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SUBCHAPTER 24. ADDITIONAL REQUIREMENTS FOR CERTAIN STORMWATER DISCHARGES

7:14A-24.1 Scope

This subchapter sets forth additional requirements applicable to any stormwater DSW and stormwater DGW for which a NJPDES permit is required under N.J.A.C. 7:14A-24.2.

7:14A-24.2 Stormwater discharges for which a NJPDES permit is required under this subchapter; exemptions

(a) A NJPDES permit under this subchapter is required for the following stormwater DSW and DGW:

1. Stormwater DSW for which a permit was issued under Section 402 of the Federal Act (33 U.S.C. §1342) prior to February 4, 1987 (see N.J.A.C. 7:14A-24.7(a) and (c));
2. Stormwater DSW associated with industrial activity from point or nonpoint sources (see N.J.A.C. 7:14A-24.7(a) and (b));
3. Stormwater DSW associated with small construction activity from point or nonpoint sources (see N.J.A.C. 7:14A-24.7(a));
4. Stormwater DSW and DGW that are from concentrated animal feeding operations and for which a NJPDES permit is required under N.J.A.C. 7:14A-2.13 (see N.J.A.C. 7:14A-4.7 and 4.8);
5. Stormwater DSW from large or medium municipal separate storm sewer systems (see N.J.A.C. 7:14A-25.10);
6. Stormwater DSW and DGW from small municipal separate storm sewer systems (small MS4s) identified under N.J.A.C. 7:14A-25.2(a) or (b) (see N.J.A.C. 7:14A-25.5);
7. Stormwater DSW from point or nonpoint sources (other than activities identified under N.J.A.C. 7:14A-2.5(a)4 or 5) for which either the Department or the USEPA Regional Administrator determines (also see N.J.A.C. 7:14A-24.7(a) and (c), 25.2(a)4, and 25.5) that:
 - i. Stormwater controls are needed for the point source discharge based on total maximum daily loads (TMDLs) that address the pollutant(s) of concern; or

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ii. The point or nonpoint source discharge, or category of discharges within a geographic area, contributes to a violation of a surface water quality standard, or is a significant contributor of pollutants to surface water;

8. Stormwater DSW and DGW from agricultural and silvicultural nonpoint sources regulated under N.J.A.C. 7:14A-2.5(d); and

9. Stormwater DGW otherwise exempt under N.J.A.C. 7:14A-7.4(a)5i or ii, if the Department determines that the discharge is likely to contravene the Groundwater Quality Standards at N.J.A.C. 7:9-6, or may result in violation of the Surface Water Quality Standards at N.J.A.C. 7:9B (see N.J.A.C. 7:14A-4.7, 25.2(a)4, and 25.5).

(b) Whenever it is determined that a NJPDES permit is required under (a)7 or 9 above, or under both (a)3 above and paragraph 2 of the N.J.A.C. 7:14A-1.2 definition of “stormwater discharge associated with small construction activity,” the Department shall notify the operating entity in writing of the reasons for such a determination, and shall include instructions on how to apply for a NJPDES permit. In such a case, and if the operating entity has applied for an individual NJPDES permit, 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, unless the reason for that determination was a decision made by USEPA under 40 C.F.R. 122.26(a)(9)(i)(C), (a)(9)(i)(D), or (b)(15)(ii), or under 40 C.F.R. 123.35(b) or (c). The operating entity shall apply for a NJPDES permit in accordance with N.J.A.C. 7:14A-24.4.

(c) The following stormwater discharges are exempt from the requirement to obtain a NJPDES permit from the Department:

1. Stormwater DSW not identified under (a) above;

2. Stormwater DSW from mining operations or oil and gas exploration, production, processing or treatment operations or transmission facilities, composed entirely of flows which are from conveyances or systems of conveyances (including, but not limited to, pipes, conduits, ditches, and channels) used for collecting and conveying precipitation runoff and which are not contaminated by contact with or that has not come into contact with, any overburden, raw material, intermediate products, finished product, byproduct or waste products located on the site of such operations; and

3. Stormwater DGW that are from municipal separate storm sewers, residential areas (including residential streets, parking lots, easements, and open space), commercial areas other than areas of high pollutant loading as described under N.J.A.C. 7:14A-7.4(b)5ii, or animal feeding operations, but that are not through underground injection regulated under N.J.A.C. 7:14A-8 and not identified under (a) above.

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(d) The permit requirements for large and medium municipal separate storm sewer systems, and for stormwater discharges associated with industrial activity that discharge through such systems, contained in 40 C.F.R. 122.26(a)(3) and (a)(4) are incorporated into this chapter by reference.

(e) For stormwater discharges associated with industrial activity which discharge through a privately owned and operated separate storm sewer system (private conveyance system), the Department shall either:

1. Issue a single NJPDES permit (or a single authorization under a general NJPDES permit) to the operating entity for the portion of the private conveyance system that discharges to surface water, with each discharger to the private conveyance system a co-permittee to that permit (or to an authorization under a general permit); or
2. Issue individual permits (or authorizations under a general permit) to each discharger of stormwater associated with industrial activity through the private conveyance system.
3. Where there is more than one operating entity for a single private conveyance system, all operating entities for stormwater discharges associated with industrial activity shall submit applications (or requests for authorization under a general permit).
4. Any permit authorizing more than one operating entity shall identify the effluent limitations, or other permit conditions, if any, that apply to each operating entity.

(f) Combined sewer systems that discharge to waters of the State are point sources that require NJPDES permits applied for in accordance with N.J.A.C. 7:14A-4, and are not subject to the provisions of this subchapter or N.J.A.C. 7:14A-25. Stormwater discharges to combined or sanitary sewer systems are not subject to the provisions of this subchapter or N.J.A.C. 7:14A-25.

