

**New Jersey Department of Environmental Protection
Division of Water Quality
Bureau of Pretreatment and Residuals**

**LEGAL AUTHORITY REVIEW CHECKLIST
PURSUANT TO 40 CFR PART 403, NJWPCA, N.J.A.C. 7:14A & 7:14**

Name of POTW: _____

	<u>No Revision</u>	<u>Revision Recommended</u>	<u>Revision Required</u>	<u>Section of Ordinance</u>
A. Minimum Definitions (to establish program scope)				
(1) 40 CFR 403.3 and 403.8(f)(2)(viii):				
* Best Management Practices (BMPs)	_____	_____	_____	_____
* Clean Water Act ("Act")	_____	_____	_____	_____
* Industrial user (or equivalent)	_____	_____	_____	_____
* Interference	_____	_____	_____	_____
* National pretreatment standard	_____	_____	_____	_____
* New source	_____	_____	_____	_____
* Non-significant categorical IU (NSCIU)	_____	_____	_____	_____
* Pass through	_____	_____	_____	_____
* Pretreatment	_____	_____	_____	_____
* Pretreatment requirements	_____	_____	_____	_____
* Significant industrial user	_____	_____	_____	_____
* Significant noncompliance (federal)	_____	_____	_____	_____
(2) NJAC 7:14A-1.2				
* Grace Period	_____	_____	_____	_____
* Hazardous pollutant	_____	_____	_____	_____
* Permit	_____	_____	_____	_____
* Serious violation	_____	_____	_____	_____
* Significant noncomplier (State)	_____	_____	_____	_____
(3) NJAC 7:14-8.2				
* Bypass	_____	_____	_____	_____
* Upset	_____	_____	_____	_____
B. Prohibited Discharges				
(1) General prohibitions [403.5(a)]				
* Interference	_____	_____	_____	_____
* Pass through	_____	_____	_____	_____
* Affirmative defense to general prohibitions [403.5(a)(2)]	_____	_____	_____	_____

B. Prohibited Discharges (continued)

(2) Specific prohibitions [403.5(b)]				
* Fire/explosion hazard [60° C (140° F) flash point]	_____	_____	_____	_____
* pH/corrosion	_____	_____	_____	_____
* Solid or viscous/obstruction	_____	_____	_____	_____
* Flow rate/concentration (BOD, etc.)	_____	_____	_____	_____
* Heat [exceeds 40° C (104° F) at POTW]	_____	_____	_____	_____
* Petroleum/non biodegradable cutting/mineral oils	_____	_____	_____	_____
* Toxic gases/vapors/fumes	_____	_____	_____	_____
* Trucked/hailed wastes	_____	_____	_____	_____
(3) Local limits development [NJAC 7:14A-19.7]	_____	_____	_____	_____
(4) Incorporation of General Pretreatment Regulations-- "40 CFR 403.1 et seq. is hereby incorporated by reference, including all supplements and amendments thereto"	_____	_____	_____	_____
(5) Incorporation of Federal Categorical Standards-- "40 CFR Chapter I, Subchapter N is hereby incorporated by reference, including all supplements and amendments thereto"	_____	_____	_____	_____
(6) Prohibition against dilution as treatment [403.6(d)]	_____	_____	_____	_____

C. Control Discharges to POTW System

(1) Deny/condition new or increased contributions [403.8(f)(1)(i)]	_____	_____	_____	_____
(2) Require compliance with standards [403.8(f)(1)(ii)]	_____	_____	_____	_____
(3) Individual control mechanism (e.g., permit) to ensure compliance (mandatory for SIUs) [403.8(f)(1)(iii)]	_____	_____	_____	_____
(4) Submit permit re-application within 180 days of expiration of existing permit [NJAC 7:14A-4.2(e)3]	_____	_____	_____	_____
(5) Evaluation of need for slug/spill plan [403.8(f)(2)(vi)]	_____	_____	_____	_____

D. Minimum Permit Contents

* Duration [403.8(f)(1)(iii)(B)(1)]	_____	_____	_____	_____
* Non-transferability [403.8(f)(1)(iii)(B)(2)]	_____	_____	_____	_____
* Effluent limits, BMPs [403.8(f)(1)(iii)(B)(3)]	_____	_____	_____	_____
* Self-monitoring, sampling, reporting, waivers, etc. [403.8(f)(1)(iii)(B)(4)]	_____	_____	_____	_____
* Applicable civil and criminal penalties [403.8(f)(1)(iii)(B)(5)]	_____	_____	_____	_____

