherwise listed)		RES	\$6,700
15. Residuals - Food Processors / WTPs ³ Individual Permit		RFP	\$2,550
16. Residuals - Category Z Individual Permit ⁴		RTZ	\$1,600
17. Residuals - General Permit (ZG and 4G)		RTG	\$400.00
18. Residuals - Category 04 Individual Permit ⁵		RPH	\$650.00
19. Residuals – Land Application General Permit (unless otherwise listed)		RSG	\$500.00
20. Significant Indirect User (SIU) (Pretreatment)		SIU	\$3,600
21. Landfills operating or terminated after January 1, 1982 without an approved closure plan		⁶	\$2,500
22. Terminated Landfills properly closed or closed prior to January 1, 1982		⁶	\$500.00
23. Emergency Permit issued pursuant to N.J.A.C. 7:14A-6.14			⁷

¹ For names corresponding to the general permit category see N.J.A.C. 7:14A-6.13(c).

² For a domestic or industrial facility issued an individual NJPDES Discharge to Groundwater permit, the minimum fee is \$3,950 for the first 5 years of that permit, and \$1,600 if the permit is renewed or administratively continued. All other domestic or industrial facilities issued an individual NJPDES Discharge to Groundwater permit shall be assessed a minimum fee of \$1,600.

³ WTPs refer to potable water treatment plants.

⁴ Refers to a Residuals Transfer Facilities individual permit.

⁵ Refers to a Residuals - Reed Beds individual permit.

⁶ This permit is issued and administered by the Division of Solid and Hazardous Waste.

⁷ Fee based on category for type of discharge.

Subchapter 4. Permit Application Requirements

7:14A-4.1 Purpose and Scope

- (a) 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
CN 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

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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:
 - (1) The permittee has been notified by the Department prior to submitting a renewal application pursuant to N.J.A.C. 7:14A-2.7 that the permit qualifies for expedited permit renewal under N.J.A.C. 7:14A-16.3(h), and elects to participate; or
 - (2) The permittee has a stormwater only permit and is approved by the Department for expedited permit renewal.
 4. (Reserved.)
 5. Any existing facility or activity which is required to obtain an individual NJPDES-SIU permit pursuant to N.J.A.C. 7:14A-2.4(b)2 and does not have an individual NJPDES-SIU permit shall apply within 180 days of the effective date of this chapter, or of a determination of the Department, that the discharge requires an individual NJPDES-SIU permit.
 6. All existing facilities or activities which require an individual NJPDES-SIU permit due to promulgation of new Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subpart N, will be notified of the application date by the Department following submittal of the Baseline Report, as required pursuant to 40 CFR 403.12(b). See also N.J.A.C. 7:14A-21.3(b).
- (f) The Department shall not issue a draft permit for an individual NJPDES permit before receiving a complete permit application, in accordance with N.J.A.C. 7:14A-15.4.

7:14A-4.3 Application Information Requirements

- (a) All applicants for an individual NJPDES permit shall provide the following information to the Department using the application form(s) provided by the Department (except as specified in N.J.A.C. 7:14A-11.5 for stormwater discharges):
1. The activities conducted by the applicant which require it to obtain a NJPDES permit including a brief description of the nature of the business, project, facility, or activity;
 2. The name, mailing address, and location of the facility for which the application is submitted;
 3. Up to four SIC codes which best reflect the principal products or services provided by the facility;
 4. The expiration date of the existing permit or proposed start up date for a new source or for a new discharge or activity;
 5. Identification of the general type of waste discharged, or expected to be discharged upon commencement of operations, including sanitary wastes, or non-contact cooling water. This information shall include any cooling water additives that are used or expected to be used upon commencement of operations, along with their composition;
 6. Identification of facility ownership, and status as Federal, State, private, public or other entity, the name, address, and telephone number of all:
 - i. Operating entities of the treatment works;
 - ii. Owners of the land or property; and
 - iii. Licensed operators of the treatment works;
 7. The name, address, and telephone number of any DTW being utilized (if applicable);
 8. The name of the applicant's parent corporation;
 9. A listing of all permits or construction approvals received or applied for by the applicant or its parent corporation at the site under any of the following programs:
 - i. Hazardous Waste Management program under RCRA;
 - ii. NJPDES permits or Treatment Works Approvals under the State or Federal Acts;
 - iii. UIC program under N.J.A.C. 7:14A-8;
 - iv. Prevention of Significant Deterioration (PSD) program under the Clean Air Act;

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- v. Nonattainment program under the Clean Air Act;
- vi. National Emission Standards for Hazardous Pollutants (NESHAPS) preconstruction approval under the Clean Air Act;
- vii. Ocean dumping permits under the Marine Protection Research and Sanctuaries Act;
- viii. Dredge or fill permits under Section 404 of the Federal Act; and
- ix. Other relevant environmental permits, including Federal and State permits, such as stream encroachment or wetlands permits;
- 10. Identification of administrative orders, administrative consent orders, judicial consent orders, notices of violations, complaints filed, or other corrective or enforcement action(s) required by any governmental agency(ies) with regard to the operation of the applicant at that site concerning water pollution within the previous five years;
- 11. If the applicant is subject to any present requirements or compliance schedules for construction, upgrading or operation of waste treatment equipment, connection to a DTW, an identification of the abatement requirement, a description of the abatement project, and a listing of the required and projected final compliance dates;
- 12. Evidence that a WQMP Amendment approval, or favorable consistency determination in accordance with N.J.A.C. 7:15-3.4, has been applied for and received, or, if not applied for and received, reasons why not. Renewals or modifications of existing permitted activities that do not propose significant modification, as determined by the Department, do not require a formal consistency determination review, but shall still not conflict with WQM plans;
- 13. Evidence of application submission to the local agency or sewerage entity and municipality as follows. Except for discharges of stormwater from separate storm sewers, all applicants for an individual NJPDES permit proposing a new discharge or activity, increase in permitted flow with or without an associated increase in loading for an existing discharge, or change in the location or method of discharge shall, prior to the submission of an application to the Department, submit a copy of the application to the affected local agency or sewerage entity and municipality along with a written notice (certified mail return receipt requested or by other means which allow verification of the fact and date of receipt) that the local agency or sewerage entity and municipality must submit to the Department written comments regarding or objections to the proposed discharge or activity within 30 days of receipt of said notice. Any written comments regarding or objections to the proposed discharge or activity submitted to the Department by an affected local agency, or sewerage entity, or municipality shall be considered by the Department in determining whether to issue a draft permit in accordance with N.J.A.C. 7:14A-15.6. The applicant may file a permit application, provided that copies of the signed and dated notices to the

respective local agency or sewerage entity and municipality, and dated certified mail return receipts or other verification of delivery receipt are submitted with the application. Under this circumstance, the Department would consider an application administratively complete, provided all other application requirements have been submitted;

14. Signature of certifying official as required in N.J.A.C. 7:14A-4.9;
15. 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 residual 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;
16. The latitude and longitude to the nearest second of the location of each discharge or activity and the name of the receiving waters or formations, including the USEPA reach number for NJPDES-DSW permit applications. This information shall be submitted in a manner or format consistent with N.J.A.C. 7:1, Appendix A, incorporated herein by reference. Where the information has previously been submitted in a GIS compatible format or has been entered into the GIS database, a duplicate submittal in GIS compatible format is not required. Sludge-only facilities do not need to provide the name(s) of the receiving waters or formations;
17. A line drawing of the water flow through the facility with a water balance, showing operations contributing wastewater to the effluent and treatment units. Similar processes, operations, or production areas may be indicated as a single unit, labeled to correspond to the more detailed identification under (a)5 above. The water balance shall show approximate average flows at the intake and discharge points and between units, including treatment units. If a water balance cannot be determined, the applicant may provide a pictorial description instead, which indicates the nature and amount of any sources of water and any collection and/or treatment measures;
18. A description of the treatment the wastewater receives or will receive, including the means for ultimate disposal of any solid or fluid wastes other than by discharge. Each applicant for a new individual NJPDES permit must report the existence of any technical evaluation concerning their wastewater treatment, along with the name and location of similar plants of which they have knowledge;
19. A listing of any toxic pollutant specified in Appendix A, incorporated by reference herein, which the applicant currently uses or manufactures as an intermediate or final product or byproduct. The Department will waive or modify this requirement if an applicant demonstrates that it would be unduly burdensome to identify each toxic pollutant and the Department has adequate information to issue the permit;
20. For NJPDES-DSW permit applications, an identification of any biological toxicity tests, which the applicant knows or has reason to believe have been made within the last three years on any of the applicant's discharges or

activities or on a receiving water in relation to a discharge or activity. The biological toxicity tests shall have been conducted in accordance with the laboratory certification regulations for biological testing, N.J.A.C. 7:18. The applicant shall include copies of the laboratory reports for such biological toxicity tests, if the test results were not previously submitted to the Department;

21. Average flows for the facility or proposed facility. For all facilities or proposed facilities, 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 stormwater runoff; the average flow which each process contributes. Processes, operations or production area(s) may be described in general terms (for example, "dye-making reactor," distillation tower"). For DTWs, this identification shall include the identity of each user of the treatment works, as specified in Section 402(b)8 of the Federal Act. The average flow of sources composed of stormwater may be estimated. The method of estimation and the basis for the total estimated rainfall must be described. If the discharge is partly due to stormwater, for each outfall, the application must either quantify the contributing drainage area and the runoff coefficient(s) applicable, or provide the other data used to estimate the average flow of stormwater. In addition:
 - i. For DTWs, design flow of the facility or proposed facility shall be reported;
 - ii. All DGWs shall report the peak daily flow in addition to the average flow; and
 - iii. If any of the discharges described above are intermittent or seasonal, a description of the frequency, duration, and flow rate of each discharge occurrence (except for stormwater runoff, and accidental spillage or leaks);
22. To the extent practicable, the location of all sites at which solid or liquid waste is stored 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;
23. Information in compliance with the Sludge Quality Assurance Regulations, N.J.A.C. 7:14C;
24. A description of the applicant's residual use and disposal practices including, where applicable:
 - i. The location of all sites at which residual is stored at the facility for which the NJPDES application is being made and the name and location of the residual use and disposal practices for residual generated by the facility;

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- ii. The location of any sites where the applicant transfers or plans to transfer residuals for treatment and/or disposal;
 - iii. Annual residuals production volume (dry metric tons per year);
 - iv. A written statement from the applicant indicating whether a residual use or disposal practice is consistent with an approved District Sludge Management Plan or District Solid Waste Management Plan, as applicable; and
 - v. Any additional information required to be submitted by a treatment works treating domestic sewage or a sludge-only facility in accordance with 40 CFR 122.21, as amended or supplemented;
25. All DTWs with an approved industrial pretreatment program shall complete a written technical evaluation of the need to revise local limits developed under 40 CFR 403.5(c)(1). This technical evaluation shall meet the criteria specified in N.J.A.C. 7:14A-19.7(e); and
26. Any other optional information the permittee wishes to have considered.
- (b) A person whose facility is the cause of, or whose activity results in, more than one discharge at a single site, shall separately describe each discharge or activity in the application.
 - (c) An applicant which qualifies as a small business under one of the following criteria is exempt from the requirements set forth in N.J.A.C. 7:14A-4.4(b)4 and 5 to submit quantitative data for the pollutants listed in Table II of Appendix A (the organic toxic pollutants), incorporated herein by reference:
 - 1. For coal mines, a probable total annual production of less than 100,000 tons per year; or
 - 2. For all other applicants, gross total annual sales averaging less than \$100,000 per year (in second quarter 1980 dollars).
 - (d) If a certified laboratory or consulting firm performed an analysis required by N.J.A.C. 7:14A-4.4, the applicant shall provide the identity of each certified laboratory or firm and the analysis performed.
 - (e) In addition to the information reported on the application form, applicants shall provide to the Department, upon request, such other information as the Department may reasonably require, or that the applicant wishes to have considered, to assess the activity or discharge(s) of the facility and to determine whether to issue an NJPDES permit in accordance with this chapter. This additional information may include additional quantitative data and bioassays to assess the relative toxicity of the discharge(s) to aquatic life, requirements to determine the cause of any toxicity, or other such information concerning existing or proposed pollution control programs, such as the technical application requirements listed in N.J.A.C. 7:14A-4.5 through 4.8. In accordance with N.J.A.C. 7:14A-15.4, a technically incomplete application

may be inactivated (and the issuance of the draft permit therefore delayed) until the information requested under this subsection is supplied to the Department.

7:14A-4.4 Additional Application Requirements for Discharges to Surface Water

- (a) An applicant for an individual NJPDES permit for a process wastewater discharge is required to provide with the application a reasonable estimate or measure of the applicant's actual maximum and average actual production. For new sources or new discharges or activities, the applicant shall provide estimates expressed in terms of production (or other measure of operation). The reported estimate or measure of production must reflect the actual production of the facility as required in N.J.A.C. 7:14A-13.13(a)1ii. If production is likely to vary, alternative estimates may be submitted in consultation with the Department. Production estimates shall be made in accordance with the following (except as specified in N.J.A.C. 7:14A-11.5 for stormwater discharges):
 1. An effluent guideline promulgated under Section 304 of the Federal Act, reported in the units used in the applicable effluent guideline;
 2. A new source performance standard promulgated under Section 306 of the Federal Act, reported in the units used in the applicable new source performance standard; or
 3. A toxic and pretreatment standard promulgated under Section 307 of the Federal Act reported in the units used in the standard.
- (b) All applicants for an individual NJPDES permit shall provide as part of their application, information on the discharge of pollutants in accordance with this subsection (except information on stormwater discharges, which is to be provided as specified in N.J.A.C. 7:14A-11.5).
 1. Where the Department has determined two or more outfalls to have substantially identical effluents, the Department will allow the applicant to report that the quantitative data from testing one outfall also applies to the other substantially identical outfall or outfalls.
 2. When quantitative data for a pollutant are required, the applicant shall collect a sample of effluent and analyze it for the pollutant in accordance with analytical methods approved under 40 C.F.R. Part 136 or N.J.A.C. 7:18.
 - i. When no approved analytical method is available, the applicant may propose to use a suitable method. The applicant shall provide a description of the proposed methodology to the Department for approval for the specific pollutant prior to initiation of sampling;
 - ii. Grab samples shall be used for pH, temperature, cyanide, total phenols, residual chlorine, chlorine produced oxidants, oil and grease, petroleum hydrocarbons, all volatile organics, bacterial indicators, and flash point. For all other pollutants, 24-hour composite samples must

be used. However, a minimum of one grab sample may be taken for effluents from holding ponds or other impoundments with a retention period greater than 24 hours. The Department will waive composite sampling for any outfall for which the applicant demonstrates that the use of an automatic sampler is infeasible and that a specific minimum number of samples will be a representative sample of the effluent being discharged; and

- iii. Where no certification program in accordance with N.J.A.C. 7:18 is available for a specific parameter, the permittee shall utilize a laboratory certified for a similar parameter or analytical procedure.
3. An effluent characterization shall be submitted as follows:
- i. Every applicant for an individual NJPDES permit shall report quantitative data that contains daily maximum and monthly average values, for every outfall, for the following pollutants:
 - (1) Biochemical oxygen demand (BOD₅);
 - (2) Chemical oxygen demand ;
 - (3) Total organic carbon;
 - (4) Total suspended solids;
 - (5) Ammonia (as N);
 - (6) Temperature (both winter and summer); and
 - (7) pH.
 - ii. Every applicant for an individual NJPDES permit shall collect and submit the quantitative data for the analyses listed in (b)3ii(1) and (2) below for every outfall, unless the Department determines that the submission is not necessary to evaluate the effluent characteristics.
 - (1) Results from a minimum of at least once acute and one chronic whole effluent toxicity test performed on the same sample; and
 - (2) Results from a minimum of at least one analysis of the toxic pollutants listed in Appendix A Table II, except for applicants with processes in one or more primary industrial category that are required to obtain quantitative data under (b) below.
 - iii. The Department will waive the reporting requirements for discharges of a particular industrial category for one or more of the pollutants in (i) above if the applicant demonstrates that such a waiver is

appropriate because adequate information to support issuance of a permit can be obtained with less stringent or different requirements.

- iv. The quantitative data, regardless of when collected, shall remain representative of current operations and include maximum daily value, average daily value, and the number of measurements taken.
 - v. For new sources or new discharges, when the applicant is unable to provide sampling data, the applicant must include estimates for the new sources or new discharges of pollutants or parameters listed in (b)3i above with the addition of fecal coliform (if believed present or if sanitary waste is or will be discharged), chlorine produced oxidants (if chlorine is used in the treatment process), oil and grease, and flow, along with the source of each estimate.
 - vi. For all sampling data required under this section, all levels must be reported or estimated as concentration and as total mass, except for flow, pH, acute and chronic whole effluent toxicity, and temperature. The applicant must complete and submit the influent and effluent characteristics found as Item IV of USEPA Form 2E or Items V and VI of USEPA Form 2C (forms provided by the Department) by providing quantitative data on the appropriate USEPA form only for the pollutants listed that the applicant knows or has reason to believe are present no later than two years after commencement of discharge. However, the applicant need not complete those portions of Item IV of Form 2E or Item V of Form 2C requiring tests which the applicant has already performed and reported under the discharge monitoring requirements of an existing NJPDES permit. For POTWs (and DTWs), the applicant shall complete and submit the influent and effluent characteristics required under this section using USEPA Standard Form A (Section II, items 14, 15 and 17).
4. Each applicant with processes in one or more primary industrial category contributing to a discharge shall report quantitative data for the following pollutants in each outfall containing process wastewater:
 - i. The organic toxic pollutants in the fractions designated in Table I of Appendix A (i.e. volatile, acid, base/neutral, or pesticide) for the applicant's industrial category or categories unless the applicant qualifies as a small business under N.J.A.C. 7:14A-4.3(c). Table II of N.J.A.C. 7:14A-4 Appendix A 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; and

- ii. The pollutants listed in Table III of Appendix A (the toxic metals, cyanide, and total phenols).
5. An applicant for an individual NJPDES permit 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, manufacturing of an intermediate or final product or byproduct, 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 stormwater runoff from the facility.) Applicants shall report the presence of known pollutants as follows:
 - i. An applicant shall indicate whether it knows or has reason to believe that any of the pollutants in Table IV of Appendix A (certain conventional and nonconventional pollutants) is discharged from each outfall. If an applicable effluent limitations guideline either directly limits the pollutant or, by its express terms, indirectly limits the pollutant through limitations on an indicator, the applicant shall report quantitative data. For every pollutant discharged which is not so limited in an effluent limitations guideline, the applicant shall either report quantitative data or briefly describe the reasons the pollutant is expected to be discharged;
 - ii. An applicant shall indicate whether it knows or has reason to believe that any of the pollutants listed in Table II or Table III of Appendix A (the toxic pollutants and total phenols) for which quantitative data are not otherwise required under (b)3 above, is discharged from each outfall. For every pollutant expected to be discharged in a concentration of 10 ug/L or greater the applicant shall report quantitative data. Each applicant shall report daily maximum, daily average, and the source of information for each pollutant it knows or has reason to believe to be present or if the application is limited by an effluent limitations guideline or new source performance standard either directly or indirectly through limitations or an indicator pollutant: all pollutants in Table IV of Appendix A (certain conventional and nonconventional pollutants). For acrolein, acrylonitrile, 2,4 - dinitrophenol, and 4,6-dinitro-o-cresol (2-methyl-4,6 dinitrophenol), where any of these pollutants are expected to be discharged in concentrations of 100 ug/L or greater, the applicant shall either submit quantitative data or briefly describe the reasons the pollutants are expected to be discharged. An applicant qualifying as a small business under N.J.A.C. 7:14A-4.3(c) is not required to analyze for pollutants listed in Table II of Appendix A (the organic toxic pollutants); and
 - iii. For new discharges, each applicant must report estimated daily maximum, daily average and source of information for the following

pollutants if it knows or has reason to believe that they will be present in the discharge from any outfall:

- (1) The pollutants listed in Table III of Appendix A (the toxic metals, total cyanide, and total phenols); and
 - (2) The organic toxic pollutants in Table II of Appendix A (except bis (2-chloromethyl) ether, dichlorofluoromethane and trichlorofluoromethane). This requirement is waived for applicants who qualify as small businesses under N.J.A.C. 7:14A-4.3(c).
6. An applicant shall indicate whether it knows or has reason to believe that any of the pollutants in Table V of Appendix A (certain hazardous substances and asbestos) are discharged from each outfall. For every pollutant expected to be discharged, the applicant shall briefly describe the reasons the pollutant is expected to be discharged, and report any quantitative data it has for any pollutant. For new sources and new dischargers, no quantitative estimates are required at time of application submittal, unless they are already available. However, no later than two years after commencement of discharge from a proposed facility, the applicant for a permit for a new source or new discharge shall submit the quantitative data; and
 7. An applicant shall report qualitative data, generated using a screening procedure not calibrated with analytical standards, for 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) if it:
 - i. Uses or manufactures 2,4,5-trichlorophenoxy acetic acid (2,4,5,-T)(CAS #93-76-5); 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5,-TP)(CAS #93-72-1); 2-(2,4,5-trichlorophenoxy) ethyl, 2,2-dichloropropionate (Erbon)(CAS #136-25-4); O,O-dimethyl O-(2,4,5-trichlorophenyl) phosphorothioate (Ronnel)(CAS #299-84-3); 2,4,5-trichlorophenol (TCP)(CAS #95-95-4); or hexachlorophene (HCP)(CAS #70-30-4); or
 - ii. Knows or has reason to believe that TCDD is, may be, or will be present in an effluent.