(g) Whether a stormwater discharge from a municipal separate storm sewer is or is not subject to regulation under this subchapter or N.J.A.C. 7:14A-25 shall have no bearing on whether the owner or operating entity for the discharge is eligible for funding under title II, title III or title VI of the Federal Act. See 40 C.F.R. part 35, subpart I, appendix A(b) H.2.j.

7:14A-24.3 Petitions

(a) Any operating entity for a municipal separate storm sewer system may petition the Department to require a separate NJPDES permit for any discharge into the municipal separate storm sewer system.

(b) Any person may petition the Department to require a NJPDES permit for a point source DSW which is composed entirely of stormwater which contributes to a violation

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of a surface water quality standard or is a significant contributor of pollutants to waters of the State.

(c) The owner of or operating entity for a municipal separate storm sewer system may petition the Department to reduce the Census estimates of the population served by such separate system or the population within an urbanized area to account for stormwater discharged to combined sewers as defined by 40 C.F.R. 35.2005(b)(11) that is treated in a publicly owned treatment works. In municipalities in which combined sewers are operated, the Census estimates of population may be reduced proportional to the fraction, based on estimated lengths, of the length of combined sewers over the sum of the length of combined sewers and municipal separate storm sewers where an applicant has submitted the NJPDES permit number associated with each discharge point and a map indicating areas served by combined sewers and the location of any combined sewer overflow discharge point.

(d) Any person may petition the Department for the designation of a large or medium municipal separate storm sewer system as defined by paragraph 4 of the definitions of “large municipal separate storm sewer system” or “medium municipal separate storm sewer system” in N.J.A.C. 7:14A-1.2.

(e) The Department shall make a final determination on any petition received under this section within 90 days after receiving the petition, except as provided in (e)1 below.

1. For petitions under (a) or (b) above to require a NJPDES permit under N.J.A.C. 7:14A-25.2(a) for a stormwater discharge from a small MS4, the Department shall make a final determination on the petition within 180 days after its receipt.

7:14A-24.4 Deadlines to apply for NJPDES permit for stormwater discharges

(a) Any operating entity for a stormwater DSW or DGW identified under (a)1 through 8 below that does not have an effective NJPDES permit authorizing its stormwater discharges shall submit a request for authorization for a general NJPDES permit, or an application for an individual NJPDES permit, in accordance with the following deadlines:

1. Except as provided in (a)1i through vii below, for any “stormwater discharge associated with industrial activity” as defined in N.J.A.C. 7:14A-1.2 that is not authorized by a stormwater general permit, the request for authorization for a stormwater DSW general permit, or an application for an individual stormwater DSW permit made pursuant to N.J.A.C. 7:14A-24.7, shall have been submitted by April 1, 1993.

i. For any stormwater discharge associated with industrial activity from a facility (other than an airport, powerplant, or uncontrolled sanitary landfill) that is owned or operated by a municipality with a population of less than 100,000, the request for authorization or individual permit application shall be submitted by March 3, 2004.

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ii. Facilities that are owned or operated by a municipality and that were rejected by the USEPA as members of part 1 group application under 40 C.F.R. 122.26(e)(2) shall have submitted the request for authorization or individual permit application no later than 180 days after the date of receipt of the notice of rejection or April 1, 1993, whichever was later.

iii. If the discharge is from a nonpoint source and is not identified under (a)1iv below, the request for authorization or individual permit application shall have been submitted by November 3, 1997. No NJPDES permit shall have required pollutants in such a discharge to be controlled before November 3, 1997.

iv. If the Department classifies the discharge as a “stormwater discharge associated with industrial activity” under paragraph 2 in the definition of that term in N.J.A.C. 7:14A-1.2, the request for authorization or individual permit application shall be submitted within 180 days of receipt of written notice of such classification, unless the Department approves a later date.

v. A group application submitted to USEPA under 40 C.F.R. 122.26(e)(2) does not qualify under this paragraph as a request for authorization under a NJPDES general permit, or as an application for an individual NJPDES permit. If a facility was approved by the USEPA as a member of a group application pursuant to 40 C.F.R. 122.26(e)(2), or if a facility which was a participant of a group application was not approved or rejected by the USEPA pursuant to 40 C.F.R. 122.26(e)(2) by April 1, 1993, the facility shall have either have submitted a written request for authorization under an applicable NJPDES general permit, or applied for an individual NJPDES permit, by October 1, 1993 (except as provided in (a)1i above).

vi. When an individual permit application for discharges of stormwater is submitted pursuant to N.J.A.C. 7:14A-24.7 for a facility that already has an individual DSW permit that does not authorize all of those discharges, then that application shall be submitted in the following manner:

(1) If that DSW permit has expired, or is due to expire within 180 days of the submission of that application, then that application shall be submitted as part of the application for renewal of that DSW permit (such submission may supplement a renewal application previously submitted to the Department).

(2) If that DSW permit has not expired and is not due to expire within 180 days of the submission of that application, then that application shall be submitted either as part of the application for renewal of that DSW permit, or in a request under N.J.A.C. 7:14A-16.4 to modify that DSW permit to authorize all of those discharges of stormwater.

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vii. The following is applicable to entities proposing new discharges of stormwater associated with industrial activity. General permits for such discharges shall specify deadlines for submitting requests for authorization under such permits. An entity submitting an individual permit application for such a discharge shall submit an application at least 180 days before that entity intends to commence industrial activity which may result in a discharge of stormwater associated with that industrial activity (unless (a)1vii(1) below is applicable, or the Department approves a later date).

(1) An entity submitting an individual permit application for a stormwater discharge from construction activity 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 an application at least 90 days before the date on which construction is to commence (unless the Department approves a later date).

2. Entities with existing NJPDES DSW permits for stormwater discharges associated with industrial activity shall maintain these permits unless these entities obtain different NJPDES permits for these discharges. (These existing NJPDES permits are subject to N.J.A.C. 7:14A-2.7 and 2.8, and may be renewed, modified, revoked and reissued, suspended, or revoked in accordance with the applicable requirements of N.J.A.C. 7:14A-15, 16, and 17.) Any entity planning to continue its stormwater discharges associated with industrial activity after the expiration date of its NJPDES permit for that discharge shall comply with N.J.A.C. 7:14A-4.2(e)3 and 24.7.