D. Minimum Permit Contents (continued)

* Requirement to control slug discharges, as applicable [403.8(f)(1)(iii)(B)(6)]				
* Operate/maintain control systems [NJSA 58:10A-6.f(6)]				
* Payment of fines, penalties, etc. [NJSA 58:10A-6.k]				
* Notification of violation/resampling requirement [403.12(g)]				
* Notification of discharge of hazardous wastes [403.12(p)]				
* Notification of potential problems (slug loads) [403.12(f) & NJSA 58:10A-6.f(8)]				
* Notification of changed discharge [403.12(j) & NJSA 58:10A-6.f(4)]				
* Monthly reporting for CIUs, SIUs [NJSA 58:10A-6.f(5)]				
* Monthly reporting due to serious/SNC violations [NJSA 58:10A-6.f(9) & f(10)]				

E. Require Development of Compliance Schedules And Reports

(1) Develop compliance schedule for installation of technology [403.8(f)(1)(iv)(A)]				
(2) Reporting requirements				
* Types of reports				
- Baseline monitoring report [403.12(b)]				
- Compliance schedule progress report [403.12(c)]				
- Report on compliance with categorical deadline [403.12(d)]				
- Semi-annual monitoring for SIUs and CIUs [403.12(e) & 12(h)]				
- Notification of violation/resampling requirement [403.12(g)]				
- Notification of discharge of hazardous wastes [403.12(p)]				
- Notification of potential problems (slug loads) [403.12(f) & NJSA 58:10A-6.f(8)]				
- Notification of changed discharge [403.12(j) & NJSA 58:10A-6.f(4)]				
- Monthly reporting for CIUs, SIUs [NJSA 58:10A-6.f(5)]				
- Monthly reporting due to serious/SNC violations [NJSA 58:10A-6.f(9) & f(10)]				
- Notification of Bypass [NJAC 7:14A-6.10(f)1]				
- Notification of Upset [NJAC 7:14A-6.10(f)2]				

E. Require Development of Compliance Schedules And Reports (continued)

- * Other requirements
 - Data accuracy certification/authorized signatory [403.6(a)(2)(ii), 403.12(l), & NJSA 58:10A-6.f(5)]
 - Record keeping requirement (5 years or longer) [NJAC 7:14A-6.6(a)]
 - Confidentiality [403.8(f)(1)(vii) & NJSA 58:10A-6.o]

F. Test Procedures [NJAC 7:14A-6.5(a)]

- 40 CFR 136
- N.J. Certified Laboratory

G. Inspection and Monitoring Procedures [403.8(f)(1)(v)]

- (1) Right to enter at reasonable times
- (2) Right to inspect generally for compliance
- (3) Right to take independent samples
- (4) Right to require installation of monitoring equipment
- (5) Right to inspect and copy records

H. Remedies for Noncompliance (Enforcement)

In order to enforce the provisions of 403.8(f)(1)(vi), NJSA 58:10A-1 et seq., NJSA 58:11-49 et seq., and NJAC 7:14A-19.5, the following enforcement tools must be identified within the sewer use ordinance or rules and regulations.

- * Issuance of order [NJAC 7:14A-19.5(a)1]
- * Civil action including injunctive relief [NJAC 7:14A-19.5(a)2]
- * Criminal prosecution [NJAC 7:14A-19.5(a)3]
- * Civil administrative penalty authority [NJAC 7:14A-19.5(a)4]
- * Civil penalties [NJAC 7:14A-19.5(a)5]
- * Summons ability [NJAC 7:14A-19.5(a)6]
- * Mandatory Minimum Penalty for SNC [NJAC 7:14A-19.4(d) and 19.5(a)7]
- * Mandatory Minimum Penalty for Serious Violation [NJAC 7:14A-19.4(d) and 19.5(a)8]
- * Penalty in accordance with 7:14-8.16, including seriousness/conduct defns [NJAC 7:14A-19.5(a)9]

**H. Remedies for Noncompliance (Enforcement)
(continued)**

- * Penalty for submitting inaccurate or false information [NJAC 7:14A-19.5(a)10]
- * Mandatory Minimum Penalty for failure to properly conduct monitoring, sampling activities, submit SMRs/DMRs or other reports [NJAC 7:14A-19.4(d) and 19.5(a)11]
- * Issuance of ACO [NJSA 58:10A-6.1]
- * Seal or close sewerage connections [NJSA 58:11-56]
- * Immediately halt actual/threatened discharge which [403.8(f)(1)(vi)(B)]:
 - reasonably appears to present imminent endangerment to persons
 - may present endangerment to environment or POTW