7:14A-4.5 Specific Technical Application Requirements for Direct Discharges to Surface Water

- (a) N.J.A.C. 7:14A-12-Appendix C includes the effluent standards for new sources, including new or expanded discharges or activities. The effluent standards for new dischargers are effluent limitations developed using water quality assumptions applicable to a pollutant that is known to be in the applicant's effluent. An applicant may request effluent limitations based on the effluent standards for a new discharge in lieu of conducting site specific water quality studies. Applicants for individual NJPDES permits for new sources or

new discharges directly discharging to surface water, shall submit one of the following:

1. A complete application in accordance with the requirements of N.J.A.C. 7:14A-4.2 and 4.3, including a request to include one or more of the effluent standards listed in N.J.A.C. 7:14A-12 Appendix C as the effluent limitation(s) for each pollutant present in the applicant's discharge or activity. The applicant shall specify the specific pollutants where imposition of the effluent standards as effluent limitations are requested. By requesting the imposition of effluent standards listed in N.J.A.C. 7:14A-12 Appendix C as effluent limitations, an applicant shall be deemed to have waived its rights to contest the N.J.A.C. 7:14A-12 Appendix C effluent standards for each effluent limitation requested. The Department may determine that imposition of the effluent standards as effluent limitations are appropriate for specific pollutants and in that case shall exempt the applicant from completing detailed water quality studies for those pollutants; or
 2. A complete application without a request for use of the effluent standards. Where the applicant does not request the effluent standards as provided at (a)1 above, the applicant shall submit all water quality studies which the Department determines are appropriate for the specific discharge.
- (b) Applicants with an individual NJPDES permit for existing discharges or activities shall submit a complete renewal application in accordance with N.J.A.C. 7:14A-2.7. Where additional water quality information is necessary, the Department shall require water quality studies as provided in N.J.A.C. 7:14A-2.12(a).

7:14A-4.6 Additional Application Requirements for Significant Indirect Users

- (a) In addition to the requirements of N.J.A.C. 7:14A-4.3, the application for an individual NJPDES-SIU permit shall include the information required under:
1. N.J.A.C. 7:14A-4.4(a)1 and 3; and
 2. N.J.A.C. 7:14A-4.4(b)1,2,3i(1-2),3i(4-7),3iii, and 4 through 7.
- (b) In addition to the requirements listed in N.J.A.C. 7:14A-4.4, applicants for an individual SIU permit shall submit the following:
1. A list of potential discharges, with a description of the expected levels and the reasons for any discharges of pollutants which the applicant knows or has reason to believe will exceed two times the value required to be reported in accordance with N.J.A.C. 7:14A-4.4(b)1, 2, 3i(1) and (2), 3i(4) through (7), 4 through 7, for a period of five years commencing with the date of the application;
 2. For new, expanded, or changed (in nature of pollutants discharged) SIU discharges only, consent from the affected local agency and owner of the applicable wastewater conveyance system(s), certifying that the discharge is acceptable. This consent shall be in the form of a letter or Form WQM-003 (available from the Department). This is the same form required by N.J.A.C. 7:14A-22.6; and

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3. An indication of the ultimate discharge point of all building floor drains, including the path through the facility collection system.

7:14A-4.7 Additional Application Requirements for Discharges to Ground Water

- (a) In addition to the requirements of N.J.A.C. 7:14A-4.2 and 4.3, an applicant for a NJPDES-DGW permit shall submit the information required in N.J.A.C. 7:14A-7, 8, 9 and 10.

7:14A-4.8 Additional Application Requirements for Specific DSW Discharges

- (a) For new or existing concentrated animal feeding operations, in addition to the application information requirements contained in N.J.A.C. 7:14A-4.2 and 4.3, an application shall include the following information:
 1. The type and number of animals in open confinement and housed under roof;
 2. The number of acres used for confinement feeding; and
 3. 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.
- (b) For new or existing concentrated aquatic animal production facilities, in addition to the application requirements contained in N.J.A.C. 7:14A-4.2 and 4.3, applications shall include the following information:
 1. The maximum daily and average monthly flow from each outfall;
 2. The number of ponds, raceways, and similar structures;
 3. The name of the receiving water and the source of intake water;
 4. For each species of aquatic animals, the total yearly and maximum harvestable weight; and
 5. The calendar month of maximum feeding and the total mass of food fed during that month.

7:14A-4.9 Signatory Requirements for Permit Applications and Reports

- (a) All permit applications, requests for authorization, reports required by permits other than DMRs, and other information requested by the Department, shall be signed by a person described in (a)1 through 4 below. DMRs shall be signed in accordance with the DMR reporting requirements of N.J.A.C. 7:14A-6.9.
 1. For a corporation, by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
 - i. A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

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- ii. The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 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. For purposes of this section, a principal executive officer of a Federal agency includes:
 - i. The chief executive officer of the agency; or
 - ii. A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator); or
 4. By a duly authorized representative as described in (b) below.
- (b) A person is a duly authorized representative only if:
 1. The authorization is made in writing by a person described in (a)1 through 3 above;
 2. The authorization specifies either an individual or a position whose occupant has responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position whose occupant has overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and,
 3. The written authorization is submitted to the Department.
- (c) If an authorization under (b) above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of (b) above must be submitted to the Department prior to or together with any reports, information, or applications signed by an authorized representative.
- (d) Any person signing a document under (a) above shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and

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belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for purposely, knowingly, recklessly, or negligently submitting false information."

7:14A-4.10: Technical Requirements For NJPDES-DSW Applications.

(Reserved)

7:14A-4-Appendix A:

Permit Application Testing Requirements/Pollutant Listings

Table I: Testing Requirements for Organic Toxic Pollutants by Industrial Category

Industrial Category	GC/MS Fraction 1			
	Volatile	Acid	Base/Neutral	Pesticide
Adhesives and Sealants	*	*	*	
Aluminum Forming	*	*	*	
Auto and Other Laundries	*	*	*	*
Battery Manufacturing	*		*	
Coal Mining	*	*	*	*
Coil Coating	*	*	*	
Copper Forming	*	*	*	
Electric and Electronic Components	*	*	*	*
Electroplating	*	*	*	
Explosives Manufacturing		*	*	
Foundries	*	*	*	
Gum and Wood Chemicals	*	*	*	*
Inorganic Chemicals Manufacturing	*	*	*	
Iron and Steel Manufacturing	*	*	*	
Leather Tanning and Finishing	*	*	*	*
Mechanical Products Manufacturing	*	*	*	
Nonferrous Metals Manufacturing	*	*	*	*
Ore Mining	*	*	*	*

Organics Chemicals Manufacturing	*	*	*	*
Paint and Ink Formulation	*	*	*	*
Pesticides	*	*	*	*
Petroleum Refining	*	*	*	*
Pharmaceutical Preparations.	*	*	*	
Photographic Equipment and Supplies.	*	*	*	*
Plastic and Synthetic Materials Manufacturing	*	*	*	*
Plastic Processing...	*			
Porcelain Enameling..	*		*	*
Printing and Publishing	*	*	*	*
Pulp and Paper Mills	*	*	*	*
Rubber Processing	*	*	*	
Soap and Detergent Manufacturing	*	*	*	
Steam Electric Power Plants	*	*	*	
Textile Mills	*	*	*	*
Timber Product Processing.	*	*	*	*

Note 1: The Environmental Protection Agency has suspended the requirements of 122.21(g)(7)(ii)(A) and Table I of Appendix D as they apply to certain industrial categories. The suspensions are as follows:

(a) At 46 FR 2046, January 8, 1981, the Environmental Protection Agency suspended until further notice 122.21(g)(7)(ii)(A) as it applies to coal mines.

(b) At 46 FR 22585, April 20, 1981, the Environmental Protection Agency suspended until further notice 122.21(g)(7)(ii)(A) and the corresponding portions of Item V-C of the NPDES application Form 2 as they apply to:

1. Testing and reporting for all four organic fractions in the Greige Mills Subcategory of the Textile Mills industry (Subpart C—Low water use processing of 40 C.F.R. part 410), and testing and reporting for the pesticide fraction in all other subcategories of this industrial category.

2. Testing and reporting for the volatile, base/neutral and pesticide fractions in the Base and Precious Metals Subcategory of the Ore Mining and Dressing industry (subpart B of 40 C.F.R. part 440), and testing and reporting for all four fractions in all other subcategories of this industrial category.
3. Testing and reporting of all four GC/MS fractions in the Porcelain Enameling industry.

(c) At 46 FR 35090, July 1, 1981, the Environmental Protection Agency suspended until further notice 122.21(g)(7)(ii)(A) and the corresponding portions of Item V-C of the NPDES application Form 2c as they apply to:

1. Testing and reporting for the pesticide fraction in the Tall Oil Rosin Subcategory (subpart D) and Rosin-Based Derivatives Subcategory (subpart F) of the Gum and Wood Chemicals industry (40 CFR part 454), and testing and reporting for the pesticide and base/neutral fractions in all other subcategories of this industrial category.
2. Testing and reporting for the pesticide fraction in the Leather Tanning and Finishing, Paint and Ink Formulation, and Photographic Supplies industrial categories.
3. Testing and reporting for the acid, base/neutral and pesticide fractions in the Petroleum Refining industrial category.
4. Testing and reporting for the pesticide fraction in the Papergrade Sulfite subcategories (subparts J and U) of the Pulp and Paper industry (40 C.F.R. part 430); testing and reporting for the base/neutral and pesticide fractions in the following subcategories: Deink (subpart Q), Dissolving Kraft (subpart F), and Paperboard from Waste Paper (subpart E); testing and reporting for the volatile, base/neutral and pesticide fractions in the following subcategories: BCT Bleached Kraft (subpart H), Semi-Chemical (subparts B and C), and Nonintegrated-Fine Papers (subpart R); and testing and reporting for the acid, base/neutral, and pesticide fractions in the following subcategories: Fine Bleached Kraft (subpart I), Dissolving Sulfite Pulp (subpart K), Groundwood-Fine Papers (subpart O), Market Bleached Kraft (subpart G), Tissue from Wastepaper (subpart T), and Nonintegrated-Tissue Papers (subpart S).
5. Testing and reporting for the base/neutral fraction in the Once-Through Cooling Water, Fly Ash and Bottom Ash Transport Water process wastestreams of the Steam Electric Power Plant industrial category.

This revision continues these suspensions.

For the duration of the suspensions, therefore, Table I effectively reads:

PERMIT APPLICATION TESTING REQUIREMENTS/POLLUTANT LISTINGS

Table I

Testing Requirements for Organic Toxic Pollutants by Industrial Category

GC/MS Fraction¹

	Volatile	Acid	Base/Neutral	Pesticide
<u>Adhesives and Sealants.....</u>	*	*	*	
<u>Aluminum forming.....</u>	*	*	*	
<u>Auto and other laundries.....</u>	*	*	*	*
<u>Battery manufacturing.....</u>	*		*	
<u>Coal mining.....</u>				
<u>Coil coating.....</u>	*	*	*	
<u>Copper forming.....</u>	*	*	*	
<u>Electric and electronic compounds.....</u>	*	*	*	*
<u>Electroplating.....</u>	*	*	*	
<u>Explosives manufacturing.....</u>		*	*	
<u>Foundries.....</u>	*	*	*	
<u>Gum and wood (all subparts except D and F).....</u>	*	*		
<u>Subpart D-tall oil rosin.....</u>	*	*	*	
<u>Subpart F-rosin-based derivatives.....</u>	*	*	*	
<u>Inorganic chemicals manufacturing.....</u>	*	*	*	
<u>Iron and steel manufacturing...</u>	*	*	*	
<u>Leather tanning and finishing.....</u>	*	*	*	
<u>Mechanical products manufacturing.....</u>	*	*	*	
<u>Nonferrous metals manufacturing.....</u>	*	*	*	*
<u>Ore mining (applies to the base and precious metals/Subpart B).....</u>		*		
<u>Organic chemicals manufacturing.....</u>	*	*	*	*
<u>Paint and ink formulation.....</u>	*	*	*	
<u>Pesticides.....</u>	*	*	*	*
<u>Petroleum refining.....</u>	*			
<u>Pharmaceutical preparations....</u>	*	*	*	
<u>Photographic equipment and supplies.....</u>	*	*	*	

<u>Plastic and synthetic materials</u>				
manufacturing.....	*	*	*	*
Plastic processing.....	*			
Porcelain enameling.....				
Printing and publishing.....	*	*	*	*
<u>Pulp and paperboard mills-see footnote ³</u>				
Rubber processing.....	*	*	*	
<u>Soap and detergent</u>				
manufacturing.....	*	*	*	
Steam electric power plants....	*	*		
<u>Textile mills (Subpart C-Greige Mills are exempt from this table).....</u>				
.....	*	*	*	
Timber products processing	*	*	*	*

1. The pollutants in each fraction are listed in Item V-C of the USEPA Form *C.

* Testing required

3. Pulp and Paperboard Mills:

Subpart ³

GC/MS Fraction¹

	Volatile	Acid	Base/Neutral	Pesticide
A.....	*	1	*	1
B.....	*	1	*	*
C.....	*	1	*	*
D.....	*	1	*	*
E.....	1	1	*	1
F.....	1	1	*	*
G.....	1	1	*	*
H.....	1	1	*	*
I.....	1	1	*	*
J.....	1	1	1	*
K.....	1	1	*	*
L.....	1	1	*	*
M.....	1	1	*	*
N.....	1	1	*	*
O.....	1	1	*	*
P.....	1	1	*	*
Q.....	1	1	*	1
R.....	*	1	*	*
S.....	1	1	*	1
T.....	1	1	*	1
U.....	1	1	1	*

1. Must test.

* Do not test unless 'reason to believe' it is discharged.

3. Subparts are defined in 40 CFR Part 430.*

Table II: Organic Toxic Pollutants in Each of Four Fractions in Analysis by Gas Chromatography/Mass Spectroscopy (GC/MS)

Volatiles

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

Acid Compounds

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

Base/Neutral

Acenaphthylene	2-Chloronaphthalene
Acenaphthene	4-Chlorophenyl Phenyl Ether
Anthracene	Chrysene
Benzidine	Dibenzo (a,h) Anthracene
Benzo(a)Anthracene	1,2-Dichlorobenzene
Benzo(a)Pyrene	1,3-Dichlorobenzene
3,4-Benzofluoranthene	1,4-Dichlorobenzene
Benzo(ghi)Perylene	3,3'-Dichlorobenzidine
Benzo(k)Fluoranthene	Diethyl Phthalate
Bis (2-Chloroethoxy) Methane	Dimethyl Phthalate
Bis (2-Chloroethyl) Ether	Di-N-Butyl Phthalate
Bis (2-Chloroisopropyl) Ether	
Bis (2-Ethylhexyl) Phthalate	2,4-Dinitrotoluene
4-Bromophenyl Phenyl Ether	2,6-Dinitrotoluene
Butyl Benzyl Phthalate	Di-B-Octyl Phthalate

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1,2-Diphenylhydrazine(as Azobenzene)	Isophorone
Fluoranthene	Naphthalene
Fluorene	Nitrobenzene
Hexachlorobenzene	N-Nitrosodimethylamine
Hexachlorobutadiene	N-Nitrosodi-N-Propylamine
Hexachlorocyclopentadiene	N-Nitrosodiphenylamine
Hexachloroethane	Phenanthrene
Indeno (1,2,3-cd) Pyrene	Pyrene
	1,2,4-Trichlorobenzene

Pesticides

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

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

Antimony, Total	Mercury, Total
Arsenic, Total	Nickel, Total
Beryllium, Total	Selenium, Total
Cadmium, Total	Silver, Total
Chromium, Total	Thallium, Total
Copper, Total	Zinc, Total
Lead, Total	Cyanide, Total
	Phenols, Total

Table IV: Conventional and Nonconventional Pollutants Required to be Tested if Expected to be Present

Bromide	Fluoride
Chlorine, Total Residual	Nitrate-Nitrite
Color	Nitrogen, Total Organic
Fecal Coliform	Oil and Grease
	Phosphorus, Total

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Radioactivity
Sulfate
Sulfide

Sulfite
Surfactants
Aluminum, Total
Barium, Total
Boron, Total
Cobalt, Total
Iron, Total
Magnesium, Total
Molybdenum, Total
Manganese, Total
Tin, Total
Titanium, Total

Table V: Toxic Pollutants and Hazardous Substances Required to be Identified by Existing Dischargers if Expected to be Present

Toxic Pollutants

Asbestos

Hazardous Substances

Acetaldehyde
Allyl alcohol
Allyl chloride
Amyl acetate
Aniline
Benzonitrile
Benzyl chloride
Butyl acetate
Butylamine
Captan
Carbaryl
Carbofuran
Carbon disulfide
Chlorpyrifos
Coumaphos
Cresol
Crotonaldehyde
Cyclohexane
2,4-D (2,4-dichlorophenoxy acetic acid)
Diazinon
Dicamba
Dichlobenil
Dichlone
2,2-Dichloropropionic acid
Dichlorvos
Diethyl amine
Dimethyl amine
Dintrobenzene
Diquat
Disulfoton
Diuron
Epichlorohydrin
Ethion
Ethylene diamine
Ethylene dibromide
Formaldehyde

Furfural
GuthionIsoprene
Isopropanolamine
Dodecylbenzenesulfonate
Kelthane
Kepone
Malathion
Mercaptodimethur
Methoxychlor
Methyl mercaptan
Methyl methacrylate
Methyl parathion
Mevinphos
Mexacarbate
Monoethyl amine
Monomethyl amine
Naled
Napthenic acid
Nitrotoluene
Parathion
Phenolsulfanate
Phosgene
Propargite
Propylene oxide
Pyrethrins
Quinoline
Resorcinol
Strontium
Strychnine
Styrene
2,4,5-T (2,4,5-Trichlorophenoxy acetic acid)
TDE (Tetrachlorodiphenylethane)
2,4,5-TP [2-(2,4,5-Trichlorophenoxy) propanoic acid]
Trichlorofan
Triethanolamine dodexylbenzenesulfonate
Triethylamine
Trimethylamine
Uranium
Vanadium
Vinyl acetate
Xylene
Xylenol
Zirconium

Subchapter 6. Conditions Applicable to All NJPDES Permits

7:14A-6.1 Purpose and Scope

- (a) This subchapter sets forth the minimal conditions which apply to all NJPDES permits unless the permit or fact sheet as described in N.J.A.C. 7:14A-15.8 specifically includes an exemption from one or more of these required conditions.
- (b) The Department shall incorporate all permit conditions either expressly or by reference in the permit. A permit that incorporates conditions by reference shall contain citations to the specific applicable rule section(s).

7:14A-6.2 General conditions applicable to all permittees

- (a) The following conditions apply to all NJPDES permits issued by the Department unless specifically exempted in the permit:
 - 1. A permittee shall comply with all the conditions of the NJPDES permit.
 - 2. The discharge of any pollutant not specifically regulated in the NJPDES permit or listed and quantified in the NJPDES application or request for authorization 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 the permittee's activities which contribute to the generation of its wastewater;
 - 3. A permittee shall not attain any concentration limitation by dilution. (For example, no permittee shall increase the use of process water or cooling water or otherwise attempt to dilute a discharge as a partial or complete substitute for adequate treatment to attain permit limitations or water quality standards);
 - 4. Even if the permit has not yet been modified to incorporate the requirement, a permittee shall comply with the following within the time provided in the specified regulations that establish the following:
 - i. Applicable effluent standards or prohibitions established under Section 307(a) and (c) of the Federal Act for toxic pollutants; and
 - ii. Standards for sewage sludge use or disposal established under Section 405(d) of the Federal Act and N.J.A.C. 7:14A-20;
 - 5. A permittee shall take all reasonable steps to minimize or prevent any activity in violation of its permit which has a reasonable likelihood of adversely affecting human health or the environment;
 - 6. A permit shall not convey any property rights of any sort or any exclusive privilege;
 - 7. A permit shall 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.

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8. A permit is not transferable to any person except after written notice in accordance with N.J.A.C. 7:14A-16.2;
9. All permittees with discharges that flow through an outfall pipe, unless such outfall pipe is completely and continuously submerged, or is not assigned a Discharge Serial Number (DSN), shall notify the Department that a tag to mark the location of the pipe has been or will be installed on the pipe by the effective date of the permit, or by May 5, 1998, whichever is sooner.
 - i. The outfall tag shall be:
 - (1) Legible;
 - (2) Located as near to the end of the outfall pipe as possible;
 - (3) Made of a durable material such as metal; and
 - (4) Maintained on a regular basis, such as cleaned and inspected to ensure that the tag is properly attached.
 - ii. The outfall tag shall display, at a minimum, the following information:
 - (1) The name of the facility where the discharge originates;
 - (2) The NJPDES permit number;
 - (3) The NJDEP Hotline phone number; and
 - (4) The Discharge Serial Number for that particular outfall;
10. When the Department reopens the permit by modification or revocation and reissuance, it shall do so, at a minimum, for the following:
 - i. Any discharger within a primary industrial category, as listed in N.J.A.C. 7:14A-4 Appendix A, Table 1, if an applicable standard or limitation is promulgated under Sections 301(b)(2) (C) and (D), 302, 304(b)(2), or 307(a), (b),(c) and (d) of the Federal Act and that effluent standard or limitation is more stringent than any effluent limitation in the permit or controls a pollutant or pollutant parameter not limited in the permit;
 - ii. Any permit issued to a treatment works treating domestic sewage or residual-only facilities, to incorporate any applicable standard for residual use or disposal promulgated under section 405 (d) of the Federal Act or N.J.A.C. 7:14A-20, and the standard for residual use or disposal is more stringent than any requirements for residual use or disposal in the permit, or controls a pollutant or practice not limited in the permit; or

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- iii. All dischargers, to incorporate any applicable effluent standard or any effluent limitation, including any effluent standards or effluent limitations to control the discharge of any toxic pollutants or pollutant parameters such as acute or chronic whole effluent toxicity, or chemical specific toxic parameters, requirements related to toxicity reduction or to implement a TMDL or watershed management plan adopted in accordance with N.J.A.C. 7:15-7, when the effluent standard or limitation is more stringent than any effluent limitation in the permit or controls a pollutant or pollutant parameter not limited in the permit;
 - iv. DTWs, to incorporate the applicable pretreatment program conditions as approved by the Department.
11. The permittee shall take such corrective actions as required under the Federal and State Acts, and other relevant provisions of law, including, at a minimum, accelerated and/or additional types of monitoring, temporary repairs, ceasing discharge, or where ceasing discharge is not possible, other measures to mitigate the effects of violating its NJPDES permit.
 12. If a permittee wishes to continue an activity regulated by a NJPDES permit after the expiration date of the permit, the permittee must comply with the reapplication procedures listed in N.J.A.C. 7:14A-4.
 13. All permittees must comply with the noncompliance reporting requirements of N.J.A.C. 7:14A-6.10 for any noncomplying discharge listed in N.J.A.C. 7:14A-6.10(a); and
 14. A permittee shall furnish to the Department, within a reasonable timeframe specified by the Department, any information which the Department may request to determine whether cause exists for issuing, modifying, revoking and reissuing, or revoking a discharge permit, or to determine compliance with a NJPDES permit. The permittee shall also furnish to the Department, upon request, copies of records required to be kept by the permit.
- (b) When applicable, NJPDES-DSW permits shall include the following conditions:
1. Implementation of Best Management Practices to control or abate the discharge of pollutants, when:
 - i. Authorized under Section 304(e) of the Federal Act for the control of toxic pollutants and hazardous substances from ancillary activities (40 CFR Part 125, Subpart K);
 - ii. Numeric effluent limitations are infeasible; or
 - iii. 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;

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2. For existing manufacturing, commercial, mining, and silvicultural discharges and research facilities, a notification level different from the notification level of N.J.A.C. 7:14A-11.3(a)1, upon a petition from the permittee or on the Department's initiative. A notification level established pursuant to this paragraph will not exceed the level which can be achieved by the technology-based treatment requirements appropriate to the permittee under 40 CFR 125.3(c); and
3. Any conditions imposed in grants or loans made to DTWs by the Administrator under Sections 201 and 204 of the Federal Act or by the Department which are reasonably necessary for the achievement of any conditions of the permit.