3. The following is applicable if a large or medium municipal separate storm sewer system is designated under paragraphs 3 or 4 of the definitions of “large municipal separate storm sewer system” or “medium municipal separate storm sewer system” in N.J.A.C. 7:14A-1.2. Part 1 of the application under N.J.A.C. 7:14A-25.10(a) shall be submitted within 12 months after designation of a “large municipal separate storm sewer system,” or within 18 months after designation of a “medium municipal separate storm sewer system.” Based on information received in the part 1 application the Department will approve or deny a sampling plan under 40 C.F.R. 122.26(d)(1)(iv)(E) within 90 days after receiving the part 1 application. Part 2 of the application shall be submitted to the Department within 12 months after the deadline for submitting the part 1 application.

4. For a stormwater DSW or DGW that is the subject of a notice under N.J.A.C. 7:14A-24.2(b), or that is subject to N.J.A.C. 7:14A-24.7(a)5, a request for authorization for a stormwater general permit, or an application for an individual permit, shall be submitted within 180 days of notice, unless the Department approves a later date.

5. For stormwater DSW and DGW from nonpoint sources regulated under N.J.A.C. 7:14A-2.5(d), the discharger shall apply for a NJPDES permit in accordance with the deadline contained in that subsection.

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6. Except as provided in (a)6i below, the deadline to obtain NJPDES permit authorization for all stormwater DSW identified under paragraph 1 of the definition of “stormwater discharge associated with small construction activity” in N.J.A.C. 7:14A-1.2 is March 3, 2004, or the date on which construction commences, whichever is later. General permits for such discharges shall specify deadlines for submitting requests for authorization under such permits. An entity submitting an individual permit application for such discharges shall submit an application at least 90 days before the date on which construction is to commence (unless the Department approves a later date), or by March 3, 2004, whichever is later.

i. The deadline to obtain NJPDES permit authorization for stormwater discharge associated with small construction activity at oil and gas exploration, production, processing, and treatment operations or transmission facilities is March 10, 2005, or the date on which construction commences, whichever is later. General permits for such discharges shall specify deadlines for submitting requests for authorization under such permits. An entity submitting an individual permit application for such discharges shall submit an application at least 90 days before the date on which construction is to commence (unless the Department approves a later date), or by December 10, 2004, whichever is later.

7. The deadline to apply for a NJPDES permit for all stormwater DSW and DGW from small municipal separate storm sewer systems (small MS4s) identified under N.J.A.C. 7:14A-25.2(a) is March 3, 2004, except as provided in N.J.A.C. 7:14A-25.4(a)1 through (a)3.

8. The deadline for Tier B municipalities to apply for the Tier B Municipal Stormwater Permit under N.J.A.C. 7:14A-25.8 (for stormwater DSW and DGW from certain small MS4s) is March 3, 2004, except as provided in N.J.A.C. 7:14A-25.8(b)1 and (b)2.

(b) The Department shall issue or deny individual permits (or authorization under general permits) for the following DSW composed entirely of stormwater in accordance with the following schedule:

1. The Department shall issue or deny individual NJPDES permits (or authorization under general NJPDES permits) for stormwater discharges associated with industrial activity no later than April 1, 1994, or for new sources or existing sources which did not submit a complete NJPDES individual permit application or request for authorization by April 1, 1993, one year after receipt of a complete NJPDES individual permit application or request for authorization (unless the general permit specifies a shorter time period); and

2. The Department shall issue or deny permits for large or medium municipal separate storm sewer systems by the deadlines contained in 40 C.F.R. 122.26(e)(7)(ii) and (iii), which are incorporated into this chapter by reference.

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7:14A-24.5 Requests for information about stormwater discharges associated with industrial activity

(a) The Department may, by written notice, request any person whom the Department has reason to believe may own or operate a facility with a “stormwater discharge associated with industrial activity” as defined in N.J.A.C. 7:14A-1.2 to either:

1. Declare to the Department that person’s intent to obtain a DSW permit for a “stormwater discharge associated with industrial activity”;
2. Submit a “Permanent No Exposure Certification” form to the Department under N.J.A.C. 7:14A-24.6; or
3. Provide other information to the Department that explains why, in that person’s judgment, that person is not required to obtain, for property or operations owned or operated by that person, a DSW permit for a “stormwater discharge associated with industrial activity” as defined in N.J.A.C. 7:14A-1.2. Such information may include:
 - i. Information about the nature, source, and location of the stormwater discharge from such property or operations; or
 - ii. Information concerning that person (for example, information explaining why that person does not have a duty under N.J.A.C. 7:14A-4.2(c) to obtain a NJPDES permit).

(b) A written notice under (a) above shall include a statement that such notice was sent pursuant to this section and the State Act, and that failure to respond to such notice in the manner required by this section is a violation of the State Act. Such notice shall also briefly explain why the Department has reason to believe that person may own or operate a facility with a “stormwater discharge associated with industrial activity” as defined in N.J.A.C. 7:14A-1.2. (For example, one sufficient reason is information indicating that the person may own or operate an establishment classified under a Standard Industrial Classification (SIC) code expressly listed in the definition of “stormwater discharge associated with industrial activity,” or a landfill, steam electric power generating plant, treatment works treating domestic sewage, or construction operation that results in the disturbance of land.) Such notice may also require the person’s response to be on a form provided by the Department, and to include a certification substantially equivalent to that required in a permit application under N.J.A.C. 7:14A-4.9(d).

(c) Upon receipt of a written notice under (a) above, the person shall provide a written response in accordance with this section within 60 days, unless the notice specifies a longer time period. The Department, in its discretion, may also extend the time allowed for submitting a response for good cause shown.

