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ENVIRONMENTAL PROTECTION  
ENVIRONMENTAL REGULATION

New Jersey Pollutant Discharge Elimination System  
Stormwater Regulation  
Underground Injection Control

Proposed Amendments: N.J.A.C. 7:14A-1.1, 1.2, 2.4, 2.13, 3.1, 4.2, 4.3, 4.4, 6.2, 6.13, 7.4, 7.9, 8.3, 8.4, 8.5, 8.8, 8.10, 8.11, 8.16, 8.18, 11.1, 11.2, 11.6, 13.3, and 16.4

Proposed Repeal: N.J.A.C. 7:14A-11.5

Proposed New Rules N.J.A.C. 7:14A-24 and 7:14A-25

Authorized by: Bradley M. Campbell, Commissioner  
Department of Environmental Protection

Authority: N.J.S.A. 13:1D-1 et seq.; 40:55D-1 et seq.;  
58:10A-1 et seq., and 58:11A-1 et seq.

Calendar Reference: See Summary below for explanation of exception  
to calendar requirement

DEP Docket Number: 33-02-12/192

Proposal Number: PRN \_\_\_\_ - \_\_\_\_

The schedule of public hearings concerning this proposal follows:

Date: Thursday, February 13, 2003  
Time: 2:00 P.M. to 4:00 P.M. and 8:00 P.M. to 10:00 P.M.  
Location: Morris County Frelinghuysen Arboretum  
Hagerty Education Center Auditorium  
53 East Hanover Avenue  
Morristown, N.J.

Date: Thursday, February 20, 2003  
Time: 2:00 P.M. to 4:00 P.M. and 8:00 P.M. to 10:00 P.M.  
Location: Collingswood Senior Community Center Ballroom  
30 West Collings Avenue  
Collingswood, N.J.

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Date: Tuesday, February 25, 2003  
Time: 12:00 P.M. to 2:00 P.M. and 6:00 P.M. to 8:00 P.M.  
Location: New Jersey Department of Environmental Protection  
Public Hearing Room, First Floor, 401 E. State Street  
Trenton, N.J.

Submit written comments by March 7, 2003 to:

Janis E. Hoagland, Esq.  
Attn.: DEP Docket No. 33-02-12/192  
Office of Legal Affairs  
Department of Environmental Protection  
PO Box 402  
Trenton, New Jersey 08625-0402

The Department of Environmental Protection (Department) requests that commenters submit comments on 3½ inch diskettes as well as on paper. Submission of a diskette is not a requirement. The Department prefers Microsoft Word 6.0 or above; however, other word processing software that can also be read or used by Microsoft Word 6.0 is acceptable. MacIntosh formats should not be used.

Comments should be identified by the applicable N.J.A.C. citation, and comments related to the summary description of a particular rule section should be included with comments on that section. Since comments will be sorted electronically, the following format should be used for each comment to the extent practicable:

(tab) citation(tab)COMMENT: Comment text. Followed immediately by organization name (or individual name for an individual not representing an organization). For example:

7:14A-1.2 COMMENT: The definition of “Small municipal separate storm sewer system” should not include any storm sewers owned or operated by counties. XYZ County

7:14A-25.3(a)1ii COMMENT: The population threshold should be reduced from 10,000 to 1,000. Mary Doe

A copy of the proposal is available on paper or on disk by calling the Department at (609) 633-7021. The rule proposal can also be found at the Department’s website (<http://www.state.nj.us/dep>).

The agency proposal follows:

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### Summary

This notice of proposal is excepted from the rulemaking calendar requirement by having a 60-day comment period, pursuant to N.J.A.C. 1:30-3.3(a)5.

These amendments to the New Jersey Pollutant Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, are proposed primarily as part of the Department's Statewide Stormwater Permitting Program, and have been prepared mainly in response to requirements mandated under the Federal Clean Water Act (CWA), 33 U.S.C. §§ 1251 et seq. Most of the proposed amendments focus on the establishment and implementation of the proposed Municipal Stormwater Regulation Program. This Program is also referred to in the Federal context as a "Phase II" program since it includes most of the second phase of the National Pollutant Discharge Elimination System (NPDES) Stormwater Permitting Program.

The Department develops and administers much of the Statewide Stormwater Permitting Program within the framework of Section 402(p) of the CWA (33 U.S.C. §1342(p)) and related provisions of the NPDES rules, 40 C.F.R. 122, 123 and 124. Congress added Section 402(p) to the CWA in 1987 to establish a comprehensive framework for addressing certain stormwater discharges to surface waters. Amendments to the NPDES rules relevant to the first phase (Phase I) of the NPDES Stormwater Permitting Program were promulgated by the United States Environmental Protection Agency (USEPA) in the Federal Register on November 16, 1990 (55 Fed. Reg. 47990), March 21, 1991 (56 Fed. Reg. 12098), November 5, 1991 (56 Fed. Reg. 56548), April 2, 1992 (57 Fed. Reg. 11394), and December 18, 1992 (57 Fed. Reg. 60443). "Interim Phase II" stormwater rules were promulgated in the Federal Register on August 7, 1995 (60 Fed. Reg. 40229).

The USEPA "Phase I" stormwater regulations required NPDES permits for certain industrial stormwater discharges (including discharges from construction activities disturbing five or more acres) and discharges from "large" or "medium" municipal separate storm sewer systems (generally those serving a population of 100,000 or more). The Department adopted amendments to its NJPDES rules at N.J.A.C. 7:14A to implement the USEPA "Phase I" regulations in 1992 (see 24 N.J.R. 4088(a), November 2, 1992; 24 N.J.R. 4364(a), December 7, 1992; 24 N.J.R. 4522(a), December 21, 1992; and 25 N.J.R. 687(a), February 16, 1993). The Department revised its NJPDES stormwater rules in 1997, 1998, and January 2002 (see 29 N.J.R. 1704(a), May 5, 1997; 29 N.J.R. 3822(a), September 2, 1997; 30 N.J.R. 340(a), January 20, 1998; and 34 N.J.R. 595(a), January 22, 2002).

Over 1,800 industrial facilities in New Jersey (other than construction activities), as well as thousands of construction-related activities, have obtained NJPDES permits for stormwater discharges since 1992. While four municipalities (Newark, Jersey City, Paterson, and Elizabeth) were originally identified as having "large" or "medium" municipal separate storm sewer systems, those municipalities were not regulated under Phase I since they were served mainly by combined sewers rather than by separate storm sewers (which serve less than 100,000 persons in

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each municipality). The Department approved petitions submitted by those municipalities under 40 C.F.R. 122.26(f)(3) to exclude them from Phase I regulation. (As explained further below, separate storm sewers owned or operated by these municipalities are regulated under these proposed amendments.)

The USEPA promulgated new “Phase II” regulations in the Federal Register on December 8, 1999 (64 Fed. Reg. 68721). As indicated above, these regulations represent the second phase of a two-phase permit program to control certain discharges of stormwater to surface waters, and consist mainly of provisions that address NPDES permit requirements for “municipal” (i.e., publicly owned or operated) stormwater discharges under Section 402(p)(6) of the CWA (33 U.S.C. §1342(p)(6)). These regulations also have provisions that expand NPDES permit requirements for stormwater discharges associated with construction activity (both “Phase I” and “Phase II” sources), eliminate the NPDES permit requirement for many other “Phase II” sources, provide a conditional exclusion for Phase I industrial facilities that have “No Exposure” of industrial activities or materials to stormwater, and extend the deadline for certain publicly owned or operated industrial facilities (“ISTEA sources”). USEPA regulations require or authorize the Department to revise the NJPDES rules to implement all of these provisions.

USEPA “Phase II” stormwater regulations expand the stormwater requirements for NPDES permits to many “small” municipal separate storm sewer systems (referred to as “MS4s”) (generally those not serving a population of 100,000 or more). These systems include separate storm sewer systems owned or operated by municipalities (as defined in the Municipal Land Use Law at N.J.S.A. 40:55D-5). These systems also include separate storm sewer systems owned or operated by county, State, interstate, and Federal agencies at facilities that the proposed amendments refer to as “public complexes”, and at “highways and other thoroughfares”. According to USEPA, the purpose of the new stormwater regulations for small MS4s is “to designate additional sources that need to be regulated to protect water quality and to establish a comprehensive storm water program to regulate these sources”. The USEPA regulations require NPDES permits for many small MS4s that discharge stormwater to surface waters.

The Department contemplates issuing four general permits to implement the Municipal Stormwater Regulation Program: the Tier A Municipal Stormwater Permit (Tier A Permit); the Tier B Stormwater Permit (Tier B Permit); the Public Complex Stormwater Permit (Public Complex Permit); and the Highway Stormwater Permit (Highway Permit). These general permits will use a pollution prevention approach that would require regulated entities to implement best management practices.

The Department is proposing that all municipalities in the State that operate separate storm sewer systems be regulated to some degree. All 566 municipalities will be designated into one of the two Tiers. The Department is proposing that 467 municipalities (based on current information) will be regulated under the Tier A Permit and 99 municipalities will be regulated under the Tier B Permit (this number includes 28 municipalities identified under the USEPA

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regulations as fully or partially urbanized municipalities but granted a waiver by the Department because their population is less than 1,000 within the urbanized area - see proposed N.J.A.C. 7:14A-25.2(d)4). Both permits will establish Statewide Basic Requirements (SBRs) that are mandatory management measures for regulated entities as explained in the summary description of Subchapter 25 below. For new development, an SBR in both permits requires municipalities to develop and adopt a stormwater management plan and ordinance, pursuant to the Department's Stormwater Management Rules, N.J.A.C. 7:8. In addition, an SBR in both permits requires municipalities to conduct a local public education program. The Tier A Permit also has additional stormwater management requirements and provisions as noted below.

Counties and State, interstate, and Federal agencies will be regulated under the Public Complex Permit and/or the Highway Permit. The Public Complex Permit regulates public facilities (mainly in Tier A municipalities) that contain two or more buildings, and that are either at colleges or universities that Statewide have at least 1,000 employees (usually present at least six hours per day on weekdays) or full-time students, or at other locations and have at least 1,000 employees, military personnel, or residents present at least six hours per day on weekdays. Many counties and State and Federal agencies will be regulated under this permit. The Highway Permit regulates "highways and other thoroughfares" including streets, roads, bridges, tunnels, maintenance facilities, service areas, and rest areas. This will affect, among other thoroughfares, State highways (including toll and interstate highways) and most county roads (including at least some roads in all 21 counties).

The Tier A Permit, Public Complex Permit, and Highway Permit will also establish other SBRs and allow Optional Measures for regulated entities as explained in the summary description of Subchapter 25 below. In addition, these permits and the Tier B Permit will provide for Additional Measures to be included along with SBRs in each regulated entity's stormwater program. As the Department proceeds through its Watershed Management or regional stormwater management efforts, it may require, through the adoption of a total maximum daily load (TMDL) or other Water Quality Management Plan amendment, that one or more measures that modify or are in addition to SBRs be made a mandatory permit requirement. This mandatory requirement will be referred to as an Additional Measure. Optional Measures are measures that regulated entities implement at their own discretion to address stormwater concerns that transcend the basic issues addressed by the SBRs. In addition to management measures, the proposed amendments require the permits to include measurable goals (including implementation schedules) and other conditions. The structure of the general permit requirements is explained in the summary description of Subchapter 25 below. While the Department expects that almost all regulated entities will seek coverage under the appropriate general permit, there are provisions in the proposed amendments for individual NJPDES permits if necessary.

The USEPA Phase II regulations generally require regulated entities to apply for permits by March 10, 2003, and also include a March 10, 2003 deadline for certain stormwater discharges associated with construction activity and for certain publicly owned or operated

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industrial facilities. The Department intends to adopt the proposed amendments as soon as feasible, so that the adopted amendments become effective shortly after March 10, 2003. Because the adopted amendments will not become effective in time to provide reasonable notice of a March 10, 2003 deadline to the regulated community, the Department is proposing that the deadline in the NJPDES rules for certain actions be 30 days from the effective date of Subchapter 24 or 25.

The Department will not take enforcement action (for failure to comply with the USEPA deadline) against those who comply with the NJPDES deadline. The Department makes this proposal in the exercise of its discretion to choose the means for implementing legislative directives, which discretion is especially well-recognized in connection with its allocation of prosecutorial resources. The Department, however, is not purporting to have the power to waive or revoke the USEPA deadline.

The proposed Municipal Stormwater Regulation Program is intended to provide substantial water quality benefits, including benefits from improved control of nutrients (phosphorus and nitrogen), pathogens, solid and floatable materials, toxic and other pollutants, and stormwater runoff quantity. This Program will also be one of the mechanisms for implementing the stormwater requirements of total maximum daily loads (TMDLs) and regional stormwater management plans.

In accordance with the USEPA Phase II regulations, the Department is not requiring numeric effluent limitations as SBRs in any of these anticipated new general permits. Rather, the Department is following the principles established in Phase I whereby non-numeric effluent limitations, in the form of best management practices, will be relied upon to protect water quality. This approach is not only consistent with the USEPA regulations, but also with anticipated implementation efforts in other NPDES-delegated states around the country, and in the states where the USEPA is the responsible NPDES entity. The Department believes that such non-numeric effluent limitations are more appropriate for the types of stormwater discharges eligible for authorization under these anticipated general permits. The Department also believes that the anticipated general permit requirement for annual reports by the permittee, together with the Department program for monitoring ambient water quality, will be more effective than traditional compliance monitoring by the permittee to evaluate and ensure compliance with these non-numeric effluent limitations.

In addition to amendments related to USEPA's Phase II municipal stormwater regulations, the Department is also proposing a number of other amendments to the NJPDES rules that are designed to either implement other provisions of the USEPA Phase II regulations (as briefly mentioned above), other USEPA requirements regarding Underground Injection Control (UIC), Department requirements regarding discharges of stormwater from nonpoint sources and discharges of stormwater to groundwater, or to correct or enhance the Department's existing NJPDES Stormwater Permitting and UIC Programs. Because of the limited scope of USEPA's jurisdiction under the Federal Clean Water Act, the Federal NPDES stormwater permit

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program is limited to stormwater discharges from point sources to “waters of the United States” as defined in 40 C.F.R. 122.2 (most surface waters). In proposed amendments, however, the Department is exercising its broader authority under the New Jersey Water Pollution Control Act and Water Quality Planning Act to regulate not only those discharges, but also certain stormwater discharges from nonpoint sources, and certain stormwater discharges to other waters of the State including groundwater. For example, the proposed amendments concerning the Municipal Stormwater Regulation Program regulate stormwater discharges to surface water and groundwater from small MS4s in a unified and consistent manner. This broader scope of the Department’s rules should be kept in mind with reference to the statements throughout this Summary that any particular rule provision is based on a Federal NPDES regulation.

Phase I had required NJPDES permits for construction-related land disturbances of 5 or more acres, but the USEPA Phase II regulations extend that requirement down to 1 acre or more of land and require additional permit conditions. The Department currently regulates construction activities under its Construction Activity General Permit (NJPDES Permit No. NJ0088323) and is planning to revise this permit in the future. This rule proposal contains amendments that will be reflected in the permit revision. The proposal also contains minor amendments that reflect changes made by the USEPA to its Underground Injection Control requirements at 40 C.F.R. 144, 145, and 146. The proposal has amendments in Subchapter 7 and 8, as well as new language at Subchapters 24 and 25, regarding NJPDES permits for certain discharges of stormwater to groundwater. These changes provide for regulation of such discharges in a manner consistent with NJPDES requirements for discharges of stormwater to surface water. Lastly, this proposal consolidates most stormwater-related provisions into the two new Subchapters 24 and 25. In all, the Department is proposing amendments to Subchapters 1, 2, 4, 6, 7, 8, 11, 13, and 16, and is proposing, in new Subchapters 24 and 25, new rule language and language recodified with amendments from existing Subchapter 11.

As part of its comprehensive Stormwater Management and Control Program, the Department is also proposing changes to the Stormwater Management Rules (N.J.A.C. 7:8) under a separate proposal (see \_\_ N.J.R. \_\_\_\_\_; January, 2003) that will complement these NJPDES rule changes. The changes to the Stormwater Management Rules enhance the Department’s regulation of stormwater discharges from new development. The Department is proposing to require development and implementation of stormwater management plans and stormwater control ordinances authorized under the Stormwater Management Rules, in all municipalities regulated under the Tier A and B permits. In addition, portions of the USEPA Phase II regulations regarding stormwater discharges from new development will be addressed through the implementation of design and performance standards in the Stormwater Management Rules. The Department is also working with the Department of Community Affairs to integrate these changes with the Residential Site Improvement Standards, N.J.A.C. 5:21. All of these efforts will establish a more comprehensive stormwater management and control program, as well as increase the effectiveness and efficiency of stormwater management activities conducted under the NJPDES rules and Stormwater Management Rules.

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### **Public Participation:**

The Department has been actively encouraging public participation in the development of the Municipal Stormwater Regulation Program. The Department established the Municipal Stormwater Advisory Group (MSAG), consisting of representatives from the Department, municipal, county, and state officials, professional associations, and environmental groups. The MSAG has met on 18 occasions since February 2000. A list of current MSAG members (excluding Department members) is provided below:

### **Municipal Stormwater Advisory Group (MSAG) Membership List:**

Joseph Doyle, NJ Federation of Planning Officials  
James DeMuro/Frank Scarantino, NJ Association of Municipal Engineers/  
NJ Association of Professional Engineers  
Abigail Fair, Association of NJ Environmental Commissions  
Andras Fekete, NJ Department of Transportation  
Robert Simicsak, Township of Woodbridge  
John Winterstella, NJ State League of Municipalities  
Nancy Wittenberg, NJ Builders Association  
Ray Zabihach, NJ Association of Counties

The Department has also been coordinating, through the NJ Department of Transportation's New Jersey Quality Initiative Group, with representatives of most of the State's transportation-related agencies and associations. In addition, the Department has established a Best Management Practices Subcommittee composed of representatives from various municipal, county and state public works agencies for the specific purpose of assisting the Department in developing the general permits for the Municipal Stormwater Regulation Program.

The Department has been working closely with these advisory bodies in developing the proposed rule amendments and the general permits. The MSAG has been supportive of the proposed Municipal Stormwater Regulation Program, and the Department anticipates that it will continue to work closely with MSAG in the future.

The proposed amendments are explained in more detail below:

### **Subchapter 1. Abbreviations, Acronyms, and Definitions**

#### **7:14A-1.1: Abbreviations and acronyms**

The Department is proposing to add the following acronyms: "MS4", "AM", "OM", and "SBR". "MS4" is the acronym for "municipal separate storm sewer system" used in USEPA's final "Phase II" stormwater regulations (see 40 C.F.R. 122.26(b)(19)). This acronym is used extensively in the proposed NJPDES rules concerning the Municipal Stormwater Regulation



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Program. “AM”, “OM”, and “SBR” are, respectively, acronyms for “Additional Measure”, “Optional Measure”, and “Statewide Basic Requirement”, which are Department terms used in the proposed rules (see proposed N.J.A.C. 7:14A-25.6, 25.7, and 25.8).

#### **7:14A-1.2: Definitions**

The Department is proposing to amend, add, or delete the following definitions:

**“Cesspool”:** This new definition is the same as the definition of “cesspool” in N.J.A.C. 7:9A, Standards for Individual Subsurface Sewage Disposal Systems. The term has substantially the same meaning under the Federal UIC program definition (40 C.F.R. 144.3). A cesspool provides subsurface disposal of untreated sewage without a septic tank or other treatment. The term is used in the existing NJPDES rules and in proposed N.J.A.C. 7:14A-8.4(a)3i. The new definition also includes a sentence that makes it clear that a cesspool is an injection well.

**“Connection”:** This definition is amended to limit its scope to Subchapter 22. The definition of “connection” was added to the NJPDES rules when the requirements for sewer ban imposition were added to the NJPDES rules in what is now Subchapter 22, and was later amended when those requirements were revised. This definition is tailored for Subchapter 22, and is not suitable for the proposed definition of “illicit connection” discussed below, or for other uses of the term “connection” in the NJPDES rules.

**“Co-permittee”:** This definition is amended to clarify its language, and to reflect the proposed recodification with amendments of existing N.J.A.C. 7:14A-11.5(a) as N.J.A.C. 7:14A-24.2, and the use of the term co-permittee in proposed new N.J.A.C. 7:14A-25.9.

**“Illicit connection”:** This is a definition of a new term, used in the proposed rules concerning the Municipal Stormwater Regulation Program, that identifies specific kinds of inappropriate connections that discharge to municipal separate storm sewer systems. The terms “industrial waste” and “process wastewater” are defined in this section, and include not only effluent from manufacturing processes, but wastes or wastewater that are generated from industrial and commercial activities such as maintenance or cleaning of vehicles, equipment, and buildings, and that are often discharged through conveyances such as floor drains or shop drains.

The definition of “illicit connection” is based on USEPA’s definition of “illicit discharge” at 40 C.F.R. 122.26(b)(2) and closely related USEPA regulations at 40 C.F.R. 122.26(d)(2)(iv)(B)(1) and 122.34(b)(3)(iii). The term “illicit connection” is used rather than “illicit discharge” because as defined in this section, the term “discharge” includes nonpoint source discharges that are outside the scope of the Federal NPDES program. The term “illicit connection” includes all “illicit discharges” that must be prohibited or eliminated under these USEPA regulations. In addition, the definition of “illicit connection” uses the phrase “physical or non-physical connection” because the terms “physical connection” and “non-physical connection” have long been used for a similar purpose in the definitions of “cross-connection”

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and “interconnection” in the Department’s Sewage Infrastructure Improvement Act Grants rules at N.J.A.C. 7:22A-1.4.

**“Interstate agency”:** The Department is proposing an amended definition that is broader than the existing definition. The existing definition is similar to the definition of “interstate agency” at Section 502(2) of the CWA (33 U.S.C. §1362(2)). However, the existing definition is too narrow primarily because it may exclude some interstate bodies, such as the Palisades Interstate Park Commission, that own or operate “municipal separate storm sewers” and/or “small municipal separate storm sewer systems” as defined in proposed amendments to this section, and that should be appropriately regulated under the Municipal Stormwater Regulation Program. The NJPDES rules and the CWA use the term “interstate agency” for different purposes.

**“Large municipal separate storm sewer system” and “Medium municipal separate storm sewer system”:** These definitions are amended based on USEPA’s final “Phase II” amendments to its definitions of these terms concerning the Decennial Census (40 C.F.R. 122.26(b)(4) and (b)(7)), and USEPA’s subsequent correction of erroneous cross-references in one of those definitions.

In addition, these definitions are amended to expressly exclude municipal separate storm sewers owned or operated by the United States. Currently, these storm sewers are indirectly excluded from these definitions because the existing N.J.A.C. 7:14A-1.2 definition of “municipal separate storm sewer” does not include stormwater conveyances owned or operated by the United States. As discussed below, however, the Department is proposing to amend the definition of “municipal separate storm sewer” to include such conveyances. The Department’s proposed amendments to the definitions of “large” and “medium” municipal separate storm sewer system produce directly the same result that USEPA’s definitions produce indirectly by not including stormwater conveyances owned or operated by the United States in the 40 C.F.R. 122.26(b)(8) definition of “municipal separate storm sewer”.

The N.J.A.C. 7:14A-1.2 definitions of “large” and “medium” municipal separate storm sewer system are also amended to expressly restrict them to municipal separate storm sewers that discharge to surface water. Currently, these definitions are indirectly restricted because the existing N.J.A.C. 7:14A-1.2 definition of “municipal separate storm sewer” is restricted to stormwater conveyances that discharge to “waters of the United States” (most surface waters). As discussed below, however, the Department is proposing to amend the definition of “municipal separate storm sewer” to include stormwater conveyances that discharge to surface water or groundwater.

In addition, the N.J.A.C. 7:14A-1.2 definitions of “large” and “medium” municipal separate storm sewer system paragraph 3 are amended by changing “Director” to “Department” for consistency with terminology used elsewhere in this proposal.

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**“Municipality”:** This definition is amended so that it does not apply to the Municipal Stormwater Regulation Program under Subchapter 25, which contains a much narrower definition of “municipality” in proposed N.J.A.C. 7:14A-25.1(b). See the summary description of N.J.A.C. 7:14A-25.1 below.

**“Municipal separate storm sewer”:** Paragraph 1 of this definition is amended by expanding it to include stormwater conveyances owned or operated by the United States. Although USEPA’s final Phase II definitions of “small municipal separate storm sewer system” and “municipal separate storm sewer system” (40 C.F.R. 122.26(b)(16) and (18)) include separate storm sewers owned or operated by the United States, the USEPA definition of “municipal separate storm sewer” (40 C.F.R. 122.26(b)(8)) excludes such storm sewers in order to exclude them from the USEPA definitions of “large” and “medium” municipal separate storm sewer system. The Department’s proposal produces the same result more directly by amending the N.J.A.C. 7:14A-1.2 definitions of “large” and “medium” municipal separate storm sewer system to expressly exclude such storm sewers.

Paragraph 1 of the definition of “municipal separate storm sewer” is also amended to expressly include stormwater conveyances owned or operated by interstate agencies. This amendment codifies a current Department interpretation of the existing definition. Interstate agencies are created by or pursuant to State law (as well as Federal law). This amendment is also consistent with the express references to interstate agencies in the proposed N.J.A.C. 7:14A-1.2 definition of “small municipal separate storm sewer system” (or “small MS4”) and in proposed N.J.A.C. 7:14A-25.2, which requires operating entities for stormwater discharges from certain small MS4s and other municipal separate storm sewers to apply for a NJPDES permit for those discharges.

In addition, paragraph 1 is amended by changing the requirement that the stormwater conveyance discharge to “waters of the United States” (most surface waters) to a requirement that the stormwater conveyance discharge to surface water or groundwater. This amendment is mainly designed to allow the Department to regulate, in a unified and consistent manner, discharges to surface water and groundwater from stormwater conveyances owned or operated by government agencies. Although discharges to groundwater (DGW) are outside the scope of the NPDES program under the Federal Clean Water Act, the Department can (and in many instances does) require NJPDES permits for DGW under the New Jersey Water Pollution Control Act.

The Department is also proposing to add paragraph 5 to this definition. This paragraph excludes separate storm sewers that are at industrial facilities or construction sites owned or operated by government agencies, and that collect or convey stormwater discharges associated with industrial activity or small construction activity that occurs at those facilities or sites. “Stormwater discharge associated with industrial activity” and “stormwater discharge associated with small construction activity” (as defined in this section) are regulated under Subchapter 24 provisions specific to those discharges. Duplication, confusion, and conflicting regulatory

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requirements would result if these discharges were also directly regulated by NJPDES rule provisions specific to municipal separate storm sewers (especially Subchapter 25 provisions concerning small municipal separate storm sewer systems).

**“Municipal separate storm sewer system” or “MS4”:** This is a new definition, which defines this term as a “large”, “medium”, or “small” municipal separate storm sewer system as defined in this section. The new definition incorporates and clarifies the definition of “municipal separate storm sewer system” in USEPA’s final “Phase II” stormwater regulations at 40 C.F.R. 122.26(b)(18). Unlike the USEPA definition, the proposed definition does not include separate storm sewers designated under 40 C.F.R. 122.26(a)(1)(v), which now pertains only to designations made prior to October 1, 1994. No such designations were made in New Jersey. Also unlike the USEPA definition, the proposed definition includes “small” municipal separate storm sewer systems that discharge to groundwater. DGW are outside the scope of the Federal NPDES program.

**“Run-off” and “Run-on”:** The Department is proposing to delete these definitions because these terms are not used in N.J.A.C. 7:14A-10, the only NJPDES rule provision mentioned in these definitions. There remains in this section a definition of “runoff” for the purpose of N.J.A.C. 7:14A-20 (standards for the use or disposal of residual).

**“Run-off coefficient”:** This definition is amended by changing the spelling of “Run-off coefficient” to delete the hyphen in “Runoff” for consistency with 40 C.F.R. 122.26(b)(11) and (c)(1)(ii)(E), N.J.A.C. 7:14A-4.3(a)21, and proposed N.J.A.C. 7:14A-24.7(a)2v.

**“Small municipal separate storm sewer system” or “small MS4”:** This is a definition of a new term that refers to all “municipal separate storm sewers” (other than “large” or “medium” MS4s) that are owned or operated by “municipalities”, or that are owned or operated by county, State, interstate, or Federal agencies and located at “public complexes” or at “highways or other thoroughfares” (or receive “special designations”). Proposed Subchapter 25 consists mainly of new requirements that pertain to small MS4s. The proposed definition is directly linked to provisions in proposed N.J.A.C. 7:14A-25.1(b) and 25.2 that describe “municipalities”, “public complexes”, “highways and other thoroughfares”, and “special designations”. In addition, the structure of the proposed definition partly reflects the four general NJPDES permits that the Department expects to issue for stormwater discharges from small MS4s.

The proposed definition incorporates, clarifies, and interprets the definition of “small municipal separate storm sewer system” in USEPA’s final “Phase II” stormwater regulations at 40 C.F.R. 122.26(b)(16) (also see 40 C.F.R. 122.32). In addition, some municipal separate storm sewers fall under the proposed definition even if they discharge to groundwater. DGW are outside the scope of the USEPA definition and the Federal NPDES program.

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**“Stormwater”:** The Department is proposing to replace the existing definition, which is essentially the same as the USEPA definition at 40 C.F.R. 122.26(b)(13), with an improved definition. The proposed definition is more clearly limited to water resulting from precipitation, and does not include the existing definition’s circular reference to “stormwater runoff”. Also, by expressly including water “transmitted to the subsurface”, the proposed definition is more appropriate for proposed NJPDES rule provisions that address stormwater DGW instead of (or in addition to) runoff to surface water.

**“Stormwater discharge (or stormwater DSW) associated with industrial activity”:** The defined term is amended by adding “(or stormwater DSW)” so that the terms “stormwater discharge associated with industrial activity” and “stormwater DSW associated with industrial activity” can be used interchangeably. The term “stormwater discharge associated with industrial activity” is retained because it is well established in the Department’s Statewide Stormwater Permitting Program, and more similar to the USEPA term. The variation, “stormwater DSW associated with industrial activity,” is introduced because it has the advantage of conveying the information that the term is restricted to discharge to surface water (DSW).

The definition is amended based on USEPA’s final “Phase II” amendments to its definition of “storm water discharge associated with industrial activity” (40 C.F.R. 122.26(b)(14)), and on USEPA’s final “Phase II” regulation concerning conditional exclusion for “no exposure” (40 C.F.R. 122.26(g)). The most important of the Department’s proposed amendments concern industrial facilities that have “Permanent No Exposure” of industrial materials and activities to stormwater. Under the existing N.J.A.C. 7:14A-1.2 definition, absence of exposure provides relief from the requirement to obtain a NJPDES DSW stormwater permit for just one of the eleven industrial categories in that definition (“category (xi)”, the so-called “light industry” category). Proposed amendments to the definition and proposed N.J.A.C. 7:14A-24.6 provide relief for qualifying facilities in all of those industrial categories (except “category (x)”, the construction activity category).