7:14A-6.3 Establishing Permit Conditions

- (a) In addition to conditions required in all permits for all programs pursuant to N.J.A.C. 7:14A-6.2, the Department shall establish conditions in permits for the individual programs, as required on a case-by-case basis.
- (b) All NJPDES permits shall include any applicable Federal or State statutory or regulatory requirements which take effect prior to final permit issuance. N.J.A.C. 7:14A-15.14, Reopening of the public comment period, provides a means for reopening NJPDES permit proceedings at the discretion of the Department where new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. An applicable requirement is also any requirement which takes effect prior to the modification or revocation and reissuance of a permit, to the extent allowed in N.J.A.C. 7:14A-16.4.

7:14A-6.4 Schedules of Compliance

- (a) The Department shall, when appropriate, specify in the permit a schedule of compliance, including interim deadlines for progress or reports of progress towards compliance with the State and Federal Acts and all other applicable authority for this chapter.
 1. The first NJPDES permit issued to a new source or a new discharger shall contain a schedule of compliance only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised after commencement of construction but less than three years before commencement of the relevant discharge. For dischargers with a discharge that has been suspended for an extended period during which the submittal of DMRs has also been suspended, a schedule of compliance shall be included as part of the permit or conditions for recommencement only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised less than three years before recommencement of the discharge.
 2. Except as provided in (b)1(ii) below, if a permit establishes a schedule of compliance which exceeds one year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.

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- i. The time between interim dates shall not exceed one year except that in the case of a schedule for compliance with standards for sewage sludge use or disposal, the time between interim dates shall not exceed six months.
 - ii. If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than one year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.
 3. No later than 14 days following each interim date or final date of compliance, the permittee shall provide written notice to the Department of its compliance or noncompliance with interim or final requirements, or submit progress reports if (a)2ii above is applicable.
- (b) A permittee may cease conducting regulated activities rather than continue to operate and meet permit requirements as follows:
1. If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued:
 - i. The permit may be modified pursuant to N.J.A.C. 7:14A-16.4, to contain a new or additional schedule leading to timely cessation of activities; or
 - ii. The permittee shall cease conducting permitted activities before noncompliance with any interim or final compliance requirement already specified in the permit.
 2. If the decision to cease conducting regulated activities is made before issuance of a permit whose term shall include the expiration date, the permit shall contain a schedule leading to expiration which shall ensure compliance no later than any applicable statutory deadline.
 3. If the permittee is undecided as to whether it will cease conducting regulated activities, the Department shall either issue or modify a permit to contain two schedules:
 - i. One schedule shall lead to timely compliance with all applicable requirements, no later than the statutory deadline;
 - ii. The second schedule shall lead to cessation of regulated activities by a date which shall ensure timely compliance with all applicable requirements;
 - iii. Both schedules shall contain an identical interim deadline requiring a final decision as to whether the permittee will cease conducting regulated activities. A decision by the permittee to continue

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conducting regulated activities shall be made by a date which ensures sufficient time to comply in a timely manner with all applicable requirements;

- iv. Each permit containing two schedules shall include a requirement that the permittee, after making a final decision under (b)3iii above, shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and shall follow the schedule leading to expiration if the decision is to cease conducting regulated activities.
4. The permittee's decision to cease conducting regulated activities shall be evidenced by a firm public commitment satisfactory to the Department, such as a resolution of the board of directors of a corporation.
- (c) A POTW required to develop a pretreatment program shall have a pretreatment program compliance schedule based on the dates established in a written notification from the Department. This compliance schedule shall be incorporated into the NJPDES permit at the time of issuance, reissuance or modification of the permit. The compliance schedule shall require the development and submission of a pretreatment program developed in accordance with N.J.A.C. 7:14A-19 as soon as possible, but in no case later than one year after the receipt of written notification from the Department.
- (d) Any schedules of compliance under this section shall require compliance as soon as possible, but no later than any applicable statutory deadline.
- (e) The permittee shall meet schedules for compliance with the terms of the permit and interim deadlines for progress or reports of progress towards compliance. Reports of compliance or noncompliance with, or any progress reports on, the interim and final requirements contained in any compliance schedule of a permit shall be submitted no later than 14 days following each scheduled date, and may be submitted with the DMRs in accordance with N.J.A.C. 7:14A-6.8(a).

7:14A-6.5 Monitoring

- (a) Monitoring requirements are as follows:
 1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
 2. The permittee shall perform all analyses in accordance with the analytical test procedures specified in 40 C.F.R. 136 or, in the case of residual use or disposal, in 40 C.F.R. 136 unless otherwise specified in 40 C.F.R. 503, or unless other test procedures have been specified in the permit. Where no approved test procedure is available, the permittee shall indicate a suitable analytical procedure and shall provide the Department with literature references or a detailed description of the procedure. The Department shall determine the appropriate procedure and require that procedure in the NJPDES permit. The laboratory performing the analyses shall be certified

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by the Department for the analysis of those specific parameters in accordance with N.J.A.C. 7:18. Information concerning laboratory approval and/or certification may be obtained from:

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

(b) All permittees shall:

1. Properly install, use, and maintain monitoring equipment and use proper monitoring methods (including biological monitoring methods when appropriate);
 2. Properly monitor the discharge in accordance with the monitoring type, interval, and frequency as specified in the permit;
 - i. Certain discharges of non-contact cooling water shall be exempt from monitoring, unless specifically required by the Department, where the applicant's activities do not affect the following constituents: COD, BOD, TSS, pH, and/or settleable solids.
 - ii. Bacterial monitoring shall not be required for facilities which do not receive wastewater containing pathogenic organisms, including fecal coliform or enterococci organisms, unless otherwise required by the Department. Discharge permits shall contain a monitoring-only requirement for enterococci organisms, unless the Department determines that it is appropriate to require enterococci effluent limitations and publishes a public notice in the New Jersey Register with supporting reasons to this effect;
 3. Comply with the reporting requirements specified in the permit; and
 4. Monitor in accordance with the edition of the Department's "Field Sampling Procedures Manual" applicable at the time of sampling or an alternate method approved by the Department.
- (b) If the Department has reason to believe that the accuracy and/or precision of one or more analyses is inadequate to provide a reasonable estimate of effluent quality, the Department shall, upon written notification, require any facility that analyzes its effluent samples at a laboratory it directly or indirectly owns, operates or manages to annually have one of its permit-required periodic sampling analyses performed by a certified laboratory which is not owned operated or managed by the permittee. This shall be broadly construed to include all the sample analyses that are to be performed during the course of routine hourly, daily, monthly, quarterly, semi-annual, or annual sampling.

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- (d) Requirements for automatically adjusting effluent monitoring frequency are as follows:
1. Any permittee shall automatically adjust its effluent monitoring and reporting frequency to monthly when the permittee:
 - i. Reports effluent values that would make the permittee a serious violator for one or more parameters for which the permittee is required to report less frequently than monthly. Monthly reporting is only required for parameters with serious violations. (However, NJPDES-SIU permittees shall resample within 30 days of becoming aware of any violation if required by 40 C.F.R. Part 403); or
 - ii. Fails to submit a completed Discharge Monitoring Report (DMR).
 2. The monthly reporting required by (d)1 above shall begin the first month after the submission of the DMR or the month in which the permittee was required to submit the completed DMR or the Baseline Report (BR) to the Department which results in the permittee becoming a serious violator. If the Department grants an affirmative defense pursuant to N.J.A.C. 7:14-8.3(i) for an effluent violation, the violation shall not be considered a serious violation and shall not be subject to monthly reporting under (d)1 above.
 3. Any permittee required to adjust its monitoring and reporting pursuant to (d)1 above shall continue this monthly schedule until the permittee has submitted six consecutive monthly Discharge Monitoring Reports which show compliance with the particular serious violation parameter at the particular discharge point, at which time the permittee may resume the original schedule in its permit.

7:14A-6.6 Recordkeeping

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

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2. The individual(s) who performed the sampling or measurements;
3. The date(s) analyses were performed;
4. The individual(s) who performed the analyses;
5. The analytical techniques or methods used; and
6. The results of such analyses.

7:14A-6.7 Notice Requirements for Facility Alterations and Additions

- (a) All permittees shall give written notice to the Department of any planned physical alterations or additions to the permitted facility which meet the criteria in (b) below, or as soon as possible.
- (b) Notice is required only when:
 1. The alteration or addition to a permitted facility meets one of the criteria for determining whether a facility is a new source as defined in N.J.A.C. 7:14A-1.2;
 2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged;
 3. The alteration or addition is expected to result in a significant change in the permittee's residual use or disposal practices, and such alterations, additions, or changes may justify the application of permit conditions that are different from or absent in the existing permit. This includes notification of additional use or disposal sites not reported during the permit application process; or
 4. The planned alterations or changes in the permitted facility or activity may result in noncompliance with permit requirements.
- (c) Fulfillment of these notice requirements does not relieve the applicant of the responsibility to obtain any applicable approvals or permits.

7:14A-6.8 Reporting Monitoring Results

- (a) The permittee shall report monitoring results on the Discharge Monitoring Reports (DMR) and/or the Baseline Reports (BR) or other monitoring report forms required by the permit or the Department at the intervals specified in the permit.
- (b) All permittees with effluent limits expressed as daily maxima or minima without a monthly average for a particular parameter shall report, in addition to all other applicable reporting requirements, the average value obtained during the reporting month. However, for pH and WET, the reporting requirements of the permit shall govern.
- (c) Any permittee required to adjust its effluent monitoring to monthly under N.J.A.C. 7:14A-6.5(d) shall also automatically adjust its reporting frequency to monthly.

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- (d) Upon written notice from the Department, monitoring results may be submitted to the Department electronically, provided the data is submitted in accordance with the standards for information exchange detailed in the Department's Manual for Information Management, "Guidance Document for Electronic Reporting of Environmental Data," August 1995 (see data dictionary and file format), as may be amended and supplemented. However, the permittee shall continue to submit signed transmittal forms.
- (e) All monitoring requirements of the permit are minimum requirements. However, if a permittee monitors any pollutant more frequently than required by the permit in accordance with the permit requirements for sample type, location, and analysis and using test procedures approved under 40 C.F.R. 136 or, in the case of residual use or disposal, approved under 40 C.F.R. 136, unless otherwise specified in 40 C.F.R. 503 or as specified in the permit, the results of this monitoring shall be included in the calculation and reported on the form specified by the Department.
- (f) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in the permit by the Department.
- (g) When subject to limitations based on a measure of production, the permittee shall submit with the report the level of production that actually occurred during the reporting month and the limitations, standards, or prohibitions applicable to that level of production.
- (h) The permittee shall report all instances of noncompliance not reported under N.J.A.C. 7:14A-6.10 at the time DMRs are submitted. The reports shall contain the information required in the written submission listed in N.J.A.C. 7:14A-6.10(e) if not already submitted to the Department.
- (i) All SIUs, DSW major industrial facilities, DGWs, and DSW local agencies, other than those discharging only stormwater or non-contact cooling water, required to submit DMRs to the Department shall submit the required reporting forms to the Department on a monthly basis when sampling is required on a monthly basis for one or more parameters. Reporting is required on a monthly basis for all those parameters that are required to be monitored during that particular month.

7:14A-6.9 Signatory Requirements for DMR and BR

- (a) All DMRs and the BRs shall be signed by the highest ranking official having day-to-day managerial and operational responsibilities for the discharging facility, whose responsibilities usually include authorizing capital expenditures and/or hiring personnel.
 - 1. For private entities this will usually be a person identified in N.J.A.C. 7:14A-4.9(a)1; and
 - 2. For public entities it will usually be a plant manager or plant operator, an executive director of a public authority, or a ranking elected official.

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

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

- (c) The above described official may authorize another responsible high ranking official to sign the DMR in his or her absence. Authorizations for other individuals to sign in accordance with this subsection shall be made in accordance with N.J.A.C. 7:14A-4.9(b).
- (d) The highest ranking official shall be liable in all instances for the accuracy of all of the information provided in the report. However, the highest ranking official may file within seven days of his or her return, amendments to the report to which he or she was not a signatory. The filing of amendments to a monitoring report in accordance with this subsection shall not be considered a late filing of a report for the purposes of N.J.A.C. 7:14A-6.8, or for the purposes of determining a significant noncomplier.

7:14A-6.10 Noncompliance Reporting.

- (a) All permittees shall report to the Department (and receiving DTW, if applicable) any noncompliance including, but not limited to:
1. Any exceedance of effluent limitation that:
 - i. Causes injury to persons;
 - ii. Poses a threat to human health;
 - iii. Causes damage to the environment;
 - iv. Poses a threat to the environment; or
 - v. Violates a daily maximum effluent limitation for a toxic pollutant listed in N.J.A.C. 7:14A-4 Appendix A;
 2. Any discharge of any toxic or hazardous pollutant listed in N.J.A.C. 7:14A-4 Appendix A, which is not covered under a permit;
 3. Any upset or an unanticipated bypass not otherwise covered in (a)1 or 2 above;
or
 4. Any anticipated bypass.
- (b) Any permittee discharging pollutants under the conditions identified in (a) above shall comply with the reporting requirements in this section. Any permittee with a discharge not otherwise covered in (a) above shall comply

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with the reporting requirements relating to that type of discharge as listed below.

- (c) For the situations listed in (a)1i through iv and 2, above, the permittee shall communicate the information in (c)1 through 3 below by telephone to the DEP Hotline at (609) 292-7172 (and to the receiving DTW, if applicable) within two hours of the commencement of the discharge or of the permittee's becoming aware of the discharge. Any revision to this information for situations listed in (a)1i through iv and 2 above shall be reported to the DEP Hotline within 24 hours after the permittee's becoming aware of the need to revise the information.
 - 1. A description of the discharge, including the time of the discharge, the location of discharge, the volume of the discharge, the concentration of pollutants discharged, and the receiving water of the discharge;
 - 2. Steps being taken to determine the cause of the permit noncompliance; and
 - 3. Steps being taken to reduce, remediate, and eliminate the noncomplying discharge and any damage to the environment, and the anticipated time frame to initiate and complete the steps to be taken.

- (d) For the situations listed in (a)1v and 3 above, the permittee shall communicate the following information by telephone to the DEP Hotline at (609) 292-7172 within 24 hours after the commencement of the discharge or of the permittee's becoming aware of the discharge:
 - 1. A description of the discharge, including the time of the discharge, the location of discharge, the volume of the discharge, the concentration of pollutants discharged, and the receiving water of the discharge;
 - 2. Steps being taken to determine the cause of the permit noncompliance;
 - 3. Steps being taken to reduce, remediate, and eliminate the noncomplying discharge and any damage to the environment, and the anticipated time frame to initiate and complete the steps to be taken;
 - 4. The duration of the discharge, including the dates and times of the commencement and, for an unanticipated bypass, the dates and times of the end or anticipated end of the discharge, and if the discharge has not been corrected, the anticipated time when the permittee will correct the situation and return the discharge to compliance;
 - 5. The cause of the noncompliance;
 - 6. Steps being taken to reduce, eliminate, and prevent reoccurrence of the noncomplying discharge;
 - 7. An estimate of the threat to human health or the environment posed by the discharge;
 - 8. The measures the permittee has taken or is taking to remediate the problem and any damage or injury to human health or the environment, and to avoid a repetition of the problem.

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- (e) For the situations identified in (a)1 through 3 above, a written submission containing the information listed in (d) above shall be submitted to the Department, if the permittee had not previously submitted the information. The written submission shall be sent to the person identified in (h) below.
1. The permittee shall ensure that the written submission required pursuant to this subsection is submitted to the Department within five days of the commencement of the discharge or of the permittee becoming aware of the discharge.
 2. If the permittee becomes aware that it has failed to submit any relevant facts or submitted incorrect information required in (c) or (d) above, the permittee shall immediately submit such facts or information to the Department.
- (f) For the situations identified in (a)3 above, the permittee shall ensure that the person identified in (h) below receives the information listed at (f)4 below as part of the written submission required pursuant to (e) above, if not previously submitted, as follows:
1. For an unanticipated bypass, the information listed at (f)4i through ii and iv through ix below.
 2. For an upset, the information listed at (f)4i and iii through vi below as applicable, is submitted to the Department, within the five-day period.
 3. If the permittee becomes aware that it has failed to submit any relevant facts or has submitted incorrect information pursuant to (d) above, the permittee shall immediately submit such facts or information to the Department.
 4. The following information shall be submitted as required under this subsection:
 - i. All properly signed, contemporaneous operating logs, or other relevant evidence, on the circumstances of the noncompliance;
 - ii. For an unanticipated bypass, the reasons that the unanticipated bypass occurred, including the circumstances leading to the unanticipated bypass;
 - iii. For an upset, the reasons that the upset occurred, including the cause of the upset and the identity of the person causing the upset, as necessary, except that, in the case of a treatment works, the local agency may certify that despite a good faith effort it was unable to identify the cause of the upset or the person causing the upset;
 - iv. Evidence that the permittee was properly operating the facility at the time;
 - v. Evidence that the permittee submitted notice of the unanticipated bypass as required pursuant to (a)(3) above, or, in the case of an upset resulting from the performance by the permittee of maintenance operations, the permittee provided prior notice and received prior

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written approval from the Department, including the name, title, address and telephone number of the individual who satisfied this requirement, the date and specific time the individual notified the Department for the permittee, the specific method that the individual used to notify the Department, and the name and title of the individual within the Department to whom the permittee gave such notice;

- vi. Evidence that the permittee complied with all remedial measures the Department required;
 - vii. For an unanticipated bypass, the permittee's rationale for and all supporting documentation that the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage, including the name, title, address and telephone number of the individual that made the determination for the permittee, the data and information upon which that individual made the determination and any other information the Department requests;
 - viii. For an unanticipated bypass, evidence that there was no feasible alternative to the unanticipated bypass, including but not limited to the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of downtime; and
 - ix. For an unanticipated bypass, evidence that the unanticipated bypass did not occur during normal periods of equipment downtime or preventive maintenance when back-up equipment should have been installed to avoid the unanticipated bypass.
- (g) For the situations identified in (a) above, the permittee shall submit the information below to the person identified in (h) below at least 10 days, if possible, prior to the date of the anticipated bypass.
- 1. The exact dates and times of the anticipated commencement and the end of the anticipated bypass;
 - 2. The permittee's rationale as to why the anticipated bypass is necessary;
 - 3. A statement certifying that the permittee will properly operate the facility at the time of the anticipated bypass;
 - 4. A statement certifying that the anticipated bypass is unavoidable to prevent loss of life, personal injury, or severe property damage, including the name, title, address and telephone number of the individual that made this determination for the permittee, the data and information upon which that individual made the determination, and any other information the Department requests;
 - 5. A statement certifying that there is no feasible alternative to the anticipated bypass, including but not limited to the use of auxiliary treatment facilities retention of untreated wastes, or maintenance during normal periods of equipment downtime; and

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6. A statement certifying that the anticipated bypass will not occur during normal periods of equipment downtime or preventive maintenance when backup equipment can be installed to avoid the anticipated bypass.
- (h) The permittee shall submit all written notifications and/or reports required pursuant to this section to:
- Administrator of Water Compliance and Enforcement
New Jersey Department of Environmental Protection
401 East State Street, 4th Floor East
PO Box 422
Trenton, New Jersey 08625-0422
- (i) For a serious violation, as defined in N.J.A.C. 7:14A-1.2, a person shall, within 30 days of the violation, submit a written report to the person listed in (h) above or the appropriate control authority. The report shall include the following:
1. All the information required in (d) above, if not already submitted; and
 2. A written statement that:
 - i. Indicates the person understands the civil and administrative penalties required to be assessed for serious violations; and
 - ii. Explains the nature of the serious violation
- (j) The permittee shall report all instances of noncompliance not reported under this section at the time DMRs are regularly submitted. The reports shall contain the information required pursuant to (d) above.

7:14A-6.11 Affirmative Defenses

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

7:14A-6.12 Operation, Maintenance, and Emergency Conditions.