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(d) Nothing in (a) through (c) above shall exempt any person from any deadline to apply for a NJPDES permit under N.J.A.C. 7:14A-4.2(e) and 24.4, or prevent the Department from making other requests for information under N.J.A.C. 7:14A-2.11 or the State Act.

7:14A-24.6 “Permanent No Exposure” of industrial activities and materials to stormwater

(a) Subject to the limitations and provisions in (g), (i), and (j) below, an operating entity for an industrial facility is excluded from the requirement to obtain a NJPDES DSW permit for discharge(s) composed entirely of stormwater if:

1. There is “Permanent No Exposure” of industrial materials and activities to rain, snow, snowmelt and/or runoff and runoff discharged to surface water; and
2. The operating entity satisfies the conditions in (d) below.

(b) Discharges that qualify for this exclusion are not “stormwater discharges associated with industrial activity” as defined in N.J.A.C. 7:14A-1.2.

(c) For purposes of this section:

1. “Permanent No Exposure” means that all industrial materials are stored and/or all industrial activities are performed inside a permanent building or permanent structure that is anchored to a permanent foundation, and that is completely roofed and walled (except as provided in (f) below).
2. “Industrial materials and activities” include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, by-product, final product or waste product.

(d) To qualify for this exclusion, the operating entity for the industrial facility shall:

1. Attain the condition of “Permanent No Exposure” identified under (a)1 above;
2. Complete and sign in accordance with N.J.A.C. 7:14A-4.9 the Department’s “Permanent No Exposure Certification” form (see (h) below);
3. Submit the signed certification to the Department once every five years;
4. Allow the Department to inspect the facility to verify that the operating entity meets the applicable conditions, and to make inspection reports available to the public upon request; and

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5. For facilities that discharge through a municipal separate storm sewer system (MS4), and at the request of that MS4's operating entity, submit a copy of the "Permanent No Exposure Certification" to that entity, and allow inspection and public reporting by that entity.

(e) The exclusion is not transferable. In the event that the operating entity changes, the new operating entity must submit a new "Permanent No Exposure Certification" and is subject to the same conditions in (d) above.

(f) To qualify for this exclusion, a permanent building or permanent structure is not required for:

1. Dumpsters or other rigid containers of similar or larger size, that are used only for routine collection and temporary storage of industrial or other waste materials generated at the facility, and that are watertight, leak proof, and covered, with no visible residue or contamination on the external exposed surfaces;

2. Adequately maintained vehicles in normal operating condition used in material handling; and

3. Pipe that is not deteriorated and does not leak, and that is installed for use in the transportation or conveyance of materials at or through the facility. For purposes of this paragraph, "pipe" does not include pumps, inlet valves, or outlet valves.

(g) This exclusion is subject to the following limitations:

1. Stormwater discharges from construction activities as described under subparagraph 1x of the definition of "stormwater discharge associated with industrial activity" in N.J.A.C. 7:14A-1.2, and "stormwater discharge associated with small construction activity" as defined at N.J.A.C. 7:14A-1.2, are not eligible for this exclusion.

2. This exclusion is available on a facility-wide basis only, not for individual outfalls or drainage areas.

3. If circumstances change and industrial materials or activities become exposed to rain, snow, snowmelt, and/or runoff and runoff discharged to surface water (except as provided in (f) above), the conditions for this exclusion no longer apply. In such cases, a NJPDES permit shall be obtained for the discharge and the discharge becomes subject to enforcement as an unpermitted discharge of stormwater associated with industrial activity unless and until a permit is obtained.

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i. Any conditionally exempt discharger who anticipates changes in circumstances should submit an application or RFA and obtain a NJPDES permit authorization prior to the change of circumstances.

4. Notwithstanding the provisions of this section, the Department retains the authority to require an operating entity to submit an application or RFA (and deny this exclusion) upon making a determination that any stormwater discharge from the facility causes, has a reasonable potential to cause, or contributes to an excursion in surface waters above an applicable surface water quality standard, including designated uses.

5. This section does not exclude any operating entity for a municipal separate storm sewer system (MS4) from any requirement under N.J.A.C. 7:14A-24 or 25 to obtain a NJPDES permit for stormwater discharge from the MS4.

(h) A completed “Permanent No Exposure Certification” shall include all of the following information, and must be submitted on a form provided by the Department:

1. The name, mailing address and phone number of the operating entity;

2. The name, address, and location of the facility;

3. A statement that the person signing the certification has read and understands the eligibility requirements for claiming a condition of “Permanent No Exposure” and obtaining this exclusion.

4. A statement that the operating entity has attained the condition of “Permanent No Exposure” identified under (a)1 above, and understands its obligation to comply with all applicable conditions for the exclusion under (d) above, and to apply for a NJPDES permit prior to any discharge of stormwater associated with industrial activity from the facility.

(i) For an operating entity that is authorized to discharge stormwater under a valid NJPDES permit, the Department shall perform an inspection to confirm that all applicable conditions for the exclusion under (d) above have been met prior to modifying the permit to delete such discharge in accordance with N.J.A.C. 7:14A-16.4(b)1, revoking the permit in accordance with N.J.A.C. 7:14A-16.6(a)4, or revoking authorization under a general permit in accordance with N.J.A.C. 7:14A-6.13(j).

1. If the Department confirms that all applicable conditions for the exclusion have been met, the modification or revocation shall be effective as of the date of the Department’s receipt of the “Permanent No Exposure Certification.”

i. Until the operating entity receives a final modification or revocation from the Department, the operating entity’s authorization under the NJPDES permit and all

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conditions of the permit, including any monitoring and reporting requirements, remain fully effective and enforceable with respect to the stormwater discharge.

2. Based on an inspection of the facility, if the Department determines that one or more applicable conditions for the exclusion have not been met, the Department will respond in writing with the reasons for the denial. The operating entity's authorization under the NJPDES permit and all conditions of the permit remain fully effective and enforceable.