Another proposed amendment changes the phrase “residual treatment, storage, or disposal” to “treatment, storage, or disposal of by-product or waste product”. The N.J.A.C. 7:14A-1.2 definition of “residual”, which is limited to certain by-products of wastewater or discharge treatment, is tailored for N.J.A.C. 7:14A-20 (“Standards for the Use or Disposal of Residual”), not for the definition of “stormwater discharge associated with industrial activity”. 40 C.F.R. 122.26(b) and 122.2 do not define the term “residual”.

The proposed amendments also delete the reference to facilities designated under the provisions of existing N.J.A.C. 7:14A-11.5(a)1v, which is not carried forward into proposed N.J.A.C. 7:14A-24.2. Existing N.J.A.C. 7:14A-11.5(a)1v incorporates a Federal regulation that now pertains only to stormwater DSW designated prior to October 1, 1994. No such designations were made in New Jersey.

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In addition, a proposed amendment revises subparagraph 1ii to exclude facilities with Standard Industrial Classification (SIC) 285 (paints and allied products). This amendment eliminates an apparent conflict between subparagraph 1ii and subparagraph 1xi, which expressly includes these facilities. This amendment is consistent with USEPA and Department interpretations of “category (ii)” of the USEPA definition, which have consistently and expressly excluded these facilities.

Subparagraph 1x is rephrased for consistency with USEPA’s final “Phase II” amendments to the corresponding portion of its definition. The proposed amendments also incorporate (outside subparagraph 1x) other minor wording changes made by those USEPA amendments.

**“Stormwater discharge (or stormwater DSW) associated with small construction activity”**: This is a definition of a new term. In general, the term means the discharge to surface water, from a point or nonpoint source, of stormwater from construction activities that disturb at least one but less than five acres (construction activities disturbing less than one acre can be designated under paragraph 2). This discharge requires a NJPDES permit under proposed N.J.A.C. 7:14A-24.2(a)3, 24.4(a), and 24.7(a), and under a proposed amendment to N.J.A.C. 7:14A-11.1(b). The Department anticipates revising its existing “construction activity” stormwater general permit (NJPDES Permit No. NJ0088323) to authorize and control this discharge. This general permit requires compliance with the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., which regulates construction and other projects disturbing more than 5,000 square feet. The NJPDES rules already regulate stormwater DSW from so-called “large” construction activities – those that disturb at least five acres - as a category of “stormwater discharge associated with industrial activity”.

The proposed definition incorporates two noteworthy modifications from the definition of “storm water discharge associated with small construction activity” in USEPA’s final “Phase II” stormwater regulations at 40 C.F.R. 122.26(b)(15). The first modification is that the proposed definition includes, in addition to the stormwater discharges that fall under that USEPA definition, discharges to surface water from a “nonpoint source.” This modification is consistent with existing NJPDES rule provisions, adopted in 1997, that require NJPDES permits for nonpoint source stormwater DSW from “large” construction activities. In the USEPA definition, the term “discharge” is restricted to additions of pollutants from a “point source” (see, for example, 40 C.F.R. 122.1(b)(1)). In contrast, the definition of “discharge” in the Water Pollution Control Act (N.J.S.A. 58:10A-3.e) does not restrict the term “discharge” to additions of pollutants from a “point source”. Moreover, N.J.S.A. 58:10A-6.d authorizes the Department to determine by rule whether or not NJPDES permits must be obtained for “nonpoint source discharges”.

The second modification is that the proposed definition does not authorize any waivers pursuant to provisions in the USEPA definition that allow (but do not require) the Director to waive the requirement to obtain a NPDES permit in two circumstances. One circumstance is

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when the “rainfall erosivity factor” (“R” in the Revised Universal Soil Loss Equation) is less than five during the period of construction, and the other is when a TMDL or equivalent analysis determines that controls on construction site discharges are not needed to protect water quality. The Department believes that little construction activity in New Jersey would qualify for either of these waivers, and that allowing these waivers would unduly complicate the implementation of the Department’s “construction activity” stormwater general permit, which is administered to a substantial degree by New Jersey’s 16 soil conservation districts. The Soil Erosion and Sediment Control Act regulates stormwater discharges regardless of their eligibility for these waivers.

## **Subchapter 2. General Program Requirements**

### **7:14A-2.4: Activities that require a NJPDES permit**

The proposed amendment to N.J.A.C. 7:14A-2.4(a)11 recognizes that the Department is proposing to recodify existing N.J.A.C. 7:14A-11.5 with amendments (mainly in parts of proposed new Subchapter 24), and that proposed new Subchapters 24 and 25 are applicable to some discharges of stormwater to groundwater.

The Department is also proposing to revise the stormwater provision in N.J.A.C. 7:14A-2.4(c). Under the existing provision, a “discharger of stormwater associated with industrial activity under N.J.A.C. 7:14A-11.5(g)1i” who is directed to apply for an individual NJPDES permit shall apply within 180 days. This provision is confusing because such dischargers are outside the scope of existing N.J.A.C. 7:14A-11.5(g)1i (which is part of a section that the Department is proposing to recodify with amendments). The proposed amendment generally provides that any discharger of stormwater under proposed N.J.A.C. 7:14A-24.2 (including but not limited to stormwater associated with industrial activity) who receives such direction shall apply within 180 days unless the Department approves a later date. This “later date” exception is consistent with USEPA stormwater discharge rules at 40 C.F.R. 122.26(a)(9)(iii), 122.26(e)(5), and 124.52.

### **7:14A-2.13: Specific criteria for concentrated animal feeding operations**

The Department is proposing several amendments to N.J.A.C. 7:14A-2.13, which identifies stormwater and other discharges from animal feeding operations that are required to obtain a NJPDES permit. N.J.A.C. 7:14A-2.13 consists mainly of provisions similar to 40 C.F.R. 122.23 and Appendix B of 40 C.F.R. Part 122. However, N.J.A.C. 7:14A-2.13 applies to discharges to all “waters of the State” including groundwater.

Existing N.J.A.C. 7:14A-2.13(a) provides that except for indirect discharges, a NJPDES permit shall be obtained for any discharge from an animal feeding operation (AFO) if the animal feeding operation meets the criteria for a “concentrated animal feeding operation” (CAFO) under

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existing N.J.A.C. 7:14A-2.13(b), or is required to obtain a permit under existing N.J.A.C. 7:14A-2.13(d). Under proposed amendments to N.J.A.C. 7:14A-2.13(a) and (d), all AFOs that are required to obtain a permit under N.J.A.C. 7:14A-2.13(d) would be identified as CAFOs. Those amendments are consistent with the approach in 40 C.F.R. 122.23 which identifies all AFOs designated under 40 C.F.R. 122.23(c) as CAFOs.

Three amendments are proposed to N.J.A.C. 7:14A-2.13(c). The amendments eliminate the restriction of that subsection to AFOs that do not meet the criteria in N.J.A.C. 7:14A-2.13(b); codify the existing Department policy that no AFO is required to submit information under that subsection except upon the Department's written request; and clarify, by deleting the phrase "to determine if a permit is required", that N.J.A.C. 7:14A-2.13(b) and (d) alone establish the criteria for determining if a NJPDES permit is required under N.J.A.C. 7:14A-2.13.

The Department is also proposing to amend N.J.A.C. 7:14A-2.13(d) so that its criteria for designating an AFO as a CAFO are more consistent with the criteria in 40 C.F.R. 122.23(c). Under this proposed amendment, an AFO must obtain a NJPDES permit (and is designated as a CAFO) if the Department determines, after conducting an on-site inspection, that the AFO is a significant contributor of pollutants to the waters of the State and that pollutants are discharged in the manner described in proposed N.J.A.C. 7:14A-2.13(d)2i or 2ii.

The Department believes that under existing N.J.A.C. 7:14A-2.13(d), too many AFOs could be required to obtain a NJPDES permit. Making N.J.A.C. 7:14A-2.13(d) more consistent with 40 C.F.R. 122.23(c) should also make it easier for AFOs to understand the nature and relationship of Department and Federal requirements concerning AFOs, and enable the Department to better coordinate its AFO management strategy with USEPA and the United States and New Jersey Departments of Agriculture.

### **Subchapter 3. Determination of Permit Fees**

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

Proposed amendments to N.J.A.C. 7:14A-3.1(j) revise the fee for NJPDES Permit No. NJ0088323 (referred to as the category 5G3 "construction activity" stormwater general permit). This fee is not an annual fee, but a one-time fee assessed for each request for authorization (RFA) submitted under this general permit.

Currently, this general permit authorizes and controls certain stormwater discharges that are associated with construction activity or mining and quarrying operations, and that meet the N.J.A.C. 7:14A-1.2 definition of "stormwater discharge associated with industrial activity". For these discharges, the existing general permit requires compliance with the Soil Erosion and Sediment Control Act. The Department anticipates revising this general permit to also authorize



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and control “stormwater discharge associated with small construction activity” as defined in a proposed amendment to N.J.A.C. 7:14A-1.2.

The costs of processing, monitoring and administering this general permit are borne mainly by the 16 soil conservation districts and the State Soil Conservation Committee (SSCC) in the New Jersey Department of Agriculture. The fee of \$200.00 specified in existing N.J.A.C. 7:14A-3.1(j) has not changed since this fee was first adopted in 1992. This fee is not adequate to cover these costs, which have increased since 1992 because of increases in salaries and other expenses. The Department is therefore proposing to increase the fee from \$200.00 to \$300.00.

It is estimated that based on the expected revisions to this general permit and an expected average of 3,200 projects per year with discharges authorized and controlled by this general permit, the districts and the SSCC will require approximately 4.5 staff-years at the SSCC and 13.5 collective staff-years at the districts for a total personnel cost of approximately \$960,000 per year. The average annual revenues from this general permit are expected to be approximately \$960,000 per year (the same amount the Department expects will be spent administering this general permit), based on an estimate of an average of 3,200 RFAs each year and a fee of \$300.00.

The actual number of projects in each year depends primarily on the economy of the State and the demand for industrial, commercial, residential, and public agency construction. The Department expects that most of the fees for this general permit will be used to reimburse the soil conservation districts for their expenses in processing RFAs and inspecting projects, and that the remainder will support related supervision and coordination activities by the SSCC.

In addition, proposed amendments to N.J.A.C. 7:14A-3.1(j) codify the existing policy that for projects that the New Jersey Department of Transportation is constructing or proposes to construct, the fees for this general permit shall be paid to the Department rather than to the soil conservation districts. This policy has been set forth in this general permit since 1992, and is appropriate because the soil conservation districts do not process RFAs for these projects. These fees can be paid by check or money order, or by other appropriate means, such as a debit/credit mechanism.

#### **Subchapter 4. Permit Application Requirements**

##### **7:14A-4.2: Application requirements**

The Department is proposing to amend N.J.A.C. 7:14A-4.2(e)1 by replacing the schedules for submitting individual NJPDES permit applications for new discharges of stormwater associated with industrial activity (including certain construction activity) with the statement that the schedule for certain stormwater discharges (including but not limited to new discharges of stormwater associated with industrial activity) is set forth in proposed N.J.A.C.

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7:14A-24.4 and 25.4. This amendment reflects the consolidation of NJPDES stormwater requirements in proposed Subchapters 24 and 25.

**7:14A-4.3: Application information requirements**

The proposed amendment to the introductory text of N.J.A.C. 7:14A-4.3(a) recognizes that proposed N.J.A.C. 7:14A-24.7, 25.9, and 25.10 include application information requirements for stormwater that are recodified with amendments from existing N.J.A.C. 7:14A-11.5. The proposed amendment to N.J.A.C. 7:14A-4.3(a)13 recognizes that some stormwater discharges are from nonpoint sources rather than separate storm sewers.

**7:14A-4.4: Additional application requirements for discharges to surface water**

Proposed amendments to the introductory text of N.J.A.C. 7:14A-4.4(a) and (b) recognize that proposed N.J.A.C. 7:14A-24.7, 24.8, 25.9, and 25.10 include stormwater application requirements recodified with amendments from existing N.J.A.C. 7:14A-11.5.

In addition, the Department is proposing to delete the first two sentences of existing N.J.A.C. 7:14A-4.4(b)5, and incorporate them into NJPDES stormwater rules at proposed N.J.A.C. 7:14A-24.7(a)1viii(4) (along with language recodified from existing N.J.A.C. 7:14A-11.5(c)1i(5)(D)). The two sentences discuss how an applicant is expected to know or have reason to believe that a pollutant is present in an effluent. The Department is proposing this amendment based on USEPA's codification of equivalent sentences in 40 C.F.R. 122.21(g)(7)(ii), which pertains to "storm water discharges" only (see 65 Fed. Reg. 30886; May 15, 2000).

**Subchapter 6. Conditions Applicable to All NJPDES Permits**

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

The Department is proposing to amend N.J.A.C. 7:14A-6.2(b)1, which pertains to Best Management Practice (BMP) conditions included when applicable in NJPDES DSW permits for stormwater or other discharges. For consistency with 40 C.F.R. 122.44(k)(1), the proposed amendment to N.J.A.C. 7:14A-6.2(b)1i changes "ancillary activities" to "ancillary industrial activities", and deletes the reference to 40 C.F.R. Part 125, Subpart K, which USEPA has removed and reserved (see 65 Fed. Reg. 30886; May 15, 2000).

The Department is also proposing to add N.J.A.C. 7:14A-6.2(b)1ii to clarify that requirements to implement BMPs developed pursuant to the State Act (N.J.S.A. 58:10A-1 et seq.) or Section 402(p) of the Federal Clean Water Act (33 U.S.C. §1342(p)) are appropriate permit conditions for the control of stormwater discharges. In regard to Section 402(p), this addition incorporates USEPA's final "Phase II" amendment to 40 C.F.R. 122.44(k). The State

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Act is mentioned because it provides statutory authority for all NJPDES DSW permits, including permits for nonpoint source and other stormwater DSW that are outside the scope of the Federal NPDES program.

#### **7:14A-6.13: General permits**

The proposed amendment to N.J.A.C. 7:14A-6.13(a)7 adds discharges from municipal separate storm sewer systems to the list of discharges for which a request for authorization must be submitted to obtain authorization under a general permit. This amendment is based on USEPA's final "Phase II" amendment to 40 C.F.R. 122.28(b)(2)(v). (N.J.A.C. 7:14A-6.13 uses the term "request for authorization" (RFA) rather than the USEPA term "Notice of Intent" (NOI).)

### **Subchapter 7. Requirements for Discharges to Ground Water (DGW)**

#### **7:14A-7.4: Exemptions**

The Department is proposing to add N.J.A.C. 7:14A-7.4(a)5, which exempts the following stormwater discharges from the requirement to obtain a NJPDES discharge to groundwater (DGW) permit (except as noted below):

(1) Stormwater DGW from municipal separate storm sewers that do not require a NJPDES permit as part of the Municipal Stormwater Regulation Program under proposed N.J.A.C. 7:14A-25.2(a) or (b). This exemption is designed to allow the Department to regulate stormwater DSW and stormwater DGW from municipal separate storm sewers in a unified and consistent manner.

(2) Stormwater DGW from residential areas, unless proposed N.J.A.C. 7:14A-25.2(a) or (b) requires the operating entity to apply for a NJPDES permit for the discharge. This exemption avoids the burden, on both the Department and on many thousands of homeowners and other residential stormwater dischargers, of implementing a Statewide NJPDES permit requirement for residential stormwater DGW that pose a relatively low risk to groundwater quality. This exemption is also consistent with exemption of post-construction residential stormwater DSW under proposed N.J.A.C. 7:14A-24.2(c)1.

(3) Stormwater DGW from animal feeding operations that do not require NJPDES permits under N.J.A.C. 7:14A-2.5(d) or 2.13. This exemption codifies a current Department interpretation of N.J.A.C. 7:14A-2.5(d) and 2.13.

The exemptions in proposed N.J.A.C. 7:14A-7.4(a)5 do not apply to stormwater discharges through underground injection regulated under N.J.A.C. 7:14A-8, or if the Department determines that the discharge from a municipal separate storm sewer or residential

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area 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, as provided at proposed N.J.A.C. 7:14A-24.2(a)9.

The exemptions in proposed N.J.A.C. 7:14A-7.4(a)5 are consistent with provisions in proposed N.J.A.C. 7:14A-24.2 and 25.2 that are related to DGW of stormwater. N.J.S.A. 58:10A-6d authorizes the Department to determine by rule whether or not NJPDES permits must be obtained for “discharges from land disposal of wastes” (including wastes in stormwater). The exemptions in proposed N.J.A.C. 7:14A-7.4(a)5 do not authorize discharge of hazardous substances for purposes of the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., or nonstormwater DGW (such as DGW of domestic sewage or industrial waste), even if nonstormwater and stormwater are mixed.

#### **7:14A-7.9: General requirements for applications for discharge to groundwater permit**

The proposed amendment to N.J.A.C. 7:14A-7.9(a)1 recognizes that under proposed N.J.A.C. 7:14A-25.9(d)1, applicants for certain stormwater DGW are exempt from the requirement to submit the information specified in N.J.A.C. 7:14A-7.9(d). These stormwater DGW are restricted to small MS4s in certain limited circumstances where an operating entity is applying for an individual NJPDES permit. In these cases an individual NJPDES permit issued in these circumstances would probably require the same stormwater program that would be required in one of the Department’s general permits.

### **Subchapter 8. Additional Requirements for Underground Injection Control (UIC) Program**

Subchapter 8 is relevant to the Statewide Stormwater Permitting Program because some structural stormwater management measures, such as dry wells and certain infiltration structures, are Class V injection wells regulated under the Federal UIC regulations and Subchapter 8 (see, for example, the references to “storm runoff” in 40 C.F.R. 144.81(4) and N.J.A.C. 7:14A-8.2(a)5iii). Most of the proposed amendments to Subchapter 8 either make additional stormwater injection activities eligible for a permit-by-rule under N.J.A.C. 7:14A-8.5, or, at N.J.A.C. 7:14A-8.3, 8.4, 8.5, 8.8, 8.10, 8.11, and 8.16, clarify the use of general permits (see N.J.A.C. 7:14A-6.13) as well as individual UIC permits to regulate underground injection activities not authorized by a permit-by-rule. The Department expects that most if not all of the operating entities for stormwater DSW and DGW (including DGW through underground injection) from small MS4s that are subject to the Subchapter 25 Municipal Stormwater Regulation Program will apply for a general NJPDES permit rather than for an individual NJPDES permit.

Some of the proposed amendments to N.J.A.C. 7:14A-8.4 and 8.16 are based on USEPA’s amendments to the Federal UIC regulations (40 C.F.R. 144-146) regarding large-capacity cesspools and motor vehicle waste disposal wells (64 Fed. Reg. 68546; December 7,

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1999). These proposed amendments would further protect the State's underground sources of drinking water from contaminants introduced by underground injection from these sources. The proposed amendments regarding these cesspools and waste disposal wells (and the proposed N.J.A.C. 7:14A-1.2 definition of “cesspool”) are unrelated to, and may be adopted separately from, the proposed amendments and new rules concerning the Statewide Stormwater Permitting Program.

USEPA also promulgated in the December 7, 1999 Federal Register a number of other amendments to the Federal UIC regulations that are relevant to the NJPDES rules. The chart below shows the existing NJPDES provisions that address these other 1999 Federal UIC requirements.

<u>Rule Requirement</u>	<u>40 C.F.R.</u>	<u>Existing NJPDES rules</u>
Scope of the permit or rule requirement: Specific inclusions.	144.1(g)(1)(iii) was amended to clarify that any well used to dispose of fluids containing hazardous waste are regulated and if the well is a septic system or cesspool, they are regulated regardless of their capacity.	The definition of “injection well” at N.J.A.C. 7:14A-1.2 provides that these specific inclusions are regulated.
Scope of the permit or rule requirement: Specific exclusions	144.1(g)(2)(v) was amended to clarify what is not regulated as an injection well.	N.J.A.C. 7:14A-8.1(b)2 provides for equivalent exclusions.
Definition: Drywell, Improved sinkhole, Subsurface fluid distribution system	144.3 and 146.3 were amended to include these new Federal definitions	The definition of “Injection well” at N.J.A.C. 7:14A-1.2 includes the wells described in the Federal definitions.
Definition: Sanitary waste	144.3 and 146.3 were amended to include this new Federal definition	The definition of “sanitary sewage” at N.J.A.C. 7:14A-1.2 is equivalent.
Definition: Septic system	144.3 and 146.3 were amended to include this new Federal definition	The definition of “individual subsurface sewage disposal system” at N.J.A.C. 7:14A-1.2 is equivalent.
Definition: Well, Well injection	Federal definitions in 144.3 and 146.3 were amended to remove other examples of wells from the definition of “well injection” and place these examples into the definition of “well”.	The definitions of “well” and “injection well” at N.J.A.C. 7:14A-1.2 accomplish the same purpose.
Classification of wells: Identifies when a radioactive waste well is a Class I UIC well	144.6(a)(3) and 146.5(a)(3) is a new provision repeated at these two locations	N.J.A.C. 7:14A-8.2 classifies radioactive waste injection wells as Class IV UIC wells which are banned.

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Rule authorization of Class IV wells to inject treated contaminated groundwater into the aquifer it came from under CERCLA and RCRA (EPA and States) approvals.	144.23(c) is a new provision	N.J.A.C. 7:14A-8.7(b) allows such authorization.
Non-endangerment of USDWs	144.82(a) is a new provision which discusses 144.12 in plain English. 144.12 was not amended.	N.J.A.C. 7:14A-8.4 is equivalent.
Submission of inventory information	144.83(a) is a new provision that explains when and how inventory information needs to be submitted for Class V wells.	N.J.A.C. 7:14A-8.5(c) sets forth what inventory information is required and when to submit it.
Circumstances in which Permits or other actions are required.	144.84(b) is a new provision that reiterates requirements of 144.25 in the context of Class V injection wells (besides adding requirements specific to large-capacity cesspools and motor vehicle waste disposal wells).	N.J.A.C. 7:14A-8.5(d) & (e) identifies when permits or other actions are required.

**7:14A-8.3: Prohibition of unauthorized injection**

The Department is proposing amendments to N.J.A.C. 7:14A-8.3 to delete language which provides that a UIC permit under N.J.A.C. 7:14A-8.8 must be an “individual” UIC permit. This provides the Department with the option of regulating these injection activities using either individual or general permits. (The Department is also proposing to amend N.J.A.C. 7:14A-8.8 so that it pertains to general as well as individual UIC permits.) The proposed amendments also eliminate the requirement that the permit-by-rule be “approved”, because N.J.A.C. 7:14A-8.5(b) assigns owners or operators of some Class V injection wells a permit-by-rule without those owners or operators having to receive “approval” from the Department.

**7:14A-8.4: Prohibition of movement of fluid into underground sources of drinking water**

Under the proposed amendments to N.J.A.C. 7:14A-8.4(a), “individual permit” is changed to “UIC permit” so that this subsection prohibits the issuance of general as well as individual UIC permits in the specified circumstances. The proposed amendment to N.J.A.C. 7:14A-8.4(c)1 replaces (for certain Class V wells) a requirement to obtain an “individual UIC permit” with a requirement to obtain a “UIC permit pursuant to N.J.A.C. 7:14A-8.8”. In addition, the proposed amendments to N.J.A.C. 7:14A-8.4(a) refer to “approval under a permit-by-rule” being “provided” instead of a “permit-by-rule” being “approved”, because the phrase

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“approval under a permit-by-rule” more accurately describes the written approval that an owner or operator receives under N.J.A.C. 7:14A-8.5(a).

The Department is also proposing to add N.J.A.C. 7:14A-8.4(a)3, which prohibits the future issuance of UIC permits (or approval under a permit-by-rule) where a Class V well is a “large-capacity cesspool” (design flow greater than 2000 gallons per day), or is a “motor vehicle waste disposal well” (an injection well that receives fluids from the repair or maintenance of motor vehicles) constructed on or after April 5, 2000. These Class V wells must be properly closed.

Large-capacity cesspools authorized by Subchapter 8 shall be properly closed by April 5, 2005. (Those not authorized by Subchapter 8 are unlawful and continue to be so until closed.) Motor vehicle waste disposal wells constructed prior to April 5, 2000 shall either be operated in accordance with a UIC permit or converted to another type of Class V well in accordance with proposed N.J.A.C. 7:14A-8.16(g), or are unlawful and must be properly closed. Motor vehicle waste disposal wells operating with a UIC permit shall meet Ground Water Quality Standards (N.J.A.C. 7:9-6) at the last accessible sampling point prior to waste fluids being released into the subsurface environment. Owners or operators of large-capacity cesspools and motor vehicle waste disposal wells being closed are required to notify the Department 30 days prior to closure, and shall implement closure in accordance with proposed N.J.A.C. 7:14A-8.16(d)2.

Proposed N.J.A.C. 7:14A-8.4(a)3 is based on 40 C.F.R. 144.81(4) and (16), 144.84(b), 144.85, 144.87, 144.88, and 144.89(b). However, to avoid re-authorizing injection wells that are currently unlawful and pose a substantial risk, proposed N.J.A.C. 7:14A-8.4(a)3 does not apply the deadlines in those USEPA regulations to large-capacity cesspools and motor vehicle waste disposal wells that are not authorized by Subchapter 8.

#### **7:14A-8.5: Authorization of injection into Class V wells by permit-by-rule**

The Department is proposing to add N.J.A.C. 7:14A-8.5(b)8, (b)9, and (b)10, which make underground injection into Class V wells of the following stormwater discharges eligible for a permit-by-rule:

(1) Stormwater discharges from municipal separate storm sewers that do not require a NJPDES permit as part of the Municipal Stormwater Regulation Program under N.J.A.C. 7:14A-25.2(a) or (b).

(2) Stormwater discharges from residential areas, unless proposed N.J.A.C. 7:14A-25.2(a) or (b) requires the operating entity to apply for a NJPDES permit for the discharge.

(3) Stormwater discharges from animal feeding operations that do not require a NJPDES permit under N.J.A.C. 7:14A-2.13.

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Under existing Subchapter 8, these injection activities (except for injection of stormwater runoff from some building roofs) would be required to obtain individual NJPDES UIC permits. This proposed change enables these activities to have a permit that exerts an appropriate level of control for the risk associated with the discharge. Proposed N.J.A.C. 7:14A-8.5(b)8, (b)9, and (b)10 do not authorize underground injection of nonstormwater discharges, such as discharges of domestic sewage or industrial waste, even if nonstormwater and stormwater discharges are mixed.

Stormwater discharges are excluded from the new “residential areas” provision if proposed N.J.A.C. 7:14A-25.2(a) or (b) requires the operating entity to apply for a NJPDES permit for the discharge, for essentially the same purpose that these discharges are excluded from exemption under proposed N.J.A.C. 7:14A-7.4(a)5 (discussed above).

The Department is also proposing amendments to N.J.A.C. 7:14A-8.5(d) through (g) that provide for the use of general as well as individual UIC permits to regulate underground injection activities not authorized by a permit-by-rule. In addition, the Department is proposing amendments to N.J.A.C. 7:14A-8.5(h) and (i) to simplify certain rule language, and to update the mailing address of the Department’s Underground Injection Control Coordinator.

#### **7:14A-8.8: Authorization by permit**

Proposed amendments to N.J.A.C. 7:14A-8.8(b) delete language which provides that a UIC permit required or applied for under N.J.A.C. 7:14A-8.8 must be an “individual” UIC permit, and also revise N.J.A.C. 7:14A-8.8 to require or allow the owner or operator to “apply for”, rather than submit an “application” for, a UIC permit. Under the proposed amendments, a person would apply for a UIC permit by submitting either an application for an individual UIC permit, or a “request for authorization” (RFA) for a general UIC permit.

#### **7:14A-8.10: Establishing UIC permit conditions**

Under the proposed amendment to N.J.A.C. 7:14A-8.10(a)1, the owner or operator of a proposed new injection well is, when applicable, required to submit plans for testing, drilling, and construction “when applying for the permit” rather than “as part of the permit application”. Such plans could be submitted either as part of an application for an individual UIC permit, or as part of an RFA for a general UIC permit (if that permit requires the RFA to include such plans).

The proposed amendment to N.J.A.C. 7:14A-8.10(a)5 allows the Department to deny “permit authorization” rather than just to deny “the application”. Under this amendment, the Department could either deny the application for an individual UIC permit, or deny an RFA for a general UIC permit.



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**7:14A-8.11: Corrective or preventive action**

The Department is also proposing to amend N.J.A.C. 7:14A-8.11(b)3 to allow the Department to deny “permit authorization” rather than just to deny “the application”. Under this amendment, the Department could either deny the application for an individual UIC permit, or deny an RFA for a general UIC permit.

**7:14A-8.16: Specific operating criteria and construction standards applicable to Class V injection wells**

The proposed amendment to N.J.A.C. 7:14A-8.16(b)1i provides an updated and more complete mailing address for the Department’s Bureau of Water Allocation.

Proposed amendments to N.J.A.C. 7:14A-8.16(c) and (d) delete language which provides that the “UIC permit” must be an “individual” UIC permit. Under these amendments, the UIC permit could be a general or individual UIC permit. Amendments are also proposed to N.J.A.C. 7:14A-8.16(d) to clarify instructions for closing large-capacity cesspools and motor vehicle waste disposal wells. The existing provisions of this subsection apply to closure of injection wells that have a UIC permit. These amendments provide instructions for injection wells being closed in accordance with proposed N.J.A.C. 7:14A-8.4(a)3, and are proposed to implement 40 C.F.R. 144.82, 144.89(a) and 146.10(c). Amendments are also proposed to N.J.A.C. 7:14A-8.16(d) to identify the applicable implementing regulations for the State Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.).

The Department is proposing to add N.J.A.C. 7:14A-8.16(g) to implement 40 C.F.R. 144.89(b), which allows but does not require the UIC Director to approve conversions of a Class V motor vehicle waste disposal well to another type of Class V injection well in limited cases.

**7:14A-8.18: Specific operating criteria and construction standards applicable to permit by rule authorizations for underground injection into seepage pits**

The Department is proposing to amend N.J.A.C. 7:14A-8.18(d)1 to update the name and mailing address of the Department bureau that receives certifications under this section.

**Subchapter 11. Procedures and Conditions Applicable to NJPDES-DSW Permits**

**7:14A-11.1: Purpose and scope**

The proposed amendment to N.J.A.C. 7:14A-11.1(a) recognizes that proposed Subchapters 24 and 25 set forth additional specific conditions and procedures which are applicable to NJPDES discharge to surface water (DSW) or discharge to groundwater (DGW) permits for stormwater discharges.

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The Department is proposing to amend N.J.A.C. 7:14A-11.1(b) to expand the scope of the DSW permit program to include point and nonpoint source “stormwater discharge associated with small construction activity” (see the proposed amendment to N.J.A.C. 7:14A-1.2). This discharge requires a NJPDES permit under proposed N.J.A.C. 7:14A-24.2(a)3. The Department intends to revise its existing “construction activity” stormwater general permit (NJPDES Permit No. NJ0088323) to authorize and control this discharge.