- (a) A permittee shall, at all times, maintain in good working order and operate the treatment works and facilities which are installed or used by the permittee to achieve compliance with the terms and conditions of the discharge permit. Proper operation and maintenance, includes, at a minimum:
1. Effective performance based upon treatment levels for which the treatment works was designed;
 2. Adequate funding;
 3. Effective management;
 4. Adequate operator staffing and training;
 5. Regularly scheduled inspection and maintenance programs; and

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6. Adequate laboratory and process controls including appropriate quality assurance procedures as described in 40 CFR Part 136 and applicable State laws and rules.
- (b) Any permittee who operates a treatment works shall satisfy the licensing requirements of the "Water Supply and Wastewater Operators Licensing Act," N.J.S.A. 58:11-64 *et seq.*, and promulgated pursuant thereto. This subsection requires the operation of back-up or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the NJPDES permit or where required by applicable law or regulation.
 - (c) All permittees shall submit written verification to the Department that an operation and maintenance manual for the treatment works, including related appurtenances and collection system, has been or will be completed by the effective date or a compliance date included in a new or renewed NJPDES permit issued subsequent to May 5, 1997. A permittee does not need to submit the operation and maintenance manual to the Department, unless specifically directed to do so. When the Department directs a permittee to submit the operation and maintenance manual, the Department shall state the reasons for requiring the submittal in a letter requesting the submittal. In the case of a NJPDES permit for stormwater discharges or separate storm sewers which expressly exempts permittees from this provision, the exemption shall apply only to the discharge authorized by the permit. Any affected permittee shall comply with the following operation and maintenance manual requirements:
 1. The operation and maintenance manual shall be made available for inspection upon request by an authorized representative of the Department.
 2. The operation and maintenance manual shall be amended whenever there is a change in the treatment works design, construction, operations or maintenance which substantially changes the treatment works operations and maintenance procedures.
 3. An operation and maintenance manual shall describe, at a minimum, the following:
 - i. Operator and staff responsibilities;
 - ii. Staff guidance for emergency situations;
 - iii. Identification of NJPDES permit requirements and the obligation to meet these requirements;
 - iv. Operating procedures including a detailed description of each major treatment unit/process with relationship to related units, safe operating procedure for normal operation, including common operating problems, safe operating procedures for operating during emergency conditions, and any fail-safe features;
 - v. A program of regularly scheduled inspection and maintenance; and

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- vi. An emergency plan in accordance with (d) below.
- (d) An emergency plan shall be included as part of the operation and maintenance manual, except for those operations issued permits under N.J.A.C. 7:14A-20.
 - 1. When a person has prepared an emergency plan required by regulations other than this chapter, such plans or plan and any amendments necessary to meet the requirements of this section will satisfy the requirements of this section provided the plan is labeled to identify the requirements listed in this section.
 - 2. An emergency plan shall be amended whenever:
 - i. There is a modification, including expansion, of the treatment works; or
 - ii. Any other conditions related to the plan have changed.
 - 3. The emergency plan shall be designed to ensure effective operation of the treatment works under emergency conditions, and shall consist, at a minimum, of the following elements:
 - i. A vulnerability analysis which shall estimate the degree to which the treatment works 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;
 - ii. The vulnerability analysis shall include, but is not limited to, an estimate of the effects of such an emergency upon the following:
 - (1) Power supply;
 - (2) Communication;
 - (3) Equipment;
 - (4) Supplies;
 - (5) Personnel;
 - (6) Security; and
 - (7) Emergency procedures to be followed.
 - iii. An evaluation of the possible adverse effects on public health and the environment due to such an emergency; and

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- iv. An emergency operation plan for ensuring, to the maximum extent possible, uninterrupted treatment works operation and a manual of procedures for the implementation of such plan, including procedures for the notification of any appropriate 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.
 4. The Department shall not individually review and approve an emergency plan as part of the permit issuance process. The Department's decision not to review and approve an emergency plan shall not exempt a person from liability for violations arising from an emergency situation. A person 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 operation and maintenance manual.
 5. Failure to have on file any part of the operation and maintenance manual in compliance with (c) above and failure to implement the emergency plan pursuant to this subsection shall each constitute a violation of this chapter.
 6. In emergency situations, a permittee shall implement the requirements of the emergency plan to the fullest extent possible. In addition, any conditions of the emergency plan that the permittee can implement prior to an emergency situation to reduce the potential for an emergency situation, shall be implemented.
- (e) A municipality or sewerage authority who is not a permittee (for example, does not have a direct surface or groundwater discharge) but who owns and operates a treatment works used only for the collection or transportation of domestic sewage is not required to prepare an operations and maintenance manual. However, the municipality or sewerage authority shall be responsible for the proper operation and maintenance of that treatment works. The criteria for proper operations and maintenance and an emergency plan pursuant to (a) and (d) above, may be used as a guideline and implemented as applicable.

7:14A-6.13 General Permits.

- (a) The Department shall issue a general permit to authorize a category of surface water, ground water, or indirect discharges, residual use or disposal practices, or facilities within a geographic area, described in (b) below, except those otherwise eligible for authorization but which are authorized pursuant to individual permits or other general permits. The area shall correspond to existing geographic or political boundaries, such as:
1. 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.;
 2. Sewer districts or sewerage agencies;
 3. City, county, or State political boundaries;
 4. State highway systems;

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5. Standard metropolitan statistical areas as defined by the Office of Management and Budget;
 6. Urbanized areas as designated by the Bureau of Census according to criteria in 39 FR 15202 (May 1, 1974); or
 7. Any other appropriate division or combination of boundaries.
- (b) A general permit may be written to regulate within the area described in (a) above, either:
1. Stormwater discharges;
 2. Non-contact cooling water discharges;
 3. Combined sewer overflows; or
 4. A category of discharges other than those listed in (b)1 through 3 above, if they all:
 - i. Involve the same or substantially similar types of operations;
 - ii. Discharge the same type of wastes or engage in similar residual use or disposal practices;
 - iii. Require the same or similar effluent limitations, operating conditions, or standards for residual use or disposal;
 - iv. Require the same or similar monitoring; and
 - v. In the opinion of the Department, are more appropriately controlled under a general permit than under individual permits.
- (c) General permits may be issued, modified, revoked and reissued, suspended, or revoked in accordance with applicable requirements of N.J.A.C. 7:14A-15, 16 and 17. The Department shall publish in the New Jersey Register a notice of administrative change revising the list of general permits in the table below to reflect any of these general permit actions. The list in this table is for informational purposes only. The Department advises prospective applicants to obtain a copy of the most recent general permit list from the Department's Division of Water Quality at PO Box 029, Trenton, New Jersey 08625, or from the Division's website (<http://www.state.nj.us/dep/dwq>). A copy of any general permit on the list may be obtained from the same address.

<u>NJPDES Permit No.</u>	<u>Category</u>	<u>Name of General Permit</u>	<u>Discharge Type¹</u>	<u>Year Issued</u>
NJ0108308	I1	Stormwater Basins at Sanitary Landfills	DGW	2001
NJ0108642	I2	Filter Backwash Water from Potable Water Treatment Plants	DGW	1996
NJ0130281	T1	Existing Sanitary Septic Systems	DGW	1998
NJ0107671	SM	Scrap Metal Stormwater	DGW/DSW	1999

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NJ0088315	5G2	Basic Industrial Stormwater	DSW	1997
NJ0088323	5G3	Construction Activity Stormwater	DSW	1997
NJ0108456	CPM	Concrete Products Manufacturing Stormwater	DSW	1995
NJ0134791	R5	Newark Airport Complex Stormwater	DSW	2000
NJ0070203	CG	Non-contact Cooling Water	DSW	2000
NJ0102709	B4B	Groundwater Petroleum Product Clean-up	DSW	1998
NJ0105023	CSO	Combined Sewer Overflow	DSW	2000
NJ0128589	B6	Swimming Pool Discharges	DSW	1998
NJ0132993	BG	Hydrostatic Test Water	DSW	1999
NJ0134511	B7	Construction Dewatering	DSW	1999
NJ0105767	EG	Land Application Food Processing Residuals	RES	1998
NJ0132519	ZG	Residuals Transfer Facilities	RES	1999

1 Acronyms identifying “Discharge Type” have the following meanings:

DGW Discharge to Groundwater

DSW Discharge to Surface Water

RES Residual Use or Disposal

(d) An authorization under a general permit shall be obtained as follows:

1. Except as provided in (d)7 and 8 below, persons seeking authorization under a general permit shall submit to the Department a written request for authorization. A person who fails to submit a request for authorization in accordance with the terms of the permit is not authorized to discharge under the terms of the general permit unless:
 - i. The general permit, in accordance with (d)7 below, contains a provision that a request for authorization is not required; or
 - ii. The Department notifies a person that the discharge is authorized by a general permit in accordance with (d)8 below.
2. The contents of the request for authorization shall be specified in the general permit and shall require the submission of information necessary for adequate program implementation, including, at a minimum, the legal name and address of the owner and operating entity, the facility name and address, type of facility or discharges, the receiving surface or ground water(s) or DTW, and the certification required under (d)3 below. Unless the general permit specifies otherwise, the request for authorization shall include all of the forms, information, signatures, and certification(s) that this chapter requires to be included in an application for a NJPDES permit. The request for authorization shall also include any other certification specified in the general permit.
3. In addition to the information required under (d)2 above, the request for authorization shall include, when specified in the general permit, a certification that arrangements have been made for publication, in a daily or weekly newspaper within the area affected by the facility, of a notice which states that a request for authorization under a general permit has been submitted pursuant to N.J.A.C. 7:14A-6.13(d). This notice shall also identify

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the general permit under which authorization is sought, the legal name and address of the owner and operating entity or, the facility name and address, type of facility or discharges, and the receiving surface or ground water(s) or DTW. Each general permit shall set forth the form of notice appropriate to that general permit.

4. General permits shall specify the deadlines for submitting requests for authorization and the date(s) when a person is authorized to discharge under the permit.
5. General permits shall specify whether a person that has submitted a complete and timely request for authorization in accordance with the general permit, and that is eligible for authorization under the permit, is authorized to discharge in accordance with the permit either upon:
 - i. Receipt of the request for authorization by the Department, after a waiting period specified in the general permit, where applicable;
 - ii. On a date specified in the general permit; or
 - iii. Upon the person's receipt of notification of authorization by the Department.
6. Authorization may be suspended, revoked, or denied in accordance with (j) through (m) below. The Department shall publish in the DEP Bulletin, or other similar DEP publication, a quarterly report of each authorization issued under a general permit.
7. Discharges from DTWs, combined sewer overflows, primary industrial facilities, and stormwater discharges associated with industrial activity shall submit a request for authorization to the Department. Other discharges, may, at the discretion of the Department, be authorized under a general permit without submission of a request for authorization where the Department finds that a request for authorization requirement is inappropriate. The Department shall provide in the public notice of the general permit the reasons for not requiring a request for authorization. In making such a finding, the Department shall consider:
 - i. The type of discharges;
 - ii. The expected nature of the discharges;
 - iii. The potential for toxic and conventional pollutants in the discharges;
 - iv. The expected volume of the discharges;
 - v. Other means of identifying discharges authorized by the permit; and
 - vi. The estimated number of discharges to be authorized by the permit.
8. The Department may notify a person that the discharge is authorized by a general permit, even if the person has not submitted a request for

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authorization. A person so notified may nonetheless request an individual permit under (i) below.

9. A general permit may provide for automatic renewal of authorization when that general permit is reissued, provided the discharge authorized under the general permit continues to be eligible. If such a general permit requires a request for authorization under (d)1 above, the most recently submitted request for authorization is also a timely and complete request for authorization under the reissued permit (for any permittee who had authorization under the permit immediately prior to the effective date of the reissued permit), and the Department shall issue a notice of renewed authorization to the permittee.
 - i. If the permittee is aware that any information in that most recently submitted request for authorization is no longer true, accurate, and/or complete, the permittee shall provide the correct information to the Department within 90 days after that effective date, if the permittee has not done so already.
 - ii. A permittee whose authorization is renewed under this paragraph may request to be excluded from the reissued general permit in accordance with (g) below, and may also request a stay of the application to that permittee of any conditions of the reissued permit in accordance with N.J.A.C. 7:14A-17.6.
- (e) The Department may require any permittee authorized by a general permit to apply for and obtain an individual NJPDES permit or seek and obtain authorization under another general permit. Also, any person may, in accordance with the procedures set forth at (l) below, petition the Department to take action under this subsection. An individual NJPDES permit or another general permit may be required when:
1. There is evidence that the permittee may be a significant contributor of pollutants. In making this determination, the Department may consider the location of the discharge, facility, or activity, the size of the discharge or activity, the quantity and nature of pollutants, the quality of the receiving waters, and other relevant factors;
 2. The permittee is not in compliance with the conditions of the general permit;
 3. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants;
 4. Effluent limitation guidelines are promulgated for the activity authorized by the general permit;
 5. A Water Quality Management Plan containing different requirements applicable to the permittee is adopted;
 6. Circumstances have changed since the time of authorization or the request for authorization such that the discharge is no longer appropriately

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- controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized activity is necessary;
7. The Department acquires new information indicating that the permittee otherwise is not eligible for the general permit according to terms specified in the general permit; or
 8. New standards for residual use or disposal are promulgated for the residual use and disposal practice covered by the general permit.
- (f) To require any permittee authorized by a general permit to apply for an individual NJPDES permit or seek authorization under another general permit as provided in (e) above, the Department shall notify the permittee in writing, as follows:
1. The notice shall include:
 - i. A brief statement of the reasons for the determination that an individual permit or authorization under a different general permit is necessary;
 - ii. An application form or the applicable request for authorization form;
 - iii. A statement setting a time for the permittee to file the application or the applicable request for authorization; and
 - iv. A statement that on the effective date of the individual NJPDES permit or on the date of the permittee's authorization under another general permit, the individual permittee's authorization under the general permit shall automatically terminate.
 2. The Department may grant additional time for application for an individual permit or request for authorization, upon request by the permittee. If a permittee fails to submit in a timely manner an application form or request for authorization form required by the Department under this subsection, the permittee's authorization under the general permit will be automatically revoked at the end of the day specified for submitting the application form or request for authorization form.
- (g) Any permittee authorized by a general permit may request to be excluded from authorization under the general permit by applying for an individual NJPDES permit or for another general permit. The permittee shall submit an application under N.J.A.C. 7:14A-4.1, or a request for authorization for the other general permit (if required under (d) above), with reasons supporting the request. A request for an individual permit shall be processed under N.J.A.C. 7:14A-15, 16, and 17. A request for another general permit shall be processed under this section and the terms of the other general permit. The request shall be granted by the issuing of any individual permit, or by the issuing of authorization under the other general permit, if the reasons cited by the permittee are determined to be adequate to support the request.

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- (h) When a permittee authorized by a general NJPDES permit is issued an individual NJPDES permit for the authorized discharge, or obtains authorization for that discharge under another general permit, the permittee's authorization under the general permit is automatically revoked on the effective date of the individual permit or on the date of the permittee's authorization under another general permit, whichever the case may be. When an individual NJPDES permit is denied to a permittee authorized by a general permit, or the permittee is denied authorization under another general permit, the permittee's authorization under the general permit is automatically revoked on the date of such denial, unless otherwise specified by the Department.
- (i) If a permittee's discharge is excluded from a general permit solely because that discharge already is authorized by an individual permit or authorization under another general permit, the permittee may request that the individual permit or authorization be revoked or modified, as appropriate, and that the discharge be authorized by a general permit identified in that request. The permittee shall submit a request for revocation or modification, with reasons supporting the request, to the Department. The permittee shall submit any request for revocation or modification of an individual permit under N.J.A.C. 7:14A-16, and that request shall be processed under N.J.A.C. 7:14A-15, 16 and 17. If the Department revokes or modifies the individual permit or authorization, and if authorization under a general permit is issued, after the permittee submits any request for authorization required under (d) above, the permittee shall be authorized under the general permit. In reviewing such requests, the Department may consider:
1. The location of the discharge;
 2. The size of the discharge or activity;
 3. The quantity and nature of pollutants reaching the surface or ground waters of the State;
 4. The quality of the receiving waters;
 5. Antibacksliding requirements in N.J.A.C. 7:14A-13.19, if applicable; and
 6. Any other factors the Department considers relevant to determining whether the discharge is best regulated under one permit or the other.
- (j) The Department may suspend or revoke a permittee's authorization under a general permit for causes specified in N.J.A.C. 7:14A-16.6. Such suspension or revocation of authorization is a type of permit suspension or revocation under N.J.A.C. 7:14A-16.6. A requirement pursuant to (f) above that a permittee apply for an individual permit or seek authorization under another general permit is not a revocation within the meaning of N.J.A.C. 7:14A-16.6, even if the permittee's authorization is eventually revoked in favor of an individual permit or another general permit, or is automatically revoked under (f)2 above, as a result of the permittee's failure to submit in a timely manner an application form or request for authorization form.

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- (k) If the Department directs the permittee to apply for an individual permit or seek authorization under another general permit, the permittee may ask the Department to reconsider its decision by sending a letter to the Commissioner within 30 days of the issuance of the initial decision. The letter shall be sent to:

Office of Legal Affairs
Department of Environmental Protection
401 East State Street
CN-402
Trenton, NJ 08625

Both the envelope and the letter shall clearly indicate that it is a "REQUEST FOR RECONSIDERATION OF GENERAL PERMIT DETERMINATION." The Commissioner may act on the request with 60 days; if the Commissioner fails to take any action the request shall be deemed denied. In no event shall an order from the Department directing a permittee to apply for an individual permit or seek authorization under another general permit (or a denial of a request to reconsider that order) be deemed final agency action.

- (l) The following requirements apply to petitions filed under (e) above:
1. Any petition shall state clearly and concisely:
 - i. The name, address, and telephone number of the petitioner;
 - ii. The petitioner's interest in the petition (including any organizational affiliations and any economic interest);
 - iii. The name and address of the permittee whose authorization could be affected by the petition;
 - iv. The number of the permit under which that permittee is authorized; and
 - v. The reasons why the petition should be granted (including any citations to any relevant legal authority).
 2. The petitioner shall serve the petition on both the Department and the permittees whose authorization could be affected by the petition.
 3. The permittees whose authorization could be affected shall have 30 days from the date the petition was served to respond to the petition. Any response shall be served on both the Department and the petitioner. The Department thereafter may in its discretion seek further information relevant to the petition.
 4. The Department shall determine whether to grant the petition based upon materials submitted in accordance with this subsection and based upon the criteria set forth in (e) above. The Department shall notify both the petitioner and the permittees whose authorization is affected by the petition of the Department's determination.

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5. Either party may ask the Department to reconsider its decision regarding a petition by sending a letter to the Commissioner within 30 days of the issuance of the initial decision. The letter shall be sent to the Department's Office of Legal Affairs, at the address listed above, and both the envelope and the letter shall clearly indicate that it is a "REQUEST FOR RECONSIDERATION OF PETITION DETERMINATION." The Commissioner may act on the request within 60 days; if the Commissioner fails to take any action the request shall be deemed denied. It shall be considered final agency action where the ultimate outcome of the agency proceedings is that the petition is denied by the Commissioner.
- (m) The following requirements apply to denial of requests for authorization:
1. The Department shall deny a request for authorization if it determines that the subject discharge is not eligible for the general permit for which the person has requested authorization.
 2. The Department may deny a request for authorization if it determines that the discharge is not appropriately regulated under the relevant general permit because of:
 - i. Its location;
 - ii. The size of the discharge or activity;
 - iii. The quantity and nature of pollutants reaching the waters of the State;
 - iv. The quality of the receiving waters; or
 - v. Other relevant factors.
 3. If the Department denies a request for authorization, it shall notify the person of that denial in writing. A person whose request for authorization has been denied may ask the Department to reconsider its decision by sending a letter to the Commissioner within 30 days of the issuance of the initial denial. The letter shall be sent to the Department's Office of Legal Affairs, at the address listed above, and both the envelope and the letter shall clearly indicate that it is a "REQUEST FOR RECONSIDERATION OF GENERAL PERMIT DETERMINATION." The Commissioner may act on the request within 60 days; if the Commissioner fails to take any action the request shall be deemed denied. In no event shall a denial of a request for authorization, or a request to reconsider that denial, be deemed final agency action.
- (n) An authorization may be transferred to a new permittee in accordance with the requirements for an automatic transfer at N.J.A.C. 7:14A-16.2(d).
- (o) With the consent of the permittee, the Department shall revoke an authorization to discharge under a general permit without following the procedures set forth in N.J.A.C. 7:14A-15.6, if the discharge has ceased.

7:14A-6.14 Emergency Permits

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- (a) Under the specified circumstances listed in (b) below, the Department may issue an emergency permit, except for a DSW, to allow the discharge of pollutants, where such discharge is unpermitted or the discharge consists of pollutants not covered by an effective permit.
- (b) The Department may issue an emergency permit to allow the activities listed in (a) above only after making a finding that:
 - 1. An imminent and substantial endangerment to human health or the environment will result unless an emergency permit is granted;
 - 2. A substantial and irretrievable loss of oil or gas resources will occur unless an emergency permit is granted to a Class II well under UIC program; and
 - i. Timely application for a regular 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
 - 3. A substantial delay in production of oil or gas resources will occur unless an emergency permit is granted to a new Class II well under the UIC program, and the authorization will not result in the movement of fluids into an underground source of drinking water.
- (c) The requirements for issuance of any emergency permit are as follows:
 - 1. The Department may issue an emergency permit by either oral or written permission from the Director. Oral permission shall be followed within five days by a written emergency permit.
 - 2. The Department may issue an emergency permit for any duration not to exceed 180 days, except:
 - i. That underground injections temporarily permitted in order to prevent an imminent and substantial endangerment to the health of persons shall be for a term no longer than required to prevent the hazard, or 90 days, whichever is less.
 - ii. That land application of municipal or nonhazardous sludge temporarily permitted in order to prevent an imminent and substantial endangerment to public health shall be for a term no longer than that required to prevent the hazard, or 180 days, whichever is less.
 - iii. That storage of municipal or non-hazardous sludge temporarily permitted in order to prevent an imminent and substantial endangerment to public health shall be for a term no longer than that required to prevent the hazard, or one year, whichever is less.
 - 3. The Department shall clearly specify in the emergency permit the following:

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- i. The wastes to be received and disposed of under the emergency permit;
 - ii. The manner and location of the treatment, storage, disposal, or injection of wastes;
 - iii. The rate, quantity, and quality of pollutants to be discharged; and
 - iv. The monitoring and applicable reporting requirements which is required.
4. The Department may immediately suspend or revoke the emergency permit at any time following a determination that such action is appropriate to protect human health and the environment.
 5. The Department shall publish, along with the emergency permit, a public notice of the emergency permit pursuant to N.J.A.C. 7:14A-15.10, including:
 - i. The name and address of the office granting the emergency authorization;
 - ii. The 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. The duration of the emergency permit.
 6. The Department shall issue an emergency permit regarding injections only after a complete NJPDES permit application has been submitted. The emergency permit shall only be effective until final action is taken on the NJPDES permit application.
 7. The Department shall condition the emergency permit regarding injection under the UIC program in any manner that the Department determines is necessary to ensure that the injection shall not result in the movement of fluids into an underground source of drinking water.
 8. The Department shall incorporate in the emergency permit, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of this chapter and 40 CFR Parts 264 and 266.