(j) For an operating entity that is not authorized to discharge stormwater under a valid NJPDES permit, the conditional exclusion shall be effective as of the date of the Department's receipt of the "Permanent No Exposure Certification" if the conditions of this section have been satisfied.

1. If the Department inspects the facility in accordance with (d)4 above and determines that any condition of this section has not been satisfied, the Department shall deny the conditional exclusion and require the operating entity to submit a permit application or RFA for the stormwater discharge associated with industrial activity.

7:14A-24.7 Permit application requirements for stormwater discharges associated with industrial activity or small construction activity, and for certain other stormwater DSW

(a) Operating entities for stormwater discharges associated with industrial activity or small construction activity (from point or nonpoint sources), and for industrial or commercial stormwater DSW (from point or nonpoint sources) identified under N.J.A.C. 7:14A-24.2(a)1 or 7, shall apply for an individual NJPDES DSW permit or request authorization under a final stormwater general NJPDES DSW permit in accordance with the deadlines set forth at N.J.A.C. 7:14A-24.4. Any such operating entity that is required or seeks to obtain an individual DSW permit shall submit an individual permit application in accordance with the requirements of N.J.A.C. 7:14A-4 as modified and supplemented by this section and N.J.A.C. 7:14A-24.8. Except as provided in (a)2 and (b) below, this individual permit application shall include (for discharges composed entirely of stormwater) the NJPDES-1 Form, NJPDES Form RF, and NJPDES Form R, Part A (the facility's residual use or residual disposal practices may require the completion of additional sections of Form R). If this individual permit application is for a stormwater discharge mixed with domestic sewage and/or an industrial nonstormwater discharge that requires a NJPDES-DSW permit, the operating entity shall comply with N.J.A.C. 7:14A-4, but is exempt from the requirements of (a)1 and 2 below, and shall not submit NJPDES Form RF.

1. Except as provided in (a)2 through 4, (a)6 and (b) below, an individual permit application for a stormwater DSW under this subsection shall include the following:

i. A site map showing:

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- (1) The facility boundaries;
 - (2) Topography (or indicating the outline of drainage areas covered in the application if a topographic map is unavailable) of the facility, including generalized stormwater flow and drainage patterns;
 - (3) The location and size (approximate size for earthen structures or channels) of each of the facility's drainage and discharge structures and natural drainage channels;
 - (4) The location, drainage area, and identification number of each stormwater outfall;
 - (5) The location and identification number of each drainage area not served by a stormwater outfall;
 - (6) Paved areas and buildings within each drainage area;
 - (7) Each area known to be used at present or in the three years prior to the submittal of this application for outdoor storage or disposal of "significant materials" as defined in N.J.A.C. 7:14A-1.2;
 - (8) Each existing structural control measure to reduce pollutants in stormwater runoff;
 - (9) Materials loading and access areas;
 - (10) Areas where pesticides, herbicides, soil conditioners and fertilizers are applied;
 - (11) Each of the facility's onsite residual or hazardous waste treatment, storage or disposal facilities (including each area not required to have a RCRA permit which is used for accumulating hazardous waste under 40 C.F.R. 262.34);
 - (12) The location (to the extent practicable) where solid, liquid, or hazardous waste is stored at the facility;
 - (13) Springs, streams, rivers, canals, lakes, ponds, bays, the ocean, or other surface water bodies which receive stormwater discharges from the facility; and
 - (14) Each sampling location for stormwater sampling data reported in the application.
- ii. An 8.5 inch x 11 inch copy of a portion of a U.S. Geological Survey Topographic Map(s), 7.5 minute Quadrangle Series extending one mile beyond the facility boundaries. The facility boundaries must be marked on the copy;

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iii. The latitude and longitude to the nearest second of each stormwater outfall, and the name of the receiving surface water(s) of each stormwater outfall and each drainage area not served by a stormwater outfall.

iv. If stormwater is discharged to receiving surface water(s) through an offsite public or private storm drainage system, the name of the owner(s) of that system;

v. An estimate of the area of impervious surfaces (including paved areas and building roofs) and the total drainage area of each outfall and of each area not served by an outfall and a narrative description of the following on-site features at the facility:

(1) "Significant materials" (as defined in N.J.A.C. 7:14A-1.2) known by the applicant to have been treated, stored or disposed in a manner to allow exposure to stormwater;

(2) Method of treatment, storage or disposal of such materials;

(3) Materials management practices employed currently (and in the past, if the applicant has information), to minimize contact by these materials with stormwater runoff;

(4) Materials loading and access areas;

(5) The location, manner and frequency in which pesticides, herbicides, soil conditioners and fertilizers are applied;

(6) The location and a description of existing structural and non-structural control measures to reduce pollutants in stormwater runoff; and

(7) A description of the treatment the stormwater receives, including the ultimate disposal of any solid, hazardous, or fluid wastes other than by discharge;

vi. A certification that all outfalls (and all drainage areas not served by outfalls) that should contain stormwater discharges associated with industrial activity have been tested or evaluated for the presence of non-stormwater discharges which are not authorized by a NJPDES permit; tests for such non-stormwater discharges may include smoke tests, fluorometric dye tests, analysis of accurate schematics, as well as other appropriate tests. The certification shall include a description of the method used, the date of any testing, and the on-site drainage locations that were directly observed during a test;

vii. Existing information the applicant has regarding significant leaks or spills of toxic or hazardous pollutants at the facility, including the approximate date and location of the spill or leak, and the type and amount of material released. For purposes of the preceding sentence, significant leaks or spills at a facility generally include releases of oil or hazardous substances in excess of reportable quantities under Section 311 of the Clean

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Water Act, 33 U.S.C. §1321 (see 40 C.F.R. 110.10 and 40 C.F.R. 117.21) or Section 302 of CERCLA (see 40 C.F.R. 302.4);

viii. Quantitative data based on samples collected during storm events and collected in accordance with N.J.A.C. 7:14A-24.8 from all outfalls (and all drainage areas not served by outfalls) containing a stormwater discharge associated with industrial activity for the following parameters:

- (1) Any pollutant limited in an effluent guideline to which the facility is subject;
 - (2) Any pollutant specifically limited in the facility's NJPDES DSW permit for its process wastewater (if the facility is operating under an existing NJPDES DSW permit);
 - (3) Oil and grease, pH, BOD₅, COD, TSS, total phosphorus, total Kjeldahl nitrogen, and nitrate plus nitrite nitrogen;
 - (4) Any information on the discharge required under N.J.A.C. 7:14A-4.4(b)5i and ii and 6. For purposes of those provisions, an applicant is expected to know or have reason to believe that a pollutant is present in an effluent based on an evaluation of the expected use, production, 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.);
 - (5) Measurements or estimates of the maximum flow rate and of the total amount of discharge for the storm event(s) sampled, and the method of flow measurement or estimation. (This information and the information required under (a)1viii(6) below is required only for the storm event(s) which resulted in any maximum pollutant concentration reported under (a)1viii(1) through (4) above for the flow-weighted composite sample.); and
 - (6) The date and duration (in minutes) of the storm event(s) sampled, rainfall measurements or estimates of the storm event (in inches) which generated the sampled runoff and the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event (in hours);
- ix. The source(s) (if known) of each pollutant (except pH) listed in the application pursuant to (a)1viii above;
- x. In preparing an individual permit application under (a)1, both outfalls and drainage areas not served by outfalls shall be regulated in the same manner as "outfalls" for purposes of (a)1viii(4) above and N.J.A.C. 7:14A-4.4(b) and 24.8;

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xi. Any operating entity for a discharge composed entirely of stormwater is exempt from the requirements of N.J.A.C. 7:14A-4.3(a)15, 16, 17, 21 and 22, and 4.4(a), (b)3i and ii and (b)7; and

xii. Any operating entity for a new source or new discharge (as defined in N.J.A.C. 7:14A-1.2) composed in part or entirely of stormwater shall include estimates for the pollutants or parameters listed in (a)1viii above instead of actual sampling data, along with the source of each estimate. Any operating entity for a new source or new discharge composed in part or entirely of stormwater must provide quantitative data for the parameters listed in (a)1viii above within two years after commencement of discharge, unless such data has already been reported under the monitoring requirements of the NJPDES permit for the discharge. Any operating entity for a new source or new discharge composed entirely of stormwater is exempt from the requirements of N.J.A.C. 7:14A-4.3(a)15, 16, 17, 21iii and 22, and 4.4(b)3 through 7.

2. Except as provided in (a)5 below, the operating entity for an existing or new stormwater discharge that is associated with construction activity solely under subparagraph 1x of the definition of “stormwater discharge associated with industrial activity” in N.J.A.C. 7:14A-1.2, or solely under the definition of “stormwater discharge associated with small construction activity” in N.J.A.C. 7:14A-1.2, is exempt from the requirements of (a)1 above and N.J.A.C. 7:14A-4.3(a)11, (a)15 through 22, (c) and (d) and 4.4, and shall not submit NJPDES Form RF. Such operating entity shall, if applying for an individual NJPDES DSW permit, submit the NJPDES-1 Form, NJPDES Form RFC, and NJPDES Form R, Part A (the facility’s residual use or residual disposal practices may require the completion of additional sections of Form R). The application shall include the following:

i. A narrative description of:

- (1) The location and nature of the construction activity;
- (2) The nature of fill material used or disturbed during the construction activity; and
- (3) Existing data describing the soil or the quality of the stormwater discharge;

ii. An 8.5 inch x 11 inch copy of a portion of a U.S. Geological Survey Topographic Map(s), 7.5 minute Quadrangle Series extending one mile beyond the facility boundaries. The facility boundaries must be marked on the copy;

iii. If the facility is within the Pinelands Area (as defined by N.J.S.A. 13:18A-11), documentation that the Pinelands Commission has reviewed and approved the facility, or that the Pinelands Commission will not review the facility based upon a certification or approval issued under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq.;

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iv. A stormwater pollution prevention plan for the construction activity. This stormwater pollution prevention plan shall include:

- (1) The total land area of the site (in acres);
- (2) The land area of the site (in acres) that is expected to be cleared, graded, excavated, or otherwise disturbed during the term of the permit;
- (3) The name of the receiving surface water(s);
- (4) If stormwater is discharged to receiving surface water(s) through an offsite public or private storm drainage system, the name of the owner(s) of that system;
- (5) A site map showing:
 - (A) Facility boundaries;
 - (B) Areas of land disturbance (existing and proposed);
 - (C) Areas where land will not be disturbed;
 - (D) The approximate location of the kinds of soil present (applicants may mark the facility boundaries on a copy of a detailed soil map published by the United States Department of Agriculture where available);
 - (E) Existing and proposed land cover (for example, wooded area, open grassed area, pavement, buildings);
 - (F) Generalized drainage patterns and approximate slopes (existing and proposed);
 - (G) Locations of major drainage and discharge features (existing and proposed) and natural drainage channels;
 - (H) Locations of soil storage piles (existing and proposed);
 - (I) Each existing onsite residual or hazardous waste treatment, storage or disposal facility;
 - (J) The location (to the extent practicable) of all storage or disposal sites at the facility for solid or liquid waste;
 - (K) Locations of proposed major structural and nonstructural best management practices (BMPs) to control stormwater pollutants during and after construction;

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(L) Surface water bodies which receive stormwater discharges from the facility; and

(M) Whether the drainage system immediately receiving stormwater discharged from the facility is a surface water body, an offsite public or private storm drainage system, or other system as applicable;

(6) A narrative description of proposed BMPs to control pollutants in stormwater discharges during construction, including:

(A) Appropriate erosion and sediment control BMPs that at a minimum meet standards established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules. The narrative description shall include a brief description of applicable State and local erosion and sediment control requirements; and

(B) BMPs to control waste such as discarded building materials, concrete truck washout, chemicals, litter, sanitary waste, and other solid or hazardous waste at the construction site;

(7) Copies of approved State or local requirements for BMPs under (a)2iii(6) above;

(8) Maintenance procedures and inspection procedures for BMPs under (a)2iii(6) above; and

(9) Identification of non-stormwater discharges;

v. An estimate of the post-construction runoff coefficient of the site, and the increase in the area of impervious surface after the construction addressed in the individual permit application is completed; and

vi. A narrative description of proposed BMPs to control pollutants in stormwater discharges that will occur after construction operations have been completed, including a brief description of applicable State or local stormwater management controls and erosion and sediment control requirements.