Another proposed amendment to N.J.A.C. 7:14A-11.1(b) expands the scope of the DSW permit program to include nonpoint sources regulated under proposed N.J.A.C. 7:14A-24.2(a)7ii, which requires a NJPDES permit for certain kinds of nonpoint source stormwater DSW if the Department determines that the DSW (or category of DSW within a geographic area) contributes to a violation of a surface water quality standard, or is a significant contributor of pollutants to surface water.

**7:14A-11.2: Establishing DSW permit conditions**

The Department is proposing to recodify the substantive requirements of existing N.J.A.C. 7:14A-11.2(a)3 and (a)4 with amendments at N.J.A.C. 7:14A-24.9. This recodification is part of the consolidation of NJPDES stormwater requirements in proposed Subchapters 24 and 25. N.J.A.C. 7:14A-11.2(a)3 as proposed to be amended will provide that for municipal separate storm sewer systems and certain stormwater discharges associated with industrial activity or small construction activity, monitoring requirements shall be established in accordance with proposed N.J.A.C. 7:14A-24.9 (see the summary description below).

**7:14A-11.5: Stormwater discharges**

The Department is proposing to recodify existing N.J.A.C. 7:14A-11.5 with amendments in several sections of proposed new Subchapter 24, and in proposed N.J.A.C. 7:14A-25.10 (see table below). The proposed amendments to the existing provisions of N.J.A.C. 7:14A-11.5 as recodified are discussed in the summary descriptions of Subchapter 24 and 25, as applicable.

<u>Current Citation</u>	<u>Main Subject of Existing Provision</u>	<u>Proposed Citation</u>
7:14A-11.5(a)	Permit requirements for stormwater discharges	7:14A-24.2
7:14A-11.5(b)	Requests for information about stormwater discharges associated with industrial activity	7:14A-24.5
7:14A-11.5(c)	Permit application requirements for stormwater discharges associated with industrial activity	7:14A-24.7
7:14A-11.5(d)	Application requirements for large and medium municipal separate storm sewer discharges	7:14A-25.10
7:14A-11.5(e)	Deadlines to apply for NJPDES permit for stormwater discharges associated with industrial activity	7:14A-24.4
7:14A-11.5(f)	Petitions	7:14A-24.3
7:14A-11.5(g)	Phase II stormwater point sources	7:14A-24.2, 24.4, 24.7

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7:14A-11.5(h)	Sample collection procedures for individual stormwater DSW permit applications	7:14A-24.8
7:14A-11.5(i)	Annual reports for large and medium municipal separate storm sewer systems	7:14A-25.10

### **7:14A-11.6 Federal criteria and standards for DSW permits**

N.J.A.C. 7:14A-11.6(a)6, which concerns criteria and standards for best management practices for ancillary industrial activities, is proposed for deletion because USEPA has removed and reserved 40 C.F.R. 125 Subpart K.

## **Subchapter 13. Effluent Limitations for DSW Permits**

### **7:14A-13.3 Applicability of effluent limitations**

The proposed amendment to N.J.A.C. 7:14A-13.3(b)2i replaces an erroneous cross-reference to existing N.J.A.C. 7:14A-11.5(a)1 with a cross-reference to N.J.A.C. 7:14A-11.7(b)1, which describes how a request for a variance based on fundamentally different factors shall be submitted.

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

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

The Department is proposing to add N.J.A.C. 7:14A-16.4(b)21, which identifies a new cause for major modification of a NJPDES permit for stormwater discharges from small municipal separate storm sewer systems (small MS4s).

Under proposed N.J.A.C. 7:14A-25.7(b), such a NJPDES permit may recognize in some cases that a governmental entity other than the permittee in question is responsible (under a NJPDES permit) for implementing one or more of control measures for that permittee's small MS4, or that the Department itself is responsible. Under proposed N.J.A.C. 7:14A-16.4(b)21 and 25.7(b), however, the Department may reopen and issue a major modification of such a NJPDES permit to require implementation of such measure(s) if the other governmental entity or the Department does not implement it (because of changes in budgets or legal authority, for example). Proposed N.J.A.C. 7:14A-16.4(b)21 is based on USEPA's final "Phase II" stormwater regulations at 40 C.F.R. 122.62(a)(14).

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## **Subchapter 24. Additional Requirements for Certain Stormwater Discharges**

Subchapter 24 is a new subchapter which sets forth additional requirements applicable to all stormwater discharges to surface water (DSW) and some stormwater discharges to groundwater (DGW). Although Subchapter 24 is new, many of its provisions are continued from existing NJPDES rules. Subchapter 24 is a recodification with amendments of most of existing N.J.A.C. 7:14A-11.5 (Stormwater discharges) and part of existing N.J.A.C. 7:14A-11.2 (Establishing DSW permit conditions), and includes stormwater provisions moved from existing N.J.A.C. 7:14A-4.2 (Application requirements) and 4.4. In addition, Subchapter 24 includes new stormwater DSW and DGW provisions not found in existing N.J.A.C. 7:14A-11.2 and 11.5.

Subchapter 24 is generally based on United States Environmental Protection Agency (USEPA) National Pollutant Discharge Elimination System (NPDES) stormwater regulations (principally in 40 C.F.R. 122.21(c)(1) and (g)(7)(ii), 122.26, and 122.44(i) and (s)). USEPA initially promulgated many of these regulations in 1990-1992. The Department developed new or amended provisions in Subchapter 24 based on USEPA's final "Phase II" NPDES stormwater regulations that were promulgated in the Federal Register on December 8, 1999 (64 Fed. Reg. 68721), or to correct or enhance the Department's existing NJPDES Statewide Stormwater Permitting Program. Some Subchapter 24 provisions regulate certain stormwater DGW and certain stormwater discharges from nonpoint sources. Although these discharges are outside the scope of the NPDES program under the Federal Clean Water Act, the Department is requiring NJPDES permits for these discharges under the New Jersey Water Pollution Control Act.

Some Subchapter 24 provisions pertain, in whole or in part, to stormwater DSW and DGW from municipal separate storm sewers (parts of N.J.A.C. 7:14A-24.2, 24.3, and 24.4, for example). However, most NJPDES rule provisions specific to the NJPDES Municipal Stormwater Regulation Program are in Subchapter 25. Subchapter 24 includes (among other provisions) most NJPDES rule provisions that are specifically related to "stormwater discharge (or stormwater DSW) associated with industrial activity" and "stormwater discharge (or stormwater DSW) associated with small construction activity" as defined in N.J.A.C. 7:14A-1.2. Several Subchapter 24 sections that are related mainly or entirely to these discharges (N.J.A.C. 7:14A-24.5 through 24.8 and 24.10) are restricted to stormwater DSW.

### **7:14A-24.1: Scope**

As this section states, Subchapter 24 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. Collectively, these include all stormwater DSW but only some stormwater DGW. Subchapter 25 and other provisions of this chapter also include requirements applicable to some or all of these discharges. As noted in N.J.A.C. 7:14A-24.2(f), combined sewer systems, and stormwater discharges to combined or sanitary sewer systems, are not subject to Subchapter 24.

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Although DGW are outside the scope of the NPDES program under the Federal Clean Water Act, the Department can, and in many instances does, require NJPDES permits for DGW under the New Jersey Water Pollution Control Act. The stormwater DGW that either require a NJPDES permit under N.J.A.C. 7:14A-24.2(a), or are exempt from the requirement to obtain a NJPDES permit under N.J.A.C. 7:14A-24.2(c), are limited to stormwater DGW from “municipal separate storm sewers” and “animal feeding operations” (as defined in N.J.A.C. 7:14A-1.2), residential areas (including residential streets, parking lots, easements, and open space), and agricultural and silvicultural nonpoint sources regulated under N.J.A.C. 7:14A-2.5(d). Other stormwater DGW (from industrial and commercial facilities, for example) are outside the scope of Subchapter 24, but subject to applicable provisions of Subchapters 7 and 8 (and N.J.A.C. 7:14A-2.5).

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

N.J.A.C. 7:14A-24.2 identifies (in conjunction with N.J.A.C. 7:14A-2.5 and 7.4) all of the stormwater DSW, and some of the stormwater DGW, that either require a NJPDES permit, or are exempt from the requirement to obtain a NJPDES permit. In addition, N.J.A.C. 7:14A-24.2 includes related provisions about permit requirements or exemptions for certain specific classes of stormwater discharges, such as stormwater DSW from mining operations, oil and gas facilities, and large or medium municipal separate storm sewer systems (MS4s); stormwater discharges associated with industrial activity which discharge through a privately owned and operated separate storm sewer system; and stormwater discharges to combined or sanitary sewer systems.

At N.J.A.C. 7:14A-24.2, existing stormwater discharge rules at N.J.A.C. 7:14A-11.5(a) and part of existing N.J.A.C. 7:14A-11.5(g) are recodified with amendments. As discussed below, the amendments include (but are not limited to) addition of provisions concerning some stormwater DGW and some nonpoint source stormwater DSW (both of which are outside the scope of existing N.J.A.C. 7:14A-11.5), and addition or revision of provisions based on USEPA’s final “Phase II” NPDES stormwater regulations (see 40 C.F.R. 122.26(a)(9), (b)(16), and (f), 122.32, 122.33(a), and 122.35).

#### Stormwater Discharges That Require a NJPDES Permit

N.J.A.C. 7:14A-24.2(a) lists (subject to the exemptions in N.J.A.C. 7:14A-2.5 and 24.2(c)) all of the stormwater DSW, and some of the stormwater DGW, that require a NJPDES permit. The principal amendments at N.J.A.C. 7:14A-24.2(a), as compared to existing N.J.A.C. 7:14A-11.5(a) and (g), are as follows:

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*Stormwater DSW Associated with Small Construction Activity:*

N.J.A.C. 7:14A-24.2(a)3 lists “stormwater DSW associated with small construction activity” (see the proposed definition in N.J.A.C. 7:14A-1.2). In general, this is the point or nonpoint source discharge to surface water of stormwater from construction activities that disturb at least one acre but less than five acres. The Department intends to revise its existing “construction activity” stormwater general permit (NJPDES Permit No. NJ0088323) to authorize and control this discharge. Proposed N.J.A.C. 7:14A-24.2(a)3 is based on USEPA’s final “Phase II” stormwater regulations at 40 C.F.R. 122.26(a)(9).

*Stormwater DSW and DGW from Concentrated Animal Feeding Operations:*

N.J.A.C. 7:14A-24.2(a)4 lists stormwater DSW and DGW that are from concentrated animal feeding operations (CAFOs) that require NJPDES permits under N.J.A.C. 7:14A-2.13. N.J.A.C. 7:14A-24.2(a)4 does not establish any separate requirement to obtain a NJPDES permit, but merely recognizes that discharges that require NJPDES permits under N.J.A.C. 7:14A-2.13 can include stormwater DSW and DGW.

*Stormwater DSW and DGW from Small MS4s:*

N.J.A.C. 7:14A-24.2(a)6 lists 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). Operating entities for these stormwater DSW shall apply for a NJPDES permit in accordance with requirements of the NJPDES Municipal Stormwater Regulation Program set forth in Subchapter 25. Proposed N.J.A.C. 7:14A-24.2(a)6 is based on USEPA’s final “Phase II” NPDES stormwater regulations at 40 C.F.R. 122.26(a)(9).

*Stormwater DSW (Special Determinations):*

For stormwater DSW, N.J.A.C. 7:14A-24.2(a)7 authorizes additional special determinations beyond those authorized under existing N.J.A.C. 7:14A-11.5(g)1i. For example, a NJPDES permit is required not only if it is determined that a point source DSW contributes to a violation of a surface water quality standard or is a significant contributor of pollutants to surface water (as under existing N.J.A.C. 7:14A-11.5(g)1i), but also if it is determined that stormwater controls are needed for such a DSW based on total maximum daily loads (TMDLs) that address the pollutant(s) of concern. Moreover, either the Department or the USEPA Regional Administrator (not just the Department) can make these determinations. For such DSW, these proposed changes (and the new express reference to a “category of discharges within a geographic area”) are based on USEPA “Phase II” stormwater regulations at 40 C.F.R. 122.26(a)(9).

In addition, N.J.A.C. 7:14A-24.2(a)7 requires a NJPDES permit if the Department determines that the nonpoint source stormwater DSW (or category of DSW within a geographic

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area) contributes to a violation of a surface water quality standard, or is a significant contributor of pollutants to surface water. This requirement is consistent with N.J.A.C. 7:14A-24.2(a)2 and (a)3 and existing N.J.A.C. 7:14A-11.5, which require NJPDES DSW permits for nonpoint source stormwater discharge associated with industrial activity or small construction activity.

Examples of point or nonpoint source stormwater DSW that could be the subject of determinations under N.J.A.C. 7:14A-24.2(a)7 include industrial, commercial, and residential stormwater DSW that fall outside the existing or proposed N.J.A.C. 7:14A-1.2 definitions of “stormwater discharge associated with industrial activity” (paragraph 1) and “stormwater discharge associated with small construction activity”, and stormwater DSW from municipal separate storm sewers not identified under N.J.A.C. 7:14A-25.3(a)1 through (a)3.

Existing N.J.A.C. 7:14A-11.5(a)1v and (a)4 are not carried forward into N.J.A.C. 7:14A-24.2 because they incorporate Federal regulations that now pertain only to DSW designated prior to October 1, 1994. No such designations were made in New Jersey.

*Stormwater DSW and DGW from Certain Agricultural and Silvicultural Nonpoint Sources:*

N.J.A.C. 7:14A-24.2(a)8 lists stormwater DSW and DGW that are from agricultural and silvicultural nonpoint sources regulated under N.J.A.C. 7:14A-2.5(d). N.J.A.C. 7:14A-24.2(a)8 does not establish any new requirement to obtain a NJPDES permit, but merely recognizes that discharges that require NJPDES permits under existing N.J.A.C. 7:14A-2.5(d) can include stormwater DSW and DGW.

*Stormwater DGW From Certain Municipal Separate Storm Sewers and Residential Areas (Special Determinations):*

N.J.A.C. 7:14A-24.2(a)9 lists stormwater DGW otherwise exempt under proposed N.J.A.C. 7:14A-7.4(a)5i or (a)5ii (stormwater DGW from certain municipal separate storm sewers and residential areas), 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. This determination is based on the same factors that the Department uses to invalidate a DGW permit-by-rule under existing N.J.A.C. 7:14A-7.5(c).

*Other “Phase II” Point Source Stormwater DSW:*

N.J.A.C. 7:14A-24.2(a) does not include the requirement in existing N.J.A.C. 7:14A-11.5(a)8 and (g)1ii that all dischargers who operate point source stormwater DSW, but do not require a NJPDES permit under existing N.J.A.C. 7:14A-11.5(a)1 through (a)7, (a)9, or (g)1i, require a NJPDES permit (and shall apply for that permit no later than August 7, 2001). This requirement no longer has any counterpart in 40 C.F.R. 122.26 under USEPA’s final “Phase II”

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stormwater regulations. The Department adopted this requirement as a temporary interim measure pending adoption of those USEPA regulations.

#### Administrative Procedures for Special Determinations:

N.J.A.C. 7:14A-24.2(b) sets forth administrative procedures for special determinations made under N.J.A.C. 7:14A-24.2(a)7 or (a)9, or under paragraph 2 of the proposed N.J.A.C. 7:14A-1.2 definition of “stormwater discharge associated with small construction activity”. 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 the determination was a decision made by USEPA.

#### Exemption From the Requirement to Obtain a NJPDES Permit

N.J.A.C. 7:14A-24.2(c) identifies stormwater discharges that are within the scope of Subchapter 24, but exempt from the requirement to obtain a NJPDES permit. This exemption does not eliminate or modify any exemption provided under N.J.A.C. 7:14A-2.5 or 7.4. Under N.J.A.C. 7:14A-24.2(c)1, point and nonpoint source stormwater DSW not listed under N.J.A.C. 7:14A-24.2(a) are exempt from the requirement to obtain a NJPDES permit. This exemption is consistent with USEPA’s final “Phase II” stormwater regulations. However, N.J.A.C. 7:14A-24.2(c)1 does not exempt stormwater DSW from small MS4s operated by municipalities assigned to “Tier B” under N.J.A.C. 7:14A-25.3. Instead, “Tier B” municipalities that operate small MS4s must apply for the “Tier B Municipal Stormwater Permit”, which is not a NPDES permit.

N.J.A.C. 7:14A-24.2(c)2 is recodified with amendments from existing N.J.A.C. 7:14A-11.5(a)2 (also see existing N.J.A.C. 7:14A-11.5(a)8). For uncontaminated stormwater DSW from certain mining operations and oil and gas facilities, N.J.A.C. 7:14A-24.2(c)2 provides an exemption not only from the requirement for a NPDES permit under Section 402 of the Federal Clean Water Act, 33 U.S.C. §1342 (the exemption provided under existing N.J.A.C. 7:14A-11.5(a)2), but also from the requirement for NJPDES DSW permits for nonpoint source discharges, and for discharges to surface waters that are not “waters of the United States”.

Under N.J.A.C. 7:14A-24.2(c)3, stormwater DGW that are from municipal separate storm sewers, residential areas (including residential streets, parking lots, easements, and open space), or animal feeding operations, but that are not through underground injection regulated under N.J.A.C. 7:14A-8 and not listed under N.J.A.C. 7:14A-24.2(a), are exempt from the requirement to obtain a NJPDES permit.



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### Large and Medium Municipal Separate Storm Sewer Systems

N.J.A.C. 7:14A-24.2(d) is recodified from existing N.J.A.C. 7:14A-11.5(a)3, and incorporates by reference 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). As discussed in the opening part of the Summary, New Jersey currently has no regulated large or medium municipal separate storm sewer systems.

### Stormwater DSW Associated With Industrial Activity That Discharge Through Private Conveyance Systems

N.J.A.C. 7:14A-24.2(e) is recodified from existing N.J.A.C. 7:14A-11.5(a)5 with amendments that clarify and simplify this provision by replacing phrases like “non-municipal or non-publicly owned separate storm sewer system”, “non-municipal conveyance system”, and “a stormwater discharge system that is not a municipal separate storm sewer” with the phrase “privately owned and operated separate storm sewer system” (“private conveyance system”). These amendments are consistent with the Department’s interpretation of existing N.J.A.C. 7:14A-11.5(a)5.

### Combined or Sanitary Sewer Systems; Eligibility for Federal Clean Water Act Funding

N.J.A.C. 7:14A-24.2(f) is recodified from existing N.J.A.C. 7:14A-11.5(a)6 with amendments that clarify and simplify this provision. The amendments change “Conveyances that discharge stormwater runoff combined with municipal sewage” to “Combined sewer systems that discharge to waters of the State”, and delete the cross-reference to N.J.A.C. 7:14A-6.13. That cross-reference is redundant because N.J.A.C. 7:14A-4.2(a) provides that any person wishing to be authorized under a general permit shall comply with the requirements (established under N.J.A.C. 7:14A-6.13) in the applicable general permit. A sentence is also added to make it clear that stormwater discharges to combined or sanitary sewer systems are not subject to Subchapters 24 or 25. Such discharges, however, may be subject to requirements for pretreatment and indirect users under Subchapters 19 and 21, or to requirements imposed by “local agencies” as defined at N.J.A.C. 7:14A-1.2. N.J.A.C. 7:14A-24.2(g), which relates to eligibility for Federal Clean Water Act funding for water pollution control, is recodified from existing N.J.A.C. 7:14A-11.5(a)7.

### **7:14A-24.3     Petitions**

This section is recodified with amendments from existing N.J.A.C. 7:14A-11.5(f). Under N.J.A.C. 7:14A-24.3(a), any operating entity for a municipal separate storm sewer system (MS4) that discharges to surface water or groundwater may petition the Department to require a separate NJPDES permit for any discharge into the MS4. (In contrast, because N.J.A.C. 7:14A-11.1(a) limits the scope of Subchapter 11 to DSW permits, existing N.J.A.C. 7:14A-11.5(f)1

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applies only if the operating entity's MS4 discharges to surface water.) Under N.J.A.C. 7:14A-24.3(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 of a surface water quality standard or is a significant contributor of pollutants to "waters of the State" (rather than to "waters of the United States" as specified in existing N.J.A.C. 7:14A-11.5(f)2).

N.J.A.C. 7:14A-24.3(c) and (d) are continued from existing N.J.A.C. 7:14A-11.5(f)3 and (f)4 policies concerning combined sewers and large or medium MS4s. N.J.A.C. 7:14A-24.3(e) is recodified from existing N.J.A.C. 7:14A-11.5(f)5 with addition of language which provides that for petitions to require a NJPDES permit for a stormwater discharge from a small MS4, the Department shall make a final determination within 180 days. This language is based on USEPA's final "Phase II" stormwater regulations at 40 C.F.R. 122.26(f).

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

N.J.A.C. 7:14A-24.4 sets forth deadlines by which any operating entity for certain stormwater DSW or DGW must apply for (and, for stormwater DSW associated with small construction activity, obtain) a NJPDES permit. The NJPDES program makes a distinction between a "request for authorization" (RFA) for an already issued general NJPDES permit, and an "application" for an individual NJPDES permit. Applicants can satisfy the deadlines by timely submitting either an RFA or an individual permit application. This section also sets forth deadlines for issuance or denial of individual NJPDES permits (or authorizations under general NJPDES permits) for certain stormwater DSW. N.J.A.C. 7:14A-24.4 is recodified with amendments from existing N.J.A.C. 7:14A-11.5(e) and part of existing N.J.A.C. 7:14A-11.5(g).

##### Deadlines to Apply for a NJPDES Permit

The principal amendments at N.J.A.C. 7:14A-24.4(a) with respect to deadlines in existing N.J.A.C. 7:14A-11.5(e) and (g) are as follows:

##### *Stormwater Discharge Associated with Industrial Activity:*

N.J.A.C. 7:14A-24.4(a)1 and (a)2 are recodified with amendments from existing N.J.A.C. 7:14A-11.5(e)1 and (e)6. The deadline continues to be April 1, 1993 with specified exceptions. The following amendments modify three of those exceptions.

For facilities (other than airports, powerplants, or uncontrolled sanitary landfills) owned or operated by a "municipality" (as defined in N.J.A.C. 7:14A-1.2) with a population under 100,000, N.J.A.C. 7:14A-24.4(a)1i changes the deadline from August 7, 2001 (or earlier) to 30 days from the effective date of Subchapter 24. This amendment is based on USEPA's final "Phase II" stormwater regulations concerning such facilities at 40 C.F.R. 122.26(e)(1).

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For nonpoint sources, N.J.A.C. 7:14A-24.4(a)1iii continues the November 3, 1997 deadline in existing N.J.A.C. 7:14A-11.5(e)1iii. N.J.A.C. 7:14A-24.4(a)1iii does not include the phrase “and is not from a point source” because that phrase is unnecessary and potentially confusing in this context.

For new discharges, N.J.A.C. 7:14A-24.4(a)1vii is recodified from existing N.J.A.C. 7:14A-11.5(e)1vii and part of N.J.A.C. 7:14A-4.2(e)1 with amendments to improve organizational structure and clarity. In addition, whereas existing N.J.A.C. 7:14A-11.5(e)1vii pertains to individual permit applications only, N.J.A.C. 7:14A-24.4(a)1vii also recognizes that general permits shall specify deadlines for submitting RFAs for new discharges.

N.J.A.C. 7:14A-24.4(a)2 is recodified with amendments from existing N.J.A.C. 7:14A-11.5(e)6. The amendments make it clear that an existing NJPDES permit may be replaced by a different NJPDES permit, and that 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 N.J.A.C. 7:14A-15, 16, and 17. The amendments also delete an outdated reference to May 18, 1992, and replace a sentence that pertains only to new individual permit applications with a sentence that also pertains to new RFAs, and that is consistent with N.J.A.C. 7:14A-4.2(e)3.

Existing N.J.A.C. 7:14A-11.5(e)2 and (e)3 are not carried forward into N.J.A.C. 7:14A-24.4 because the Department believes it is no longer necessary to require information about group applications submitted many years ago to USEPA.

*Stormwater DSW from Large or Medium MS4s:*

N.J.A.C. 7:14A-24.4(a)3 replaces existing N.J.A.C. 7:14A-11.5(e)4, which incorporates by reference USEPA’s application deadlines in 40 C.F.R. 122.26(e)(3) and (e)(4) for discharges from large or medium municipal separate storm sewer systems (MS4s). No discharges in New Jersey were subject to those deadlines. It is unlikely, but still possible, that one or more MS4s in New Jersey may be designated in the future as large or medium. N.J.A.C. 7:14A-24.4(a)3 establishes deadlines that are similar to USEPA’s deadlines, but calculated from the date of designation rather than from November 16, 1990 (when 40 C.F.R. 122.26 was promulgated in the Federal Register).

*Stormwater DSW and DGW (Special Determinations):*

N.J.A.C. 7:14A-24.4(a)4 is recodified with amendments from parts of existing N.J.A.C. 7:14A-11.5(e)5 and (g), and pertains to a stormwater DSW or DGW that is the subject of a notice of a special determination under N.J.A.C. 7:14A-24.2(c), or that is subject to N.J.A.C. 7:14A-24.7(a)5. The deadline is to apply within 180 days of notice, unless the Department approves a later date. This period of 180 days is consistent with the period specified in existing N.J.A.C. 7:14A-11.5(g)1 for special determinations. However, whereas that existing rule

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provision is restricted to stormwater DSW from certain point sources, N.J.A.C. 7:14A-24.4(a)4 applies to some additional point and nonpoint source DSW, and to certain stormwater DGW. For industrial stormwater DSW subject to N.J.A.C. 7:14A-24.7(a)5, this period of 180 days is different than the period of 60 days specified in existing N.J.A.C. 7:14A-11.5(e)5, but consistent with USEPA's final "Phase II" stormwater regulations at 40 C.F.R. 122.26(e)(5).

*Stormwater DSW and DGW from Certain Agricultural and Silvicultural Nonpoint Sources:*

N.J.A.C. 7:14A-24.4(a)5 provides that for stormwater DSW and DGW from agricultural and silvicultural nonpoint sources regulated under N.J.A.C. 7:14A-2.5(d), the deadline is specified in N.J.A.C. 7:14A-2.5(d). N.J.A.C. 7:14A-24.4(a)5 does not establish any new deadline, but merely recognizes that discharges subject to existing N.J.A.C. 7:14A-2.5(d) can include stormwater DSW and DGW.

*Stormwater DSW Associated with Small Construction Activity:*

N.J.A.C. 7:14A-24.4(a)6 adds deadlines to apply for and obtain NJPDES permit authorization for stormwater DSW identified under paragraph 1 of the proposed N.J.A.C. 7:14A-1.2 definition of "stormwater discharge associated with small construction activity". In general, this is the discharge to surface water, from a point or nonpoint source, of stormwater from construction activities that disturb at least one but less than five acres. N.J.A.C. 7:14A-24.4(a)6 is based on USEPA's final "Phase II" stormwater regulations at 40 C.F.R. 122.26(e)(8) and 122.21(c)(1).

Under N.J.A.C. 7:14A-24.4(a)6, the deadline to obtain NJPDES permit authorization is 30 days from the effective date of Subchapter 24, or the date on which construction commences, whichever is later. A general permit for this discharge shall specify deadlines for submitting RFAs under that permit. (The Department anticipates revising its existing "construction activity" stormwater general permit (NJPDES Permit No. NJ0088323) to authorize and control this discharge. This general permit requires that an RFA for a new stormwater discharge be submitted at least 30 days prior to commencement of land disturbance that may result in the discharge.) Any individual permit application for this discharge must be submitted at least 90 days before the date on which construction is to commence (unless the Department approves a later date), or by the thirtieth day from the effective date of Subchapter 24, whichever is later.

*Stormwater DSW and DGW from Small MS4s:*

N.J.A.C. 7:14A-24.4(a)7 and (a)8 add deadlines to apply for general or individual NJPDES permits for stormwater DSW and DGW from small MS4s identified under N.J.A.C. 7:14A-25.2(a) or (b). These deadlines (30 days from the effective date of Subchapter 24, except in certain special circumstances) are the same as those in N.J.A.C. 7:14A-25.4.

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*Other "Phase II" Point Source Stormwater DSW:*

N.J.A.C. 7:14A-24.4(a) does not carry forward the requirement in existing N.J.A.C. 7:14A-11.5(a)8 and (g)1ii that all dischargers who operate point source stormwater DSW, but do not require a NJPDES permit under existing N.J.A.C. 7:14A-11.5(a)1 through (a)7, (a)9, or (g)1i, shall apply for a NJPDES permit no later than August 7, 2001. This requirement is eliminated for reasons discussed in the summary description of N.J.A.C. 7:14A-24.2 above.

Deadlines to Issue or Deny NJPDES Permit

N.J.A.C. 7:14A-24.4(b) sets forth deadlines for issuance or denial of individual NJPDES permits (or authorizations under general NJPDES permits) for stormwater discharges associated with industrial activity, and for large or medium MS4s. This subsection is recodified from existing N.J.A.C. 7:14A-11.5(e)7 with minor changes that are for clarification purposes only, and that do not change the intent of this provision.

N.J.A.C. 7:14A-24.4(b)2 incorporates by reference the deadlines contained in 40 CFR 122.26(e)(7)(ii) and (iii) for large or medium MS4s. These deadlines require the Director to issue or deny permits no later than November 16, 1993 (large MS4s) or May 17, 1994 (medium MS4s), or, for new sources or existing sources which fail to submit a complete permit application by November 16, 1992 (large MS4s) or May 17, 1993 (medium MS4s), one year after receipt of a complete permit application. The Department is incorporating these deadlines by reference in order to focus the municipal component of N.J.A.C. 7:14A-24.4 on small MS4s. While Newark, Jersey City, Paterson, and Elizabeth were originally identified as having large or medium MS4s, those municipalities were not regulated under Phase I since they were served mainly by combined sewers rather than by separate storm sewers. It is unlikely that any large or medium MS4s will be designated in New Jersey in the future. See the summary description of N.J.A.C. 7:14A-25.10 below.

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

This section is recodified from, and is basically the same as, existing N.J.A.C. 7:14A-11.5(b), except for amendments noted below. Under existing N.J.A.C. 7:14A-11.5(b), the Department may request persons whom the Department has reason to believe may own or operate a facility with a "stormwater discharge associated with industrial activity" to either declare their intent to obtain a DSW permit for such a discharge, or provide written information to the Department explaining why, in that person's judgment, they do not need to obtain such a permit. Under N.J.A.C. 7:14A-24.5(a)2 and (a)3, such written information could be (but need not be) a "Permanent No Exposure Certification" form submitted under N.J.A.C. 7:14A-24.6. Also, N.J.A.C. 7:14A-24.5(a)3 and (d) do not carry forward examples and the word "relevant" from existing N.J.A.C. 7:14A-11.5(b)1ii(1) and (2), and amend "permit application deadline"

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(which pertains to individual NJPDES permit applications only) to “deadline to apply for a NJPDES permit” (which could be a general or individual permit).