7:14A-6.15 Residuals Management

- (a) Where applicable, the permittee shall comply with land-based sludge management criteria and shall conform with the requirements for the management of residuals and grit and screenings under:
 1. Section 405 of the Federal Act governing the disposal of sludge from treatment works treating domestic sewage;

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2. The Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and the Solid Waste Management Rules, N.J.A.C. 7:26;
 3. The Sludge Quality Assurance Regulations, N.J.A.C. 7:14C;
 4. The Statewide Sludge Management Plan promulgated pursuant to the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.; and
 5. The provisions concerning disposal of sewage sludge and septage in sanitary landfills set forth at N.J.S.A. 13:1E-42 and the Statewide Sludge Management Plan.
- (b) The NJPDES permit shall specify standards for residual use or disposal, under Section 405(d) of the Federal Act and N.J.A.C. 7:14A-20, unless those standards have been included in a permit issued under the appropriate provisions of subtitle C of the Solid Waste Disposal Act, Part C of the Safe Drinking Water Act, the Marine Protection, Research, and Sanctuaries Act of 1972, or the Clean Air Act, or under State permit programs approved by the Department.
- (c) When there are no applicable standards for residual use or disposal, the permit may include requirements developed on a case-by-case basis to protect public health and the environment from any adverse effects which may occur from toxic pollutants in residual. If any applicable standard for residual use or disposal is promulgated under section 405(d) of the Federal Act and Sections 4 and 6 of the State Act and that standard is more stringent than any limitation on the pollutant or practice in the permit, the Department may initiate proceedings under these rules to modify or revoke and reissue the permit to conform to the standard for residual use or disposal.

7:14A-6.16 Pretreatment Requirements for Local Agencies.

- (a) Pretreatment program requirements for local agencies included, where applicable, in a NJPDES permit shall meet the requirements of 40 CFR Part 403 and N.J.A.C. 7:14A-19. In addition, a permit for a delegated local agency shall include effluent limits for all pollutants listed under the USEPA Categorical Pretreatment Standards, adopted pursuant to 33 U.S.C. §1317, and such other pollutants for which effluent limits have been established for a permittee discharging into the municipal treatment works of the delegated local agency, except those categorical or other pollutants that the delegated local agency demonstrates to the Department are not discharged above detectable levels by the local agency. The NJPDES permit may authorize the use by a delegated local agency of surrogate parameters in accordance to N.J.A.C. 7:14A-13.10, for categorical and other pollutants discharged from the local agency, except that if a surrogate parameter is exceeded, the permit shall include effluent limits for each categorical or other pollutant for which the surrogate parameter was used, for such period of time as may be specified in the permit.

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- (b) Sewage sludge use or disposal practices shall be required as a condition of the permit to a local agency, to monitor and report results with a frequency dependent on the nature and effect of the sewage sludge use or disposal practice. This frequency of monitoring and reporting shall be specified in N.J.A.C. 7:14A-20, but in no case shall be less than once per year.

7:14A-6.17 Adjustment of DSW Limitations for Alternative Disposal of Pollutants

- (a) When part of a discharger's process wastewater is not being directly 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 or limitations for the discharge in a NJPDES permit shall be adjusted to reflect the reduced raw waste resulting from such disposal.

- (b) 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 waters of the State, and effluent limitation guidelines provide separate allocations for waste 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 (b)1 above, effluent limitations shall be adjusted by multiplying the 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.

- i. This method may be algebraically expressed as:

(1) $P = E \times N/T$

(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) Subsection (a) above shall not apply to the extent that promulgated effluent limitation 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.

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- (c) Subsection (a) above does not alter a discharger's obligation to meet any more stringent requirements established under this chapter.

Subchapter 15. Procedures for Decision Making - NJPDES Permit Processing Requirements

7:14A-15.1 Purpose and Scope

This subchapter sets forth the procedural stages that the Department shall follow when processing an individual NJPDES permit and, as applicable, a general NJPDES permit. These procedural stages include conducting a permit preapplication conference when requested, receiving a permit application, performing an administrative and technical review of the application, preparing a draft permit, issuing a public notice, inviting public comment, holding a public hearing on a draft permit as applicable, issuing a final permit decision, responding to comments and establishing an administrative record for the permit action. The procedural stages of the NJPDES permit application and decision process are outlined in Appendix A of this subchapter as a guide for permit applicants.

7:14A-15.2 Procedural Stages for Individual Permit Processing (Reserved)

7:14A-15.3 Preapplication Conferences, Permit Checklists and Technical Manuals

- (a) The Department shall convene a preapplication conference within 30 days of receipt of a written request for such a conference submitted pursuant to (b) below. The purpose of the preapplication conference is to discuss general program requirements and their application to the proposed project or activity.
- (b) A prospective applicant seeking a preapplication conference shall submit to the address below a completed preapplication conference request form and a conceptual plan of the proposed project for which permit approval is sought. Preapplication conference request forms may be obtained from the Department by writing or calling:

New Jersey Department of Environmental Protection
Office of Permit Coordination and Pollution Prevention
CN 423
401 East State Street
Trenton, NJ 08625-0029
(609) 292-3600

- (c) Upon receipt of a written request sent to the address listed in (b) above, the Department shall provide a prospective applicant with a permit application checklist to identify those items required to be submitted in order for a permit application to be declared administratively complete, including:
 - 1. The application form(s) required for an administratively complete application;
 - 2. Any documents or other written submissions required to be filed with the application under this chapter; and

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3. Any filing, notice, hearing or other requirement that is a precondition for review and processing of an application, including any required certification of compliance.
- (d) A prospective applicant may also obtain a technical manual prepared by the Department in accordance with N.J.S.A. 13:1D-111 for a specified class or category of permit by writing to:
- Maps and Publications Sales Office
Bureau of Revenue
CN-417
Trenton, NJ 08625
- (e) The policies and interpretations contained in a technical manual in force on the date that an administratively complete application for a permit subject to that technical manual has been filed shall be binding on both the Department and the applicant, except as otherwise required under Federal or State law, or rule or regulation promulgated thereunder, or an order of the court. However, if an application is determined to be administratively incomplete, the date of filing shall be the date that the information required for an administratively complete application is filed with the Department. Any revision to a technical manual shall have no effect upon a permit application that was submitted to the Department prior to the date of the revision. Nothing in this subsection shall be construed to:
1. Exempt an applicant from complying with all Federal and State laws, or rules or regulations adopted thereunder, including compliance with the requirements of a permit issued by the Department; or
 2. Compromise any enforcement action available to the Department pursuant to law.

7:14A-15.4 Procedures for Department Review of Individual NJPDES Permit Applications

- (a) The procedures for review of an application for an individual NJPDES permit application are as follows:
1. An applicant shall comply with the permit application requirements contained in N.J.A.C. 7:14A-4 and any specific permit application requirements for the particular type of discharge as outlined elsewhere in this chapter before the Department begins the processing of an individual permit application.
 2. Within 30 days of receipt of an application, the Department shall send written notice to the applicant and, if other than the applicant, to the person(s) who prepared the application as to whether the application and supporting documentation constitutes an administratively complete application for the purpose of commencing a technical review of the application. The notice shall specify if the application lacks a submission identified in the permit application checklist obtained pursuant to N.J.A.C. 7:14A-15.3(c) or if any particular submission is incomplete.

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3. Within 20 days after an application is determined to be administratively complete the Department shall send written notice to the applicant and, if other than the applicant, to the person(s) who prepared the application specifying the name of the individual(s) assigned to review the application.
4. If an application, including all necessary documentation, is determined to be administratively complete, the application shall be deemed complete for the purposes of commencing technical review thereof, and any applicable time period established for completing a review of the application and taking final action thereon shall, notwithstanding any other provisions of law to the contrary, commence on the 31st day following the date of filing of the administratively complete application.
5. If an application is determined to be not administratively complete and the Department fails to issue written notice to an applicant pursuant to (a)2 above, the application shall be deemed administratively complete for the purposes of commencing a technical review, and any applicable time period established to complete a review of the application and take final action shall, notwithstanding any other provisions of law to the contrary, commence on the 31st day following the date of filing of the administratively complete application.
6. Commencement of a technical review of the application shall not be delayed because of the failure of an applicant to file a submission not specifically identified on the checklist for that application that was in effect as of the date of the filing of the application.
7. If an application is deemed not administratively complete for the purposes of commencing a technical review, the Department shall provide the applicant with written notice of the information necessary to make the application complete. The Department shall specify in the notice of deficiency a date for submitting the necessary information. The applicant may request an extension for any such submittal.
8. If the application is deemed administratively complete for the purposes of commencing a technical review but is subsequently deemed technically incomplete, the Department shall provide the applicant with written notice of the information necessary to make the application technically complete. The Department shall specify in the notice of deficiency a date for submitting the necessary technical information. The applicant may request an extension for any such submittal.
9. The permit application will be inactivated and the applicant notified if the applicant fails or refuses to correct deficiencies to the satisfaction of the Department within the time frames established pursuant to (a)7 or 8 above.
10. Within 30 days of a written request by an applicant, the Department shall notify an applicant of the status of the application and of any outstanding issues relating to review of the application.
11. Nothing in this subsection shall be construed to:
 - i. Limit the authority of the Department to request at any time a submission that was not identified on the checklist for an application

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if the submission is required by State or Federal law, or rule or regulation promulgated in accordance therewith, except that such additional submission shall not affect any applicable time period established for the Department to review and take final action on a completed application;

- ii. Diminish the responsibility of an applicant to comply with all applicable requirements of State or Federal law, or any rule or regulation promulgated in accordance therewith, or an order issued thereunder;
 - iii. Compromise or limit any enforcement action available to the Department pursuant to law; or
 - iv. Exempt an applicant from complying with all applicable provisions of Federal and State laws, or rules or regulations promulgated pursuant thereto.
- (b) A final permit decision shall not be issued until the permit is determined to be consistent with the applicable water quality management plan in accordance with N.J.A.C. 7:15. An applicant may submit the permit application and plan amendment application concurrently pending the Department's determination of consistency of the permit application with the water quality management plan in accordance with the following terms and conditions:
- 1. The applicant shall state in the NJPDES permit application that it is submitting concurrent permit and water quality management plan amendment applications and shall request administrative and technical application review of the permit application;
 - 2. The NJPDES permit application shall be deemed to be administratively incomplete in the absence of a determination of consistency with the applicable water quality management plan but the Department will continue to review the permit application for technical sufficiency;
 - 3. The applicant bears the risk of incurring any cost associated with preparing the NJPDES permit and water quality management plan amendment application submittals whether or not the Department subsequently determines that the permit application is consistent with the water quality management plan; and
 - 4. In accepting and reviewing the concurrently submitted NJPDES permit and water quality management plan amendment applications under this section, the Department does not implicitly or expressly commit itself to approving either or both applications.
- (c) Notice of NJPDES permit applications and/or draft permits shall be sent by the Department to the Regional Administrator in accordance with 40 C.F.R. 123 and the Memorandum of Agreement.

7:14A-15.5 Consolidation of Permit Processing

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- (a) Whenever an applicant proposes or requests a permit or permit renewal for more than one type of discharge covered by this chapter, the applicant, to the extent practicable, shall submit applications for all required permits to discharge concurrently and, to the extent practicable, the Department shall consolidate the processing of the permit applications.
- (b) Whenever draft permits are concurrently prepared, the statements of basis (see N.J.A.C. 7:14A-15.7) or fact sheets (see N.J.A.C. 7:14A-15.8), administrative records (see N.J.A.C. 7:14A-15.9), public comment periods (see N.J.A.C. 7:14A-15.10), and any public hearings (see N.J.A.C. 7:14A-15.12) on those permits shall be consolidated. The final permits, to the extent practicable, shall be concurrently issued except where, in the judgment of the Department, joint processing will result in unreasonable delay in the issuance of one or more approval(s) for the discharge.
- (c) Whenever an existing facility or activity requires additional permits covered by this chapter, the Department shall, to the extent practicable, coordinate the expiration date(s) of the new permit(s) with the expiration date(s) of the existing permit(s) and make necessary adjustments of these dates so that all permits expire simultaneously. Subsequent renewal applications shall also be similarly consolidated.

7:14A-15.6 Draft Permits

- (a) After review of a complete permit application, the Department shall take one of the following actions:
 - 1. For a modification, revocation and reissuance, renewal or new permit, issue a draft permit which includes a fact sheet in accordance with N.J.A.C. 7:14A-15.8;
 - 2. For the suspension or revocation of an existing permit or the denial of an application for a new permit or permit renewal, issue a notice of intent to suspend, revoke or deny, as applicable, in accordance with N.J.A.C. 7:14A-15.7(a) setting forth the basis for the permit action; or
 - 3. For the denial of an application for a modification, revocation and reissuance, suspension, or revocation of a permit, send the applicant a response letter stating the reason(s) for the denial in accordance with N.J.A.C. 7:14A-16.3.
- (b) All draft permits and general permits, with the exception of draft permits issued pursuant to (a)2 above, shall include the following information:
 - 1. Applicable conditions under N.J.A.C. 7:14A-6.3;
 - 2. Applicable compliance schedules under N.J.A.C. 7:14A-6.4;
 - 3. Applicable monitoring requirements under N.J.A.C. 7:14A-6.5;
 - 4. For UIC permits, permit conditions under N.J.A.C. 7:14A-8.10; and

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5. For NJPDES permits, effluent limitations, standards, prohibitions, standards for residual use or disposal, and conditions under N.J.A.C. 7:14A-11.2 and 11.3 and all applicable variances under N.J.A.C. 7:14A-11.7.
- (c) All draft permits prepared under this section shall be:
1. Accompanied by a statement of basis (see N.J.A.C. 7:14A-15.7) or fact sheet (see N.J.A.C. 7:14A-15.8);
 2. Based on the administrative record (see N.J.A.C. 7:14A-15.9); and
 3. Subject to public notice (see N.J.A.C. 7:14A-15.10) and made available for public comment (see N.J.A.C. 7:14A-15.11).
- (d) If there are no changes to the renewed permit, other than changes which would constitute minor changes under N.J.A.C. 7:14A-16.5, the existing permit and fact sheet may serve as the draft permit for the renewed permit.
- (e) After the close of the public comment period, the Department shall issue a final permit decision pursuant to N.J.A.C. 7:14A-15.15 including a response to comments document pursuant to N.J.A.C. 7:14A-15.16.

7:14A-15.7 Statement of Basis

- (a) The Department shall prepare a statement of basis when:
1. It suspends or revokes an existing permit pursuant to N.J.A.C. 7:14A-16.6; or
 2. It denies an application for a new permit or permit renewal.
- (b) The statement of basis shall briefly describe:
1. The type of facility or activity which is the subject of the permit application;
 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; and
 3. The reasons supporting the decision to suspend or revoke a permit, or to deny an application for a new permit or permit renewal.
- (c) The Department shall send the statement of basis to the applicant, to the persons identified in N.J.A.C. 7:14A-15.10(e)1ii through v and, upon request, to any other person.

7:14A-15.8 Fact Sheet

- (a) The Department shall prepare a fact sheet for every general permit, new permit, permit renewal, permit revocation and reissuance or major permit modification.
- (b) The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological, and policy considerations examined during preparation of the draft permit. The Department shall send this fact sheet to the applicant, to the persons identified in N.J.A.C. 7:14A-15.10(e)1ii through v, and upon written request, to any other person.

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(c) 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 sketch or detailed description of the location of the discharge(s) or regulated activity described in the application or, for general permits, a map or description of the area;
4. 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 N.J.A.C. 7:14A-15.17;
5. A summary of the Department's determination whether to include any requested variances or alternatives to permit conditions;
6. The name and telephone number of a Department staff person to contact for additional information;
7. Any calculations or other necessary explanation, or a reference where calculations or explanations can be found, of the derivation of specific effluent limitations and conditions or standards for residual use or disposal, including a citation to the applicable effluent limitation guideline or performance standard or standard for residual use or disposal as required under N.J.A.C. 7:14A-13 or 20. The fact sheet shall also state the reasons why they are applicable or provide an explanation of how the alternate effluent limitations were developed. 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 N.J.A.C. 7:14A-13;
 - ii. Limitations on internal wastestreams under N.J.A.C. 7:14A-13.16;
 - iii. Limitations on indicator pollutants under 40 CFR 125.3(g) or surrogate parameters under N.J.A.C. 7:14A-13.7 or 13.10; or
 - iv. Limitations set on a case-by-case basis under 40 CFR 125.3(c)(2) or (c)(3), or pursuant to N.J.A.C. 7:14A-20.5; and
8. For permits that include a notification plan under N.J.A.C. 7:14A-20.7(a)3, a brief description of the conditions of the permit that address approval of residual land application sites not identified at the time of permit issuance.

7:14A-15.9 Administrative Record for the Draft Permit

(a) The provisions of a draft permit shall be based on the administrative record as defined in this section.

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- (b) For preparing a draft permit under N.J.A.C. 7:14A-15.6, the administrative record shall consist of:
1. The application, if required, and any supporting data furnished by the applicant;
 2. The draft permit;
 3. The statement of basis pursuant to N.J.A.C. 7:14A-15.7 or fact sheet pursuant to N.J.A.C. 7:14A-15.8;
 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.
- (c) Any of the materials described at (b) above that are readily available in the offices of the Department or are published and generally available need not be physically included in the administrative record provided a specific reference to such materials is made in the fact sheet or statement of basis.

7:14A-15.10 Public Notice of Permit Actions and Public Comment Period

- (a) The Department, or the applicant upon authorization by the Department, shall publish public notice pursuant to (e) below for the following:
1. Issuance of a draft permit under N.J.A.C. 7:14A-15.6;
 2. Scheduling of a public hearing under N.J.A.C. 7:14A-15.12; and
 3. Reopening or extension of the public comment period under N.J.A.C. 7:14A-15.14, except that when the comment period is extended for 15 days or less, public notice of the extension shall be limited to an oral or written notice to the applicant and to those persons who commented on the draft permit.
- (b) The Department shall not publish a public notice seeking public comment for the following:
1. Denial of request for permit modification, revocation and reissuance, suspension, or revocation under N.J.A.C. 7:14A-16.3(c). Written notice of the denial shall be provided to the applicant and to the permittee;
 2. Issuance of a minor permit modification under N.J.A.C. 7:14A-16.5; or
 3. Activation of the terms and conditions of a suspended permit previously subject to public notice in accordance with this section.
- (c) The Department, or the applicant upon authorization by the Department, shall publish pursuant to (e) below public notice, as approved by the Department, according to the following schedule:
1. For draft permits and reopening or extension of the public comment period under (a)1 and 3 above, at least 30 days prior to the end of the public comment period. When public notice is published in:
 - i. One or more newspapers and the DEP Bulletin, the comment period shall close no sooner than 30 days after the last newspaper publication; or

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- ii. Only the DEP Bulletin, the comment period shall close no sooner than 30 days after publication.
2. For a public hearing under (a)2 above, 30 days prior to the public hearing.
- (d) The Department may describe more than one type of discharge or permit action in a public notice. Public notice of the public hearing and draft permit may be combined and published concurrently.
 - (e) To publish public notice of the activities described in (a) above, the Department or the applicant authorized by the Department pursuant to (c) above shall:
 - 1. Mail a copy of the approved public notice to the following persons:
 - i. The applicant (except for those general permits for which there is no applicant);
 - ii. Federal and State agencies that have issued or are required to issue a RCRA, UIC, Prevention of Significant Deterioration (or other permit under the Clean Air Act), NJPDES, Section 404 of the Federal Act, or residual management permit;
 - iii. Federal and State agencies that have jurisdiction over fish, shellfish, wildlife resources, coastal zone management plans, the State Advisory Council on Historic Preservation, State Historic Preservation Officers, and other appropriate government authorities, including any affected states;
 - iv. Any State agency responsible for areawide waste management or water quality 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 State or local agency having authority under State law with respect to construction or operation of the facility;
 - vi. Any user identified in the permit application of a privately owned treatment works;
 - vii. The mayor and governing body of the municipality where the facility is located or proposed to be located and with a request that the mayor or governing body distribute copies of the public notice to other appropriate governmental units;
 - viii. Sewerage entity (or local agency for an SIU permit); and

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- ix. Persons on a mailing list that:
 - (1) Includes those who request to be on such mailing list; and
 - (2) Includes those persons affected by the permit action.
- 2. For a facility classified as major, a general permit or a permit for land application of residuals which includes a notification plan pursuant to N.J.A.C. 7:14A-20.7(a)3, in addition to (e)1 above, publish the approved public notice in a daily or weekly newspaper within the area affected by the facility or activity; and
- 3. The Department shall publish notice of all permit modifications in the DEP Bulletin as follows:
 - i. For a major modification to permits classified as minor or significant minor, the public notice shall contain the information in (f) below;
 - ii. For a major modification to a permit classified as major, the notice shall consist of only the facility name and NJPDES permit number, the proposed modification(s), the name of the newspaper(s) where the public notice will appear and the name and telephone of the Department staff person assigned to the permit action; and
 - iii. For a minor modification to a permit for a facility classified as major, minor or significant minor, the notice shall consist of only the information required in (e)3ii above except for providing the name of the newspaper(s) where the public notice will appear.
- (f) The approved public notice shall include the following information:
 - 1. The name and address of the applicant or permittee and, if different, of the facility and/or activity regulated by the permit, except for those general permits for which there is no applicant;
 - 2. A brief description of the business conducted at the facility or activity described in the permit, permit application, or draft permit;
 - 3. A general description of the location of each existing or proposed discharge point, the name of the receiving water and, where applicable, a general description of the residual use and/or disposal practice(s) and the location of each treatment works treating domestic sewage, and residual use or disposal sites known at the time of permit application. For draft general permits, this requirement may be satisfied by a map or description of the permit area;
 - 4. The name and address of the office within the Department to which a person can make a written request to view the administrative record and the times and place at which the record will be open for public inspection, and the name of the Department staff person who is processing the permit action to whom a person can make a written request for copies;
 - 5. A brief description of the comment procedures required by N.J.A.C. 7:14A-15.11 and 15.12 including:

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- i. The date, time and place of any scheduled public hearing;
 - ii. A statement of the procedures by which to request a hearing (unless a hearing has already been scheduled) and other procedures by which a person may participate in the final permit decision process; and
 - iii. The opening and closing date of the comment period, including a statement that comments shall be postmarked by the closing date; and
6. Any additional information considered by the Department to be necessary or appropriate.
- (g) In addition to the information described at (f) above, the Department shall include the following information in the public notice for a public hearing scheduled pursuant to N.J.A.C. 7:14A-15.12:
1. The date of any previous public notice relating to the permit;
 2. The date, time and place of the public hearing; and
 3. A brief description of the nature and purpose of the public hearing, including the applicable rules and procedures.
- (h) In addition to the public notice described in (f) above, the Department shall mail to all persons identified in (e)1i through v above a copy of the fact sheet or statement of basis, and, upon written request, the permit application and the draft permit.