3. The operating entity for an existing or new discharge composed entirely of stormwater from an oil or gas exploration, production, processing, or treatment operation, or transmission facility is not required to apply for a NJPDES DSW permit in accordance with this section, unless the facility:

i. Has had a discharge of stormwater resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 C.F.R. 117.21 or 40 C.F.R. 302.6 at anytime since November 16, 1987;

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ii. Has had a discharge of stormwater resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 C.F.R. 110.6 at any time since November 16, 1987; or

iii. Contributes to a violation of a surface water quality standard.

4. The operating entity for an existing or new discharge composed entirely of stormwater from a mining operation is not required to apply for a NJPDES DSW permit in accordance with this section, unless the discharge has come into contact with any overburden, raw material, intermediate products, finished product, byproduct or waste products located on the site of such operations.

5. Applicants shall provide such other information as the Department may reasonably require under N.J.A.C. 7:14A-4.3(e) to determine whether to issue a NJPDES DSW permit. The Department may require any operating entity subject to (a)2 above to comply with (a)1 above and submit NJPDES Form RF.

(b) A group application submitted to USEPA under former 40 C.F.R. 122.26(c)(2) does not qualify under (a) above as an application for an individual NJPDES permit, or as a request for authorization under a NJPDES general permit. However, if a facility was approved by the USEPA as a member of a group application pursuant to 40 C.F.R. 122.26(e)(2) and applies to the Department for an individual NJPDES permit for a stormwater discharge associated with industrial activity, the Department may accept the quantitative data in Part 2 of that group application in lieu of quantitative data collected at the applicant's facility for that stormwater discharge, provided that:

1. The quantitative data in Part 2 of that group application is submitted to the Department by the entity that prepared the group application or by the applicant; and

2. The USEPA has not informed that entity that the quantitative data in Part 2 that was submitted to the Department is inaccurate or incomplete.

(c) Operating entities for stormwater DSW (from point or nonpoint sources) that are identified under N.J.A.C. 7:14A-24.2(a)1 or (a)7, but that are not from industrial or commercial facilities or from small MS4s, shall apply for an individual NJPDES DSW permit or request authorization under a final stormwater general NJPDES DSW permit in accordance with the deadlines set forth at N.J.A.C. 7:14A-24.4(a)4. Any such operating entity that is required or seeks to obtain an individual DSW permit shall submit an individual permit application in accordance with the requirements of N.J.A.C. 7:14A-4 (except N.J.A.C. 7:14A-4.3(a)11, (a)15 through 24, (c) and (d) and 4.4). This individual permit application shall include:

1. The NJPDES-1 Form;

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2. Other information required under N.J.A.C. 7:14A-4.3 (except as exempted above in this subsection);
3. An 8.5 inch x 11 inch copy of a portion of a U.S. Geological Survey Topographic Map(s), 7.5 minute Quadrangle Series extending one mile beyond the facility boundaries. The facility boundaries must be marked on the copy; and
4. Such other information as the Department may reasonably require under N.J.A.C. 7:14A-4.3(e).

7:14A-24.8 Sample collection procedures for individual stormwater DSW permit applications

(a) When “quantitative data” for a pollutant are required under N.J.A.C. 7:14A-24.7(a)1viii (or under N.J.A.C. 7:14A-25.10(a) and 40 C.F.R. 122.26(d)(2)(iii)) in an individual NJPDES permit application for a stormwater DSW, the applicant shall collect samples in accordance with N.J.A.C. 7:14A-4.4(b) (also see N.J.A.C. 7:14A-24.7(a)1x) and the following paragraphs (procedures or requirements in (a)1 through 4 below are subject to change under (a)5 below):

1. All samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inch and at least 72 hours from the previously measurable (greater than 0.1 inch) storm event. Where feasible, the variance in the duration of the event and the total rainfall of the event should not exceed 50 percent from the average or median rainfall event in that area.
2. For all pollutants requiring analysis under N.J.A.C. 7:14A-24.7, quantitative data must be reported for a grab sample taken during the first 30 minutes (or as soon thereafter as practicable) of the stormwater discharge.
3. For all pollutants requiring analysis under N.J.A.C. 7:14A-24.7 (or under N.J.A.C. 7:14A-25.10, where applicable), quantitative data must be reported for a flow-weighted composite sample (except as provided in (a)3i and ii below). This sample must be taken for either the entire stormwater discharge or for the first three hours of the stormwater discharge. (Notwithstanding N.J.A.C. 7:14A-4.4(b)2ii, a 24-hour composite sample of the stormwater discharge is not required.) Only one analysis of the composite of aliquots is required.
 - i. A minimum of one grab sample may instead be taken for stormwater discharges from holding ponds or other impoundments with a retention period greater than 24 hours.
 - ii. Flow-weighted composite samples shall not be taken for pH, temperature, cyanide, total phenols, chlorine produced oxidants, oil and grease, petroleum hydrocarbons, all volatile organics, and fecal coliform, fecal streptococcus, and other bacterial indicators.