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

N.J.A.C. 7:14A-24.6 sets forth a new, innovative pollution prevention option based on USEPA’s final “Phase II” stormwater regulations at 40 C.F.R. 122.26(g). As discussed in more detail below, this section generally excludes industrial facilities from the requirement to obtain a NJPDES discharge to surface water (DSW) permit for discharges composed entirely of stormwater if those facilities have “Permanent No Exposure” of industrial materials and activities to stormwater, submit a “Permanent No Exposure Certification” to the Department every five years, and allow facility inspection. The intent of this section is to reduce regulatory burdens on certain industrial facilities and the Department, and to provide an incentive for industrial facilities to have a condition of “Permanent No Exposure” and thereby use a pollution prevention approach to prevent contamination of stormwater by their industrial materials and activities. Some provisions of proposed N.J.A.C. 7:14A-24.6 differ from 40 C.F.R. 122.26(g) to help ensure that industrial facilities maintain “no exposure” on a permanent basis and thereby protect water quality.

Under the existing N.J.A.C. 7:14A-1.2 definition of “stormwater discharge associated with industrial activity”, absence of exposure provides relief from the requirement to obtain a NJPDES DSW stormwater permit for just one of the eleven industrial categories in that definition (“category (xi)”, the so-called “light industry” category). N.J.A.C. 7:14A-24.6 provides relief for qualifying facilities in any of those industrial categories (except the construction activity category).

Discharges that qualify for exclusion under this section are not “stormwater discharges associated with industrial activity” as defined in N.J.A.C. 7:14A-1.2. To qualify, there must be, throughout the entire industrial facility, “Permanent No Exposure” of industrial materials and activities to rain, snow, snowmelt and/or runoff and runoff discharged to surface water. “Permanent No Exposure” means that except as noted below, 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. Such a building or structure is not required for watertight, leak proof, and covered dumpsters; adequately maintained vehicles in normal operating condition; and pipe (excluding pumps, inlet valves, and outlet valves) that is installed for use, is not deteriorated, and does not leak.

In addition, the facility’s operating entity must submit a “Permanent No Exposure Certification” form to the Department once every five years, and allow the Department to inspect the facility and to make inspection reports available to the public upon request. Facilities that discharge through a municipal separate storm sewer system (MS4) must also, at the request of

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that MS4's operating entity, submit a copy of the "Permanent No Exposure Certification" to, and allow inspection and public reporting by, that entity.

If the facility's operating entity changes, the new operating entity must submit a new "Permanent No Exposure Certification". If circumstances change and the facility no longer meets the condition of "Permanent No Exposure", a NJPDES DSW permit must be obtained, and the discharge becomes subject to enforcement as an unpermitted discharge of stormwater associated with industrial activity unless and until a permit is obtained. The Department may also require an operating entity to apply for a NJPDES permit (and deny the conditional exclusion) upon determining that any stormwater discharge from the facility causes, has a reasonable potential to cause, or contributes to an excursion above an applicable surface water quality standard.

The Department's existing "basic industrial" stormwater general permit (NJPDES Permit No. NJ0088315) includes a somewhat different "no exposure" requirement that is restricted to a narrower set of industrial materials ("source materials" as defined in this general permit), and that can be satisfied not only by a completely roofed and walled permanent building or permanent structure, but also by other best management practices (BMPs) that would not qualify the facility for exclusion under N.J.A.C. 7:14A-24.6. Some of the over 1,600 industrial facilities currently regulated under this general permit would qualify for the new N.J.A.C. 7:14A-24.6 exclusion. The general permit will be retained for those industrial facilities that do not qualify for the new exclusion, but that can still satisfy the conditions of the general permit, and for those industrial facilities that have industrial stormwater DGW that have been eligible for the general permit since the permit was reissued effective July 1, 2002.

If an operating entity seeking to qualify for the exclusion is authorized to discharge stormwater under a valid individual or general NJPDES DSW permit, the Department must perform an inspection (which could be an inspection that the Department performed before it received from the entity a "Permanent No Exposure Certification" under this rule) to confirm that all applicable conditions for exclusion have been met prior to modifying or revoking the individual permit (or revoking authorization under the general permit). Until there is final modification or revocation by the Department, the operating entity's authorization under the NJPDES permit remains fully effective and enforceable. (The modification or revocation, however, will be effective as of the date of the Department's receipt of the "Permanent No Exposure Certification".)

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

This section consists mainly of provisions that set forth information required in individual permit applications for stormwater discharges associated with industrial activity or small construction activity, and for stormwater DSW (other than stormwater DSW from small

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municipal separate storm sewer systems) identified under N.J.A.C. 7:14A-24.2(a)1 (NPDES permit issued prior to February 4, 1987) or N.J.A.C. 7:14A-24.2(a)7 (special determinations). N.J.A.C. 7:14A-24.7 is recodified with amendments from existing N.J.A.C. 7:14A-11.5(c) and part of existing N.J.A.C. 7:14A-11.5(g). As discussed below, the amendments include (but are not limited to) addition or revision of provisions based on USEPA's final "Phase II" stormwater regulations, and addition of provisions concerning some nonpoint source stormwater DSW that are outside the scope of existing N.J.A.C. 7:14A-11.5.

Stormwater discharges associated with industrial activity or small construction activity, and certain other industrial or commercial stormwater DSW

N.J.A.C. 7:14A-24.7(a) is recodified with amendments from existing N.J.A.C. 7:14A-11.5(c)1 and part of existing N.J.A.C. 7:14A-11.5(g) (insofar as subsection (g) applies to industrial or commercial stormwater). The principal amendments are summarized as follows:

*Identifying Regulated Classes of Stormwater DSW:*

N.J.A.C. 7:14A-24.7(a) identifies classes of stormwater DSW that are subject to this subsection's requirements, and whose operating entities are required to apply for an individual or general NJPDES DSW permit. Amendments include:

(1) Adding "stormwater discharge associated with small construction activity" as defined in a proposed amendment to N.J.A.C. 7:14A-1.2. In general, this is the discharge to surface water, from a point or nonpoint source, of stormwater from construction activities that disturb at least one but less than five acres. This discharge is added based on USEPA's final "Phase II" stormwater regulations at 40 C.F.R. 122.26(c)(1). The Department anticipates revising its existing "construction activity" stormwater general permit (NJPDES Permit No. NJ0088323) to authorize and control this discharge.

(2) Adding industrial or commercial stormwater DSW (from point or nonpoint sources) identified under N.J.A.C. 7:14A-24.2(a)1 (NPDES permit issued prior to February 4, 1987) or N.J.A.C. 7:14A-24.2(a)7 (special determinations). DSW identified under N.J.A.C. 7:14A-24.2(a)7 are added based on USEPA's final "Phase II" stormwater regulations at 40 C.F.R. 122.26(a)(9). These DSW also include nonpoint source DSW outside the scope of existing N.J.A.C. 7:14A-11.5(g). Industrial or commercial stormwater DSW identified under N.J.A.C. 7:14A-24.2(a)1 are added because of their similarity to industrial or commercial stormwater DSW identified under N.J.A.C. 7:14A-24.2(a)2 or (a)7.

(3) Replacing the statement that existing N.J.A.C. 7:14A-11.5(c) does not apply to nonpoint source discharges of stormwater associated with industrial activity until November 3, 1997 with a more comprehensive statement that N.J.A.C. 7:14A-24.4 includes deadlines for satisfying the requirement to apply for a NJPDES DSW permit.



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(4) Deleting the reference to discharges being evaluated for designation under existing N.J.A.C. 7:14A-11.5(a)1v, because that subparagraph incorporates a Federal regulation that now pertains only to stormwater DSW designated prior to October 1, 1994. No such designations were made in New Jersey.

*Operating Entities Required to Submit NJPDES Form RF:*

N.J.A.C. 7:14A-24.7(a) identifies which of the operating entities subject to this subsection must submit NJPDES Form RF if they are required or seek to obtain an individual DSW permit, and makes the rule consistent with the Department's current NJPDES Form RF and "Application Completeness Checklist". The proposed rule refers to "NJPDES Form RF" rather than the "NJPDES-2F Form", includes requirements concerning NJPDES Form R (residuals information), and revises requirements that apply if stormwater is mixed with domestic sewage and/or an industrial nonstormwater discharge that requires a NJPDES-DSW permit.

*Content of Certain Items of NJPDES Form RF:*

N.J.A.C. 7:14A-24.7(a)1, which is recodified from existing N.J.A.C. 7:14A-11.5(c)1i with amendments, identifies some of the information required in NJPDES Form RF, which is also directly related to N.J.A.C. 7:14A-24.8 and various provisions in N.J.A.C. 7:14A-4 and 7:18. The opening clause of N.J.A.C. 7:14A-24.7(a)1 differs from the opening clause of existing N.J.A.C. 7:14A-11.5(c)1i mainly by recognizing that in some circumstances, NJPDES Form RF is used for stormwater DSW besides "stormwater discharge associated with industrial activity" (for example, industrial or commercial stormwater DSW identified under N.J.A.C. 7:14A-24.2(a)7). N.J.A.C. 7:14A-24.7(a)1i through 1xii improve organizational structure and clarity, and also make the rule consistent with certain items in existing NJPDES Form RF. The amendments include:

(1) Amending, adding, and deleting some of the provisions concerning the site map, the U.S. Geological Survey (USGS) Topographic Map, and other geographic information, and providing exemptions from related provisions of N.J.A.C. 7:14A-4.3(a)15, (a)16, and (a)22. Affected provisions include those pertaining to facility boundaries; stormwater flow and drainage patterns; intake, drainage, and discharge structures and natural drainage channels; outfall and sampling locations; identification numbers of outfalls and drainage areas; storage and/or disposal of significant materials, residuals, or solid, liquid, or hazardous waste; receiving surface water bodies and owners of offsite storm drainage systems; and injection, drinking water, and other wells.

(2) Amending requirements for information about the "area of impervious surfaces" and certain "total drainage areas", events that occurred before the application is submitted, and significant leaks or spills of toxic or hazardous pollutants.

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(3) Amending or adding provisions concerning “quantitative data”. The affected provisions pertain to pollutants identified in the facility’s NJPDES permit for its process wastewater, how an applicant is expected to know or have reason to believe that a pollutant is present in an effluent (the provision proposed to be moved from N.J.A.C. 7:14A-4.4(b)5), data describing the storm event, and identifying the sources of certain pollutants.

*Stormwater Discharges Associated With Construction Activity*

N.J.A.C. 7:14A-24.7(a)2, which is recodified from existing N.J.A.C. 7:14A-11.5(c)1ii with amendments, sets forth information generally required in individual permit applications for stormwater DSW associated with construction activity. Some amendments clarify that this provision is subject to an exception under N.J.A.C. 7:14A-24.7(a)5, or make other changes to improve clarity and organizational structure. The amendment that expands the scope of this provision to include certain “stormwater discharge associated with small construction activity” is based on USEPA’s final “Phase II” stormwater regulations at 40 C.F.R. 122.26(c)(1)(ii). Other amendments include:

(1) Adding the requirement to submit a new NJPDES Form RFC (instead of NJPDES Form RF) containing information identified in this provision (and in various provisions of N.J.A.C. 7:14A-4.3). Also added or amended are provisions concerning NJPDES Form R (residuals information) and the related requirements of N.J.A.C. 7:14A-4.3(a)23 and (a)24.

(2) Adding or amending provisions concerning fill material; a USGS Topographic Map (and N.J.A.C. 7:14A-4.3(a)15); coordinated permitting in the Pinelands Area; copies of approved State or local requirements for best management practices (BMPs); BMP maintenance and inspection procedures; identification of non-stormwater discharges; the runoff coefficient; proposed BMPs to control pollutants in stormwater discharges that will occur after construction operations have been completed; and a stormwater pollution prevention plan (SPPP). The SPPP provision includes new or amended language concerning the number of acres expected to be disturbed; a site map; owners of offsite storm drainage systems; and proposed BMPs to control pollutants in stormwater discharges during construction. Several of the above mentioned amendments coordinate N.J.A.C. 7:14A-24.7(a)2 with SPPP and construction activity provisions in N.J.A.C. 7:14A-24.9 and 24.10.

*Oil and Gas Facilities and Mining Operations; Providing Other Information; Pre-1993 Applications; Group Applications*

N.J.A.C. 7:14A-24.7(a)3 and (a)4 are recodified with amendments from existing N.J.A.C. 7:14A-11.5(c)1iii and (c)1iv. The amendments change “submit a permit application” to “apply for a NJPDES DSW permit”, and insert “surface” before “water quality standard”. N.J.A.C. 7:14A-24.7(a)5 is recodified from existing N.J.A.C. 7:14A-11.5(c)1v. Amendments insert “NJPDES DSW” before “permit”, and specify that it is the Department that may require an

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operating entity for stormwater discharge associated with construction activity to comply with N.J.A.C. 7:14A-24.7(a)1 and submit NJPDES Form RF.

Existing N.J.A.C. 7:14A-11.5(c)1vi is not carried forward into N.J.A.C. 7:14A-24.7 because the Department believes it is no longer necessary to include information about NJPDES permit applications submitted many years ago to the Department. N.J.A.C. 7:14A-24.7(b) is continued from existing N.J.A.C. 7:14A-11.5(c)2 policies concerning group applications submitted to USEPA.

#### Stormwater DSW (other special determinations)

N.J.A.C. 7:14A-24.7(c) is concerned with point and nonpoint source stormwater DSW that are identified under N.J.A.C. 7:14A-24.2(a)1 (NJPDES permit issued prior to February 4, 1987) or N.J.A.C. 7:14A-24.2(a)7 (special determinations), but that are not from industrial or commercial facilities or from small municipal separate storm sewer systems (small MS4s). N.J.A.C. 7:14A-24.7(c) is recodified with amendments from part of existing N.J.A.C. 7:14A-11.5(g), insofar as subsection (g) applies to these stormwater DSW. (One of the amendments is to include nonpoint source DSW outside the scope of existing N.J.A.C. 7:14A-11.5(g).)

N.J.A.C. 7:14A-24.7(c) requires operating entities for these stormwater DSW to apply for an individual or general NJPDES DSW permit in accordance with deadlines in N.J.A.C. 7:14A-24.4(a)4, and sets forth information required in the individual permit application. The Department has flexibility to require information appropriate for the particular stormwater DSW (or category of stormwater DSW) in question. Many of the information requirements in N.J.A.C. 7:14A-24.7(a) may not be appropriate for these stormwater DSW. USEPA's final "Phase II" stormwater regulations do not identify information required in these individual permit applications.

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

N.J.A.C. 7:14A-24.8 sets forth sample collection procedures to be used in preparing individual NJPDES permit applications for certain stormwater DSW. This section is recodified from existing N.J.A.C. 7:14A-11.5(h) with amendments to improve organizational structure and clarity, address the relationship of these procedures to N.J.A.C. 7:14A-4.4(b), and provide consistency with the existing NJPDES Form RF Pollutant Analysis Summary (PAS) and Alternative Discharge Information Form (ADI Form). The principal amendments are as follows:

N.J.A.C. 7:14A-24.8(a)1 is clarified by identifying the NJPDES rule provisions that require "quantitative data" subject to N.J.A.C. 7:14A-24.8, and by adding the statement that procedures or requirements in N.J.A.C. 7:14A-24.8(a)1 through (a)4 are subject to change under N.J.A.C. 7:14A-24.8(a)5.

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Unlike existing N.J.A.C. 7:14A-11.5(h)2v, N.J.A.C. 7:14A-24.8(a)2 applies to all pollutants requiring analysis under N.J.A.C. 7:14A-24.7, and is not limited to stormwater discharge associated with industrial activity. N.J.A.C. 7:14A-24.7(a) requires “quantitative data” under N.J.A.C. 7:14A-24.7(a)1viii not only for certain “stormwater discharge associated with industrial activity”, but also for certain other stormwater DSW, including industrial or commercial stormwater DSW identified under N.J.A.C. 7:14A-24.2(a)7, and any stormwater DSW associated with construction activity that requires NJPDES Form RF under N.J.A.C. 7:14A-24.7(a)5.

The procedures and requirements in N.J.A.C. 7:14A-24.8(a)3 are incorporated in the ADI Form in NJPDES Form RF. N.J.A.C. 7:14A-24.8(a)3 does not pertain to sampling data reported on the NJPDES Form RF Pollutant Analysis Summary (PAS), which does not require a flow-weighted composite sample. N.J.A.C. 7:14A-24.8(a)3 is amended by adding the statement that “notwithstanding N.J.A.C. 7:14A-4.4(b)2ii, a 24-hour composite sample of the stormwater discharge is not required”. N.J.A.C. 7:14A-24.8(a)3ii is amended by adding “petroleum hydrocarbons”, “all volatile organics”, and “other bacterial indicators” to the list of pollutants for which flow-weighted composite samples shall not be taken. N.J.A.C. 7:14A-24.8(a)3iii is amended by making it more clear that the flow-weighted composite sample must be taken using one of the three techniques listed, by referring to a “continuous sampler” rather than to “continuous sampling”, and clarifying that the third technique requires a combination of a minimum of three sample aliquots taken in each of the first three hours of the discharge.

N.J.A.C. 7:14A-24.8(a)4 is amended by adding language which provides that notwithstanding N.J.A.C. 7:14A-4.4(b)5ii and 4.4(b)3vi, stormwater permit applicants are not required to report the daily maximum or daily average for any pollutant, or to report as total mass any sampling data from grab samples, or any sampling data for flow or for bacterial indicators or any other pollutants which cannot be appropriately expressed in terms of mass (not just flow, pH, acute and chronic whole effluent toxicity, and temperature).

N.J.A.C. 7:14A-24.8(a)5 is amended by adding an express reference to the NJPDES Form RF Pollutant Analysis Summary (PAS), which is the principal means by which the Department allows appropriate site-specific sampling procedures or requirements, by changing “previous measurable storm event” to “previous storm event”, and by adding several more examples of appropriate site-specific sampling procedures or requirements.

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

This section describes how monitoring requirements will be established for small municipal separate storm sewer systems (small MS4s), 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. (Other stormwater discharges associated with such activity are subject to N.J.A.C. 7:14A-11.2(a)2 instead.)

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These monitoring requirements will be established on a case-by-case basis depending upon the nature and effect of the discharge. The permittee is required to monitor such discharges in accordance with N.J.A.C. 7:14A-11.2(a)2 (stormwater sampling), or, at a minimum, conduct annual facility inspections and prepare and maintain annual inspection reports and certifications described in N.J.A.C. 7:14A-24.9(a)2 (for stormwater discharges associated with industrial activity or small construction activity), or comply with the requirements for evaluation, recordkeeping, and reporting in proposed N.J.A.C. 7:14A-25.6(j) (for small MS4s subject to proposed N.J.A.C. 7:14A-25.6). NJPDES permits will generally not require sampling and analysis of any discharges from small MS4s except as part of a program to detect illicit connections.

N.J.A.C. 7:14A-24.9 is recodified from existing N.J.A.C. 7:14A-11.2(a)3 and (a)4 with amendments. This recodification is part of the consolidation of NJPDES stormwater requirements in Subchapters 24 and 25. Existing N.J.A.C. 7:14A-11.2(a)3 and (a)4 are limited to stormwater discharges associated with industrial activity. N.J.A.C. 7:14A-24.9 also applies to stormwater discharges associated with small construction activity, which are very similar to stormwater discharges that are associated with construction activity under subparagraph 1x of the definition of “stormwater discharge associated with industrial activity” in N.J.A.C. 7:14A-1.2. N.J.A.C. 7:14A-24.9(a) provides for the establishment of monitoring requirements on a case-by-case basis for small MS4s, 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.

The Department is also proposing to recognize at N.J.A.C. 7:14A-24.9(b) that under proposed N.J.A.C. 7:14A-25.10(b), the operating entity for a large or medium MS4 shall include, in its annual report, a summary of data, including monitoring data, that is accumulated throughout the reporting year.

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

N.J.A.C. 7:14A-24.10 sets forth additional requirements applicable to “stormwater discharge associated with small construction activity” as defined in a proposed amendment to 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”. N.J.A.C. 7:14A-24.10 is based on USEPA’s final “Phase II” NPDES stormwater regulations at 40 C.F.R. 122.44(s) and 122.34(b)(4).

Under those regulations, NPDES permit conditions for these construction stormwater DSW may incorporate “qualifying” State or local erosion and sediment control program requirements by reference. N.J.A.C. 7:14A-24.10 requires that the NJPDES program of general and/or individual permits for these DSW be designed to reduce pollutants in these DSW, and

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include the components listed in N.J.A.C. 7:14A-24.10(a)1 through (a)8. These components consist mainly of components that USEPA regulations require in NPDES permit conditions for these DSW, or in the “minimum control measure” (which N.J.A.C. 7:14A-25.6(b) calls a “Statewide Basic Requirement” or “SBR”) for control of construction site stormwater runoff discharged to small municipal separate storm sewer systems (small MS4s).

N.J.A.C. 7:14A-24.10 enables the Department not only to establish NJPDES permit conditions required under USEPA regulations, but also to be responsible for implementing this SBR. As a result, operating entities for small MS4s that must obtain NJPDES permits under N.J.A.C. 7:14A-25.2(a) do not have to include this SBR in their stormwater programs (see N.J.A.C. 7:14A-25.6(b)2 and 25.7(b)). The primary element of the NJPDES permit program under N.J.A.C. 7:14A-24.10 is the Department’s “construction activity” stormwater general permit (NJPDES Permit No. NJ0088323), which the Department intends to revise to authorize and control “stormwater discharge associated with small construction activity”, and meet all applicable requirements in this section.

Like that general permit, N.J.A.C. 7:14A-24.10(a)1 recognizes that in New Jersey, erosion and sediment from construction activities is regulated under the Soil Erosion and Sediment Control Act (N.J.S.A. 4:24-39 et seq.) and implementing rules. However, N.J.A.C. 7:14A-24.10(a)2 establishes a new requirement 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. To simplify terminology and avoid confusion with the Municipal Land Use Law definition of “site plan” (N.J.S.A. 40:55D-7), N.J.A.C. 7:14A-24.10(a)4 and (a)5 use the term “stormwater pollution prevention plan” (SPPP) for both the SPPP and the “site plan” required by USEPA regulations.

The Department’s existing “construction activity” stormwater general permit is already consistent with N.J.A.C. 7:14A-24.10(a)6, which requires the implementation of applicable provisions of N.J.A.C. 7:50-4.81 through 4.85 (coordinated permitting in the Pinelands Area). This requirement is not included in USEPA stormwater regulations, but is appropriate for consistency with the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50).

## **Subchapter 25. Municipal Stormwater Regulation Program**

Subchapter 25 is a new subchapter which sets forth requirements applicable to the NJPDES Municipal Stormwater Regulation Program. These requirements are applicable to discharges to surface water (DSW) and discharges to groundwater (DGW) of stormwater from “large municipal separate storm sewer systems”, “medium municipal separate storm sewer systems”, and “small municipal separate storm sewer systems” These terms are defined in N.J.A.C. 7:14A-1.2. Subchapter 25 uses the term “municipal separate storm sewer system” (MS4) to refer not only to systems owned or operated by a “municipality” as defined by the Municipal Land Use Law (MLUL), N.J.S.A. 40:55D-1 et seq. (that is, any city, borough, town, township, or village), but also to systems owned or operated by a county, State, interstate, or

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Federal agency. In Subchapter 25, however, the term “municipality(ies)” is limited to a “municipality” as defined in the MLUL. Subchapter 25 consists mainly of new requirements that pertain to small MS4s.

For DSW, the Department developed Subchapter 25 based on United States Environmental Protection Agency (USEPA) National Pollutant Discharge Elimination System (NPDES) stormwater regulations. In addition, this subchapter regulates stormwater DGW from small MS4s. Although DGW are outside the scope of the NPDES program under the Federal Clean Water Act, the Department can (and in many instances does) require NJPDES permits for DGW under the New Jersey Water Pollution Control Act. This subchapter regulates stormwater DSW and stormwater DGW from small MS4s in a unified and consistent manner, and is coordinated with proposed amendments to DGW and underground injection control (UIC) provisions in Subchapters 7 and 8.

Under this subchapter, potentially all of New Jersey’s 566 municipalities, all 21 counties, the New Jersey Department of Transportation, State highway authorities, and some other public agencies will be required to obtain a NJPDES permit for the stormwater discharges from small MS4s they operate. Provisions of this subchapter that govern the content of NJPDES permits for small MS4s provide for integration with the Department’s Stormwater Management Rules (N.J.A.C. 7:8), the Soil Erosion and Sediment Control Act (N.J.S.A. 4:24-39 et seq.), and the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50), and with stormwater management requirements under the Residential Site Improvement Standards (N.J.A.C. 5:21) and Water Quality Management Plans (N.J.A.C. 7:15). The Department is proposing to repeal and replace with new rules the Stormwater Management rules at N.J.A.C. 7:8 {insert New Jersey Register publication date and citation}.

#### **7:14A-25.1: Scope**

This section identifies the scope of Subchapter 25. Subchapter 25 sets forth requirements applicable to the Municipal Stormwater Regulation Program, which regulates discharges to surface water and groundwater of stormwater from large, medium, and small municipal separate storm sewer systems. As noted in N.J.A.C. 7:14A-24.2(f), combined sewer systems, and stormwater discharges to combined or sanitary sewer systems, are not subject to Subchapter 25.

To facilitate integration of the Municipal Stormwater Regulation Program with stormwater management provisions of the MLUL that are specific to “municipalities” as defined in the MLUL, N.J.A.C. 7:14A-25.1(b) provides that in Subchapter 25, the term “municipality” is limited to a “municipality” as defined in the MLUL, that is, any city, borough, town, township, or village. N.J.A.C. 7:14A-25.1(b) is also cross-referenced in the proposed amendment to the N.J.A.C. 7:14A-1.2 definition of “Municipality”. The existing N.J.A.C. 7:14A-1.2 definition of “Municipality” (which is much broader than the MLUL definition) is based on the definitions of “Municipality” at 40 C.F.R. 122.2 and Section 502(4) of the Federal Clean Water Act (33 U.S.C. §1362(4)).

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### **7:14A-25.2 Identifying municipalities, public complexes, and highways or other thoroughfares regulated under the small MS4 program**

N.J.A.C. 7:14A-25.2 identifies the five categories of small MS4s whose stormwater discharge to surface water or groundwater is regulated under the Municipal Stormwater Regulation Program. Four of these categories – small MS4s owned or operated by “Tier A” municipalities; small MS4s own or operated by county, State, interstate, or Federal agencies at certain “public complexes” (mainly in “Tier A” municipalities) or at “highways or other thoroughfares”; and small MS4s that receive “special designations” – are described in N.J.A.C. 7:14A-25.2(a). Requirements concerning the content of NJPDES permits for these categories are set forth in N.J.A.C. 7:14A-25.6.

The fifth category is small MS4s owned or operated by “Tier B” municipalities. N.J.A.C. 7:14A-25.2(b) requires municipalities that operate these small MS4s to apply for the “Tier B Municipal Stormwater Permit” (a special NJPDES general permit) under N.J.A.C. 7:14A-25.8. All New Jersey municipalities are assigned by N.J.A.C. 7:14A-25.3 either to “Tier A” or “Tier B”. N.J.A.C. 7:14A-25.2(c) provides that stormwater discharges from small MS4s outside these five categories are exempt from the requirement to obtain a NJPDES permit, unless the discharge is through underground injection regulated under N.J.A.C. 7:14A-8.3.

The USEPA “Phase II” stormwater regulations require operating entities for “regulated” small MS4s to apply for a NPDES permit under the Federal Clean Water Act. A small MS4 is automatically “regulated” if that MS4 is located in an “urbanized area” as determined by the Bureau of the Census, unless that small MS4 receives a “waiver” from the NPDES permitting authority. The USEPA regulations also require the State to develop a process and criteria (referred to as “designation criteria” below) to designate small MS4s outside urbanized areas (and any small MS4s that received a “waiver” if circumstances change) as “regulated” small MS4s. In addition, USEPA has direct authority in some circumstances to require operating entities for small MS4s that received a “waiver” or are located outside of an “urbanized area” to apply for a NPDES permit. N.J.A.C. 7:14A-25.2 and 25.3 either incorporate pertinent USEPA regulations, or take the next step of waiving the permit requirement and of establishing and applying the designation process and criteria. (See 40 C.F.R. 122.26(a)(9), (b)(16), and (f), 122.32, 122.33(a), and 123.35(b), (c), and (d).)

#### Waiver

The USEPA regulations at 40 C.F.R. 122.32(c) and (d) and 123.35(d)(1) allow (but do not require) the State in certain circumstances to waive the NPDES permit requirement for each small MS4 in jurisdictions with a population under 1,000 within the urbanized area. N.J.A.C. 7:14A-25.2(d) waives this Federal requirement for all operating entities for certain of these small MS4s. However, the Department is proposing, pursuant to its authority under the New Jersey Water Pollution Control Act, to require the affected municipalities to obtain the Tier B



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Municipal Stormwater Permit. Under N.J.A.C. 7:14A-25.2(e), an operating entity to which the waiver applies may subsequently be required to apply for a NJPDES permit under N.J.A.C. 7:14A-25.2(a) if circumstances change.

The list in N.J.A.C. 7:14A-25.2(d) of 28 “Municipalities to which Waiver Applies and which are Assigned to Tier B” is for informational purposes only and subject to revision. These municipalities contain about 6 percent of New Jersey’s land area and 0.1 percent of New Jersey’s population within urbanized areas as determined by the 2000 census. Although the USEPA regulations at 40 C.F.R. 122.32(c) and (e) and 123.35(d)(2) allow States to provide a waiver for small MS4s in jurisdictions with a population under 10,000 in certain very narrow circumstances, the Department does not believe that any New Jersey municipalities or other governmental entities qualify for this kind of waiver.

#### Designation Criteria

Under the USEPA regulations at 40 C.F.R. 123.35(b), designation criteria must, among other things, evaluate whether a stormwater discharge results in (or has the potential to result in) exceedances of surface water quality standards, or in other significant water quality impacts, including habitat and biological impacts. The State must apply designation criteria, at a minimum, to any small MS4 that is located outside of an urbanized area but that serves a jurisdiction with a population density of at least 1,000 per square mile and a population of at least 10,000. Various provisions of N.J.A.C. 7:14A-25.2(a), 25.2(e), and 25.3 establish and apply designation criteria not only to small MS4s in those jurisdictions, but also to small MS4s in other locations, mainly as summarized below:

(1) The Department is designating all stormwater discharges from small MS4s in municipalities with a population density of at least 1,000 per square mile and a population of at least 10,000. These municipalities are assigned to Tier A due to their high population density and population, and their proximity to urbanized areas.

(2) The Department is designating all stormwater discharges from small MS4s in the non-urbanized portions of municipalities that are located partially within an urbanized area (and that have a population of at least 1,000 within an urbanized area). These municipalities are assigned in their entirety to Tier A to avoid the difficulty that these municipalities and other small MS4 operating entities might otherwise have in focusing efforts on just the “urbanized area” portion, and due to the contiguity to urbanized areas of the non-urbanized portions.

(3) The Department is designating all stormwater discharges from small MS4s in municipalities that have a stormwater sewer system discharging directly into the salt waters of Monmouth, Ocean, Atlantic, or Cape May counties. These municipalities are assigned to Tier A because of the particular importance of limiting pollutants in small MS4 discharges to these salt waters (as recognized in the Sewage Infrastructure Improvement Act, N.J.S.A. 58:25-23 et seq.).