7:14A-15.11 Public Comments and Requests for Public Hearing

- (a) During the public comment period established under N.J.A.C. 7:14A-15.10, any person may submit written comments on a draft permit based upon significant and relevant issues and data .
- (b) If a public hearing has not already been scheduled, a person may request a public hearing on a draft permit for which public notice has been published pursuant to N.J.A.C. 7:14A-15.10. A request for a public hearing shall be in writing and shall state the nature of the significant and relevant issues proposed to be raised in the hearing and why these issues cannot be adequately expressed other than at a public hearing.

7:14A-15.12 Public Hearings

- (a) The Department shall hold a public hearing if there is or may be a significant degree of public interest in favor of holding a public hearing. The Department may hold a public hearing if it determines that a hearing is likely to clarify one or more legal and/or factual issues on a draft permit and that oral testimony is essential to adequately express all issues and concerns.
- (b) Public hearings shall be conducted in a non-adversarial manner wherein a person shall be afforded an opportunity to submit oral or written statements and data concerning the draft permit.

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- (c) The Department may set reasonable limits upon the time allowed for oral comments at the public hearing and may also require the submission of written statements.
- (d) The Department shall extend the public comment period established pursuant to N.J.A.C. 7:14A-15.10 to the close of any public hearing held pursuant to this section. The Department may also extend the comment period beyond the public hearing by so stating at the hearing.
- (e) If a permittee has requested to arrange for a public hearing and the Department determines that a public hearing is warranted based on (a) above, it shall be the sole responsibility of the applicant to secure the use of an adequate facility to hold the public hearing and to obtain any ancillary services associated with the public hearing including, but not limited to, a stenographer and/or tape recording. The location, time and date of the public hearing shall be mutually acceptable to the Department and the applicant.
- (f) When a permittee arranges the public hearing, it shall provide the Department with two copies of the public hearing transcript at no charge to the Department.
- (g) The Department shall make available for public inspection a written transcript of the public hearing. A copy of the transcript will be sent, on request, for a reasonable fee for copying.

7:14A-15.13 Obligation to Raise Issues and Provide Information During the Public Comment Period

- (a) Any applicant or permittee or person interested in being considered a party to an action pursuant to N.J.A.C. 7:14A-17.3 who believes that any action under N.J.A.C. 7:14A-15.10(a) is inappropriate shall raise all reasonably ascertainable issues and submit, in writing to the Department by certified mail (return receipt requested), or by other means which provides verification of the date of delivery to the Department all such reasonably ascertainable arguments and factual grounds supporting them, including all supporting materials, by the close of the public comment period. If an applicant or permittee or any person fails to raise any reasonably ascertainable issues within the public comment period, the right to raise or contest any such issues in any subsequent adjudicatory hearing or appeal shall be deemed to have been waived. 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, USEPA documents of general applicability, or other generally available reference materials. Commenters shall make any supporting material incorporated by reference available at the request of the Department.

7:14A-15.14 Reopening of the Public Comment Period

- (a) Upon its determination that any data, information or argument submitted during the comment period raises significant legal and/or factual issues that are

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likely to affect the final decision on the permit, the Department shall take one or more of the following actions:

1. Prepare a new draft permit, appropriately modified, pursuant to N.J.A.C. 7:14A-15.6;
 2. Prepare a revised statement of basis under N.J.A.C. 7:14A-15.7, or a revised fact sheet pursuant to N.J.A.C. 7:14A-15.8, and reopen the comment period under (a)3 below; or
 3. Reopen or extend the comment period to give a person the opportunity to comment on the data, information or arguments so submitted.
- (b) Comments filed during the reopened or extended comment period shall be limited to the relevant legal and/or factual issues that prompted the reopening or extension of the comment period. The public notice under N.J.A.C. 7:14A-15.10 shall define the scope of the reopened or extended comment period.
- (c) The Department shall publish public notice of any of the actions specified at (a) above in accordance with N.J.A.C. 7:14A-15.10, except when the comment period is reopened or extended for 15 days or less, in which case, the Department shall provide only the applicant and all persons who commented on the draft permit with oral or written notice of the reopened or extended public comment period.

7:14A-15.15 Final Permit Decision, and Issuance and Effective Date of a Permit

- (a) The Department shall issue a final permit decision after the close of the public comment period. The Department also shall notify, in writing, the applicant or permittee and each person who submitted written comments or requested notice of the final permit decision. This notification shall include reference to the procedures provided to the applicant or permittee and persons other than the applicant or permittee for contesting the Department's decision on a permit.
- (b) A final permit shall not become effective until 30 days from receipt by the permittee of the permit except when:
1. An effective date is not specified in the permit but the permit specifies that the permittee may request the establishment of the effective date at a subsequent time;
 2. A later effective date is specified in the permit; or
 3. The Department has received no comment from persons other than the permittee on the draft permit and an immediate effective date is requested by the permittee, in writing, and the Department concurs.
- (c) After the issuance of a final permit decision:
1. A treatment works approval, if required by N.J.A.C. 7:14A-22.3, shall be obtained.
 2. The permittee or any other person considered a party to the action under N.J.A.C. 7:14A-17.3 may request an adjudicatory hearing to contest the final permit decision in accordance with N.J.A.C. 7:14A-17.2.

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7:14A-15.16 Response to Comments

- (a) The Department shall specifically respond to comments concerning draft permits from persons, including comments from affected states, by issuing a response to comments document at the time that a final permit decision is issued. The document shall:
 - 1. State what action the Department has taken on the final permit or permit decision;
 - 2. Specify which provisions, if any, of the draft permit have been changed in the final permit, and the reasons for the change. The Department shall make only those changes which do not destroy the value of the original fact sheet or statement of basis; and
 - 3. Briefly describe and respond to all significant and relevant comments on the draft permit raised during the public comment period, or during any public hearing.
- (b) A person may arrange to review the response to comments document by telephoning the Department's Bureau of Central Services and Property Management at (609) 292-0400.

7:14A-15.17 Administrative Record for the Final Permit

- (a) The Department shall base final permit decisions made pursuant to N.J.A.C. 7:14A-15.15 on the administrative record, which shall consist of the following:
 - 1. The administrative record for the draft permit under N.J.A.C. 7:14A-15.9;
 - 2. All comments received during the public comment period established under N.J.A.C. 7:14A-15.10 including any extension or reopening under N.J.A.C. 7:14A-15.14;
 - 3. The tape or transcript of any public hearing(s) held under N.J.A.C. 7:14A-15.12;
 - 4. Any written materials submitted at any public hearing held under N.J.A.C. 7:14A-15.12;
 - 5. The response to comments document prepared under N.J.A.C. 7:14A-15.16 and any new material placed in the record under that section;
 - 6. Other documents contained in the supporting file for the permit; and
 - 7. The final permit.
- (b) Any of the materials described at (a) above that are readily available in the offices of the Department or are published and generally available need not be physically included in the administrative record provided a specific reference to such materials is made in the fact sheet or statement of basis.
- (c) A person may arrange to review the administrative record by telephoning the Department's Bureau of Central Services and Property Management at (609) 292 - 0400.

N.J.A.C. 7:14A-15: Appendix A

Guide to the NJPDES Permit Processing Requirements

Appendix A is designed to assist a new applicant, or permittee in following the permit procedural requirements set out in this chapter. An applicant should read the full text of the regulations before applying for a permit.

The flow chart outlines a sequence of events directed by arrows and is divided into two sections as follows:

SECTION 1 - APPLICATION PROCEDURES

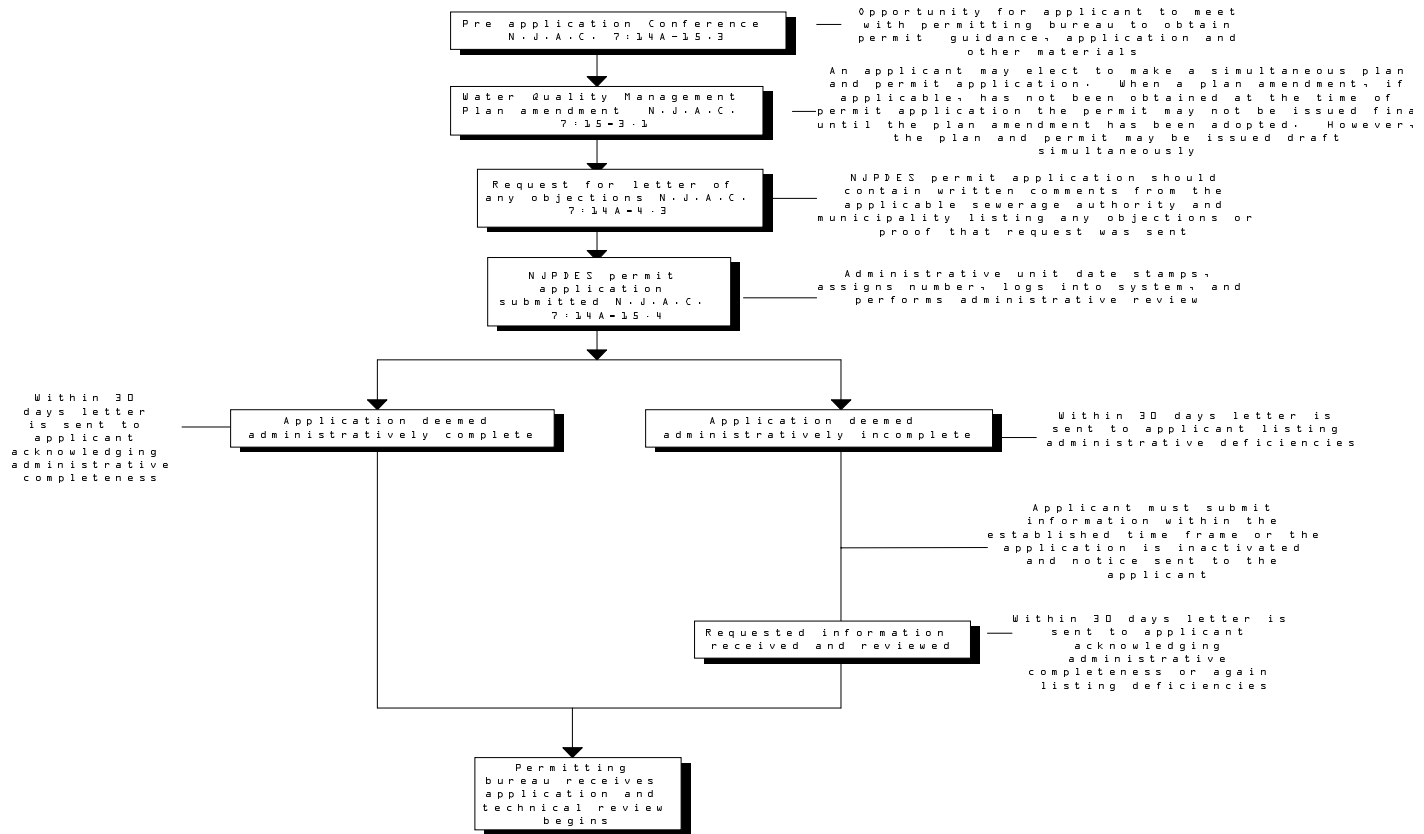
Section 1 outlines the actions leading to a permit application and the Department's administrative review of the application. The key items in this section are that prior to a permit application an applicant shall have:

1. Received a determination of consistency (unless submitting a concurrent permit and plan amendment application) pursuant to N.J.A.C. 7:14A-15.4(b) in accordance with the Statewide Water Quality Management Planning Rules at N.J.A.C. 7:15; and
2. Requested a letter of comment or objections from the municipality or sewerage authority pursuant to N.J.A.C. 7:14A-4.3(a)13.

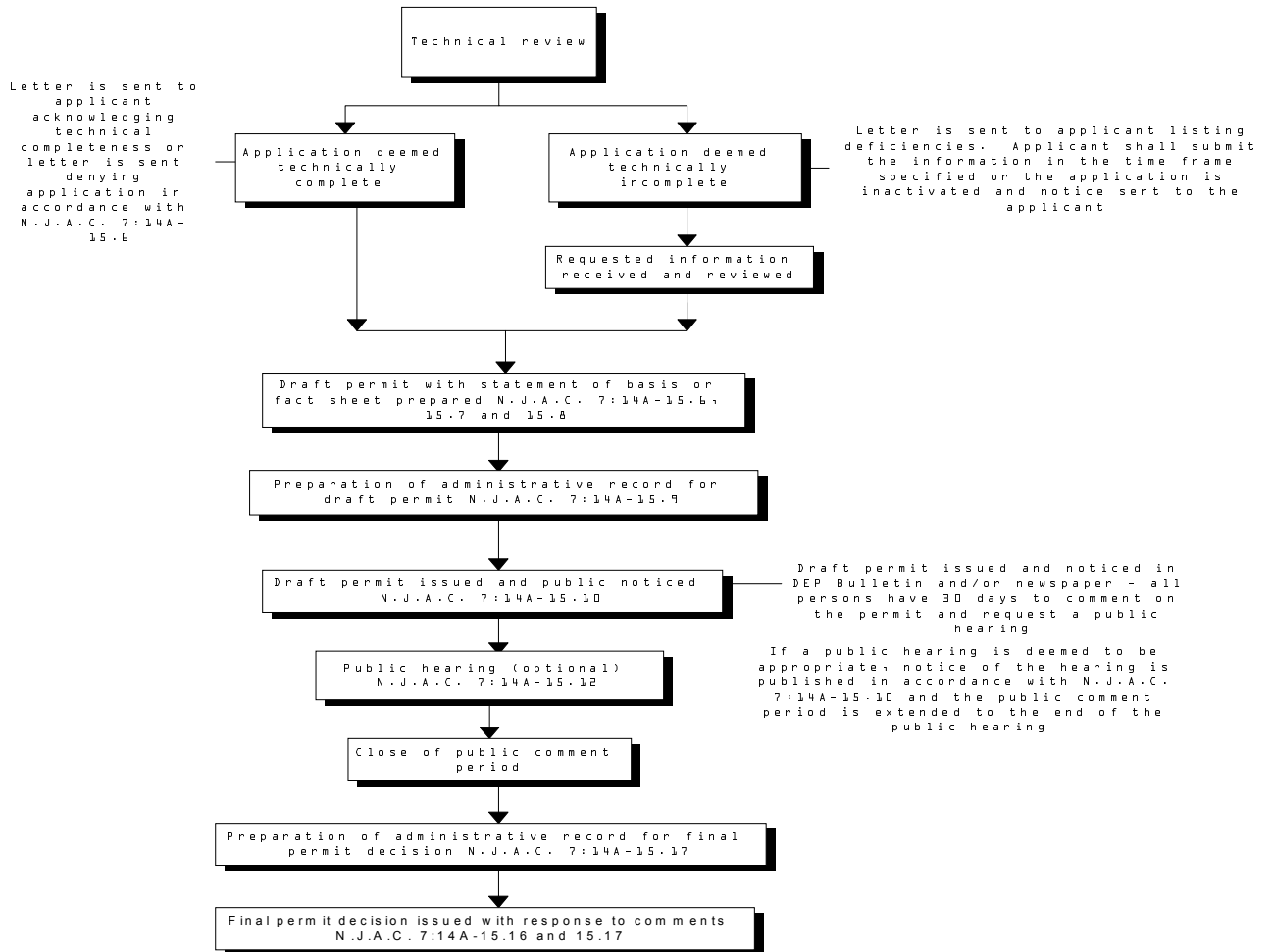
SECTION 2 - PERMIT DECISION PROCESS

Section 2 outlines the steps in the technical review of the permit application, how a permit will be prepared and publicly noticed for comment, and how a final permit decision will be issued. The key item in this section is the public comment period (N.J.A.C. 7:14A-15.10). Unless issues are raised during this period they may not be adjudicated during the hearing process if the applicant appeals the Department's final decision on the permit.

Application Procedures



Permit Decision Process



Subchapter 16. Transfer, Modification, Revocation and Reissuance, Renewal, Suspension, and Revocation of Existing Permits

7:14A-16.1 Purpose and scope

This subchapter sets forth the causes for and the procedures governing the transfer, modification, revocation and reissuance, renewal, suspension, and revocation of existing NJPDES permits. Specific procedures governing authorizations issued under general permits are set forth at N.J.A.C. 7:14A-6.13.

7:14A-16.2 Transfer of a permit

- (a) A permittee shall not transfer a NJPDES permit to any person except after due notice to the Department in accordance with (b) or (d) below.
- (b) To identify a new owner or operator, a permit may be transferred:
 - 1. As a major modification or revocation and reissuance if one or more causes at N.J.A.C. 7:14A-16.4 are identified;
 - 2. As a minor modification with changes identified at N.J.A.C. 7:14A-16.5; or
 - 3. As an automatic transfer under (d) below.
- (c) (Reserved.)
- (d) Any permit shall be automatically transferred to a new permittee if:
 - 1. The current permittee provides written notice to the Department by certified mail or by other means which provides verification of the date of delivery to the Department of the proposed transfer at least 30 days prior to the proposed transfer date. This notice shall include the following:
 - i. The name of the current owner and the address of facility;
 - ii. The name and address of the new owner or owners and operator;
 - iii. The permit number;
 - iv. The names of the principal officer or officers responsible for the facility operation and maintenance under the new operator identified under (d)1ii above;
 - v. The names and current telephone numbers of persons upon whom legal process can be served;
 - vi. A notarized statement signed by the new principal officer identified in (d)1iv above stating that he or she has read the permit and certifies, pursuant to N.J.A.C. 7:14A-4.9, that he or she shall abide by all the conditions of the permit and that production levels, products

generated, rates of discharge, and discharge characteristics shall remain unchanged; and

- vii. A written agreement between the current permittee and new permittee which includes a specific date for transfer of permit responsibility between the current permittee and new permittee; and
- 2. The Department does not issue a response letter in accordance with N.J.A.C. 7:14A-16.3(c) to notify the current permittee and the new permittee, within 30 days of receipt of notice of the proposed transfer provided the permittee complies with the requirements in (d)1 above. The Department shall incorporate the name of the new permittee into the permit as a minor modification in accordance with N.J.A.C. 7:14A-16.5.

7:14A-16.3 Procedures for the modification, revocation and reissuance, renewal, suspension, or revocation of a permit

- (a) An existing permit shall be modified, revoked and reissued, renewed, suspended, or revoked for cause as specified at N.J.A.C. 7:14A-16.4 through 16.6, as applicable, either at the request of the permittee, or a person, or upon the Department's initiative.
- (b) Any request under (a) above shall be submitted in accordance with the following procedures:
 - 1. The request shall be in writing;
 - 2. The request shall contain facts and reasons supporting the request, including a specific reference to the applicable cause(s) under N.J.A.C. 7:14A-16.4 through 16.6;
 - 3. A person submitting the request shall also identify the environmental, aesthetic, or recreational interest which is or may be affected by the permit action;
 - 4. A permittee requesting a modification for a less stringent effluent limitation or standard shall comply with any outstanding fee, penalty or fine requirements contained in N.J.S.A. 58:10A-6(k); and
 - 5. The Department shall request additional information that is necessary to process the request as follows:
 - i. For a permit modification, the submission of an updated permit application to support the request for modification in accordance with N.J.A.C. 7:14A-4.2.
 - ii. For a renewal or revocation and reissuance, submission of a new permit application in accordance with N.J.A.C. 7:14A-4.2 except for applicants for renewals issued a notice of eligibility for expedited renewal in accordance with (h) below.
- (c) In response to a request submitted under (a) above, or upon its own initiative, the Department shall take action as follows:

1. For a request for a major modification or revocation and reissuance for one or more of the causes listed in N.J.A.C. 7:14A-16.4, the Department shall either:
 - i. Issue a draft permit in accordance with N.J.A.C. 7:14A-15.6 which shall include a fact sheet in accordance with N.J.A.C. 7:14A-15.8; or
 - ii. Deny the request for a major modification or revocation and reissuance. The Department shall issue the requester a response letter stating the reason for the denial. This decision is a final agency action.
 2. For a request for a permit renewal, the Department shall either:
 - i. Issue a draft permit in accordance with N.J.A.C. 7:14A-15.6 which shall include a fact sheet in accordance with N.J.A.C. 7:14A-15.8; or
 - ii. Deny the request for a permit renewal for one or more causes listed at N.J.A.C. 7:14A-16.6. The Department shall issue a notice of intent to deny, which is a type of draft permit in accordance with N.J.A.C. 7:14A-15.6 which includes only a statement of basis in accordance with N.J.A.C. 7:14A-15.7.
 3. For a request for a permit suspension or revocation for one or more causes listed at N.J.A.C. 7:14A-16.6, the Department shall either:
 - i. Issue a draft permit under N.J.A.C. 7:14A-15.6, which includes only a statement of basis in accordance with N.J.A.C. 7:14A-15.7; or
 - ii. Deny the request for a suspension or revocation. The Department shall issue the requester a response letter stating the reasons for the denial. This decision is a final agency action.
 4. For a request for a minor modification, the Department shall either:
 - i. Issue a minor modification in accordance with N.J.A.C. 7:14A-16.5; or
 - ii. Deny the request for a minor modification. The Department shall issue the requester a response letter stating the reasons for the denial. This decision is a final agency action.
- (d) (Reserved.)
- (e) When the Department issues a draft permit for a major modification, only those conditions that are being modified shall be reopened for notice and comment. Where a permit is renewed or revoked and reissued, the entire permit shall be reopened for notice and comment.
- (f) The permittee shall comply with all conditions of the existing permit while a request for modification, revocation and reissuance, renewal, suspension or

revocation is being processed by the Department unless the conditions of the existing permit are stayed in accordance with N.J.A.C. 7:14A-17.6.

(g) (Reserved.)