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

I. Procedural and Substantive Enforcement Requirements

- * Notice of penalty assessment and notice of opportunity to request administrative hearing [NJAC 7:14A-19.5(b)1]
- * Opportunity to file exceptions, objections, and replies to head of DLA [NJAC 7:14A-19.5(b)2]
- * Issuance of final decision or order [NJAC 7:14A-19.5(b)3]
- * Appeal of penalty, payment of interest, collection of civil administrative penalty [NJAC 7:14A-19.5(b)4]
- * Penalty settlement restrictions [NJAC 7:14A-19.5(b)5]

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

J. Disbursement of Penalty Monies

- 10 % of Penalty monies to:
- Wastewater Treatment Operators' Training Account [NJAC 7:14A-19.3(b)4]
 - Municipality [NJAC 7:14A-19.3(c)12]

_____	_____	_____	_____
_____	_____	_____	_____

K. Streamlining Provisions

- (1) Ability to grant waivers to CIUs [NJAC 7:14A-19.3(e)1]
- (2) Ability to develop and utilize BMPs in lieu of local limits [NJAC 7:14A-19.3(e)2]
- (3) Ability to use equivalent concentration limits [NJAC 7:14A-19.3(e)3]
- (4) Ability to use equivalent mass limits [NJAC 7:14A-19.3(e)4]

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(5) Ability to define and classify NSCIUs
[NJAC 7:14A-19.3(e)5]

_____	_____	_____	_____
-------	-------	-------	-------

L. Public Notice Requirements

(1) Publish list of industrial users in significant
Noncompliance [NJAC 7:14A-19.10(b)]

_____	_____	_____	_____
-------	-------	-------	-------

(2) Public notice ACOs [NJAC 7:14A-19.10(c)]

_____	_____	_____	_____
-------	-------	-------	-------

(3) Public hearing, if necessary [NJAC 7:14A-19.10(d)]

_____	_____	_____	_____
-------	-------	-------	-------

(4) Public notice for new, renewed, modified, or revoked
permits [NJAC 7:14A-19.10(e) and 19.8(d)2]

_____	_____	_____	_____
-------	-------	-------	-------

M. Enforcement Response Plan

- * Appendix A plan [NJAC 7:14A-19, App. A]
- * Penalty matrix specified at NJAC 7:14-8.16(f)
[NJAC 7:14A-19.4(d)]
- * Seriousness & Conduct criteria [NJAC 7:14A-19.5(a)9]

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

N. Affirmative Defenses [NJSA 58:10A-10.2]

Including:

- Bypass
- Upset
- Testing or Laboratory Error

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

O. Grace Period (GP) Provisions

(1) Grace Period applicability and procedures
[NJAC 7:14-8.4A]

_____	_____	_____	_____
-------	-------	-------	-------

(2) Identification of violations as minor or non-minor;
Grace Period Table [NJAC 7:14A-19.3(d)]

_____	_____	_____	_____
-------	-------	-------	-------

(3) GP within Enforcement Response Plan
[NJAC 7:14A-19.4(d)]

_____	_____	_____	_____
-------	-------	-------	-------

P. Permit Issuance Requirements

(1) Procedural and substantive requirements regarding written
applications [NJAC 7:14A-19.8(d)1]

_____	_____	_____	_____
-------	-------	-------	-------

(2) Procedural Requirements for issuance, renewal,
modification, suspension, and revocation of IPP Permits
[NJAC 7:14A-19.8(d)2]

_____	_____	_____	_____
-------	-------	-------	-------

Q. Permit Appeals [Consistent with NJAC 7:14A-17]

Permit appeals per 7:14A-17, including:

	<u>No Revision</u>	<u>Revision Recommended</u>	<u>Revision Required</u>	<u>Section of Ordinance</u>
- Adjudicatory hearing [7:14A-17.2]				
- Party to action [7:14A-17.3]				
- Grant/Deny hearing [7:14A-17.4]				
- Hearing notice [7:14A-17.5]				
- Stay of Conditions [7:14A-17.6]				
R. Attorney's Statement [NJAC 7:14A-19.9(c)2] (required with any substantial modifications)				

Document(s) submitted for review:

COMMENTS:

Reviewed by: _____

Date: _____