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Many of these municipalities also have high seasonal populations not included in Decennial Census population data.

(4) The Department is designating all stormwater discharges from small MS4s owned or operated by county, State, interstate, or Federal agencies at “highways or other thoroughfares”. This Statewide designation will reduce the water quality impacts of such discharges, eliminate the difficulty that these agencies might otherwise have in focusing efforts on just the “urbanized area” segments of their highway/thoroughfare systems, and complement the efforts of Tier A and Tier B municipalities throughout New Jersey.

(5) The proposed rules also provide for “special designations”, including designations based on total maximum daily loads (TMDLs), water quality standards, or significant contributions of pollutants to surface waters or physically interconnected municipal separate storm sewers, and designations of stormwater discharges whose operating entity has a waiver, but that are subsequently determined to require a NJPDES permit under N.J.A.C. 7:14A-25.2(e). Administrative and notification procedures for “special designations” and certain Tier A assignments are set forth in N.J.A.C. 7:14A-25.2(f).

The Department’s designation criteria are also closely related to the Tier B Municipal Stormwater Permit, which addresses what are generally the most important water quality issues associated with small MS4s in Tier B municipalities. By issuing and enforcing the Tier B Permit, the Department avoids the need to designate additional stormwater discharges from small MS4s in these municipalities.

### **7:14A-25.3 Assignment of municipalities to Tier A or Tier B**

This section specifies criteria and procedures for assigning municipalities to “Tier A” or “Tier B”. As noted in the summary description of N.J.A.C. 7:14A-25.2 above, these assignments are used in identifying categories of small MS4s whose stormwater discharge is regulated under the Municipal Stormwater Regulation Program and the type of NJPDES permit required, and are closely related to the “waiver” and “designation criteria” discussed in that description. A municipality is assigned to Tier A if it has one or more characteristics listed in N.J.A.C. 7:14A-25.3(a)1. Tier A municipalities are generally located within the more densely settled regions of the State, or along or near the Atlantic Ocean. N.J.A.C. 7:14A-25.3(a)2 establishes that every municipality not assigned to Tier A is assigned to Tier B.

N.J.A.C. 7:14A-25.3(a)3 provides a list of Tier A and Tier B municipalities for informational purposes only. The 467 currently listed Tier A municipalities contain about 70 percent of New Jersey’s land area and 96 percent of New Jersey’s population (2000 census), and are found in every county. The 99 currently listed Tier B municipalities contain about 30 percent of New Jersey’s land area and 4 percent of New Jersey’s population (2000 census), and are found in every county except Essex, Hudson, Middlesex, Passaic, and Union.

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The list may be revised from time to time for various reasons (corrections to 2000 Census data, for example). The Department will publish each revision to the list in the New Jersey Register as a notice of administrative change, and will mail notice of such revision to the affected municipality and county.

#### **7:14A-25.4: Deadlines to apply for NJPDES permits for small MS4s**

N.J.A.C. 7:14A-25.4 sets forth the deadlines to apply for a NJPDES permit for all stormwater DSW and DGW from small MS4s that require NJPDES permits. For Tier A municipalities, public complexes, highways or other thoroughfares, and special designations, these deadlines are set forth in N.J.A.C. 7:14A-25.4(a). The Department expects that most, if not all, of the operating entities for these stormwater discharges will apply for a general NJPDES permit rather than for an individual NJPDES permit.

Except as noted below, the deadline for these stormwater discharges is 30 days from the effective date of Subchapter 25 (which is later than the deadline established for small MS4s by USEPA "Phase II" stormwater regulations at 40 C.F.R. 122.26(e) and 122.33). The deadline is different if an operating entity receives notice from the Department that a NJPDES permit is required because a municipality was reassigned from Tier B to Tier A, or because of a special designation. Any entity planning to continue discharging from a small MS4 after the expiration date of its NJPDES permit for that discharge shall comply with N.J.A.C. 7:14A-4.2(e)3. NJPDES general permits for small MS4s will provide for automatic renewal of authorization when those general permits are renewed.

N.J.A.C. 7:14A-25.4(b) provides that the deadline for Tier B municipalities to apply for the Tier B Municipal Stormwater Permit is set forth in N.J.A.C. 7:14A-25.8(b).

#### **7:14A-25.5: Applying for a NJPDES permit for a small MS4**

This section describes how operating entities apply for a NJPDES permit for stormwater DSW and DGW from small MS4s. For Tier A municipalities, public complexes, highways or other thoroughfares, and special designations (stormwater DSW and DGW identified under N.J.A.C. 7:14A-25.2(a)), operating entities shall submit a request for authorization (RFA) for a general NJPDES permit, or an application for an individual NJPDES permit.

The Department expects the RFA form for the general permit to be short and simple. N.J.A.C. 7:14A-25.6 requires each Department general permit for small MS4s to specify best management practices (BMPs) and measurable goals that permittees are required to meet for each of those BMPs, including, as appropriate, an implementation schedule. N.J.A.C. 7:14A-25.5(a)1 requires the RFA to include a certification acknowledging the specified BMPs and measurable goals. All of the information that can be required in the RFA is information that can be required under USEPA regulations at 40 C.F.R. 122.28(b), 122.33(b), and 122.34(d). Specific

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provisions regarding individual NJPDES permit applications for small MS4s are set forth in N.J.A.C. 7:14A-25.9.

N.J.A.C. 7:14A-25.5(b) provides that all Tier B municipalities that are required to apply for the Tier B Municipal Stormwater Permit shall submit the RFA for this permit in accordance with N.J.A.C. 7:14A-25.8(c).

#### **7:14A-25.6: Content of NJPDES permits for small MS4s**

This section sets forth policies concerning the content of NJPDES permits for stormwater DSW and DGW from small MS4s identified under N.J.A.C. 7:14A-25.2(a) (Tier A municipalities, public complexes, highways or other thoroughfares, and special designations). N.J.A.C. 7:14A-25.6 does not apply to the Tier B Municipal Stormwater Permit except insofar as N.J.A.C. 7:14A-25.8(e) and (g) refer to the N.J.A.C. 7:14A-25.6 provisions concerning post-construction stormwater management and “Additional Measures”. The main elements of N.J.A.C. 7:14A-25.6 are summarized below.

##### Permit Framework

N.J.A.C. 7:14A-25.6(a) requires the Department to issue one or more general NJPDES permits for stormwater DSW and DGW from small MS4s. The Department intends to issue separate general NJPDES permits for Tier A municipalities, public complexes, and highways or other thoroughfares. The Department may also issue individual NJPDES permits for small MS4s. Each NJPDES permit will require at a minimum that the permittee develop, implement, and enforce a stormwater program described in a written stormwater pollution prevention plan (SPPP) prepared by the permittee. This stormwater program must be designed to reduce the discharge of pollutants from the permittee’s small MS4 to the maximum extent practicable, to protect water quality, and to satisfy the appropriate water quality requirements of the Federal Clean Water Act and the New Jersey Water Pollution Control Act.

The Department intends to set forth in the NJPDES permit the specific control measures that the permittee’s stormwater program must include in order to be deemed to comply with these pollutant reduction and water quality requirements. These control measures would usually consist of “Statewide Basic Requirements” (SBRs) and, where applicable, “Additional Measures” (AMs), as discussed below. The stormwater program must also include any other control or evaluation measures specified in the NJPDES permit. (At the permittee’s discretion, the stormwater program may also include “Optional Measures” (OMs) as discussed below.)

N.J.A.C. 7:14A-25.6(a) also provides that for small MS4s, best management practice (BMP) requirements (rather than numeric effluent limitations) are generally the most appropriate form of control measure (or “effluent limitation” as defined in N.J.A.C. 7:14A-1.2) when designed to reduce pollutants to the maximum extent practicable and to protect water quality.

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The Department shall make guidance available to assist permittees in the design and implementation of stormwater programs.

### Statewide Basic Requirements (SBRs)

Under N.J.A.C. 7:14A-25.6(a), the permittee's stormwater program required under a general permit must include the eight Statewide Basic Requirements (SBRs) that are listed under N.J.A.C. 7:14A-25.6(b) and summarized below (except the SBR for "Construction site stormwater runoff control"). NJPDES permits may set forth these SBRs in more detail. (Also, a "qualifying State or local program" may substitute for some of these SBRs or SBR components as noted below.)

#### *Public involvement/participation:*

The permittee shall, at a minimum, comply with applicable State and local public notice requirements when providing for public participation in the development and implementation of the permittee's stormwater program. An example is the public notice requirements in the Municipal Land Use Law concerning applications for development, and concerning the adoption or amendment of the municipal stormwater management plan.

#### *Construction site stormwater runoff control:*

This SBR applies to DSW only. Under N.J.A.C. 7:14A-25.7(b), any NJPDES permit issued for small MS4s must recognize that the Department is responsible for developing, implementing, and enforcing a NJPDES permit program under N.J.A.C. 7:14A-24.10 to reduce pollutants in stormwater runoff from construction activities that result in land disturbance of one acre or more. This program, which consists primarily of the Department's "construction activity" stormwater general permit (NJPDES Permit No. NJ0088323), is integrated with the Soil Erosion and Sediment Control Act, and is consistent with requirements for coordinated permitting in the Pinelands Area.

#### *Post-construction stormwater management in new development and redevelopment:*

To prevent or minimize water quality impacts, the permittee shall develop, implement, and enforce a program to address stormwater runoff from new development and redevelopment projects that disturb one acre or more and discharge into the permittee's small MS4. The program shall require compliance with the applicable design and performance standards established under the Department's Stormwater Management rules, N.J.A.C. 7:8, for major development, unless a variance or exemption is granted under those rules, or unless alternative standards are applicable under a Water Quality Management Plan. The program shall also ensure adequate long-term operation and maintenance of BMPs, and require compliance with standards set forth in the NJPDES permit to control passage of solid and floatable materials through storm drainage inlets. If the permittee is a municipality, it shall adopt, reexamine, and

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implement a municipal stormwater management plan and stormwater control ordinance(s) in accordance with N.J.A.C. 7:8, and ensure that residential development and redevelopment projects comply with the Residential Site Improvement Standards (RSIS) for stormwater management (N.J.A.C. 5:21-7).

*Public education on stormwater impacts:*

The permittee shall implement a public education program about the impacts of stormwater discharges on surface water and groundwater, and about the steps that the public can take to reduce pollutants in stormwater runoff. As part of this education program, the permittee shall inform public employees, businesses, and the general public of hazards associated with “illicit connections” (as proposed to be defined at N.J.A.C. 7:14A-1.2) and improper disposal of waste (such as raw sewage and industrial waste) into small MS4s.

*Prohibiting improper disposal of waste:*

The permittee shall develop, implement, and enforce a program to detect and eliminate “illicit connections” to the permittee’s small MS4. To the extent allowable under State law (or Federal law, if the permittee is a Federal agency), the permittee shall effectively prohibit, through ordinance or other regulatory mechanism, illicit connections and other improper disposal of waste to the permittee’s small MS4, and implement appropriate enforcement procedures and actions. An example of such procedures and actions is enforcement by a municipal police department of a municipal ordinance that prescribes fines or other penalties under N.J.S.A. 40:49-5. Examples of waste (besides illicit connection waste) that may be specified in NJPDES permit conditions for this SBR include pet and wildlife waste, litter, and used motor oil.

The permittee shall also develop a map, showing the location of the end of all MS4 outfall pipes (if any) that are operated by the permittee, and that discharge within the permittee’s jurisdiction to a surface water body (for example, a lake or pond, the Atlantic Ocean or one of its estuaries, or a river or stream including an intermittent stream).

*Control of solid and floatable materials:*

The permittee shall develop and implement an operation and maintenance program that prevents or reduces the discharge of solid and floatable materials resulting from the permittee’s small MS4. This program is applicable to areas owned or operated by the permittee (including roads). Examples of BMPs that may be specified in NJPDES permit conditions for this SBR include pavement sweeping; cleaning, repair, and replacement of stormwater management facilities; erosion control along roads or at small MS4 outfall pipes; and installation of modified storm drainage inlets.

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*Maintenance yards and highway service areas:*

The permittee shall develop and implement an operation and maintenance program that prevents or reduces pollutant runoff from maintenance yards and highway service areas owned or operated by the permittee. Examples of BMPs that may be specified in NJPDES permit conditions for this SBR include BMPs for de-icing salt and sand storage, fueling, vehicle maintenance, and equipment washing.

*Employee training:*

Using training materials that are available from USEPA, the Department or other State agencies, or other organizations, the above programs for prohibiting improper disposal of waste, control of solid and floatable materials, and maintenance yards and highway service areas shall include (where applicable) employee training to prevent and reduce stormwater-related pollution from activities such as park and open space maintenance, vehicle fleet and building maintenance, new construction and land disturbances, and stormwater system maintenance.

Additional Measures (AMs)

Under N.J.A.C. 7:14A-25.6(a) and (e), the permittee's stormwater program must also include any Additional Measures (AMs) required under N.J.A.C. 7:14A-25.6(e). AMs are non-numeric or numeric effluent limitations whose inclusion in the stormwater program is expressly required by a total maximum daily load (TMDL) or equivalent analysis, regional stormwater management plan, or other element of a Water Quality Management Plan (WQM plan) adopted in accordance with N.J.A.C. 7:15. AMs may modify, or be in addition to, SBRs listed under N.J.A.C. 7:14A-25.6(b). For pollutants such as fecal coliform, PCB, nickel, suspended solids, and phosphorus, for example, a TMDL may establish limitations that would not be fully achieved by the SBRs initially specified in the NJPDES permit. The examples of Optional Measures (OMs) provided below are also examples of potential AMs. Any SBR modified by an AM must still, at a minimum, satisfy the requirements of N.J.A.C. 7:14A-25.6(b).

Optional Measures (OMs)

N.J.A.C. 7:14A-25.6(a) and (i) provide that at the permittee's discretion, and to the extent allowable under law, the stormwater program may also include Optional Measures (OMs), which are BMPs that are not implemented for SBRs or AMs (or for other measures specified in the NJPDES permit), but that prevent or reduce the pollution of waters of the State. The SPPP shall specifically identify such BMPs (if any) as OMs, and identify actions to implement those OMs. Failure to implement an OM identified in the SPPP shall not be considered a violation of the NJPDES permit or N.J.A.C. 7:14A-25.6. Examples of BMPs that permittees may identify as OMs include BMPs for retrofitted stormwater treatment, road deicing, wildlife management, and fertilizer and pesticide management ordinances.

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### Qualifying State or Local Program

Under N.J.A.C. 7:14A-25.6(d), the NJPDES permit may direct the permittee to follow the requirements of a “qualifying State or local program” in effect when the NJPDES permit is issued, rather than corresponding SBR or AM requirements under N.J.A.C. 7:14A-25.6(b) or (e). A “qualifying State or local program” is a State or local municipal stormwater program that imposes, at a minimum, one or more of the SBRs or AMs (or components thereof) listed or required under N.J.A.C. 7:14A-25.6(b) or (e).

### Time Period for Stormwater Program Development and Implementation

N.J.A.C. 7:14A-25.6(a)2 provides that the NJPDES permit will specify (for the permittee’s first permit term) a time period of up to five years from the date of notification of general permit authorization (or the date of individual permit issuance) for the permittee to fully develop and implement its stormwater program for SBRs and any other measures specified in the NJPDES permit. The applicable WQM Plan will specify a time period for the permittee to fully develop and implement its stormwater program for any required AMs.

### Required BMPs and Measurable Goals

Under N.J.A.C. 7:14A-25.6(c), (e), (f), and (g), any Department general permit for small MS4s shall specify the BMPs that the permittee or another entity will implement for each SBR (except the SBR for “Construction site stormwater runoff control”), and the measurable goals for each of those BMPs, including, as appropriate, an implementation schedule. For AMs other than numeric effluent limitations, the WQM plan shall specify the corresponding BMPs and measurable goals. For purposes of these rules, the Department considers a “measurable goal” to be a specific action taken to implement a BMP, rather than a specific condition of stormwater or receiving water quality that is supposed to result from implementing a BMP. Permittees are required to meet all specified measurable goals, and the Department shall provide guidance for SBRs and AMs.

### Other Applicable NJPDES Permit Requirements, Standards and Conditions

N.J.A.C. 7:14A-25.6(h) requires the permittee to comply with other applicable NJPDES permit requirements, standards and conditions established in the individual or general NJPDES permit.

### Evaluation, recordkeeping, and reporting

N.J.A.C. 7:14A-25.6(j) requires the permittee to evaluate compliance with NJPDES permit conditions, including progress towards achieving the specified measurable goals identified for BMPs. (The NJPDES permit may also specify additional evaluation measures under N.J.A.C. 7:14A-25.6(a). However, the NJPDES permit will generally not require



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sampling and analysis of any discharges from small MS4s except as part of a program to detect illicit connections.) N.J.A.C. 7:14A-25.6(j) also includes requirements about how long permittees must keep records required by the NJPDES permit, and about making such records available to the Department and the public. In addition, N.J.A.C. 7:14A-25.6(j) requires the permittee to submit annual reports to the Department (unless the permittee is relying on another entity to satisfy all of its NJPDES permit obligations), and identifies information that these reports must include.

#### General Relationship to USEPA “Phase II” Stormwater Regulations

N.J.A.C. 7:14A-25.6 is similar in many respects to corresponding provisions in the USEPA regulations at 40 C.F.R. 122.34 (also see 40 C.F.R. 122.4, 122.35, 122.41(j)(2), 123.35(e), (f), and (g), and 130.12(a), and Section 208(e) of the Federal Act, 33 U.S.C. §1288(e)). However, N.J.A.C. 7:14A-25.6 uses the term “Statewide Basic Requirements” (SBRs) rather than the USEPA term “minimum control measures”. All six of the Federal “minimum control measures” are integrated into the eight SBRs listed in N.J.A.C. 7:14A-25.6(b), with revisions to language and organizational structure that interpret and clarify “minimum control measures”, facilitate their incorporation in NJPDES permits, integrate them with certain existing State and local municipal stormwater programs under New Jersey statutes, and recognize that the Department (the NPDES permitting authority in New Jersey) is itself responsible for implementing the SBR for “Construction site stormwater runoff control”. Although the USEPA regulations provide that the States may go beyond the six “minimum control measures”, the Department believes that the eight SBRs are consistent with those six measures.

The USEPA regulations also refer to USEPA and/or the State issuing a “menu of BMPs” that addresses each “minimum control measure”. USEPA acknowledged in the Preamble to the regulations that a State could either issue its menu of BMPs as guidance only, or require its permittees to follow its menu of BMPs (64 Fed. Reg. 68763; December 8, 1999). N.J.A.C. 7:14A-25.6 and NJPDES permits for small MS4s specify BMPs and measurable goals as discussed above in order to establish a substantially uniform system for reducing the discharge of pollutants and protecting water quality.

#### **7:14A-25.7: Sharing of responsibility to implement control measures for a small MS4**

N.J.A.C. 7:14A-25.7 identifies how and when a permittee for stormwater DSW and/or DGW from a small MS4 may rely on another governmental or private entity to implement one or more control measures (or component(s) thereof). This section also provides for recognition in a NJPDES permit that a governmental entity (other than the permittee) is responsible under a NJPDES permit for implementing one or more of the control measures (or component(s) thereof), or that the Department itself is responsible. “Control measures” include Statewide Basic Requirements (SBRs), Additional Measures (AMs), and any other control measures required in the NJPDES permit. This section is based on USEPA Phase II stormwater

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regulations at 40 C.F.R. 122.35. This section does not apply to the Tier B Municipal Stormwater Permit, for which there is a separate rule allowing sharing of responsibility (see N.J.A.C. 7:14A-25.6(a) and 25.8(d)).

Under N.J.A.C. 7:14A-25.7(a), a permittee may rely on another governmental or private entity to satisfy the permittee's NJPDES permit obligations to implement one or more control measures (or component(s) thereof) if the other entity agrees (or is required by law) to implement, and in fact does implement the measure(s), or component(s) thereof. N.J.A.C. 7:14A-25.6(a)3 and (j)3iv require the permittee's SPPP and annual reports to identify the other entity(ies). Where appropriate, the Department encourages permittees to improve the effectiveness and reduce the cost of their stormwater programs, and to integrate their stormwater programs with watershed management efforts or other stormwater management efforts, by relying on other governmental or private entities. These entities could be, for example, other small MS4 permittees (including counties and municipalities); soil conservation districts; local health agencies; regional, State, or interstate agencies; watershed management groups (as defined in N.J.A.C. 7:15-1.5); watershed associations; and business or environmental organizations. The permittee remains responsible for compliance with its NJPDES permit obligations if the other entity fails to implement the measure(s), or component(s) thereof. To reduce the possibility or consequences of such failure, the permittee may want to enter into a legally binding agreement with the other entity.

N.J.A.C. 7:14A-25.7(b) addresses a different issue. This subsection provides that in some cases, a NJPDES permit may recognize that a governmental entity other than the permittee in question is responsible (under a NJPDES permit) for implementing one or more of the control measures, or component(s) thereof, for that permittee's small MS4, or that the Department (the NPDES permitting authority in New Jersey) itself is responsible. Where such recognition is provided, the permittee is not responsible for such measure(s), or component(s) thereof, and is not required to include such measure(s), or component(s) thereof, in the permittee's stormwater program. (The NJPDES permit may, however, be reopened and modified under proposed N.J.A.C. 7:14A-16.4(b)21 to include the requirement to implement a measure(s), or component(s) thereof, if the other governmental entity or the Department does not implement it.) At a minimum, any NJPDES permit issued for small MS4s shall recognize that the Department is responsible for implementing the SBR for "Construction site stormwater runoff control".

#### **7:14A-25.8: Tier B Municipal Stormwater Permit**

This section establishes the Tier B Municipal Stormwater Permit program for municipalities assigned to Tier B under N.J.A.C. 7:14A-25.3. Under N.J.A.C. 7:14A-25.8(a), the Department is required to make a general NJPDES permit, which will be called the Tier B Municipal Stormwater Permit (Tier B permit), available to Tier B municipalities. This general permit is not in any respect a NPDES permit under section 402 of the Federal Clean Water Act (33 U.S.C. §1342). The Department and the Municipal Stormwater Advisory Group determined that the Municipal Stormwater Regulation Program should in some manner include all

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municipalities that operate small MS4s, in order to prevent or minimize water quality impacts of stormwater runoff from new development and redevelopment projects Statewide, and to provide a degree of equity among municipalities.

Tier B municipalities that operate small MS4s which discharge to surface water or groundwater are required to apply for the Tier B Permit in accordance with the deadlines in N.J.A.C. 7:14A-25.8(b). Except as noted below, the deadline is 30 days from the effective date of Subchapter 25. The deadline is different if notice is received that a municipality was reassigned from Tier A to Tier B, or if the municipality does not operate a small MS4 30 days from the effective date of Subchapter 25, but is proposing to operate a new small MS4 after that date. Under N.J.A.C. 7:14A-25.8(c), the Tier B Permit will provide for automatic renewal of authorization when the general permit is renewed.

The municipality shall apply under N.J.A.C. 7:14A-25.8(d) for the Tier B Permit by submitting a request for authorization (RFA). This RFA shall include a certification acknowledging the best management practices (BMPs) and measurable goals specified in this general permit and required by N.J.A.C. 7:14A-25.8(f) and (g), and shall include additional information specified in the general permit in accordance with N.J.A.C. 7:14A-6.13(d)2. The Department expects the RFA form to be short and simple.

N.J.A.C. 7:14A-25.8(e) specifies the stormwater program that a municipality that obtains authorization under this general permit shall institute. This program shall include two Statewide Basic Requirements (SBRs). The first SBR is to develop, implement, and enforce a program to address stormwater runoff from new development and redevelopment projects in order to prevent or minimize water quality impacts. Pre-construction planning and design to prevent or minimize such impacts is generally the most cost-effective kind of stormwater management. The second SBR is to implement a local public education program about the impacts of stormwater discharges on surface water and groundwater, and about the steps that the public can take to reduce pollutants in stormwater runoff. Where applicable, the stormwater program must also include "Additional Measures" (AMs) as discussed below. The municipality may share responsibilities for implementing any of these SBRs or AMs with one or more other entities. (The municipality may also implement other stormwater control measures as allowed by statute outside the Tier B stormwater program.)

N.J.A.C. 7:14A-25.8(f) requires the Tier B Permit to specify the BMPs that the Tier B municipality or another entity will implement for these Tier B SBRs, and to specify the measurable goals for each of those BMPs, including, as appropriate, an implementation schedule. For purposes of these rules, the Department considers a "measurable goal" to be a specific action taken to implement a BMP, rather than a specific condition of stormwater or receiving water quality that is supposed to result from implementing a BMP.

Under N.J.A.C. 7:14A-25.8(e) and (g), the municipality's stormwater program must also include any Additional Measures (AMs) required under N.J.A.C. 7:14A-25.8(g). AMs are non-

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numeric or numeric effluent limitations whose inclusion in the stormwater program is expressly required by a total maximum daily load (TMDL) or equivalent analysis, regional stormwater management plan, or other element of a Water Quality Management Plan (WQM plan) adopted in accordance with N.J.A.C. 7:15. AMs may modify, or be in addition to, SBRs listed under N.J.A.C. 7:14A-25.8(e). Any SBR modified by an AM must still, at a minimum, satisfy the requirements of N.J.A.C. 7:14A-25.8(e). For AMs other than numeric effluent limitations, the WQM plan shall specify the corresponding BMPs and measurable goals.

N.J.A.C. 7:14A-25.8(h) requires Tier B municipalities to meet the specified measurable goals for SBRs and AMs. The Department shall make guidance available to assist municipalities in the design and implementation of Tier B stormwater programs.

N.J.A.C. 7:14A-25.8(i) requires the Tier B municipality to keep records required by this general permit for at least five years from the date of the record, and to submit these records to the Department if requested. In addition, the Tier B municipality must submit an annual report to the Department. The report, which shall be submitted on a form provided by the Department, must evaluate progress towards achieving the measurable goals specified for BMPs.

#### **7:14A-25.9: Individual NJPDES permit applications for small MS4s**

N.J.A.C. 7:14A-25.9 addresses individual NJPDES permit applications for stormwater DSW and DGW from small MS4s. The Department expects to issue general permits for such discharges, and also expects that most if not all of the operating entities that apply for a NJPDES permit for such discharges will apply for a general permit authorization rather than an individual NJPDES permit. However, individual permits may be appropriate in special circumstances. This section distinguishes between two basic types of stormwater programs required by individual permits: a stormwater program under N.J.A.C. 7:14A-25.6 (including Statewide Basic Requirements required under that section), and a stormwater program that differs from the stormwater program under N.J.A.C. 7:14A-25.6 (for example, a stormwater program that includes stormwater treatment instead of one or more of those SBRs).

N.J.A.C. 7:14A-25.9(a) through (d) identify circumstances when an operating entity shall or may apply for an individual permit in order to implement one or the other of these two basic types of stormwater programs, and also identify the required contents of the individual permit application (contents that differ depending on the type of stormwater program). The Department believes that a stormwater program under N.J.A.C. 7:14A-25.6 should rarely if ever be implemented under an individual permit if a general permit is available. N.J.A.C. 7:14A-25.9(e) addresses the special circumstance where a small MS4 is in the same urbanized area as a medium or large MS4 with a NJPDES stormwater permit. To date, no medium or large MS4s have been identified or designated in New Jersey.

The Department is proposing N.J.A.C. 7:14A-25.9 based on USEPA Phase II stormwater regulations at 40 C.F.R. 122.33(b) and related Preamble language (64 Fed. Reg. 68737;

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December 8, 1999; also see 40 C.F.R. 122.28(b)(3) and 124.52). The deadlines in N.J.A.C. 7:14A-25.4 apply to all individual permit applications submitted under N.J.A.C. 7:14A-25.9 (including both part 1 and part 2 of any application submitted under N.J.A.C. 7:14A-25.9(c)1). For DGW, N.J.A.C. 7:14A-25.9(c)2 and (d) include provisions that either incorporate existing requirements concerning individual permit applications under N.J.A.C. 7:14A-7.9 and 8.17, or (in the case of a stormwater program under N.J.A.C. 7:14A-25.6) exempt the applicant from N.J.A.C. 7:14A-7.9.

#### **7:14A-25.10: Requirements for large and medium municipal separate storm sewer discharges**

This section sets forth application and reporting requirements for discharges to surface water from large and medium separate storm sewers. It is recodified from existing N.J.A.C. 7:14A-11.5(d) and (i) with amendments. N.J.A.C. 7:14A-25.10 incorporates by reference the lengthy, complex application requirements contained in 40 C.F.R. 122.26(d). As 40 C.F.R. 122.26(d) sets forth in more detail, Part 1 of the application shall consist of general information about the applicant; a description of existing legal authority to control discharges to the municipal separate storm sewer system; source identification; discharge characterization; a description of the existing management programs to control pollutants from the system and identify illicit connections; and a description of fiscal resources. Part 2 of the application shall consist of a demonstration that the applicant has adequate legal authority; additional source identification and characterization data; a proposed management program to reduce the discharge of pollutants to the maximum extent practicable; an assessment of controls in that program; and additional fiscal analysis.

In addition, N.J.A.C. 7:14A-25.10 incorporates by reference the requirements in 40 C.F.R. 122.42(c) for an annual report from operating entities. As 40 C.F.R. 122.42(c) sets forth in more detail, the report shall include the status of implementing the stormwater management program; proposed changes to that program; revisions, if necessary, to the assessment of controls and the fiscal analysis in the permit application; a summary of monitoring and other data accumulated throughout the reporting year; annual expenditures and budget for the following year; a summary description of enforcement actions, inspections, and public education programs; and identification of water quality improvements or degradation.

N.J.A.C. 7:14A-25.10 also incorporates by reference, for purposes of this section only, the definitions at 40 C.F.R. 122.26(b)(5) and (6) of “major municipal separate storm sewer outfall” and “major outfall”. Those two definitions are excluded from N.J.A.C. 7:14A-1.2 because those two terms are solely used in or intended for 40 C.F.R. 122.26(d). As 40 C.F.R. 122.26(b)(5) and (6) set forth in more detail, “major municipal separate storm sewer outfall” (or “major outfall”) means a municipal separate storm sewer outfall that discharges from a single pipe with an inside diameter of 36 inches or more (12 inches or more if stormwater is received from industrially zoned lands), or its equivalent.

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The Department is incorporating 40 C.F.R. 122.26(d) and related provisions by reference in order to focus Subchapter 25 on stormwater discharges from small municipal separate storm sewer systems (small MS4s). As discussed in the opening part of this summary, while Newark, Jersey City, Paterson, and Elizabeth were originally identified as having “large” or “medium” municipal separate storm sewer systems (large or medium MS4s), those municipalities were not regulated under Phase I since they were served mainly by combined sewers rather than by separate storm sewers (which serve less than 100,000 persons in each municipality). Because the municipal separate storm sewers that could be designated as large or medium MS4s are more appropriately regulated as small MS4s, it is unlikely that any large or medium MS4s will be designated in New Jersey in the future.