(h) Procedures for expedited permit renewal are as follows:

1. A permittee shall be eligible for an expedited permit renewal when the Department reviews the existing permit and determines that no change to the permit is needed other than changes which would constitute a minor modification under N.J.A.C. 7:14A-16.5. The Department may determine eligibility on its own initiative or a permittee may request that the Department consider issuing an expedited permit renewal by submitting a request for consideration for an expedited permit renewal at least 270 days prior to the permit expiration date. The Department shall notify permittees as to their eligibility for an expedited renewal 210 days before the permit expiration date.
2. A permittee notified of eligibility for an expedited permit renewal pursuant to (h)1 above shall, at least 180 days prior to the permit expiration date, either submit a written request for the expedited renewal or, if not interested in expedited permit renewal and the discharge will continue after the permit expiration date, submit a renewal application in accordance with N.J.A.C. 7:14A-4.
3. When issuing an expedited permit renewal:
 - i. In accordance with N.J.A.C. 7:14A-15.10(d), the Department shall provide a consolidated public notice in the DEP Bulletin and appropriate newspaper(s) for those facilities classified as major facilities, listing those permits it plans to renew. Such public notice shall include the opportunity for public comment and the procedure for requesting a public hearing in accordance with N.J.A.C. 7:14A-15.11; and
 - ii. Issue a final permit to each permittee after the close of the public comment period which shall include the same terms and conditions as the existing permit, with the exception of changes that constitute minor modifications pursuant to N.J.A.C. 7:14A-16.5 unless the Department determines, based on issues raised during the public comment period, to prepare a new draft permit pursuant to N.J.A.C. 7:14A-15.14(a).
- (i) When taking any permit action pursuant to (c) above for two or more similar permits, the Department may consolidate the procedures listed in N.J.A.C. 7:14A-15.7, 15.8 and 15.10, such that one statement of basis or fact sheet, as appropriate, and one public notice for all of the permits are prepared for publication.
- (j) When a proposed rule change affects multiple permits, the Department may modify the affected permits through a rule proposal.

1. The permit modification may be done through a rule proposal provided the Department:
 - i. Identifies the affected permits in the rule proposal; and
 - ii. Provides the affected permittees with a copy of the rule proposal as published in the New Jersey Register.
2. When a permit is modified through a rule proposal, the rule proposal shall serve as the draft permit for the purposes of N.J.A.C. 7:14A-15.6 and fact sheet for the purposes of N.J.A.C. 7:14A-15.8.
3. The affected permit(s) will be finalized simultaneously on adoption of the rule proposal and constitute a final permit decision.

7:14A-16.4 Causes for major modification or revocation and reissuance of a permit

- (a) The Department shall issue a major modification or revoke and reissue a permit only for one or more of the causes set forth at (b) below.
- (b) The following constitute cause for major modification or revocation and reissuance of a permit:
 1. Any material and substantial alteration or addition to the permitted facility, activity, or discharge (including one or more changes in the permittee's residual use or disposal practices) which occurred after permit issuance and which justifies the application of permit conditions that are different or absent from those in the existing permit. A request for a permit modification under this paragraph shall include all information demonstrating that the alterations or additions occurred after permit issuance and therefore this information was not available at the time of permit issuance or renewal;
 2. New information which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of different permit conditions at the time of issuance. A request for consideration under this paragraph shall include all information demonstrating that the information was not available at the time of permit issuance. Such information includes, but is not limited to, the following:
 - i. Information showing a need for additional flow;
 - ii. Effluent testing indicating that the cumulative effects on the environment are unacceptable or are in violation of applicable standards; or
 - iii. Any toxic pollutant that a permittee begins or expects to begin to use or manufacture as an intermediate or final product or by-product which was not reported in the permit application under N.J.A.C. 7:14A-4.2. A permittee subject to this subparagraph shall amend its permit application to list those pollutants;

3. A change in the regulation or standard on which the issued permit was based by subsequent rule amendment or by judicial decision upon which no further appeals may be taken. The Department may provide for a schedule of compliance in accordance with N.J.A.C. 7:14A-6.4 in order for the permittee to meet such regulations or standards;
4. An act of God, strike, flood, or other events over which the permittee has little or no control and for which there is no reasonably available remedy which the Department has determined warrants the modification of a compliance schedule. However, in no case shall a compliance schedule be modified to extend beyond an applicable State or Federal statutory deadline;
5. A complete and timely request filed by the permittee for any of the variances listed in N.J.A.C. 7:14A-11.7;
6. Incorporation of an applicable toxic effluent standard or prohibition under Section 307(a) of the Federal Act (see N.J.A.C. 7:14A-13.2 through 13.4);
7. Inclusion or modification of an effluent limitation or parameter pursuant to a permit "reopener" condition as follows:
 - i. For effluent limitations, including those limitations necessary to implement a TMDL or watershed management plan adopted in accordance with N.J.A.C. 7:15-7, pursuant to N.J.A.C. 7:14A-6.2(a)10;
 - ii. For surrogate parameters, pursuant to N.J.A.C. 7:14A-13.7 or 13.10;
 - iii. For making a determination of reasonable potential to cause or contribute to an exceedance of the Surface Water Quality Standards, pursuant to N.J.A.C. 7:14A-13.5;
 - iv. For action levels associated with a specific effluent limitation that have been exceeded, pursuant to N.J.A.C. 7:14A-13.18;
 - v. For limitations based on narrative Surface Water Quality Standards, pursuant to N.J.A.C. 7:14A-13.7;
 - vi. For residual use or disposal, pursuant to N.J.A.C. 7:14A-20.5;
 - vii. (Reserved.)
 - viii. For modification of effluent standards when Whole Effluent Toxicity data obtained by the Department shows toxicity at levels that exceed applicable effluent standards, as specified in N.J.A.C. 7:9-5.7(a); or
 - ix. For issuance of a facility wide permit, requiring pollution prevention at a facility, to incorporate a pollution prevention plan or to require more stringent effluent levels based on pollutant prevention strategies or technologies applicable to that facility or industry, in accordance

with Section 48 of the Pollution Prevention Act, N.J.S.A. 13:1D-35, and its implementing regulations, specifically, N.J.A.C. 7:1K-7.1(c);

8. The filing of a complete request from a permittee who qualifies for effluent limitations on a net basis under N.J.A.C. 7:14A-13.4(k) or when a permittee is no longer eligible for net limitations as provided for in N.J.A.C. 7:14A-13.4(k) (see the information requirements contained in 40 CFR 122.45(g));
9. Establishment of a compliance schedule for development of a pretreatment program in accordance with N.J.A.C. 7:14A-6.4(c) and N.J.A.C. 7:14A-19;
10. Failure of the State to notify, as required by Section 402(b)(3) of the Federal Act, another state whose waters may be affected by a discharge from the State;
11. The level of discharge of any pollutant which is not limited in the permit exceeds the level which can be achieved by the technology based treatment requirements appropriate to the permittee under N.J.A.C. 7:14A-13.2 through 13.4;
12. Establishment of a "notification level" as provided in N.J.A.C. 7:14A-6.2(b)2;
13. Modification of a schedule of compliance to reflect the time lost during construction of an innovative or alternative facility, in the case of a POTW which has received a grant under Section 202(a)(3) of the Federal Act or public loan moneys for the costs to modify or replace facilities constructed with a grant for innovative and alternative wastewater technology under Section 202(a)(2) of the Federal Act. In no case shall a compliance schedule be modified to extend beyond an applicable State or Federal statutory deadline. For a permit modification under this paragraph a permittee shall submit all information detailing the reasons for time lost during construction and why such loss of time was not the fault of the permittee;
14. Correction of technical mistakes, such as errors in calculation, or mistaken interpretations of law or rules, made in determining permit conditions. For a permit modification under this paragraph, when the request is initiated by a permittee, the permittee shall cite the location of the alleged error or interpretation, denote what the correction should be and provide a detailed basis for the correction including any applicable regulatory citations or calculations;
15. Inability to achieve effluent limitations when the discharger has installed the treatment technology considered by the Department in setting effluent limitations imposed under section 402(a)(1) of the Federal Act and has properly operated and maintained the facilities. The limitations in the modified permit shall reflect the level of pollutant control actually achieved but shall not be less stringent than required by a subsequently promulgated effluent limitations guideline;
16. Inclusion of a plan or compliance schedule for the management of septage or sludge in accordance with the Statewide Sludge Management Plan;

17. Existence of cause for revocation under N.J.A.C. 7:14A-16.6 where the Department determines that modification or revocation and reissuance is instead appropriate;
18. When the proposed automatic transfer of a permit includes one or more of the causes for a major modification under this section;
19. For changes in permit issuance and renewal schedules to better manage the Department's workload and optimize its resource and to facilitate issuing permits on a watershed basis; or
20. For substitution of ambient monitoring for compliance monitoring in order to gather data for issuing permits on a watershed basis.

7:14A-16.5 Minor modification of a permit

- (a) The Department shall, with the consent of the permittee and without following the procedures set forth in N.J.A.C. 7:14A-15, modify a permit to make any of the following changes:
 1. Correct typographical errors and make language changes that have no legal or substantial effect or correct technical or administrative errors which do not result in changes to the permit effluent limitations;
 2. Require more frequent monitoring or reporting by the permittee;
 3. Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date;
 4. Reflect a change in the owner or operator of a facility where the Department determines that no permit change(s) necessary to accomplish the change in the owner or operator constitutes a major modification under N.J.A.C. 7:14A-16.4, provided that a written agreement containing a specific date for transfer of permit responsibility between the current and new permittees has been submitted to the Department;
 5. Change the construction schedule for a discharger which is a new source. Such change shall not affect a discharger's obligation to have all pollution control equipment installed and in operation prior to discharge;
 6. Delete a point source when the discharge from such point source is terminated and does not result in a change to the characteristics of the effluent from other point sources except in accordance with permit limits;
 7. Incorporate the requirements of an industrial pretreatment program in accordance with the procedures in 40 CFR 403.11 as enforceable conditions of the permit; or
 8. Substitute the parameter CBOD₅ for BOD₅ and revise the effluent limitations consistent with the secondary treatment provisions specified at N.J.A.C. 7:14A-12.2(c).

7:14A-16.6 Causes for suspension or revocation of a permit or denial of a permit renewal

- (a) The following are causes for suspending or revoking a permit during its term, or for denying a permit renewal application:
1. Noncompliance by the permittee with any condition of the permit;
 2. The permittee's failure in the application or during the permit issuance or treatment works approval process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;
 3. A determination by the Department that the permitted activity endangers human health or the environment which can be corrected only by suspension or revocation;
 4. A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or residual use or disposal practice regulated under the permit;
 5. For an individual SIU permit with an actual or potential discharge to a nondelegated local agency, information that shows that a permittee has ceased to meet all criteria under which an individual SIU permit is required pursuant to N.J.A.C. 7:14A-19;
 6. The nonconformance of the discharge with any applicable facility, basin or areawide plans;
 7. Inconsistency of the permit with any duly promulgated effluent limitation, permit, regulation, statute, or other applicable State or Federal law; or
 8. Failure to pay applicable permit fees.

Subchapter 17. Procedures for Decision Making - Adjudicatory Hearings and Stays of Permit Conditions

7:14A-17.1 Purpose and scope

- (a) This subchapter sets forth the procedures for requesting an adjudicatory hearing and a stay of permit conditions and for the Department's evaluation and processing of such requests. The procedural stages for requesting an adjudicatory hearing and stay of permit conditions are outlined in Appendix A which is to be used for guidance purposes only and is of no legal effect.
- (b) The Department's decision regarding any adjudicatory hearing request and/or request for a stay shall be considered final agency action.

7:14A-17.2 Request for an adjudicatory hearing

- (a) A permittee or a person who seeks and qualifies to be considered a party to the action pursuant to N.J.A.C. 7:14A-17.3 may submit to the Department a written request, by certified mail, or by other means which provides verification of the date of delivery to the Department for an adjudicatory hearing to contest the Department's final decision to:
 - 1. Issue a new permit, permit modification, permit revocation and reissuance, permit renewal, permit suspension, or permit revocation;
 - 2. Deny an application for a new permit or a permit renewal; or
 - 3. Deny a variance pursuant to N.J.A.C. 7:14A-11.8.
- (b) In order to request an adjudicatory hearing, a permittee shall submit the request in accordance with the requirements in (e) below within 30 days following receipt of the Department's notification of a final permit decision under N.J.A.C. 7:14A-15.15(a). In addition, the permittee shall provide a copy of its request for an adjudicatory hearing to any other person named on the permit.
- (c) In order to be considered a party to the action for purposes of requesting an adjudicatory hearing under this section, a person shall submit a request in accordance with the requirements in (f) below within 30 days following receipt of the Department's notification of final permit decision under N.J.A.C. 7:14A-15.15(a). In addition, such person shall forward a copy of the request to the permittee.
- (d) The request for an adjudicatory hearing shall be submitted to the Department at the address listed below, and a copy of the request shall be submitted to the permit issuing office:

Office of Legal Affairs
Attention: Adjudicatory Hearing Requests
Department of Environmental Protection
CN 402
Trenton, New Jersey 08625 - 0402

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- (e) A permittee shall request an adjudicatory hearing by completing a Department adjudicatory hearing request tracking form which shall contain the following information:
1. For the Office of Legal Affairs only, a copy of the permit clearly indicating the permit number and issuance date;
 2. For the permitting office only, the facility name and permit number;
 3. The date that the notification of the final permit decision was received by the permittee;
 4. A list of the specific contested permit condition(s) and the legal or factual question(s) at issue for each condition, including the basis of any objection;
 5. A statement as to whether the permittee raised the legal and/or factual issues during the public comment period in accordance with N.J.A.C. 7:14A-15.13;
 6. The relevance of the legal and/or factual issues to the permit decision;
 7. Suggested revised or alternative permit conditions and how they meet the requirements of the State or Federal Act;
 8. A request, if necessary for a barrier-free hearing location for disabled persons;
 9. An estimate of the amount of time required for the hearing;
 10. The name, mailing address and telephone number of the person making the request(s);
 11. The name(s) and address(es) of the person(s) whom the requester represents; and
 12. Information supporting the request or other written documents relied upon to support the request, unless this information is already in the administrative record (in which case, such information shall be specifically referenced in the request).
- (f) A person seeking consideration as a party to the action shall include the following information in such person's request for an adjudicatory hearing:
1. The facility name and permit number;
 2. A statement setting forth:
 - i. Each legal or factual question alleged to be at issue;
 - ii. Whether the legal or factual issue was raised by that person during the public comment period in accordance with the provisions of N.J.A.C. 7:14A-15.13;
 - iii. The relevance of the legal or factual issue to the permit decision, together with a designation of the specific factual areas to be adjudicated; and

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- iv. An estimate of the amount of time required for the hearing;
 3. The date that notification of the final permit decision was received by the person making the hearing request;
 4. The name, mailing address, and telephone number of the person making the request;
 5. A clear and concise factual statement of the nature and scope of the interest of the requester which meets the criteria set forth at N.J.A.C. 7:14A-17.3(c)4;
 6. The names and addresses of all persons whom the person making the hearing request represents;
 7. A request, if necessary, for a barrier-free hearing location for disabled persons;
 8. A statement by the person making the hearing request that, upon motion by any party granted by the administrative law judge, or upon order of the administrative law judge's initiative, such person shall make available to appear and testify at the administrative hearing, if granted, the following persons:
 - i. The person making the hearing request;
 - ii. All persons represented by the person making the hearing request; and
 - iii. All officers, directors, employees, consultants, and agents of the person making the hearing request;
 9. Specific references to the contested permit conditions, as well as suggested revised or alternative permit conditions, including permit denials, which, in the judgment of the person making the hearing request, would be required to implement the purposes of the State Act;
 10. Identification of the basis for any objection to the application of control or treatment technologies, if identified in the basis or fact sheets, and the alternative technologies or combination of technologies which, in the judgment of the person making the hearing request are necessary to satisfy the requirements of the State Act; and
 11. A completed Department adjudicatory hearing request tracking form.
- (g) The Department, in its discretion, may extend the time allowed for submission of an adjudicatory request under this section for good cause.

7:14A-17.3 Consideration as a party to the action

- (a) The Department shall determine, or shall refer the determination to an administrative law judge, whether a person, other than an applicant or a permittee, is a party to the action.
- (b) The Department shall determine whether a person is considered to be a party to the action within 30 days of receipt of the request or to refer the request to the

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administrative law judge. If the request is referred to the administrative law judge, the administrative law judge has an additional 30 days to decide on the request.

- (c) A person shall be considered to be a party to the action only if:
 - 1. The person's objection(s) to the Department's decision as specified in N.J.A.C. 7:14A-17.2(a) were raised by that person in the public hearing and/or in a written submission within the public comment period established pursuant to N.J.A.C. 7:14A-15;
 - 2. The person demonstrates the existence of a significant issue of law or fact;
 - 3. The person shows that the significant issue of law or fact is likely to affect the permit decision;
 - 4. The person can show an interest, including an environmental, aesthetic, or recreational interest, which is or may be affected by the permit decision and that the interest can be fairly traced to the challenged action and is likely to be redressed by a decision favorable to that person. An organization may contest a permit decision on behalf of one or more of its members if the organization's member or members could otherwise be a party to the action in their own right, and the interests the organization seeks to protect are germane to the organization's purpose; and
 - 5. The person submits the information required under N.J.A.C. 7:14A-17.2(f).
- (d) Whenever a person's request to be considered to be a party to the action is granted, the Department or the administrative law judge, as appropriate, shall identify the permit conditions which have been contested by such person for which an administrative hearing will be granted. Permit conditions which are not so contested shall not be affected by, or considered at, the adjudicatory hearing.
- (e) A permittee or applicant shall be allowed to participate in any proceeding where a person, other than the permittee or applicant, is seeking to become a party to the action. All requests by persons seeking to be considered a party to the action for a particular permit shall be combined in a single administrative hearing. When a person's request to be considered a party to the action is granted and a permittee's request for an administrative hearing is granted, the actions may be combined into a single administrative hearing by the Department after consideration of the nature and scope of the issue(s).

7:14A-17.4 Granting or denying an adjudicatory hearing request

- (a) The Department, in its discretion, shall decide the extent to which, if at all, the request for an adjudicatory hearing shall be granted. The Department may grant or deny a request for a hearing in whole or in part.
- (b) The Department shall deny a request for an adjudicatory hearing if:
 - 1. The request does not conform with the information requirements for a permittee or a person as set forth, respectively, in N.J.A.C. 7:14A-17.2(e) and (f);

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2. The request does not include genuine issues of material fact or of law which are relevant to the Department's decision as specified in N.J.A.C. 7:14A-17.2(a);
 3. The request was not submitted within the time frames specified in N.J.A.C. 7:14A-17.2(b) or (c), as appropriate;
 4. The contested legal and/or factual issues were not raised during the public comment period in accordance with N.J.A.C. 7:14A-15.13;
 5. The request challenges duly promulgated regulations and not the Department's application of the regulations; or
 6. The permittee or applicant is seeking an adjudicatory hearing to contest permit effluent limitations based upon N.J.A.C. 7:14A-12 Appendix C which were imposed in the permit due to the permittee's or applicant's specific request to impose those limitations.
- (c) The Department, if it grants a request for an adjudicatory hearing in part, shall specifically identify those contested permit conditions for which an adjudicatory hearing has been granted. The issues presented in the adjudicatory hearing shall be limited to those permit conditions contested in a request for an adjudicatory hearing or those specifically identified by the Department in accordance with this section.
- (d) If a request for an adjudicatory hearing is granted, the contested permit conditions shall not be affected unless a stay has been granted pursuant to N.J.A.C. 7:14A-17.6. A request for a hearing and a request for a stay may be combined into one request document.
- (e) The Department, if it denies a hearing request in whole or in part, shall briefly state the reasons for such denial. Such denial shall be considered a final agency action.

7:14A-17.5 Notice for and conduct of an adjudicatory hearing

- (a) The Department shall provide public notice that an adjudicatory hearing has been granted by mailing a copy of the notice to:
1. The applicant(s) or permittee(s);
 2. All commenters on the draft permit;
 3. All persons who testified at the public hearing, if held; and
 4. All persons who requested an adjudicatory hearing or who requested to be considered a party to the action.
- (b) All adjudicatory hearings held pursuant to this subchapter shall be governed by the New Jersey Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

7:14A-17.6 Stays of contested permit conditions

- (a) The Department's grant of a request for an adjudicatory hearing shall not automatically stay any contested permit condition(s). A permittee shall submit a written request to the Department, by certified mail, or by other means which

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provides verification of the date of delivery to the Department seeking a stay of any of the following:

1. Any permit condition where the permittee has requested an adjudicatory hearing, in accordance with N.J.A.C. 7:14A-17.2(a), to contest the specific permit condition;
 2. Any permit condition where the permittee has requested a major modification or revocation and reissuance, in accordance with N.J.A.C. 7:14A-16.4, to alter the specific permit condition; or
 3. The application to the permittee of any condition of a general permit where the permittee has requested to be excluded from that general permit, in accordance with N.J.A.C. 7:14A-6.13(g), to obtain a permit condition different from the specific permit condition.
- (b) A stay shall not be requested or granted for the initial permit issued to a new source, new discharger, or a recommencing discharger. Where such an initial permit is being adjudicated, the permittee shall either discharge in accordance with the initial permit or not discharge until final agency action is taken with respect to the contested conditions of the permit.
- (c) In its request for a stay under (a)1 above, a permittee shall, for each permit condition at issue, submit a written evaluation with appropriate documentation which describes:
1. The permittee's ability to comply with the permit condition(s) using existing treatment facilities. For effluent limitations, the permittee shall summarize the past 24 months of discharge data and indicate the level of pollutant control actually achieved as defined at N.J.A.C. 7:14A-1.2. If no past effluent data are available, the permittee shall procure and submit the results of at least one sample;
 2. The permittee's ability to comply with the permit condition(s) by implementing low cost short-term modifications to the existing treatment facility if it is demonstrated in (c)1 above, that the permit conditions cannot be achieved using existing facilities. Examples of short-term modifications include, but are not limited to, treatment process modifications, chemical addition, pollution abatement/ prevention and change of products generated. The evaluation shall also include the cost for the implementation of such short-term modification(s);
 3. The level of pollutant control actually achieved as defined at N.J.A.C. 7:14A-1.2 using short-term modifications if the evaluations in (c)1 and 2 above demonstrate that the permittee is unable to achieve permit compliance. For effluent limitations, the permittee shall indicate the maximum treatment levels consistently achievable;
 4. The cost to comply with permit conditions if the evaluations in (c)1 and 2 above demonstrate that the permittee is unable to achieve permit compliance using existing facilities and/or short-term modifications. This evaluation may also include a demonstration of any negative economic impacts that the cost to achieve permit compliance will have on the permittee (for example,

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the need to close, relocate, or reduce production) and to the community (for example, the loss of jobs or loss of tax base); and

5. Environmental impacts, if any, that granting a stay will have on the receiving waterbody.
- (d) If the Department determines that the information submitted pursuant to (c) above is deficient, it shall inform the permittee of its determination and establish a time limit for resubmission. If the permittee does not submit the information requested or in the time period specified, the Department shall:
1. Deny the stay request; or
 2. Make a final decision based upon whatever information has been submitted.
- (e) The Department may grant a stay request, in whole or in part, based upon consideration of the following:
1. For a stay of permit conditions pursuant to (a)1 above, where the permittee has been granted an adjudicatory hearing to contest a specific permit condition(s), the Department, in its evaluation, shall consider:
 - i. The pollution source and its impact upon the affected ecosystem(s);
 - ii. The level of pollutant control actually achieved as defined at N.J.A.C. 7:14A-1.2 by the existing treatment facility;
 - iii. The degree and extent that short-term treatment alternatives including their cost may be applied to the existing treatment facility and what treatment level improvements may result from these alternatives; and
 - iv. The cost to achieve total compliance with permit conditions, including the degree and extent of any negative economic impacts on the permittee and the community in relation to the environmental impacts that will result from not achieving compliance with permit conditions.
 2. For a stay of permit conditions pursuant to (a)2 above, where the permittee has requested a major modification or a revocation and reissuance of the existing permit to alter a specific permit condition, the Department shall grant a stay, without the need to request an adjudicatory hearing, if it makes a preliminary determination that a major modification or revocation and reissuance of the existing permit is appropriate but the Department cannot process the modification or revocation and reissuance request in a timely manner; and
 3. For a stay of the application of conditions of a general permit pursuant to (a)3 above, where the permittee has requested to be excluded from that general permit to obtain a permit condition different than the specific permit condition, the Department shall grant a stay, without the need to request an adjudicatory hearing, if it makes a preliminary determination that exclusion from that general permit is appropriate but the Department cannot process the request to be excluded from the general permit in a timely manner.