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iii. The flow-weighted composite sample shall be:

(1) Taken with a continuous sampler;

(2) A combination of a minimum of three sample aliquots taken in each hour of discharge for the entire discharge; with each aliquot being separated by a minimum period of fifteen minutes; or

(3) A combination of a minimum of three sample aliquots taken in each of the first three hours of the discharge, with each aliquot being separated by a minimum period of 15 minutes.

4. Notwithstanding N.J.A.C. 7:14A-4.4(b)5ii, stormwater permit applicants are not required to report the daily maximum or daily average for any pollutant. Notwithstanding N.J.A.C. 7:14A-4.4(b)3vi, stormwater permit applicants are not required to report as total mass:

i. Any sampling data from grab samples; or

ii. Any sampling data for flow, or for any pollutants that cannot be appropriately expressed in terms of mass (including but not limited to pH, acute and chronic whole effluent toxicity, temperature, and fecal coliform, fecal streptococcus, and other bacterial indicators).

5. The Department may allow or establish (in the Pollutant Analysis Summary in NJPDES Form RF or elsewhere) appropriate site-specific sampling procedures or requirements, including:

i. Sampling locations, the season in which the sampling takes place, the minimum duration between the previous storm event and the storm event sampled, the minimum or maximum level of precipitation required for an appropriate storm event, and the form of precipitation sampled (snowmelt or rainfall); and

ii. The type of sampling (for example, grab sample or flow-weighted composite sample), whether and how to measure (or estimate) and report flow, protocols for collecting samples that may differ from protocols for collecting samples under 40 C.F.R. 136 or N.J.A.C. 7:18, time duration between the collection of sample aliquots in flow-weighted or other composite samples, mode of reporting sampling results (for example, concentration or loading) or other sampling or storm event information, and additional time for submitting data on a case-by-case basis.

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7:14A-24.9 Monitoring requirements for certain stormwater discharges

(a) For small municipal separate storm sewer systems, and for stormwater discharges associated with industrial activity or small construction activity that are not subject to an effluent limitation guideline that establishes monitoring requirements or numeric effluent limitations, monitoring requirements shall be established on a case-by-case basis depending upon the nature and effect of the discharge. The permittee shall be required to monitor such discharges in accordance with N.J.A.C. 7:14A-11.2(a)2, or, at a minimum:

1. For small municipal separate storm sewer systems subject to N.J.A.C. 7:14A-25.6 or 25.8, the permittee shall comply with the requirements for evaluation, recordkeeping, and reporting in N.J.A.C. 7:14A-25.6(j) or 25.8(i), respectively.

2. For stormwater discharges associated with industrial activity or small construction activity:

i. The permittee shall conduct an annual inspection of the facility to identify areas contributing to a stormwater discharge associated with industrial activity or small construction activity and evaluate whether measures to reduce pollutant loadings identified in a stormwater pollution prevention plan are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed;

ii. The permittee shall prepare a report summarizing the result of the annual inspection conducted under (a)2i above. This report shall be accompanied by an annual certification that the facility is in compliance with its stormwater pollution prevention plan and the permit, except that if there are any incidents of non-compliance, those incidents shall be identified in the certification. If there are incidents of non-compliance, the report shall identify the steps being taken to remedy the non-compliance and to prevent such incidents from recurring. The permittee shall maintain this report and certification for a period of at least five years from the date of the report. This period may be extended by written request from the Department at any time; and

iii. Such report and certification shall be signed by a person described in N.J.A.C. 7:14A-4.9.

iv. Permittees that are not required to submit monitoring reports at least annually pursuant to this subsection shall report to the Department at least annually all instances of non-compliance not reported under N.J.A.C. 7:14A-6.7, 6.8 and 6.10.

(b) The operating entity for a large or medium municipal separate storm sewer system shall include, in its annual report, a summary of data, including monitoring data, that is accumulated throughout the reporting year, in accordance with N.J.A.C. 7:14A-25.10(b) and 40 C.F.R. 122.42(c).

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7:14A-24.10 Additional requirements for stormwater discharges associated with construction activity

(a) This section sets forth additional requirements applicable to “stormwater discharge associated with small construction activity” as defined at N.J.A.C. 7:14A-1.2, and to stormwater discharge associated with construction activity described under subparagraph 1x of the N.J.A.C. 7:14A-1.2 definition of “stormwater discharge associated with industrial activity.” The Department may issue general and/or individual NJPDES permits for such discharges. The NJPDES permit program for such discharges shall be designed to reduce pollutants in such discharges. The program components include:

1. NJPDES permit conditions requiring that operating entities for construction sites implement appropriate erosion and sediment control BMPs. NJPDES permits shall require compliance with the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules;
2. NJPDES permit conditions requiring that operating entities for construction sites control waste such as discarded building materials, concrete truck washout, chemicals, litter, sanitary waste, and other solid or hazardous waste at the construction site that may cause adverse impacts to water quality;
3. For construction activities described under subparagraph 1x of the N.J.A.C. 7:14A-1.2 definition of “stormwater discharge associated with industrial activity,” NJPDES permit conditions imposing any additional requirements necessary to achieve the applicable technology-based standards of “best available technology” and “best conventional technology” based on the Department’s best professional judgment, effluent limitations and standards promulgated under Section 301 of the Federal Act (33 U.S.C. §1311), or new source performance standards promulgated under Section 306 of the Federal Act (33 U.S.C. §1316);
4. NJPDES permit conditions requiring that operating entities for construction sites develop, submit for review, and implement a stormwater pollution prevention plan for construction activity. (This stormwater pollution prevention plan shall include site descriptions, descriptions of appropriate control measures, copies of approved State or local requirements, maintenance procedures, inspection procedures, and identification of non-stormwater discharges.);
5. The review of stormwater pollution prevention plans, including the consideration of potential water quality impacts of construction activity;
6. The implementation of applicable provisions of N.J.A.C. 7:50-4.81 through 4.85 (coordinated permitting in the Pinelands Area);
7. The receipt and consideration of information submitted by the public; and

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8. Site inspection and enforcement of control measures.

SUB24 (1/05/04)