N.J.A.C. 7:14A-25.10 does not continue provisions related to discharge from a municipal separate storm sewer designated under existing N.J.A.C. 7:14A-11.5(a)1v because the latter rule incorporates a Federal regulation that pertains only to stormwater DSW designated prior to October 1, 1994, and no such designations were made in New Jersey.

N.J.A.C. 7:14A-25.10(a) does not incorporate by reference the definitions at 40 C.F.R. 122.26(b)(2) and (9) of “illicit discharge” and “outfall”. Instead, N.J.A.C. 7:14A-25.10(a) provides that references to an “illicit discharge” in 40 C.F.R. 122.26(d) shall be understood to mean an “illicit connection” as defined at N.J.A.C. 7:14A-1.2. Incorporation of the 40 C.F.R. 122.26(b)(9) definition of “outfall” is unnecessary because N.J.A.C. 7:14A-1.2 defines “outfall”.

N.J.A.C. 7:14A-25.10(a) also exempts applicants for permits for discharges from large and medium separate storm sewers from various application requirements of N.J.A.C. 7:14A-4.3 and 4.4. This exemption continues the exemption in existing N.J.A.C. 7:14A-11.5(d). None of these requirements are imposed by 40 C.F.R. 122.26 or 122.21 on applicants for such discharges. In addition, N.J.A.C. 7:14A-25.10(a) is amended in comparison to existing N.J.A.C. 7:14A-11.5(d) by the addition of an exemption from the requirements of N.J.A.C. 7:14A-4.3(a)15. These are unnecessary because of the topographic map that 40 C.F.R. 122.26(d)(1)(iii)(B) requires in the application.

(Additional background about some of the issues affecting regulation of stormwater discharges is contained in an issue paper that is available from the Bureau of Nonpoint Pollution Control, Department of Environmental Protection, PO Box 029, Trenton, New Jersey 08625-0029.)

### **Social Impact**

The Department expects generally positive social impacts from the proposed amendments. The Municipal Stormwater Regulation Program that will be established under proposed Subchapter 25 and related requirements in Subchapter 24 and elsewhere in the NJPDES rules accounts for most of these impacts.

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As discussed in the Environmental Impact and Economic Impact statements below, the Department believes that the proposed amendments will generally benefit all residents of the State by helping to maintain or restore water quality in streams, rivers, lakes, estuaries, wetlands, the ocean, and groundwater. The surface waters and groundwaters of the State are used as domestic, municipal, and industrial water supplies, and for commercial and recreational fishing, clamming, crabbing, swimming, and boating. Maintaining and improving water quality provides social benefits by protecting access to these activities. The Municipal Stormwater Regulation Program is also expected to result in other environmental benefits with positive social impacts such as maintaining water supply from groundwater recharge, reduced hazards to safety and property from floods and erosion, aesthetic and other amenities (e.g., more trees and less litter), and preserved or created wildlife habitat.

The Municipal Stormwater Regulation Program will directly affect all levels of government in the State, and will indirectly impact most State residents and businesses through public education, and through ordinances or other regulatory mechanisms. This Program seeks to make fundamental changes in the behavior of residents, businesses, and public agencies with regard to stormwater systems and pollution control.

### **Economic Impact**

The Department expects positive and negative economic impacts from the proposed amendments. Most of these impacts result from incorporation of USEPA's final "Phase II" stormwater regulations concerning small municipal separate storm sewer systems (small MS4s) and stormwater discharge associated with construction activity, or of USEPA's regulations concerning underground injection at large-capacity cesspools and motor vehicle waste disposal wells.

### **Municipal Stormwater Regulation Program**

Those entities that operate a "small municipal separate storm sewer system" (small MS4) as defined at proposed N.J.A.C. 7:14A-1.2, and who are required under proposed N.J.A.C. 7:14A-25.2(a) or (b) to obtain and comply with a NJPDES permit, will be substantially and directly affected financially by the proposed rules. These entities include potentially all of New Jersey's 566 municipalities, all 21 counties, and many county, State, interstate, and Federal agencies that operate small MS4s that are located at "highways and other thoroughfares" or at certain "public complexes" (such as some hospitals, prisons, colleges, universities, office complexes, or military bases).

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The municipalities and other entities will incur the costs of preparing requests for authorization (RFAs) for NJPDES general permits (or individual permit applications, if appropriate); the costs of developing, implementing, and enforcing a stormwater program and complying with other NJPDES permit conditions; the costs of NJPDES permit fees; and the risk of penalties or fines if the NJPDES permit is not applied for or violated. As discussed in the Summary, the Department contemplates issuing four general NJPDES permits to implement the Municipal Stormwater Regulation Program (the Tier A Permit, Tier B Permit, Public Complex Permit, and Highway Permit), and also expects that most if not all entities will apply for a general rather than an individual NJPDES permit. The Department has been working closely with the Municipal Stormwater Advisory Group, the BMP Subcommittee, and the New Jersey Quality Initiative Group in developing proposed rule amendments and general permits that will provide substantial environmental benefit without excessive regulatory burden.

In 1998, USEPA estimated the average cost to each applicant of preparing a Notice of Intent (what the NJPDES rules call a request for authorization or RFA) for a small MS4 general permit to be \$1045.20 based on 40 hours of labor. Because the Department's general permits will specify best management practices (BMPs) and measurable goals, however, the Department expects its RFA forms to be short and simple, and the preparation of an RFA should generally require three or less hours of labor by each applicant. The cost to each applicant should be under \$100.00.

The main costs to small MS4 permittees will be the costs of developing, implementing, and enforcing the stormwater program required by the general NJPDES permit. Except for the Tier B permit discussed below, the core requirements for this stormwater program are the "Statewide Basic Requirements" (SBRs) listed under proposed N.J.A.C. 7:14A-25.6(b)1 and (b)3 through (b)8. The costs of developing, implementing, and enforcing the stormwater program for these SBRs is variable and depends on a number of factors, including: the specific conditions of the general permit; the nature and extent of the permittee's small MS4, maintenance yards, and highway service areas; the amount of new development or redevelopment that the permittee would undertake or regulate; the method of public education and the population to be educated; the nature and extent (with respect to the permittee's small MS4) of illicit connections and sources of solid and floatable materials; the number of the permittee's employees requiring training; and the control measures already being implemented.

The listed SBRs are derived from USEPA's "minimum control measures" in 40 C.F.R. 122.34(b). USEPA discussed the costs that would be incurred by many small MS4 permittees with respect to those measures in the Preambles to USEPA's proposed and final "Phase II" stormwater regulations (January 9, 1998, 63 Fed Reg. 1535; December 8, 1999, 64 Fed. Reg. 68721), and in a report to Congress (U.S. Environmental Protection Agency, 1999).

Using information from a National Association of Flood and Stormwater Management Agencies survey of local communities, USEPA estimated the total costs to small MS4 permittees (including administrative costs for recordkeeping, reporting, and applying for the permit) to



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average \$9.16 per household annually (1998 dollars). USEPA also separately estimated those total costs to average \$9.08 per household annually based on actual expenditures reported from 26 Phase I MS4s (see 64 Fed. Reg. 68791-68792). These estimates are equivalent to an average annual cost of about \$3.50 per capita (using USEPA's conversion factor of 2.62 persons per household). For New Jersey's 467 currently listed Tier A municipalities, this annual per capita cost corresponds to a total annual cost of about \$28 million (using 2000 Census populations), or an annual average cost per municipality of about \$61,000.

Reese et al. (2000) estimated costs that would be incurred by small MS4 permittees based on an interpretation of USEPA's Phase II stormwater regulations as applied to two hypothetical communities that differ in size and program complexity. The estimated total annual cost per capita for USEPA's minimum control measures ranged from \$1.33 to \$7.76 for the first 5-year permit term, and from \$1.11 to \$5.63 for subsequent 5-year permit terms.

The Department considers the costs estimated by USEPA and Reese et al. to be more relevant to the Department's Tier A Permit than to the Public Complex Permit or the Highway Permit. Moreover, up to 20 percent of the estimated costs were attributable to the minimum control measure for construction site runoff. The Department's Municipal Stormwater Regulation Program will not impose costs for construction site runoff control on small MS4 permittees because the Department is responsible for implementing the SBR for construction site runoff. (Economic impacts specific to construction activity are discussed separately below.)

Because the SBRs in the Tier B Permit include only two of USEPA's minimum control measures (post-construction stormwater management in new development and redevelopment, and public education), the average per capita costs incurred by Tier B municipalities will be substantially lower than those incurred by Tier A municipalities. USEPA's estimated total annual costs per capita incurred by small MS4 permittees for these two measures ranged from about \$1.10 to \$1.43 (63 Fed. Reg. 1599). The corresponding per capita estimates by Reese et al. ranged from \$0.53 to \$3.82 for the first permit term, and from \$0.49 to \$2.66 for subsequent permit terms. An average annual cost of \$1.27 per capita (the middle of USEPA's range) would correspond to a total annual cost of about \$0.42 million for New Jersey's 99 currently listed Tier B municipalities (using 2000 Census populations), or an annual average cost per municipality of about \$4,300.

Some costs incurred by small MS4 permittees for SBRs are not additional costs because some components of these SBRs are already specifically required under existing law. For example, one component of the SBR for post-construction stormwater management requires Tier A and Tier B municipalities to ensure that residential development and redevelopment projects comply with the Department of Community Affairs' Residential Site Improvement Standards (RSIS) for stormwater management (N.J.A.C. 5:21-7). This requirement already exists under N.J.A.C. 5:21 and the Municipal Land Use Law at N.J.S.A. 40:55D-40.1 to 40.7. In addition, much of the new development or redevelopment that will be directly undertaken by small MS4 permittees is already subject to requirements for post-construction stormwater management

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under other regulatory programs such as the Department's Coastal Zone Management rules at N.J.A.C. 7:7E and the Flood Hazard Area Control Act rules at N.J.A.C. 7:13, and the State Soil Conservation Committee's Stormwater Runoff Treatment Standards at N.J.A.C. 2:90-1.3(a)3.

The Department's Sewage Infrastructure Improvement Act Grants rules (N.J.A.C. 7:22A) already require 94 Tier A municipalities to comply with requirements for stormwater sewer system mapping and for elimination of interconnections and cross-connections that are more extensive than the requirements for MS4 outfall pipe mapping and illicit connections in the SBR for prohibiting improper disposal of waste. Also, to avoid liability under the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., prudent Tier A municipalities or other prospective small MS4 permittees that own or operate maintenance yards or highway service areas will already have taken a variety of actions that may also be required under the SBR for such yards and areas.

In addition, some costs incurred by small MS4 permittees for SBRs are not additional costs because some prospective small MS4 permittees are already (in varying degrees) implementing some components of these SBRs even though they are not specifically required to do so under existing law. For example, many Tier A municipalities or other prospective small MS4 permittees already implement one or more BMPs, such as prohibiting littering or other improper disposal of waste, sweeping pavement, cleaning or repairing stormwater management facilities, controlling erosion along roads, maintaining litter receptacles, or storing de-icing salt indoors, that may be required under various SBRs. It is also possible, however, that small MS4 permittees will incur additional costs for Additional Measures required in the future by total maximum daily loads (TMDLs) or other adopted Water Quality Management Plan amendments, or for other non-SBR measures specified in NJPDES permits.

The Department also encourages small MS4 permittees to reduce the cost and improve the effectiveness of their stormwater programs by relying where appropriate on other governmental or private entities to implement one or more control measures or component(s) thereof (as allowed under proposed N.J.A.C. 7:14A-25.7(a) and 25.8(d)). These entities could be, for example, other small MS4 permittees; soil conservation districts; local health agencies; regional, State, or interstate agencies; watershed management groups; watershed associations; and business or environmental organizations.

Although there are no Federal or State grant funds directly available for the Municipal Stormwater Regulation Program, there are Federal and State programs that can provide some financial assistance. Examples include the Transportation Equity Act for the 21st Century (TEA-21, PL 105-178) for certain transportation related stormwater projects; State grants to municipalities and counties for litter-related activities under the Clean Communities Account (N.J.S.A. 13:1E-99.2) if the State tax on litter-generating products is extended; and the New Jersey Environmental Infrastructure Financing Program, which is a revolving loan program, administered by the Department and the New Jersey Environmental Infrastructure Trust, that provides loans for a wide variety of wastewater, stormwater, and nonpoint source management

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projects. To the extent feasible, the Department intends to make funds available to local governments to defray some of the costs of being a small MS4 permittee.

Pursuant to the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., however, the Department also intends to assess administrative fees to cover the costs of processing, monitoring and administering NJPDES permits for small MS4s. For each of the four general NJPDES permits, the Department intends to establish an annual “minimum fee” (which for a general permit is the total fee) using the calculation method and Annual NJPDES Fee Schedule Report process specified in N.J.A.C. 7:14A-3.1(a)9iii and (b). The Department tentatively plans to establish a uniform annual minimum fee of several hundred dollars for the Tier B permit, and to establish annual minimum fees for the Tier A Permit, Public Complex Permit, and Highway Permit that range from several hundred dollars to around \$10,000, depending on municipal or public complex population (Tier A Permit, Public Complex Permit) or highway mileage (Highway Permit). Like the rest of the fees established by the Annual NJPDES Fee Schedule Report process, these minimum fees would be subject to a public hearing and public comment.

USEPA’s National Menu of Best Management Practices for Storm Water Phase II ([www.epa.gov/npdes/menuofbmps/menu.htm](http://www.epa.gov/npdes/menuofbmps/menu.htm)) includes cost information for many individual BMPs that may or may not be required in NJPDES permits for small MS4s. If the NJPDES permit requires the BMP, these costs would be incurred (depending on the BMP and the permittee’s stormwater program) directly by small MS4 permittees, or indirectly by other entities such as land developers, landowners, or tenants.

The proposed amendments will also have an economic impact on many private or public entities that are not small MS4 permittees, but that engage in new development or redevelopment activities that disturb one or more acres in Tier A or Tier B municipalities, or use the property after such activities are completed. Such entities will be subject to ordinances or other regulatory mechanisms that those municipalities include in their stormwater programs to address post-construction stormwater runoff. The type and extent of this economic impact is variable and depends on a number of factors, including: the size, nature, and location of the activity; the specific requirements of the regulatory mechanism; the specific stormwater management measures selected in response to those requirements; and the stormwater management requirements that would apply even in the absence of the proposed amendments.

In the Preamble to its final “Phase II” stormwater regulations, USEPA estimated that the potential costs nationwide to meet the post-construction minimum measure using on-site structural, site-by-site control range from \$44 million to \$178 million annually in 1998 dollars (see 64 Fed. Reg. 68792). If New Jersey is allocated two percent of these costs (in proportion to its share of the nation’s population growth from 1990 to 2000), New Jersey’s share would range from about \$0.9 million to \$3.6 million annually. Most of these costs (and other costs and benefits discussed below) are not new because they would be incurred under the Residential Site Improvement Standards or other stormwater management regulations.

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In addition, the proposed amendments require small MS4 permittees to ensure adequate long-term operation and maintenance of BMPs. This cost may fall partly or entirely on landowners (or tenants) depending on how such operation and maintenance is funded. Over a 20-25 year period, the full cost to maintain a stormwater practice is roughly equal to its initial construction cost (Schueler, 2000a). Some stormwater management measures, however, can economically benefit owners of land where such measures are used, by preserving or creating amenities that enhance property value, or by reducing mowing or other maintenance costs, or on-site flood or erosion damage.

The Department expects the NJPDES permit program for small MS4s to have water quality and other benefits that have substantial economic value to the general public and some small MS4 permittees. USEPA discussed the economic value of the surface water quality benefits of its final “Phase II” stormwater regulations in the Preamble to those regulations. For three categories of surface water quality benefits (“Fresh Water Use and Passive Use”, “Marine Recreational Swimming”, and “Human Health (Marine Waters)”, USEPA developed monetized annual estimates for its small MS4 “minimum control measures” (excluding stormwater runoff controls for construction sites). Nationally, USEPA expects these annual benefits to range from \$131 million to \$410 million (see Exhibit 5 at 64 Fed. Reg. 68794). If eight percent of these benefits are allocated to New Jersey (in proportion to New Jersey’s share of the nation’s Phase II population in urbanized areas), New Jersey’s share of these estimated annual benefits would range from about \$10 million to about \$33 million. For the same reasons that some costs incurred by small MS4 permittees in New Jersey are not additional costs, some of these benefits are not additional benefits.

USEPA did not monetize some categories of water quality benefits, including municipal drinking water cost savings and risk reductions, and some benefits for improving marine water quality such as fishing and passive use benefits. In addition, USEPA did not monetize other potential benefits such as maintaining groundwater recharge, some of the reduced hazards to safety and property from floods and erosion, and aesthetic and other values of amenities (other than fresh surface water quality amenities) and wildlife habitat preserved or created by some stormwater management measures. Some of these benefits are recognized in Schueler, T. R. (2000a) and the U.S. Environmental Protection Agency Report to Congress (1999). USEPA’s monetized estimates may also be limited to minimum control measures in urbanized areas, and thus not include any benefits of the Subchapter 25 Municipal Stormwater Regulation Program insofar as it controls small MS4s outside urbanized areas.

### References

Reese, A. J. et al. (2000). Stormwater Costs: Take 2. Estimating costs for the Phase II stormwater management program. *Water Environment & Technology*, **12**, 33.

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Schueler, T. R. (2000a). Article 30. The Economics of Watershed Protection. *The Practice of Watershed Protection*. Edited by Thomas R. Schueler and Heather K. Holland. Ellicott City, Maryland: The Center for Watershed Protection.

Schueler, T. R. (2000b). Article 68. The Economics of Stormwater Treatment: An Update. *The Practice of Watershed Protection*. Edited by Thomas R. Schueler and Heather K. Holland. Ellicott City, Maryland: The Center for Watershed Protection.

U.S. Environmental Protection Agency (1999). Report To Congress On The Phase II Storm Water Regulations. EPA 833-R-99. U.S. Environmental Protection Agency, Office of Water.

### **Other Proposed Amendments**

Those members of the industrial community that qualify for exclusion under proposed N.J.A.C. 7:14A-24.6 (“Permanent No Exposure” of industrial activities and materials to stormwater) will be directly affected financially. These facilities will incur the minor administrative costs of about \$50.00 for completing and submitting a “Permanent No Exposure Certification.” However, if the facility also has a “stormwater discharge associated with industrial activity” as defined in existing N.J.A.C. 7:14A-1.2, the facility will also save the higher annual administrative costs for a NJPDES DSW stormwater permit (which for the Department’s existing “basic industrial” stormwater general permit include the \$500.00 permit fee, and an average of approximately \$300.00 for facility inspection, stormwater pollution prevention plan (SPPP) revision, recordkeeping, and reporting).

Also directly affected financially are certain other industrial facilities that would have a “stormwater discharge associated with industrial activity” because of proposed amendments to the definition of that term, and because they would not in their current condition qualify for exclusion under proposed N.J.A.C. 7:14A-24.6. These facilities will either incur costs for facility modification to qualify for such exclusion, or will incur annual administrative costs for a NJPDES DSW stormwater permit (as discussed above), and the initial administrative cost of applying for the permit and preparing an SPPP.

Proposed N.J.A.C. 7:14A-24.10 and proposed amendments to N.J.A.C. 7:14A-3.1(j) will have, in varying degrees, a minor negative economic impact on those who operate stormwater discharges 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 number of new projects per year with these discharges varies with building activity, but is expected to average around 700. A proposed amendment to N.J.A.C. 7:14A-3.1(j) will increase the fee charged for these discharges under the Department’s “construction activity” stormwater general permit (NJPDES Permit No. NJ0088323) from \$200.00 to \$300.00. Proposed N.J.A.C. 7:14A-24.7 does not require an individual permit application for these discharges to include any

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information that could not be required under existing N.J.A.C. 7:14A-11.5(c)1ii and (c)1v and N.J.A.C. 7:14A-4.

Proposed N.J.A.C. 7:14A-24.10 establishes new requirements that those who operate stormwater discharges associated with construction activity control waste such as discarded building materials, concrete truck washout, chemicals, litter, sanitary waste, and other solid or hazardous waste at the construction site, and to include information concerning such waste control in the stormwater pollution prevention plan (SPPP) for the construction activity. The cost to control such waste is variable and depends on a number of factors, including the types and quantities of waste at the construction site, the housekeeping measures employed, and any expenses incurred to prevent or reduce such waste.

Many of the costs to control such waste are not additional costs because such control is already required to comply with existing law including the Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.), the State litter statute (N.J.S.A. 13:1E-99.3), the Spill Compensation and Control Act, the existing NJPDES rules, the Pesticide Control Code (N.J.A.C. 7:30), occupational safety and health regulations, and municipal or local health ordinances. In addition, the Department is drafting best management practice (BMP) language for NJPDES permits to facilitate the preparation and review of SPPP provisions concerning such control.

The proposed amendments will have a generally minor economic impact on persons who operate “stormwater discharge associated with small construction activity” as defined in a proposed amendment to N.J.A.C. 7:14A-1.2. The number of new projects per year with these discharges varies with building activity, but is expected to average around 2,500. Several provisions in proposed N.J.A.C. 7:14A-24.2, 24.4, and 24.7 and a proposed amendment to N.J.A.C. 7:14A-11.1(b) require such persons to apply for a NJPDES permit for this discharge. Such persons will incur the costs of preparing requests for authorization (RFAs) for a general permit (or individual permit applications, if appropriate); the costs of complying with the NJPDES permit; the costs of NJPDES permit fees; and the risk of penalties or fines if the NJPDES permit is not applied for or is violated.

The Department anticipates revising its existing “construction activity” stormwater general permit to authorize and control this discharge and meet all applicable requirements in proposed N.J.A.C. 7:14A-24.10. Because this general permit requires minimal information in the RFA, the Department expects the cost (excluding fee) of completing and submitting each RFA to be under \$100.00 (see 63 Fed. Reg. 1597; January 9, 1998). Under a proposed amendment to N.J.A.C. 7:14A-3.1(j), the fee charged for this discharge under this general permit is \$300.00.

The Department also expects that the principal effluent limitation in this general permit will continue to be compliance with requirements established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. Thus, this general permit is not expected to impose any requirements for soil erosion and sediment control that would not already apply to

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the project under that Act. As discussed above, costs would be incurred 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, and to include information concerning such waste control in the SPPP for the construction activity. In addition, costs would be incurred for annual facility inspection, SPPP revision, recordkeeping, and reporting of noncompliance (which collectively should average under \$300.00 for each year the facility has the permit).

The fee charged for the “construction” stormwater general permit under proposed amendments to N.J.A.C. 7:14A-3.1(j) is equal to or lower than the lowest minimum fee charged for any other NJPDES permit under N.J.A.C. 7:14A-3.1 Table III. Moreover, the fee for this general permit is not an annual fee, but a one-time fee assessed for each RFA. The proposal should not have a negative economic impact on the soil conservation districts, as the Department expects that the expenses those districts incur under this general permit will continue to be reimbursed from NJPDES fee revenues.

The proposed expansion of the N.J.A.C. 7:14A-8.5 UIC permit-by-rule to include underground injection of stormwater discharges from certain municipal separate storm sewers, residential areas, and animal feeding operations may have a positive economic impact on persons who own or operate injection wells for such discharges, by saving such persons the expense of obtaining a general or individual UIC permit for such injection wells.

Proposed N.J.A.C. 7:14A-8.4(a)3 and 8.16(d)2 are not expected to have a substantial impact on the regulated community. N.J.A.C. 7:9A-1.6(g) already prohibits the construction or installation of cesspools. Owners or operators of any existing large-capacity cesspools authorized by Subchapter 8 will incur the costs of closing the cesspool and using a different method of sewage disposal, but the Department believes that there are few if any such cesspools.

By prohibiting Subchapter 8 authorization of motor vehicle waste disposal wells constructed on or after April 5, 2000, proposed N.J.A.C. 7:14A-8.4(a)3 may impose costs on some facilities that repair or maintain motor vehicles by requiring those facilities to use methods other than such wells to manage their motor vehicle waste. The Department believes, however, that this prohibition will adversely impact very few such facilities because such other methods are already in widespread use, and because the cost of obtaining and complying with Subchapter 8 authorization would itself have been substantial.

Proposed N.J.A.C. 7:14A-8.4(a)3 and 8.16(d)2 are not expected to impose any other new costs on the regulated community because large-capacity cesspools and motor vehicle waste disposal wells are already required to have a UIC permit under existing N.J.A.C. 7:14A-8.3, 8.1(b)1iv, and 8.8, and are also thus subject to existing N.J.A.C. 7:14A-8.16(d)2. Requiring motor vehicle waste disposal wells that have a UIC permit to meet Ground Water Quality Standards at the last accessible sampling point prior to waste fluids being released into the subsurface environment will have no economic impact, because existing N.J.A.C. 7:14A-7.6(c)

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allows the Department to include this effluent limitation in discharge to groundwater permits (including UIC permits).

Proposed N.J.A.C. 7:14A-8.16(g) may impose costs on the regulated community in those instances where this subsection prevents or increases the expense of converting a motor vehicle waste disposal well to another type of Class V well. Under the existing NJPDES rules, however, the Department can already impose requirements similar to this subsection as UIC permit application requirements or UIC permit conditions. The Department believes that this subsection will increase costs for very few facilities.

### **Environmental Impact**

The Department expects generally positive environmental impacts from the proposed amendments. Many of these impacts result from incorporation of USEPA's final "Phase II" stormwater regulations concerning small municipal separate storm sewer systems (small MS4s) and stormwater discharge associated with construction activity, or of USEPA's regulations concerning underground injection at large-capacity cesspools and motor vehicle waste disposal wells.

### **Municipal Stormwater Regulation Program**

The Municipal Stormwater Regulation Program accounts for most of the environmental impacts from the proposed amendments. This Program will control discharges to surface water and groundwater from most municipal separate storm sewers. These discharges are an important segment of the larger universe of stormwater-related or nonpoint pollution sources, which are a major cause of water pollution (including between 40 and 70 percent of existing surface water quality problems in New Jersey). Under this Program, potentially all of New Jersey's 566 municipalities, as well as all 21 counties and many county, State, interstate, and Federal agencies will for the first time obtain NJPDES permits for small MS4s, and will be required by those permits to implement measures designed to reduce the discharge of pollutants and protect water quality.

USEPA discussed, in some detail, adverse effects on surface water quality of uncontrolled discharges from small MS4s in the Preamble to USEPA's final "Phase II" stormwater regulations (December 8, 1999, 64 Fed. Reg. 68724-68728), and in a report to Congress (U.S. Environmental Protection Agency, 1999). The following four paragraphs briefly summarizing these effects are adapted from parts of those discussions. (For a discussion of groundwater contamination from stormwater infiltration, see Pitt (1996).)



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Stormwater runoff from lands modified by human activities can harm surface water resources by changing natural hydrologic patterns, accelerating stream flows, destroying aquatic habitat, and elevating pollutant concentrations and loadings. Such runoff may contain or mobilize high levels of contaminants, such as sediment, suspended or dissolved solids, nutrients (phosphorus and nitrogen), heavy metals and other toxic pollutants, pathogens, oxygen-demanding substances (organic material), and floatables. During or after rainfall (or melting of frozen precipitation), stormwater runoff carries these pollutants into nearby streams, rivers, lakes, estuaries, wetlands, and oceans. Individually and combined, these pollutants impair water quality, threatening beneficial water uses and causing habitat alteration or destruction.

Urbanization alters the natural infiltration capability of the land, and generates a host of pollutants that are associated with the activities of dense populations, thus causing an increase in stormwater runoff volumes and pollutant loadings in stormwater discharged to receiving waterbodies. Urban development increases the amount of impervious surface in a watershed as farmland, forests, and meadowlands with natural infiltration characteristics are converted into buildings with rooftops, driveways, sidewalks, roads, and parking lots with virtually no ability to absorb stormwater. Stormwater washes over these impervious areas, picking up pollutants along the way while gaining speed and volume because of the inability of these areas to disperse and filter stormwater into the ground. What results are stormwater flows that are higher in volume, pollutants, and temperature than the flows in less impervious areas, which have more natural vegetation and soil to filter the runoff.

In addition to impervious areas, urban development creates new pollution sources as population density increases and brings with it proportionately higher levels of motor vehicle emissions (including particulates from vehicle wear and tear as well as engine emissions), motor vehicle maintenance wastes (such as spilled fuel and used motor oil and radiator fluids), pet waste and certain kinds of wildlife waste, litter, pesticides, fertilizers, and household hazardous wastes, which may be washed into receiving waters by stormwater or dumped directly into storm drains designed to discharge to receiving waters. More people in less space results in a greater concentration of wastes and other pollutants that can be mobilized by, or disposed into, stormwater discharges from small MS4s.

In addition, discharges from small MS4s often include wastes from inappropriate nonstormwater sources. Such wastes enter the small MS4 through direct physical connections (e.g., wastewater piping either mistakenly or deliberately connected to the storm drains) or other means (e.g., leaks, flows, or overflows from the sanitary sewer system into the small MS4). The result of such sources or other improper disposal of waste is untreated discharges that contribute high levels of pollutants, including heavy metals, oil and grease, solvents, other toxic pollutants, nutrients, and pathogens into receiving waterbodies.

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For discharges from small MS4s to surface water, the kind of water quality protection provided by the Municipal Stormwater Regulation Program is consistent with the kind of water quality protection envisioned by USEPA under its final "Phase II" stormwater regulations. Any NJPDES permit subject to proposed N.J.A.C. 7:14A-25.6 must, at a minimum, require the permittee to develop, implement, and enforce a stormwater program designed to reduce the discharge of pollutants from the permittee's small MS4 to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the Federal Clean Water Act and the New Jersey Water Pollution Control Act.

The Department intends to set forth in the NJPDES permit the specific control measures that the permittee's stormwater program must include in order to be deemed to comply with these MEP and water quality requirements. These control measures would usually consist of "Statewide Basic Requirements" (SBRs) and, where applicable, "Additional Measures", as discussed below. The stormwater program must also include any other control or evaluation measures specified in the NJPDES permit. Consistent with 40 C.F.R. 122.34(a), proposed N.J.A.C. 7:14A-25.6 provides that for small MS4s, best management practice (BMP) requirements (rather than numeric effluent limitations) are generally the most appropriate form of control measure when designed to reduce pollutants to the maximum extent practicable and to protect water quality.

The Department believes that the SBRs in these NJPDES permits will provide substantial water quality benefits to the extent that such benefits can be practicably achieved through post-construction stormwater management in new development and redevelopment, public education on stormwater impacts, prohibiting and eliminating illicit connections and other improper disposal of waste, control of solid and floatable materials, and control of runoff from the permittee's maintenance yards and highway service areas. The SBRs required by the Tier B Municipal Stormwater Permit (Tier B Permit), which is not subject in most respects to proposed N.J.A.C. 7:14A-25.6, are limited to post-construction stormwater management in new development and redevelopment, and public education on stormwater impacts. Some SBRs are also expected to result in other environmental benefits such as increased water supply from groundwater recharge, reduced hazards to safety and property from floods and erosion, aesthetic and other amenities (e.g., more trees and less litter) and preserved or created wildlife habitat.