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- (f) When a stay is granted, a permittee shall comply with the conditions of the existing permit which are not stayed and all other interim conditions as established in (g) below. The Department reserves the right to withdraw a stay or alter the terms and conditions of a stay at any time for lack of good faith compliance efforts by the permittee or if the Department subsequently determines that the environment is being impacted to such a degree that an alteration(s) to the stayed conditions is necessary.
- (g) Where the Department grants a stay request, the stay decision may include interim conditions, as follows:
 - 1. Interim permit conditions or interim effluent limitations developed in accordance with the considerations in (e) above, or in accordance with N.J.A.C. 7:14A-13.11;
 - 2. Interim conditions by which the stayed permit conditions are phased into effect; and
 - 3. For a stay pending an adjudicatory hearing, the interim conditions shall not be less stringent than the conditions in the existing permit unless it is demonstrated that the existing permit conditions were developed in error and a modification is justified.
- (h) In granting or denying a stay, the Department shall:
 - 1. Detail in writing the specific permit conditions that are stayed, if any; and
 - 2. Include the reasons for granting or denying the stay.
- (i) The Department may, upon its own initiative, issue a stay of a permit condition where it determines based on the considerations in (e) above that a stay is appropriate.
- (j) A person who has requested an adjudicatory hearing in accordance with N.J.A.C. 7:14A-17.2 may also request a stay provided notice of the request is also provided to the permittee. The Department may grant a stay requested by a person if it is demonstrated that issuance of the permit was based upon a substantial error(s) in interpretation of the enabling legislation or interpretation of the applicable rules. The Department shall deny a request for a stay if the person fails to meet the criteria for consideration as a party to the action under N.J.A.C. 7:14A-17.3.

Appendix A

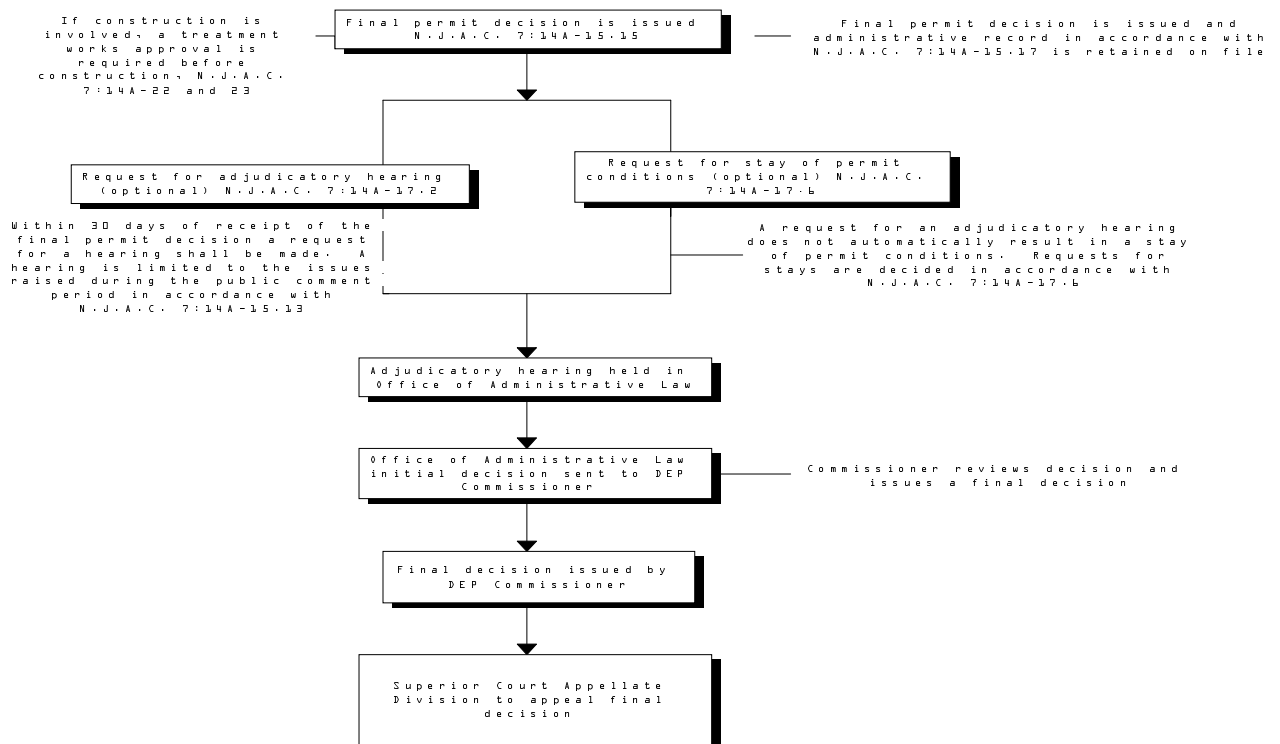
Guide to the NJPDES Permit Appeal and Stay Process

Appendix A is designed to assist a person in following the permit appeal and stay procedures after a permit is issued. An applicant should consult the full text of the regulations when contemplating an appeal and/or stay.

The flow chart outlines a sequence of events, directed by arrows, of the stay procedures for when a final permit is issued. The key items in this section are:

1. A hearing shall be requested within 30 days of receipt of the permit; and
2. A request for a stay may be combined with a hearing request but the request for a stay shall be expressly stated.

Permit Appeal and Stay Process



Subchapter 18. Public Access to Information and Requirements for Determination of Confidentiality

7:14A-18.1 Public access to information and scope of authority

- (a) Except as otherwise provided in section 3 of P.L. 1963, c.73 (N.J.S.A. 47:1A-3), any records, reports or information obtained by the Department, or required to be developed and retained by the permittee as a permit condition pursuant to this chapter, the State Act or section 5 of P.L. 1972, c.42 (N.J.S.A. 58:11-53), including all NJPDES permit applications, documented information concerning actual and proposed discharges, comments received from the public, draft and final NJPDES permits, and related correspondence shall be made available to the public for inspection and duplication at the offices of the Department.
- (b) For facilities with NJPDES permits for discharges to ground or surface water but which are otherwise within the jurisdiction of the Resource Conservation and Recovery Act, 42 U.S.C. §6901 and/or the Hazardous and Solid Waste Amendments of 1984 to that Act, public access to information shall be regulated pursuant to N.J.A.C. 7:26G.

7:14A-18.2 Confidentiality

- (a) The Department shall protect from disclosure any information, other than effluent data, upon a satisfactory showing by any person that the information, if made public, would divulge methods or processes entitled to protection as trade secrets of such persons. The Department's decision on the claim of confidentiality shall be made in accordance with the substantive criteria listed in N.J.A.C. 7:14A-18.6. The access to any information deemed to be confidential by the Department shall be limited to authorized officers or employees of the Department and the Federal government. For purposes of this subchapter the term "information" shall include records, reports, and any other documents, writings, photographs, sound or magnetic recordings, drawings, or other similar formats by which information has been retrieved or copied.
- (b) Included among those items for which claims of confidentiality will be denied are the following:
 - 1. The name and address of any permit applicant, permittee or co-permittee;
 - 2. Permits;
 - 3. Effluent data as defined in N.J.A.C. 7:14A-1.2;
 - 4. For permits under the UIC program, information which concerns the existence, absence, or level of contaminants in drinking water; and
 - 5. Information required by NJPDES permit application forms provided by the Department under N.J.A.C. 7:14A-4. This includes information on the forms themselves and any attachments used to supply information required by the forms.

7:14A-18.3 Procedures for asserting confidentiality

- (a) Any person may assert a confidentiality claim regarding information, in whole or in part, by following the procedures set forth in (b) through (f) below.
- (b) Any person submitting information to the Department and asserting a confidentiality claim covering any of the information shall submit two sets of documents to the Department. The first set shall contain all information requested by the Department, including any information which the person alleges to be entitled to confidential treatment. The second set, which will go into the public file, shall be identical to the first set except that it shall not contain information which the person alleges to be entitled to confidential treatment. In order to provide the public notice that information has been omitted from the second set under a claim of confidentiality, the second set shall indicate where such deletions have been made.
- (c) The top of each page of the first set containing the information which the person alleges to be entitled to confidential treatment shall display the heading "**CONFIDENTIAL**" in bold type or stamp.
- (d) All parts of the text of the first set which the person alleges to be entitled to confidential treatment shall be underscored or highlighted in a clear manner. Translucent ink markers are acceptable for this purpose.
- (e) The outside of the envelope containing the first set containing the information which the person alleges to be entitled to confidential treatment shall display the word "**CONFIDENTIAL**" in bold type on both sides.
- (f) The person submitting the sets of information shall send them to the appropriate permitting office by certified mail (return receipt requested), or by other means which provides verification of the date of delivery to the Department.

7:14A-18.4 Fees for a claim of confidentiality

Any person submitting documents to the Department under a claim of confidentiality shall submit a check in the amount of \$250.00 for the first 50 confidential pages and \$1.00 for each page thereafter, to cover the additional costs of processing and protecting the confidential information.

7:14A-18.5 Procedure for confidentiality determinations

- (a) Information for which a confidentiality claim has been asserted shall be treated by the Department as entitled to confidential treatment unless and until the Department determines that the information is not entitled to confidential treatment as provided in this section.
- (b) The Department shall determine whether the information is entitled to confidential treatment whenever the Department:
 - 1. Receives a request under the Right to Know Law, N.J.S.A. 47:1A-1 et seq., to inspect or copy such information; or

2. Desires to determine whether information in its possession is entitled to confidential treatment, even though no request to inspect or copy such information has been received.

(c) The initial determination of entitlement to confidential treatment is as follows:

1. If, in connection with any person's claim, the Department makes a preliminary determination that the information may be entitled to confidential treatment, the Department shall:
 - i. Furnish the notice of opportunity to submit comments as specified in (d) below to the affected person who is known to have asserted an applicable claim and who has not previously been furnished such notice with regard to the information in question; and
 - ii. Furnish, to any person whose request for release of the information is pending under N.J.S.A. 47:1A-1 et seq., a notification that the information may be entitled to confidential treatment under this subchapter, that further inquiry by the Department pursuant to this subsection is required before a final determination on the request can be issued, that the person's request is therefore initially denied, and that after further inquiry a final determination shall be issued by the Department.
2. If, in connection with all applicable claims, the Department determines that the information clearly is not entitled to confidential treatment, the Department shall take the actions required by (g) below.

(d) The Department shall provide notice to the affected person and an opportunity to comment as follows:

1. Whenever required by (c)1i above, the Department shall promptly furnish the affected person a written notice stating that the Department is in the process of determining under this subchapter whether the information is entitled to confidential treatment, and that the affected person shall substantiate the claim by submitting comments. The notice shall be furnished by certified mail (return receipt requested), or by other means which provides verification of the date of delivery to the Department. The notice shall state the address of the office to which the affected person's comments shall be addressed, the time allowed for comments, and the method for requesting a time extension under (d)1ii below. The notice shall further state that the Department will construe a person's failure to furnish timely comments as a waiver of the person's claim.
- i. If action under this section is occasioned by a request for the information under N.J.S.A. 47:1A-1 et seq., the period for comment shall be 10 days after the date of the affected person's receipt of the written notice. In other cases, the period for comment shall be 20 days after the person's receipt of the written notice. In all cases, the notice shall reference the provisions of (d)1ii below.

- ii. The period of submission of comments may be reasonably extended if, before comments are due, a request for an extension of the comment period is made by the affected person and approved by the Department. Except in extraordinary circumstances, as determined by the Department, the Department shall not approve such an extension without the consent of any person whose request for release of the information under N.J.S.A. 47:1A-1 is pending.
 2. The written notice required by (d)1 above shall inform the affected person of the requirement to submit comments on the following points, subject to (d)3 below:
 - i. Measures taken by the person to guard against undesired disclosure of the information to others;
 - ii. The extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
 - iii. Pertinent confidentiality determinations, if any, by the Department, by USEPA or by other agencies, and a copy of any such determination, if available, or reference to it;
 - iv. Whether the person asserts that disclosure of the trade secret information would be likely to result in substantial harmful effects on the person's competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects; and
 - v. The period of time for which confidential treatment is desired by the person.
 3. New information, not submitted in the initial claim for confidentiality, provided it is marked when received in accordance with N.J.A.C. 7:14A-18.3 shall be regarded by the Department as entitled to confidential treatment if in accordance with the criteria listed in N.J.A.C. 7:14A-18.6, the Department determines that the information is entitled to confidential treatment. This new information shall not be disclosed by the Department without the person's consent, unless its disclosure is duly ordered by a court, notwithstanding other provisions of this subchapter to the contrary.
- (e) An affected person shall be determined to have waived his or her claim of confidentiality as follows:
 1. If the Department finds that a person has failed to furnish comments as required under this section, it shall determine that the person has waived his or her claim, and that the information is therefore not entitled to confidential treatment under this subchapter and is available to the public.

2. In all other cases, the Department shall determine with respect to each claim whether or not the information is entitled to confidential treatment for the benefit of the affected person.
- (f) If, in accordance with the criteria listed in N.J.A.C. 7:14A-18.6, the Department determines that the information is entitled to confidential treatment, it shall maintain the information in confidence, subject to court order, any applicable court rules, N.J.A.C. 7:14A-18.9, 18.10, 18.12 and 18.13 or other provisions of this subchapter which authorize disclosure in specified circumstances, and the Department shall so inform the affected person. If any person's request for the release of the information is then pending under N.J.S.A. 47:1A-1 et seq., the Department shall issue a determination denying that request, which shall state the basis for the determination and that it constitutes final agency action.
 - (g) If, in accordance with the criteria listed in N.J.A.C. 7:14A-18.6, the Department determines that the information is not entitled to confidential treatment, the Department shall so notify the affected person. Such notice of denial, or partial denial, of a confidentiality claim shall be in writing, and shall be furnished by certified mail, return receipt requested or by other means which provides verification of the date of delivery to the Department. The notice shall state the basis for the determination, that it constitutes final agency action concerning the confidential claim, and that the Department shall make the information available to the public 10 days after the date of the affected person's receipt of the notice.
 - (h) If the Department finds that disclosure of information covered by a confidentiality claim would serve to alleviate a situation posing an imminent and substantial danger to public health or safety, it may prescribe such shorter comment period as it finds necessary under the circumstances and make such shorter comment period known to affected persons pursuant to (d)1 above or post-determination waiting period pursuant to (g) above, or both; or disclose confidential information to any person whose role in alleviating the danger to public health or safety necessitates that person's knowing the information. Any such disclosure shall be limited to the minimum information necessary to enable the person to whom it is disclosed to carry out his or her role in alleviating the dangerous situation.
 1. Any disclosure made pursuant to this section shall not be deemed a waiver of a confidentiality claim, nor shall it of itself be grounds for any determination that information is no longer entitled to confidential treatment.

7:14A-18.6 Substantive criteria for confidentiality determinations

- (a) A determination made under N.J.A.C. 7:14A-18.5 shall hold that trade secret information is entitled to confidential treatment if:
 1. The person has asserted a confidentiality claim;

2. The person has satisfactorily shown that he or she has taken reasonable measures to protect the confidentiality of the information, and that he or she intends to continue to take such measures;
3. The information is not, and has not been, reasonably obtainable, without the person's consent, by other persons (other than governmental bodies) using legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding);
4. No statute requires disclosure of the information; and
5. The person has satisfactorily shown that disclosure of the information would be likely to cause substantial harm to the person's competitive position.

7:14A-18.7 Class determinations

- (a) The Department may make a determination that a certain class of information is or is not entitled to confidential treatment under this section if it finds that:
 1. The Department possesses, or is obtaining, related items of information; and
 2. One or more characteristics common to all such items of information will necessarily result in identical treatment for each such item, and that it is therefore proper to treat all such items as a class.
- (b) A class determination shall clearly identify the class of information to which it pertains.
- (c) A class determination shall state that all of the information in the class:
 1. Fails to satisfy one or more of the applicable criteria in N.J.A.C. 7:14A-18.6, and is therefore ineligible for confidential treatment; or
 2. Satisfies the applicable criteria in N.J.A.C. 7:14A-18.6, and is therefore eligible for confidential treatment.

7:14A-18.8 Access to and safeguarding of confidential information

- (a) Unless specifically provided for by Federal law, State law, court order, or applicable court rule, no person shall have access to information which has been determined to be entitled to confidential treatment, other than:
 1. The designated Department personnel;
 2. Federal or other State agencies, subject to the provisions of N.J.A.C. 7:14A-18.9 or 18.12; or
 3. Authorized representatives of the Department, subject to the provisions of N.J.A.C. 7:14A-18.10.
- (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 shall 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 N.J.A.C. 7:14A-18.10.

- (d) If the Department finds that any person has violated this subchapter, it shall:
 - 1. Commence a civil action in Superior Court for a restraining order and an injunction barring that person from further disclosing confidential information; and/or
 - 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.

7:14A-18.9 Disclosure of confidential information to State, Interstate and Federal agencies with the exception of the USEPA and the U.S. Department of Justice

- (a) The Department shall disclose information which has been determined to be entitled to confidential treatment to State, interstate, and Federal agencies, other than the USEPA and U.S. Department of Justice, as provided at N.J.A.C. 7:14A-18.12, 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 N.J.A.C. 7:14A-18.5(h) (emergency disclosure), and N.J.A.C. 7:14A-18.12, the Department shall notify the affected person in writing of its intention to disclose information which has been determined to be entitled to confidential treatment to any other governmental agency at least 10 days in advance of the disclosure.

7:14A-18.10 Disclosure of confidential information to authorized agents

- (a) The Department shall disclose information which has been determined to be entitled to confidential treatment to an authorized agent, under contract with the Department, if:

1. The Department determines that such disclosure is necessary in order for the agent to carry out the work required by the contract;
 2. The Department notifies the affected person; and
 3. The agent contracts with the affected person to protect the confidentiality of the information.
- (b) No information shall be disclosed under (a) above 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 agent for the performance of the work required by the contract.
- (c) Violation of the contractual provisions of (b) above by the agent or the agent's employee in question shall constitute grounds for debarment or suspension as provided under the rules regarding debarment, suspension and disqualification from department contracting, at N.J.A.C. 7:1D-2.

7:14A-18.11 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 subchapter 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 subchapter be furnished to the person designated pursuant to this section. Only one person or office may serve at any time as an affected person's designee under this subchapter.
- (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 N.J.A.C. 7:14A-18.5(d);
 2. Notices of denial of confidential treatment and proposed disclosure of information, under N.J.A.C. 7:14A-18.5(g);
 3. Notices concerning shortened comment and/or waiting periods under N.J.A.C. 7:14A-18.5(h); and
 4. Notices to affected persons under N.J.A.C. 7:14A-18.9 and 18.10.

7:14A-18.12 Access to information for the USEPA and U.S. Department of Justice

Notwithstanding any other provision of this subchapter, any information obtained or used in the administration of the NJPDES and RCRA programs shall be available to the USEPA and the U.S. Department of Justice upon

request without restriction. If the information has been submitted to the Department under a claim of confidentiality, the Department shall submit that claim to USEPA and the U.S. Department of Justice when providing information as required in this section.

7:14A-18.13 Use of confidential information in rulemaking, permitting, and enforcement proceedings

- (a) Notwithstanding any other provisions of this subchapter, the Department may, subject to the protection from making the information available to the public as provided in N.J.A.C. 1:1, use information determined to be eligible for confidential treatment pursuant to N.J.A.C. 7:14A-18.5 and 18.6 in rulemaking, permitting and enforcement proceedings.
 - 1. Where the Department uses confidential information in any enforcement proceeding, the Department shall indicate that such information has been used.
 - 2. Where the Department uses confidential information in administrative proceedings, the procedures in (b) and (c) below shall apply.
- (b) Where the Department determines that there shall be an adjudicatory hearing, information determined to be eligible for confidential treatment pursuant to N.J.A.C. 7:14A-18.5 and 18.6 may be used in any enforcement and permitting proceeding as provided in N.J.A.C. 1:1.
- (c) Where the Department determines that there shall not be an adjudicatory hearing, information determined to be eligible for confidential treatment pursuant to N.J.A.C. 7:14A-18.5 and 18.6 may be used in any enforcement, permitting, or rulemaking proceeding as provided below:
 - 1. The affected person shall be informed that the Department is considering using the information in connection with the proceeding and shall afford the person a comment period 10 days after the date of the affected person's receipt of written notice from the Department;
 - 2. The Department, after consideration of any timely comments submitted by the affected person, determines that the information is relevant to the subject of the proceeding;
 - 3. The Department determines that the public interest shall be served by use of the information in the proceeding; and
 - 4. The Department shall give the affected person at least five days notice prior to using the information which may result in the information being made available to the public.