Some water quality and other environmental benefits of SBRs are not additional benefits because as discussed in the Economic Impact statement above, some components of these SBRs are already specifically required under existing law, or because some prospective small MS4 permittees are already (in varying degrees) implementing some components of these SBRs. It is also possible, however, that additional water quality and other environmental benefits will result from Additional Measures required in the future by total maximum daily loads (TMDLs) or other adopted Water Quality Management Plan amendments, or for other non-SBR measures specified in NJPDES permits. USEPA's National Menu of Best Management Practices for Storm Water

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Phase II ([www.epa.gov/npdes/menuofbmeps/menu.htm](http://www.epa.gov/npdes/menuofbmeps/menu.htm)) discusses the effectiveness of many individual BMPs that may or may not be required in NJPDES permits for small MS4s.

### References

Pitt, R. (1996). *Groundwater Contamination from Stormwater Infiltration*. Chelsea, Michigan: Ann Arbor Press, Inc.

U.S. Environmental Protection Agency (1999). Report To Congress On The Phase II Storm Water Regulations. EPA 833-R-99. U.S. Environmental Protection Agency, Office of Water.

### **Other Proposed Amendments**

Proposed N.J.A.C. 7:14A-24.10 is expected to have a positive environmental impact because it includes requirements not contained in the Department's existing "construction activity" stormwater general permit (NJPDES Permit No. NJ0088323). The proposed amendments that require a NJPDES permit for "stormwater discharge associated with small construction activity" are expected to have a positive environmental impact because they expand the universe of construction activity that will be regulated by the Department, and thereby reduce the discharge of pollutants from such activity.

The proposed expansion of the N.J.A.C. 7:14A-8.5 UIC permit-by-rule to include underground injection of stormwater discharges from certain municipal separate storm sewers, residential areas, and animal feeding operations should not have a significant negative environmental impact. This proposed change enables these activities to have a permit that exerts an appropriate level of control for the risk associated with the discharge.

In addition, owners or operators of injection wells for these discharges are subject to various requirements in N.J.A.C. 7:14A-8.4 and 8.5(d) and (h), such as a requirement to apply for a general or individual UIC permit, perform monitoring or reporting, cease injection, or close the injection well, if, for example, the Department learns that the injection well may cause a violation of the Department's primary drinking water rules (N.J.A.C. 7:10) or Ground Water Quality Standards (N.J.A.C. 7:9-6), or may otherwise be adversely affecting the health of persons. Such owners or operators are also required by N.J.A.C. 7:14A-8.5(c) to submit inventory information to the Department within 90 days of a notification by the Department.

Proposed N.J.A.C. 7:14A-8.4(a)3 and 8.16(d)2 are not expected to have any environmental impact because N.J.A.C. 7:9A-1.6(g) already prohibits the construction or installation of cesspools, and because large-capacity cesspools and motor vehicle waste disposal wells are already required to have a UIC permit under existing N.J.A.C. 7:14A-8.3, 8.1(b)iv,

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and 8.8, and are also thus subject to existing N.J.A.C. 7:14A-8.16(d)2. Requiring motor vehicle waste disposal wells that have a UIC permit to meet Ground Water Quality Standards at the last accessible sampling point prior to waste fluids being released into the subsurface environment will have no environmental impact, because existing N.J.A.C. 7:14A-7.6(c) allows the Department to include this effluent limitation in discharge to groundwater permits (including UIC permits).

Proposed N.J.A.C. 7:14A-8.16(g) may have a positive environmental impact by establishing specific requirements that must be met in order to convert a motor vehicle waste disposal well to another type of Class V well. Under the existing NJPDES rules, however, the Department can already impose requirements similar to this subsection as UIC permit application requirements or UIC permit conditions. The Department believes that this subsection will affect very few motor vehicle waste disposal wells.

### **Federal Standards Analysis**

Executive Order No. 27(1994) and N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c.65), require State agencies which adopt, readopt or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a Federal Standards Analysis.

Most of the proposed regulations are consistent with USEPA regulations and other Federal law that governs permits for stormwater discharges or concentrated animal feeding operations (CAFOs) under the National Pollutant Discharge Elimination System (NPDES) authorized by the Federal Clean Water Act, 33 U.S.C. §§1251 et seq., or with USEPA regulations for the Federal Underground Injection Control (UIC) Program created pursuant to Part C of the Federal Safe Drinking Water Act (SDWA) (42 U.S.C. §§ 300(f) et seq.). USEPA regulations specific to NPDES stormwater discharge and CAFO permits and the Federal UIC Program are found mainly at 40 C.F.R. 122.23, 122.26, 122.30 through 122.37, 123.35, and 40 C.F.R. 144-148. Other relevant USEPA regulations and Federal law are found in various provisions of 40 CFR 122.4, 122.21(a), (c), (d), (f), and (g), 122.28(b), 122.41(j), 122.42(c), 122.44(a), (i), (k), and (s), 122.62(a), 124.52, and 130.12; Section 208(e) of the Federal Clean Water Act (33 U.S.C. §1288(e)); and (for the Pinelands Area) Section 502 of the National Parks and Recreation Act of 1978, 16 U.S.C. §471i.

Because of the limited scope of USEPA's jurisdiction under the Federal Clean Water Act and the Federal Safe Drinking Water Act, the Federal NPDES stormwater and CAFO permit programs are limited to discharges from point sources to "waters of the United States" as defined in 40 C.F.R. 122.2 (most surface waters), and the Federal UIC Program is limited to underground injection through wells. In these proposed rules, however, the Department is exercising its broader authority under the New Jersey Water Pollution Control Act and Water Quality Planning

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Act to regulate not only those point source discharges and underground injection, but also certain stormwater discharges from nonpoint sources, and certain stormwater and CAFO discharges to other waters of the State including groundwater with or without underground injection. For example, the proposed amendments concerning the Municipal Stormwater Regulation Program regulate stormwater discharges to surface water and groundwater from small MS4s in a unified and consistent manner, and some provisions in proposed Subchapter 24 regulate certain stormwater discharges from nonpoint sources.

Other provisions in the proposed regulations for which there are no Federal counterparts include requirements in N.J.A.C. 7:14A-3.1(j) (fee for the “construction activity” stormwater general permit), 24.4(a)3 (permit application deadlines for certain large or medium municipal separate storm sewer systems), 24.5 (requests for information about stormwater discharges associated with industrial activity), 24.7(c) (identifying information required in individual permit applications for certain stormwater DSW that are not from industrial or commercial facilities or from small MS4s), and 25.8 (Tier B Municipal Stormwater Permit). All provisions in the proposed regulations for which there are no Federal counterparts do not exceed any standards or requirements imposed by Federal law.

To avoid re-authorizing injection wells that are currently unlawful and pose a substantial risk, proposed N.J.A.C. 7:14A-8.4(a)3 does not apply the deadlines in 40 C.F.R. 144.87 and 144.88 to large-capacity cesspools and motor vehicle waste disposal wells that are not authorized by Subchapter 8. This does not result in any new costs, and has the benefit of protecting the groundwaters of the State.

Under 40 C.F.R. 144.88(B)(1)(iv), UIC permits for motor vehicle waste disposal wells must include requirements to meet maximum contaminant levels (MCLs) and other health based standards at the point of injection. Proposed N.J.A.C. 7:14A-8.4(a)3 includes a requirement to meet Ground Water Quality Standards (N.J.A.C. 7:9-6) at the point of injection. Under the existing NJPDES rules, permits for discharges to groundwater (including UIC permits) are required to comply with the Ground Water Quality Standards. Any applicable requirements in the Ground Water Quality Standards that are not MCLs or health based standards are necessary to achieve the objectives of the Water Pollution Control Act and the Water Quality Planning Act.

Some provisions of proposed N.J.A.C. 7:14A-24.6 (“Permanent No Exposure” of industrial activities and materials to stormwater) exceed requirements in 40 C.F.R. 122.26(g) to help ensure that industrial facilities maintain “no exposure” on a permanent basis and thereby protect water quality. Industrial facilities that do not qualify for exclusion under N.J.A.C. 7:14A-24.6 can still in many instances qualify for the Department’s “basic industrial” stormwater general permit, which provides substantial environmental benefit with minimum regulatory burden.

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N.J.A.C. 7:14A-24.9(a) does not incorporate 40 C.F.R. 122.44(i)(4)(iv), which provides that permits for stormwater discharges associated with industrial activity from inactive mining operations may, where annual inspections are impracticable, require certification once every three years by a Registered Professional Engineer that the facility is in compliance with the permit, or alternative requirements. There are no inactive mining operations in New Jersey that are so remote and hard to reach that annual inspections are impracticable.

N.J.A.C. 7:14A-25.9(d) provides in part that an operating entity that seeks to implement a stormwater program under N.J.A.C. 7:14A-25.6 may seek authorization to discharge under an individual NJPDES permit in certain cases only. This aspect of N.J.A.C. 7:14A-25.9(d) might be considered to exceed 40 C.F.R. 122.33(b)(2)(i), which allows any operating entity that seeks to implement a stormwater program under 40 C.F.R. 122.34 to apply for a individual permit. The Department is restricting individual permit applications because the conditions of the individual and general permit are likely to be similar, and the greater amount of Department staff time required for issuing an individual permit when an authorization under a general permit would achieve the equivalent stormwater control would be an inefficient use of resources for no additional environmental benefit.

### **Jobs Impact**

The proposed amendments are expected to have either no or a small positive impact on jobs in the State. The Municipal Stormwater Regulation Program will result in a number of new activities to be conducted either directly or indirectly by municipalities, counties, State, interstate, and Federal agencies. These activities may be conducted with existing staff, or by contracting with other government agencies, private consultants, or other vendors. The number of jobs generated, if any, will vary based on a number of factors, including the amount of new activity, the existing workforce, and the availability of funds.

The proposed amendments regarding industrial no exposure may reduce activities associated with NJPDES stormwater permit compliance at industrial facilities that previously had a permit, but that will no longer need one. However, because these facilities already had limited or no exposure prior to the amendments, the work associated with compliance activities was most likely limited, and it is doubtful that new personnel were hired to comply. Therefore, the Department believes that these personnel will most likely be reassigned to other duties.

Certain light industrial facilities that do not currently have a NJPDES stormwater permit will need to perform certain new activities to qualify for "Permanent No Exposure" exclusion or obtain a NJPDES stormwater permit. However, because these facilities already have no exposure, these activities will most likely also be limited, and it is doubtful that new staff will be

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hired to perform them (or that facility operations will be reduced or terminated to avoid the costs of these activities). Therefore, the Department believes that facility staff will most likely be reassigned from other duties to perform these activities, and that no jobs will be generated or lost.

The proposed amendments regarding construction activity will probably not have any impact on jobs. While there are new activities required by the amendments, these activities are generally limited and will most likely be carried out by individuals already working on the project. In addition, since the principal effluent limitation in the Department's "construction activity" stormwater general permit requires compliance with the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., many of these activities are already being performed in compliance with those requirements.

The Department does not expect that any of the other amendments in this proposal will result in generation or loss of jobs.

### **Agriculture Industry Impact**

Several of the proposed amendments may benefit certain "animal feeding operations" (AFOs) as defined in N.J.A.C. 7:14A-1.2. Proposed amendments to N.J.A.C. 7:14A-2.13(d) narrow the criteria that the Department uses to designate AFOs that require a NJPDES permit. Proposed N.J.A.C. 7:14A-7.4(a)5 and 24.2(c) exempt stormwater discharge to groundwater (DGW) and discharge to surface water (DSW) from animal feeding operations that do not require NJPDES permits under N.J.A.C. 7:14A-2.5(d) or 2.13 (and that are not through underground injection) from the requirement to obtain a NJPDES DGW or DSW permit. The Department is also proposing to expand the N.J.A.C. 7:14A-8.5 UIC permit-by-rule to include underground injection of stormwater discharges from AFOs that do not require NJPDES permits under N.J.A.C. 7:14A-2.13.

These amendments may benefit the affected AFOs by saving them the time and expense of obtaining a NJPDES permit (or a general or individual UIC permit) for such AFOs. Proposed amendments to N.J.A.C. 7:14A-2.13(c) that allow the Department to request information from any AFO will have no impact on such AFOs, because existing N.J.A.C. 7:14A-2.11(a) allows the Department to request information from any AFO.

Proposed N.J.A.C. 7:14A-24.2(a)8 lists, as stormwater DSW and DGW that require a NJPDES permit, stormwater DSW and DGW that are from agricultural and silvicultural nonpoint sources regulated under N.J.A.C. 7:14A-2.5(d). Proposed N.J.A.C. 7:14A-24.2(a)8

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does not establish any new requirement to obtain a NJPDES permit, but merely recognizes that discharges that require NJPDES permits under existing N.J.A.C. 7:14A-2.5(d) can include stormwater DSW and DGW.

### **Regulatory Flexibility Analysis**

In accordance with the New Jersey Regulatory Flexibility Act (Act), N.J.S.A. 52:14B-16 et seq., the Department has determined that the proposed amendments concerning the Municipal Stormwater Regulation Program will not impose reporting, recordkeeping, or other compliance requirements on small businesses because they do not operate the municipal separate storm sewer systems regulated by those amendments. However, other proposed amendments will impose reporting, recordkeeping, and other compliance requirements on certain “small businesses” as defined under that Act. The Department has not provided small businesses exemptions from these requirements because most of these requirements result from incorporation of USEPA’s final “Phase II” stormwater regulations (including those concerning “no exposure” of industrial activities and materials to stormwater, stormwater discharge associated with construction activity, and underground injection at large-capacity cesspools and motor vehicle waste disposal wells), and because the requirements are appropriate to protect water quality.

Members of the industrial community that qualify for exclusion under proposed N.J.A.C. 7:14A-24.6 (“Permanent No Exposure” of industrial activities and materials to stormwater) will be directly affected by the proposed amendments. The Department believes that most such facilities are small businesses. To qualify for such exclusion, small businesses must satisfy certain reporting and other compliance requirements. These requirements include having “Permanent No Exposure” (as described in that section) of industrial materials and activities to stormwater, submitting a “Permanent No Exposure Certification” to the Department (at a cost of about \$50.00) every five years, and allowing the Department to inspect the facility and to make inspection reports available to the public upon request. Small businesses that discharge through a municipal separate storm sewer system (MS4) must also, at the request of that MS4’s operating entity, submit a copy of the “Permanent No Exposure Certification” to, and allow inspection and public reporting by, that entity.

However, if the small business also has a “stormwater discharge associated with industrial activity” as defined in existing N.J.A.C. 7:14A-1.2, the small business will also avoid the greater reporting, recordkeeping, and other compliance requirements and the higher annual administrative costs for a NJPDES DSW stormwater permit (which for the Department’s existing “basic industrial” stormwater general permit include the \$500.00 permit fee, and an average of approximately \$300.00 for facility inspection, stormwater pollution prevention plan (SPPP) revision, recordkeeping, and reporting).



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Small businesses should usually not require any professional services to qualify for exclusion under proposed N.J.A.C. 7:14A-24.6. However, if major physical modifications to the particular small business would be required to achieve “Permanent No Exposure”, such physical modifications may in some cases require the services of a professional engineer, architect, or land surveyor.

Also directly affected are certain other industrial small businesses that would have a “stormwater discharge associated with industrial activity” because of proposed amendments to the definition of that term, and because they would not in their current condition qualify for exclusion under proposed N.J.A.C. 7:14A-24.6. These small businesses will either have to modify their facilities to qualify for such exclusion, or prepare requests for authorization (RFAs) for a general permit (or individual permit applications, if appropriate); comply with the NJPDES permit (including its reporting and recordkeeping requirements); and pay NJPDES permit fees.

Small businesses should usually not require any professional services to obtain and comply with a NJPDES DSW stormwater permit, but would incur annual administrative costs for the permit (as discussed above), and the initial administrative cost of applying for the permit and preparing an SPPP.

Proposed N.J.A.C. 7:14A-24.10 and proposed amendments to N.J.A.C. 7:14A-3.1(j) will increase reporting, recordkeeping, and other compliance requirements imposed on small businesses that operate stormwater discharges 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 number of new projects per year with these discharges varies with building activity, but is expected to average around 700. Most of these projects are undertaken by small businesses. A proposed amendment to N.J.A.C. 7:14A-3.1(j) will increase the fee charged for these discharges under the Department’s “construction activity” stormwater general permit (NJPDES Permit No. NJ0088323) from \$200.00 to \$300.00. Proposed N.J.A.C. 7:14A-24.7 does not require an individual permit application for these discharges to include any information that could not be required under the existing NJPDES rules.

Proposed N.J.A.C. 7:14A-24.10 requires small businesses and other persons that operate stormwater discharges associated with construction activity to incur costs 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, and to include information concerning such waste control in the stormwater pollution prevention plan (SPPP) for the construction activity. The Department anticipates revising its existing “construction activity” stormwater general permit to meet this requirement. The general permit requires small businesses and other permittees to perform annual inspections of the facility (to evaluate SPPP adequacy and implementation), maintain reports and certifications of such inspections, and report incidents of noncompliance with the permit to the Department.

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The proposed amendments will also impose reporting, recordkeeping, and other compliance requirements on small businesses that operate “stormwater discharge associated with small construction activity.” The number of new projects per year with these discharges varies with building activity, but is expected to average around 2,500. Most of these projects are undertaken by small businesses. The small businesses that are required under the proposed amendments to apply for a NJPDES discharge to surface water (DSW) permit for this discharge have to prepare requests for authorization (RFAs) for a general permit (or individual permit applications, if appropriate); comply with the NJPDES permit (including its reporting and recordkeeping requirements); and pay NJPDES permit fees.

The Department anticipates revising its existing “construction activity” stormwater general permit to authorize and control this discharge. The Department expects the cost (excluding fee) of completing and submitting each RFA to be under \$100.00. The proposed one-time fee charged for this general permit is \$300.00.

The proposed amendments regarding stormwater discharges associated with construction activity should generally not require any professional services beyond those, if any, which small businesses otherwise need to comply with the Soil Erosion and Sediment Control Act and N.J.A.C. 2:90-1.4(c)4. If the small business submits an individual permit application rather than an RFA, the small business will probably need the services of a professional engineer or other professional to prepare the application. Also, for certain individual permit applications or for any individual NJPDES permits that require stormwater sampling, small businesses would require the services of laboratories certified to perform specific analyses.

The Department is proposing to expand the N.J.A.C. 7:14A-8.5 UIC permit-by-rule to include underground injection of stormwater discharges from certain residential areas and animal feeding operations. Small businesses that own or operate these Class V injection wells are not required to submit inventory information about these injection wells to the Department unless the Department provides notification under N.J.A.C. 7:14A-8.5(c), and should generally not require any professional services related to this permit-by-rule. This expansion of the N.J.A.C. 7:14A-8.5 UIC permit-by-rule may reduce reporting, recordkeeping, and other compliance requirements imposed on small businesses that own or operate these injection wells, by sparing such small businesses from more extensive reporting, recordkeeping, and other compliance requirements associated with obtaining a general or individual UIC permit for these injection wells.

Proposed N.J.A.C. 7:14A-8.4(a)3 will impose compliance requirements on some small businesses by preventing the construction of large-capacity cesspools, and by requiring owners or operators of any existing large-capacity cesspools authorized by Subchapter 8 to close the cesspool and use a different method of sewage disposal. N.J.A.C. 7:9A-1.6(g) already prohibits the construction or installation of cesspools, however, and the Department believes that few if any existing large-capacity cesspools are authorized by Subchapter 8.

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By prohibiting Subchapter 8 authorization of motor vehicle waste disposal wells constructed on or after April 5, 2000, proposed N.J.A.C. 7:14A-8.4(a)3 will impose compliance requirements on small businesses that repair or maintain motor vehicles by requiring those small businesses to use methods other than such wells to manage their motor vehicle waste. The Department believes, however, that this prohibition will adversely impact very few such small businesses because such other methods are already in widespread use, and because the cost of obtaining and complying with Subchapter 8 authorization would itself have been substantial.

Proposed N.J.A.C. 7:14A-8.4(a)3 and 8.16(d)2 are not expected to impose any other new reporting, recordkeeping, or other compliance requirements on small businesses because large-capacity cesspools and motor vehicle waste disposal wells are already required to have a UIC permit under existing N.J.A.C. 7:14A-8.3, 8.1(b)1iv, and 8.8, and are also thus subject to existing N.J.A.C. 7:14A-8.16(d)2. Requiring motor vehicle waste disposal wells that have a UIC permit to meet Ground Water Quality Standards at the last accessible sampling point prior to waste fluids being released into the subsurface environment will not impose any new compliance requirements on small businesses, because existing N.J.A.C. 7:14A-7.6(c) allows the Department to include this effluent limitation in discharge to groundwater permits (including UIC permits).

Proposed N.J.A.C. 7:14A-8.16(g) will impose reporting and other compliance requirements on small businesses that seek to convert a motor vehicle waste disposal well to another type of Class V well. These requirements include having to apply for an individual UIC permit, segregate motor vehicle waste from the intended discharge, empty waste and remove certain loose material, and properly manage the waste and material that is emptied or removed. Under the existing NJPDES rules, however, the Department can already impose requirements similar to this subsection as UIC permit application requirements or UIC permit conditions. The Department believes that this subsection will affect very few small businesses.

Small businesses will generally need the services of a professional engineer or other professional to help them comply with proposed N.J.A.C. 7:14A-8.4(a)3 and 8.16(d)2 and (g), or with equivalent requirements established under the existing NJPDES rules.

### **Smart Growth Impact**

The primary objective of the proposed amendments is to provide for the protection and enhancement of surface water and groundwater quality through the permitting and management of stormwater discharges. The amendments concerning the Municipal Stormwater Regulation Program directly affect all levels of government in the State, and will indirectly impact most State residents and businesses through public education, and through ordinances or other regulatory mechanisms. The amendments will foster the implementation of the State Development and Redevelopment Plan by seeking to make fundamental changes in the behavior of residents, businesses, and public agencies with regard to stormwater systems and pollution control. The amendments will create a comprehensive stormwater permitting and management

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program that will utilize coordinated planning and implementation to achieve reductions in water pollution and enhancement of surface and ground water resources. These concepts will help to achieve smart growth and are fully supported by the goals, objectives and policies of the State Development and Redevelopment Plan, including, in particular, the Statewide Water Resources Policies and, in addition, the Equity Policy; and several of the Comprehensive Planning Policies, the Public Investment Priority Policies, the Infrastructure Investment Policies, the Revitalization and Comprehensive Planning Policies, the Transportation Policies, the Open Lands and Natural Systems Policies, the Agriculture Policies, the Coastal Resources Policies, and the Design Policies.

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Full text of the proposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 7:14A-11.5.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus])

## 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:

...

**“AM” means Additional Measure.**

...

**“MS4” means municipal separate storm sewer system.**

...

**“OM” means Optional Measure.**

...

**“SBR” means Statewide Basic Requirement.**

...

### 7:14A-1.2 Definitions

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

...

**“Cesspool” means a covered pit with open-jointed lining into which untreated sewage is discharged, the liquid portion of which is disposed of by leaching into the surrounding soil, the solids or sludge being retained within the pit. A cesspool is an injection well.**

...

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“Connection” means, **for purposes of N.J.A.C. 7:14A-22 only**, 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.

...

“Co-permittee” means, for purposes of N.J.A.C. [7:14A-11.5] **7:14A-24.2 and 25.9** only, a permittee [to a NJPDES permit] that is only responsible for **NJPDES** permit conditions relating to the discharge for which [it] **that permittee** is **an** operating entity.

...

**“Illicit connection” means, for purposes of N.J.A.C. 7:14A-25 only, any physical or non-physical connection that discharges the following to a municipal separate storm sewer system (unless that discharge is authorized under a NJPDES permit other than the NJPDES permit for discharges from that system):**

**1. Domestic sewage;**

**2. Non-contact cooling water, process wastewater, or other industrial waste (other than stormwater); or**

**3. Any category of non-stormwater discharges that a permittee for the MS4 identifies as a source or significant contributor of pollutants pursuant to 40 C.F.R. 122.26(d)(2)(iv)(B)(1) or 122.34(b)(3)(iii).**

**Non-physical connections may include, but are not limited to, leaks, flows, or overflows into the municipal separate storm sewer system.**

...

“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].

...

“Large municipal separate storm sewer system” means all municipal separate storm sewers, **other than those owned or operated by the United States**, that **discharge to surface water and** are either:

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1. Located in an incorporated place with a population of 250,000 or more as determined by the [latest] **1990** Decennial Census by the Bureau of **the** 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, Appendix H ([As of May 5, 1997, no] **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] **Department** 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. - v. (No change.)

4. Upon petition, designated by the [Director] **Department** as a large municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a storm water 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.

...

“Medium municipal separate storm sewer system” means all municipal separate storm sewers, **other than those owned or operated by the United States, that discharge to surface water and** 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] **1990** Decennial Census by the Bureau of **the** 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 Part 122, Appendix I ([As of May 5, 1997, no] **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] **this** definition [of “large municipal separate storm sewer system”] and that are designated by the [Director] **Department** 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] **this** definition [of “large municipal separate storm sewer system”]. In making this determination the [Director] **Department** may consider the following factors:

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i. - iv. (No change.)

4. The [Director] **Department** 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 storm water 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.

...

“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 (**33 U.S.C. §1288**), **except as provided at N.J.A.C. 7:14A-25.1(b)**.

“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 **the United States, an interstate agency**, 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 (**33 U.S.C. §1288**) that discharges to [waters of the United States] **surface water or groundwater**;

2. Designed and used for collecting or conveying [storm water] **stormwater**;

3. Which is not a combined sewer; [and]

4. Which is not part of a POTW; **and**

**5. Which is not either of the following:**

**i. A separate storm sewer(s) that is at an industrial facility, and that collects or conveys stormwater discharges associated with industrial activity that occurs at that facility; or**

**ii. A separate storm sewer(s) that is at a construction site, and that collects or conveys stormwater discharges associated with small construction activity that occurs at that site.**



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**“Municipal separate storm sewer system” or “MS4” means a “large”, “medium”, or “small” municipal separate storm sewer system as defined in this section.**

...

[“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.]

...

“[Run-off] **Runoff** 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.]

...

**“Small municipal separate storm sewer system” or “small MS4” means all municipal separate storm sewers (other than “large” or “medium” municipal separate storm sewer systems as defined in this section) that are:**

- 1. Owned or operated by municipalities described under N.J.A.C. 7:14A-25.1(b);**
- 2. Owned or operated by county, State, interstate, or Federal agencies, and located at public complexes as described under N.J.A.C. 7:14A-25.2(a)2;**
- 3. Owned or operated by county, State, interstate, or Federal agencies, and located at highways and other thoroughfares as described under N.J.A.C. 7:14A-25.2(a)3; or**
- 4. Owned or operated by county, State, interstate, or Federal agencies, and receive special designation under N.J.A.C. 7:14A-25.2(a)4.**

...

“Stormwater” means [stormwater runoff, snow melt runoff, and surface runoff and drainage] **water resulting from precipitation (including rain and snow) that:**

- 1. Runs off the land’s surface;**
- 2. Is transmitted to the subsurface; or**
- 3. Is captured by separate storm sewers or other sewerage or drainage facilities.**

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“Stormwater discharge (**or stormwater DSW**) associated with industrial activity” means:

1. A discharge to surface water, from a point source or a nonpoint source, of stormwater [which **that** 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] **this paragraph**, 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 **of by-product or waste product**; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and [finished] **final** 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] **final** 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. **The term also excludes discharges that qualify for “Permanent No Exposure” exclusion under N.J.A.C. 7:14A-24.6.** Industrial facilities [(including] **include** 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. (No change.)

ii. Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283 **and 285**), 29, 311, 32 (except 323), 33, 3441, 373.

iii. – ix. (No change.)

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]. **Construction activity also includes the disturbance of less than five acres of total land area**

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**that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more;** 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, **and** 4221-25[, (and which are not otherwise included within subparagraphs 1ii through 1x above)]; and

2. (No change.)

**“Stormwater discharge (or stormwater DSW) associated with small construction activity” means the discharge to surface water, from a point source or a nonpoint source, of stormwater from:**

**1. Construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.**

**2. Any other construction activity designated by the Department or the USEPA Regional Administrator, based on the potential for contribution to a violation of a surface water quality standard, or for significant contribution of pollutants to waters of the State.**

...

## SUBCHAPTER 2. GENERAL PROGRAM REQUIREMENTS

### 7:14A-2.4 Activities that require a NJPDES permit

(a) (No change.)

(b) The Department shall, at a minimum, issue NJPDES permits for the following activities:

1. – 10. (No change.)

11. Discharges of stormwater to surface [waters] **water and groundwater**, including discharges through storm sewers, as set forth in N.J.A.C. [7:14A-11.5] **7:14A-24 and 7:14A-25;**

12. – 14. (No change.)

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(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] **7:14A-24.2**, who shall apply within 180 days **unless the Department approves a later date**. 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) (No change.)

#### 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) **or (d)** below [or is required to obtain a permit under (d) below].

(b) (No change.)

(c) Any animal feeding operation [which does not meet the criteria in (b) above] shall, **upon the Department's written request**, submit the following information [to the Department to determine if a permit is required]:

1. – 3. (No change.)

(d) [The Department shall require on] **On** a case-by-case basis **and after conducting an on-site inspection, the Department shall designate, as a concentrated animal feeding operation,** any animal feeding operation [to obtain a permit upon determining that] **which does not meet the criteria in (b) above if (d)1 and (d)2 below are met:**

1. [It] **The Department determines that the operation** is a significant contributor of pollution to the waters of the State. In making this determination the Department shall consider the following factors:

i. – iv. (No change.)

v. Other relevant factors; **and**

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2. [Pollutants] **The Department determines that:**

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

[3] **ii.** Pollutants are discharged directly into waters of the State which originate outside of the facility and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

SUBCHAPTER 3. DETERMINATION OF PERMIT FEES

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

(a) - (i) (No change.)

(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] **\$300.00** shall be paid by check or money order, payable to “Treasurer, State of New Jersey”, and submitted to the **applicable** soil conservation district along with each request for authorization submitted under that permit, **except as provided in (j)1 below**. 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.

**1. For a project that the New Jersey Department of Transportation (NJDOT) is constructing or proposes to construct for which a stormwater discharge is regulated under this general permit, the fee of \$300.00 shall be paid to the Department.**

(k) - (m) (No change.)

Tables I, II, and III (No change.)

SUBCHAPTER 4. PERMIT APPLICATION REQUIREMENTS

7:14A-4.2 Application requirements

(a) - (d) (No change.)

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

1. Any person proposing a new facility or activity, which requires a NJPDES permit pursuant to N.J.A.C. 7:14A-2.4 and is not exempt pursuant to N.J.A.C. 7:14A-2.5, shall submit an application at least 180 days before the date on which the activity is proposed to commence, unless an alternative date has been established by the Department. [Facilities proposing a new discharge of stormwater associated with industrial activity shall submit an application 180 days before that facility intends to commence industrial activity which may result in a discharge of stormwater associated with that industrial activity. Construction activities discharging stormwater as described under subparagraph 1x of the definition of “stormwater discharge associated with industrial activity” in N.J.A.C. 7:14A-1.2, shall submit applications at least 90 days before the date on which construction is to commence.] **The schedule for submitting an application for certain stormwater discharges is set forth in N.J.A.C. 7:14A-24.4 and 25.4.**

2. – 6. (No change.)

(f) (No change.)

#### 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] **7:14A-24.7, 25.9, and 25.10** for stormwater discharges):

1. – 12. (No change.)

13. Evidence of application submission to the local agency or sewerage entity and municipality as follows. Except for **stormwater** 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

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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. – 16. (No change.)

(b) – (e) (No change.)

#### 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] **7:14A-24.7, 25.9, and 25.10** for stormwater discharges):

1. – 3. (No change.)

(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] **7:14A-24.7, 24.8, 25.9, and 25.10**).

1. – 4. (No change.)

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. – iii. (No change.)

6. – 7. (No change.)

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## SUBCHAPTER 6. CONDITIONS APPLICABLE TO ALL NJPDES PERMITS

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

(a) (No change.)

(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 (**33 U.S.C. §1314(e)**) for the control of toxic pollutants and hazardous substances from ancillary **industrial** activities [(40 CFR Part 125, Subpart K)];

ii. **Authorized under Section 402(p) of the Federal Act (33 U.S.C. §1342(p)) or under the State Act for the control of stormwater discharges;**

**iii.** Numeric effluent limitations are infeasible; or

[iii.] **iv.** 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;

2. – 3. (No change.)

### 7:14A-6.13 General permits

(a) – (c) (No change.)

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

1. – 6. (No change.)

7. Discharges from DTWs, combined sewer overflows, **municipal separate storm sewer systems**, 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:



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i. – vi. (No change.)

8. – 9. (No change.)

(e) – (o) (No change.)

## SUBCHAPTER 7. REQUIREMENTS FOR DISCHARGES TO GROUND WATER (DGW)

### 7:14A-7.4 Exemptions

(a) Persons responsible for the following discharges are exempt from the requirement to obtain a discharge to groundwater permit:

1. – 2. (No change.);

3. Discharges that occurred prior to May 5, 1997, except existing permitted discharges identified in N.J.A.C. 7:14A-7.2(c); [and]

4. Any discharge not to exceed 60 calendar days and in compliance with the instructions of a Department on-scene coordinator or remedial project manager pursuant to 40 CFR 300 (the National Oil and Hazardous Substances Contingency Plan) or 33 CFR 153.10(e) (Pollution by Oil and Hazardous Substances), and the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11; **and**

**5. The following stormwater discharges, if such discharges are not through underground injection regulated under N.J.A.C. 7:14A-8, and do not require a permit under N.J.A.C. 7:14A-24.2(a)9:**

**i. Stormwater discharges from municipal separate storm sewers that are not identified under N.J.A.C. 7:14A-25.2(a) or (b);**

**ii. Stormwater discharges from residential areas (including residential streets, parking lots, easements, and open space), unless N.J.A.C. 7:14A-25.2(a) or (b) requires the operating entity to apply for a NJPDES permit for the discharge; and**

**iii. Stormwater discharges from animal feeding operations that do not require NJPDES permits under N.J.A.C 7:14A-2.5(d) or 2.13.**

### 7:14A-7.9 General requirements for applications for discharge to groundwater permit

(a) In addition to the information required pursuant to N.J.A.C. 7:14A-4.3, an applicant for a NJPDES Discharge to Groundwater permit shall submit information to the Department as follows:

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1. All dischargers shall submit the information required pursuant to (d) below, except **as provided in N.J.A.C. 7:14A-25.9(d)1 for certain stormwater discharges, or** when, after consultation with the Department during pre-application conferences, it is determined that the information is not necessary to develop permit conditions for the facility.

(b) – (d) (No change.)

## SUBCHAPTER 8. ADDITIONAL REQUIREMENTS FOR UNDERGROUND INJECTION CONTROL (UIC) PROGRAM

### 7:14A-8.3 Prohibition of unauthorized injection

Any underground injection is prohibited, except pursuant to a permit-by-rule under N.J.A.C. 7:14A-8.5, or pursuant to [an individual] **a** UIC permit under N.J.A.C. 7:14A-8.8. The construction of any well required to have a permit (including, where applicable, a well permit) under this subchapter is prohibited [until such the], **except pursuant to such** permit-by-rule [is approved] or [an individual] UIC permit [is issued].

### 7:14A-8.4 Prohibition of movement of fluid into underground sources of drinking water

(a) No [permit-by-rule or individual] **UIC** permit **or approval under a permit-by-rule** shall be [approved or] issued **or provided** under this subchapter in the following circumstances:

1. Where a Class I, II or III well may cause or allow movement of any contaminant into underground sources of drinking water; [or]
2. Where a Class IV or V well may cause or allow movement of fluid containing any contaminant into underground sources of drinking water, and the presence of that contaminant may adversely affect the health of persons; **or**

### **3. Where a Class V well is:**

**i. A large-capacity cesspool (design flow greater than 2000 gallons per day). All large-capacity cesspools authorized by this subchapter shall be closed by April 5, 2005. Large-capacity cesspools shall be closed in accordance with N.J.A.C. 7:14A-8.16(d)2. The owner or operator shall notify the Department of intent to close at least 30 days prior to closure; or**

**ii. Except as provided at (a)3ii(1) below, a motor vehicle waste disposal well. A motor vehicle waste disposal well is an injection well that receives or has received fluids from motor vehicle repair or maintenance activities, such as an auto body repair shop,**

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**automotive repair shop, car dealership, specialty repair shop (for example, transmission and/or muffler repair shop), or any facility that does any motor vehicle repair work.**

**(1) Motor vehicle waste disposal wells constructed prior to April 5, 2000 shall be authorized under a permit in accordance with N.J.A.C. 7:14A-8.8, closed in accordance with N.J.A.C. 7:14A-8.16(d)2, or converted to another type of Class V well in accordance with N.J.A.C. 7:14A-8.16(g).**

**(2) Motor vehicle waste disposal wells that continue to operate in accordance with a permit shall meet Ground Water Quality Standards (N.J.A.C. 7:9-6) at the last accessible sampling point prior to waste fluids being released into the subsurface environment. The owner or operator shall notify the Department of intent to close at least 30 days prior to closure.**

(b) (No change.)

(c) For Class V wells, if at any time the Department learns that a Class V well may cause a violation of the State primary drinking water rules under N.J.A.C. 7:10, or any Groundwater Quality Standards under N.J.A.C. 7:9-6, the Department shall:

1. Require the owner or operator of the injection well to obtain [an individual] a UIC permit **pursuant to N.J.A.C. 7:14A-8.8**; and

2. (No change.)

(d) - (e) (No change.)

7:14A-8.5 Authorization of injection into Class V wells by permit-by-rule

(a) (No change.)

(b) An owner or operator of any of the Class V injection wells described in (b)1 through [7] **10** below is deemed to have a permit-by-rule under this subsection if the owner or operator complies with the applicable requirements specified in this subsection.

1. – 5. (No change.);

6. Underground injection wells associated with the feasibility or engineering design studies necessary to obtain or comply with a water supply allocation permit pursuant to N.J.A.C. 7:19 or NJPDES permit pursuant to this chapter; [and]

7. Underground injection of stormwater runoff from the roofs of buildings, so long as the roofs are devoid of pollutant sources and devices (for example, motors, tanks, drums) that contain pollutants;

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**8. Underground injection of stormwater discharges from municipal separate storm sewers that are not identified under N.J.A.C. 7:14A-25.2(a) or (b);**

**9. Underground injection of stormwater discharges from residential areas (including residential streets, parking lots, easements, and open space), unless N.J.A.C. 7:14A-25.2(a) or (b) requires the operating entity to apply for a NJPDES permit for the discharge; and**

**10. Underground injection of stormwater discharges from animal feeding operations that do not require a NJPDES permit under N.J.A.C. 7:14A-2.13.**

(c) (No change.)

(d) The Department will notify pursuant to (e) below any owner or operator of any Class V injection well authorized by rule pursuant to this section to apply for and obtain [an individual] **a** UIC permit **pursuant to N.J.A.C. 7:14A-8.8**, if:

1. - 4. (No change.)

(e) The Department shall notify in writing the owner or operator of a Class V injection well required pursuant to (d) above to apply for and obtain [an individual] **a** UIC permit **pursuant to N.J.A.C. 7:14A-8.8**. The notice shall include a brief statement of the reasons for the decision, [an application form] **instructions on how to apply for the UIC permit**, a statement setting a time by which the owner or operator must [file] **apply for** the permit [application], and a statement that upon the effective date of the [individual] UIC permit **authorization** the permit-by-rule under which the activity had been approved shall no longer apply.

(f) Any owner or operator of a Class V injection well approved under a permit-by-rule pursuant to this section may request to be excluded from the authorization by applying for [an individual] **a** UIC permit [. The owner or operator shall submit an application] pursuant to N.J.A.C. 7:14A-8.8. [, with] **The owner or operator shall provide** reasons supporting the request[.] to the Department. The Department shall not issue a permit for an injection well which is in violation of any other applicable statutes or regulations.

(g) Any approval for a Class V injection well under a permit-by-rule pursuant to this section shall expire upon the effective date of [an individual] **a** UIC permit **authorization** issued pursuant to N.J.A.C. 7:14A-8.8 for such injection well.

(h) The owner or operator of a Class V injection well approved under a permit-by-rule pursuant to this section is prohibited from injecting into the well:

1. (No change.)

2. Upon failure to submit inventory or [application] **other** information in a timely manner pursuant to this section;

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[3. Upon failure to comply with a request for information in a timely manner pursuant to this section;]

[4.] **3.** Upon failure to comply with the provisions of an enforcement action;

[5.] **4.** Upon notification by the Department to cease injection.

(i) Inventory information required pursuant to (c) above shall be submitted to:

Department of Environmental Protection  
Underground Injection Control Coordinator  
[CN] **PO Box** 029  
Trenton, New Jersey 08625-**0029**

7:14A-8.8 Authorization by permit

(a) (No change.)

(b) [An application] **The owner or operator shall apply** for [an individual] **a** UIC permit [shall be submitted] in accordance with N.J.A.C. 7:14A-4. An application for a well-drilling permit, if applicable, shall be submitted **concurrently** in accordance with N.J.S.A. 58:4A-4.1[, along with the application for a UIC permit].

(c) (No change.)

7:14A-8.10 Establishing UIC permit conditions

(a) In addition to the conditions established under N.J.A.C. 7:14A-6.3, each UIC permit is to include conditions meeting the following requirements, when applicable:

1. Construction requirements as set forth in N.J.A.C. 7:14A-8.13, 8.14 or 8.15. Existing wells shall achieve compliance with such requirements according to a compliance schedule established as a permit condition. The owner or operator of a proposed new injection well shall submit plans for testing, drilling, and construction [as part of the permit application] **when applying for the permit**. Construction shall not commence until a permit has been issued containing construction requirements (see N.J.A.C. 7:14A-8.3 and N.J.S.A. 58:4A-4.1). New wells shall be in compliance with these requirements prior to commencing injection operations. Changes in construction plans during construction shall be approved by the Department as minor modifications pursuant to N.J.A.C. [7:14A-16.5A] **7:14A-16.5(a)**. No such changes shall be physically incorporated into construction of the well prior to receipt of written approval of the modification from the Department;

2. - 4. (No change.)

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5. A permit for any Class I, II, III or V well, or any Class IV well allowed under N.J.A.C. 7:14A-8.7, shall include conditions to ensure that plugging and abandonment of the well will not allow the movement of fluids either into an underground source of drinking water or from one underground source of drinking water to another. Each applicant for a UIC permit shall submit a plan for plugging and abandonment, taking into account the requirements of N.J.A.C. 7:14A-8.17(a). The plan shall meet, at a minimum, the requirements of N.J.A.C. 7:9-9, Sealing of Abandoned Wells, where applicable. Where the plan meets the requirements of this section the Department shall incorporate the plan into the permit as a condition. Where the Department determines that the permittee's plan is inadequate, the Department shall require the applicant to revise the plan, prescribe conditions meeting the requirements of this section, or deny [the application] **permit authorization**. For purposes of this section, temporary intermittent cessation of injection operations is not abandonment. Cessation of injection operations for a period of three years or more constitutes abandonment. The improper maintenance of a well may constitute abandonment of that well in accordance with N.J.S.A. 58:4A-4.1;

6. - 8. (No change.)

7:14A-8.11 Corrective or preventive action

(a) (No change.)

(b) Requirements for corrective or preventive action are as follows:

1. - 2. (No change.)

3. Where the Department determines that a more stringent corrective or preventive alternative is not feasible, the Department shall require as a permit condition that injection pressure in the injection zone does not exceed hydrostatic pressure at the site of any improperly sealed, completed, or abandoned well within the area of review, or alternatively, the Department shall require an injection pressure limitation be included as part of the compliance schedule until all other required corrective or preventive action has been taken. The Department shall only approve an injection pressure limitation in satisfaction of the corrective action requirement if the injection pressure limitation will not endanger groundwater resources. The Department reserves the right to deny [the application] **permit authorization** where it determines that the corrective or preventive plan is inadequate.

4. (No change.)

7:14A-8.16 Specific operating criteria and construction standards applicable to Class V injection wells

(a) (No change.)

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(b) Class V wells shall, at a minimum, be constructed in accordance with the requirements and specifications set forth in N.J.A.C. 7:9 or 7:9A.

1. Well drilling permit requirements:

i. Where applicable, any owner or operator of a new Class V well shall obtain a well drilling permit before the commencement of any construction, in accordance with the Subsurface and Percolating Waters Act, particularly N.J.S.A. 58:4A-4.1. Information and applications for a well permit may be obtained from:

**NJDEP**

**Water Supply Administration**

Bureau of Water Allocation

[CN-] **PO Box** 426

Trenton, New Jersey 08625-**0426**

2. - 3. (No change.)

(c) Operating requirements for Class V wells are as follows:

1. Injection wells constructed in accordance with N.J.S.A. 58:4A-4.1 shall be maintained in accordance with N.J.A.C. 7:10-12 or any other pertinent regulations, or in accordance with requirements of the [individual] UIC permit.

2. Septic systems, disposal beds, or other subsurface sewage disposal systems shall be maintained in accordance with N.J.A.C. 7:9A or in accordance with the requirements of the [individual] UIC permit.

(d) Plugging and abandonment requirements for Class V wells are as follows:

1. (No change.)

**2. Large-capacity cesspools as identified in N.J.A.C. 7:14A-8.4(a)3i and motor vehicle waste disposal wells as identified in N.J.A.C. 7:14A-8.4(a)3ii shall be closed in a manner that does not cause a violation of the State primary drinking water regulations under N.J.A.C. 7:10, or any Ground Water Quality Standards under N.J.A.C. 7:9-6. At a minimum:**

**i. Large-capacity cesspools and motor vehicle waste disposal wells shall be emptied of wastes. Any soil, gravel, or other loose material within two feet from the bottom and sides which were exposed to waste shall be removed (except for large-capacity cesspools that**

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**have not received industrial wastes). Following such emptying and removal, the cavity shall be filled with clean gravel, stones, or soil material;**

**ii. All influent and effluent lines shall be excavated, removed or sealed such that no leaching of contaminants can occur; and**

**iii. All wastes or other materials emptied or removed under (d)2i above shall be managed in accordance with this chapter and the State Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.) and its implementing regulations at N.J.A.C. 7:26, 7:26A, and 7:26G.**

[2.] **3.** Other Class V wells shall be plugged and abandoned in accordance with the terms of [an individual] **a** UIC permit. These permit conditions shall include the following conditions:

i. – ii. (No change.)

iii. When components or residuals (for example, gravel filter material, fill material, soil) from an abandoned individual subsurface sewage disposal system are removed from the ground, such components or residuals shall be managed as follows:

(1) Any off site disposal of components and residuals from an abandoned system shall be managed in accordance with the State Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.) and its implementing regulations **at N.J.A.C. 7:26, 7:26A, and 7:26G**; and

(2) (No change.)

(e) - (f) (No change.)

**(g) Requirements for converting a Class V motor vehicle waste disposal well to another type of Class V well are as follows:**

**1. An application for an individual UIC permit shall be submitted, and shall include:**

**i. The information required under N.J.A.C. 7:14A-8.17;**

**ii. A description of how the requirements in (g)2 and (g)3 below will be met; and**

**iii. A description of how all motor vehicle waste will be managed in accordance with this chapter and the State Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.) and its implementing regulations at N.J.A.C. 7:26, 7:26A, and 7:26G;**

**2. All motor vehicle waste is segregated from the intended discharge by physical barriers and is not allowed to enter the well. The use of a semi-permanent plug as the means to segregate waste is not sufficient to convert a motor vehicle waste disposal well to another type of Class V well;**

**3. The motor vehicle waste disposal well is emptied of wastes. Any soil, gravel, or other loose material within two feet from the bottom and sides which were exposed to waste is removed. All wastes or other materials emptied or removed are managed in accordance**



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**with this chapter and the State Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.) and its implementing regulations at N.J.A.C. 7:26, 7:26A, and 7:26G;**

**4. The Department finds that injection of motor vehicle waste into the well following conversion is unlikely based on the facility's compliance history and records showing proper waste disposal; and**

**5. The Department approves such conversion in writing.**

7:14A-8.18 Specific operating criteria and construction standards applicable to permit by rule authorizations for underground injection into seepage pits

(a) - (c) (No change.)

(d) Requirements for the submission of certifications are as follows:

1. Any facility qualifying for this permit by rule shall submit an as-built certification from a New Jersey licensed professional engineer which certifies that the system was designed and constructed in accordance with the requirements of this section. The certification and a NJPDES-1 form shall be submitted within 30 days of the completion of construction to:

NJDEP

Division of Water Quality

Bureau of [Operational Groundwater Permits] **Nonpoint Pollution Control**

[CN] **PO Box 029**

Trenton, New Jersey 08625-**0029**

## SUBCHAPTER 11. PROCEDURES AND CONDITIONS APPLICABLE TO NJPDES-DSW PERMITS

7:14A-11.1 Purpose and scope

(a) This subchapter sets forth specific conditions and procedures which are applicable only to DSW permits. **N.J.A.C. 7:14A-24 and 7:14A-25 set forth additional specific conditions and procedures which are applicable to DSW or DGW permits for stormwater discharges.**

(b) The DSW program requires permits for the discharge of pollutants into surface waters of the State from any point source, stormwater discharge associated with industrial activity **or small**

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**construction activity**, and nonpoint sources regulated under N.J.A.C. 7:14A-2.5(d) **or 24.2(a)7ii**.

#### 7:14A-11.2 Establishing DSW permit conditions

(a) In addition to the conditions established under N.J.A.C. 7:14A-6.3, the Department shall include in DSW permits one or more conditions which meet the following requirements, as applicable:

1. – 2. (No change.)

3. For **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 (a)2 above, or, at a minimum:

i. The permittee shall be required to conduct an annual inspection of the facility to identify areas contributing to a stormwater discharge associated with industrial 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 be required to prepare a report summarizing the result of the annual inspection conducted under (a)3i 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] **in accordance with N.J.A.C. 7:14A-24.9**;

4. [Permittees that are not required to submit monitoring reports at least annually pursuant to (a)3 above shall be required to 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.] **(Reserved)**

5. – 6. (No change.)

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7:14A-11.5 [Stormwater discharges] **(Reserved)**

7:14A-11.6 Federal criteria and standards for DSW permits

(a) The following Federal criteria and standards apply to DSW permits:

1. – 5. (No change.)

6. [The criteria and standards for best management practices for ancillary industrial activities shall be as set forth in 40 C.F.R. 125, Subpart K;] **(Reserved)**

7. – 8. (No change.)

(b) (No change.)

### SUBCHAPTER 13. EFFLUENT LIMITATIONS FOR DSW PERMITS

7:14A-13.3 Applicability of effluent limitations

(a) (No change.)

(b) DSW permits issued for direct discharges of industrial wastewater shall include technology based effluent limitations and standards promulgated under Section 301 of the Federal Act (**33 U.S.C. §1311**), new source performance standards promulgated under Section 306 of the Federal Act (**33 U.S.C. §1316**), or case-by-case effluent limitations determined under Section 402(a)(1) of the Federal Act (**33 U.S.C. §1342(a)(1)**), or N.J.A.C. 7:14A-13.4, or a combination, in accordance with N.J.A.C. 7:14A-13.4.

1. (No change.)

2. Technology based treatment requirements may be imposed through one of the following methods:

i. Application of USEPA promulgated effluent limitations developed under section 304 of the Federal Act (**33 U.S.C. §1314**) to dischargers by category or subcategory. A permittee may seek fundamentally different factors variances from these effluent limitations under N.J.A.C. [7:14A-11.5(a)1] **7:14A-11.7(b)1**.

ii. – iv. (No change.)

3. (No change.)

(c) – (e) (No change.)

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## SUBCHAPTER 16. TRANSFER, MODIFICATION, REVOCATION AND REISSUANCE, RENEWAL, SUSPENSION, AND REVOCATION OF EXISTING PERMITS

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

(a) (No change.)

(b) The following constitute cause for major modification or revocation and reissuance of a permit:

1. – 18. (No change.)

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; or

**21. For a small MS4, to include an effluent limitation requiring implementation of one or more control measures (or component(s) thereof) when:**

**i. The permit recognizes under N.J.A.C. 7:14A-25.7(b) that another governmental entity or the Department was responsible for implementing the measure(s), or component(s) thereof; and**

**ii. The other governmental entity or the Department does not implement the measure(s), or component(s) thereof.**

## **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:**

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- 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 (a)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**
    - 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 (a)5ii, 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 (a)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**

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**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), 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.**

**(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 issue either a single NJPDES permit (or a single authorization under a general NJPDES permit), with each discharger a co-permittee to a permit (or to an authorization under a general permit) issued to the operating entity for the portion of the private conveyance system that discharges into surface water, or individual permits (or authorizations under a general permit) to each discharger of stormwater associated with industrial activity through the private conveyance system.**

**1. All stormwater discharges associated with industrial activity that discharge through a private conveyance system shall be authorized by an individual permit (or by a single authorization under a general permit), or a permit (or authorization under a general**

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**permit) issued 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 that authorization under a general permit).**

**2. 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).**

**3. 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.i.**

#### **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 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 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**

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**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 (a)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 [insert the date 30 days from the effective date of this subchapter].**

**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.**



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**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.**

**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**

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**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.**

**6. 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 [insert the date 30 days from the effective date of this subchapter], 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 [insert the date 30 days from the effective date of this subchapter], whichever is later.**

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**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 [insert the date 30 days from the effective date of this subchapter], 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 [insert the date 30 days from the effective date of this subchapter], 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);**

**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.**

**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:**

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**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.**

**(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.**

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**(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**

**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 containing industrial materials that are watertight, leak proof, and covered;**

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

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**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, snow melt, 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.**

**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 7:14A-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;**

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**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 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.**

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**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 (a)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 (a)2 below, and shall not submit NJPDES Form RF.**

**1. Except as provided in (a)2 through (a)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:**

**(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;**



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**(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;**

**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;**

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**(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 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, BOD<sub>5</sub>, COD, TSS, total phosphorus, total Kjeldahl nitrogen, and nitrate plus nitrite nitrogen;**

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**(4) Any information on the discharge required under N.J.A.C. 7:14A-4.4(b)5i, 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;**

**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.**

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**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.;**

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

**(1) 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;**

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**(B) Areas of land disturbance (existing and proposed);**

**(C) Areas where land will not be disturbed;**

**(D) 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;**

**(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**

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**(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; or**

**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.**

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**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;**

**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 Director may reasonably require under N.J.A.C. 7:14A-4.3(e).**

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**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)lviii (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)lx) and the following paragraphs (procedures or requirements in (a)1 through (a)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 (a)3ii 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.**

**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**



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**(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 (snow melt 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.**

**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:**

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

**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).**

**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**

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**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**
- 8. Site inspection and enforcement of control measures.**

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## **SUBCHAPTER 25. MUNICIPAL STORMWATER REGULATION PROGRAM**

### **7:14A-25.1 Scope**

**(a) This subchapter sets forth requirements applicable to the Municipal Stormwater Regulation Program, which regulates discharges to surface water and groundwater of stormwater from large, medium, and small municipal separate storm sewer systems.**

**(b) For purposes of this subchapter, “municipality” means a “municipality” as defined in the Municipal Land Use Law at N.J.S.A. 40:55D-5, that is, any city, borough, town, township, or village.**

### **7:14A-25.2 Identifying municipalities, public complexes, and highways or other thoroughfares regulated under the small MS4 program**

**(a) A NJPDES permit is required for the stormwater discharges to surface water or groundwater identified in (a)1 through (a)4 below. The operating entities for those discharges shall apply for a NJPDES permit in accordance with N.J.A.C. 7:14A-25.4(a) and 25.5(a).**

**1. Tier A municipalities: All stormwater discharges from small MS4s that are owned or operated by and located in a municipality that is assigned to Tier A under N.J.A.C. 7:14A-25.3(a)1;**

**2. Public complexes: All stormwater discharges from small MS4s that are owned or operated by a county, State, interstate, or Federal agency at a “public complex” located entirely or partially in a municipality that is assigned to Tier A under N.J.A.C. 7:14A-25.3(a)1, or in a municipality that receives a waiver under (d) below. For purposes of this subsection, a “public complex” is a single lot (or two or more lots that are contiguous or on a college or university campus) which contains at least two buildings owned or operated by the same governmental entity, and:**

**i. Is at a college or university which Statewide has a combined total of at least 1,000 employees (usually present at least six hours per day on weekdays) or full-time students; or**

**ii. Is at any other public facility (for example a military base, hospital, prison, or general administration facility), and has a combined total of at least 1,000 employees, military personnel, or residents (including patients or prisoners) usually present at least six hours per day on weekday.**

**3. Highways or other thoroughfares: All stormwater discharges from small MS4s that are owned or operated by a county, State, interstate, or Federal agency at a highway or other thoroughfare (including a maintenance or service facility for such a thoroughfare). For purposes of this subsection, a “highway or other thoroughfare” does not include:**

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**i. Any thoroughfare confined to the grounds of a single building, or of two or more buildings that are not a “public complex” as described under (a)2 above (unless that building(s) is a maintenance or service facility for a highway or other thoroughfare not confined to such grounds);**

**ii. Any thoroughfare confined to the grounds of a “public complex” (each such thoroughfare is instead considered part of the “public complex”); or**

**iii. Any thoroughfare (other than the Palisades Interstate Parkway) confined to an officially designated park, forest, recreational area, natural area, wildlife management area, or area set aside for water supply protection.**

**4. Special designations: All of the following stormwater discharges from municipal separate storm sewers (which for purposes of this paragraph does not include “large” or “medium” municipal separate storm sewer systems, or separate storm sewers in very discrete areas, such as individual buildings):**

**i. All stormwater discharges from municipal separate storm sewers that the Department designates as “small MS4s that contribute substantially to the pollutant loadings of a physically interconnected municipal separate storm sewer that requires a NJPDES permit” under this subsection, or under N.J.A.C. 7:14A-24.2(a)5, (a)7, or (a)9;**

**ii. All stormwater discharges that are from municipal separate storm sewers, and that are designated under N.J.A.C. 7:14A-24.2(a)7 or (a)9;**

**iii. All stormwater discharges that are from municipal separate storm sewers, and that are determined to require a NJPDES permit in response to a petition under N.J.A.C. 7:14A-24.3;**

**iv. All stormwater discharges whose operating entity is granted a waiver under (d) below, but that are subsequently determined to require a NJPDES permit under (e) below; and**

**v. All stormwater discharges from municipal separate storm sewers designated by USEPA under 40 C.F.R. 123.35(b).**

**(b) Each municipality that is assigned to Tier B under N.J.A.C. 7:14A-25.3(a)2, and that operates a small MS4 that discharges to surface water or groundwater, shall apply for the Tier B Municipal Stormwater Permit under N.J.A.C. 7:14A-25.8.**

**(c) All stormwater discharges to surface water or groundwater that are from small MS4s but not identified under (a) or (b) above are exempt from the requirement to obtain a NJPDES permit from the Department, except as provided in N.J.A.C. 7:14A-8.3 (prohibition of underground injection).**

**(d) The duty to obtain a permit under section 402 of the Federal Act (33 U.S.C. §1342) is waived for all operating entities for each small MS4 that is:**

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- 1. Owned or operated by and located in a municipality that is assigned to Tier B under N.J.A.C. 7:14A-25.3(a)2; and**
- 2. Located within an urbanized area as determined by the 2000 Decennial Census by the Bureau of the Census or a subsequent and superseding Decennial Census.**
- 3. This waiver applies solely to stormwater discharges from the small MS4s meeting the criteria at (d)1 and (d)2 above to surface waters of the State, and is subject to (e) below. This waiver does not exempt any Tier B municipality from the duty to obtain the Tier B Municipal Stormwater Permit where required under (b) above.**
- 4. The Department shall publish in the New Jersey Register a notice of administrative change revising (as appropriate under this subsection or (e) below) the list of municipalities in the table below, and shall mail notice of such revision to the affected municipality(ies) and county(ies). Each notice under this subsection shall identify the reason for the revision. The list in this table is for informational purposes only. Any person may obtain the most current list of municipalities to which the waiver applies and which are assigned to Tier B from the Department's Division of Water Quality, Bureau of Nonpoint Pollution Control at PO Box 029, Trenton, New Jersey 08625, or from the Division's website (<http://www.state.nj.us/dep/dwq>).**

**Municipalities to which Waiver Applies and which are Assigned to Tier B**

**Bergen County**

**Rockleigh Borough**  
**Teterboro Borough**

**Burlington County**

**Fieldsboro Borough**  
**Springfield Township**

**Camden County**

**Pine Valley Borough**  
**Tavistock Borough**

**Cumberland County**

**Deerfield Township**

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**Gloucester County**

**Elk Township**  
**Woolwich Township**

**Hunterdon County**

**Bethlehem Township**  
**Bloomsbury Borough**  
**East Amwell Township**  
**Franklin Township**  
**Lebanon Township**  
**Tewksbury Township**  
**West Amwell Township**

**Monmouth County**

**Interlaken Borough**  
**Upper Freehold Township**

**Morris County**

**Harding Township**

**Salem County**

**Oldmans Township**  
**Upper Pittsgrove Township**

**Somerset County**

**Far Hills Borough**  
**Millstone Borough**  
**Rocky Hill Borough**

**Sussex County**

**Andover Borough**  
**Fredon Township**

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**Warren County**

**Allamuchy Township**

**Harmony Township**

**(e) The waiver under (d) above is based on the fact that the small MS4s identified do not have any of the characteristics set forth in (e)1 or (e)2 below, and based on the presumption that those small MS4s are of such minimal extent and serve such a small population that none of their stormwater discharges have any of the characteristics set forth in (e)3i through (e)3iii below. An operating entity to which the waiver applies may subsequently be required to apply for a NJPDES permit under (a) above if circumstances change. The Department shall require any operating entity to which the waiver applies to apply for a NJPDES permit under (a) above for a stormwater discharge from that entity's small MS4 if:**

**1. The municipality in which the small MS4 is located is reassigned from Tier B to Tier A in accordance with N.J.A.C. 7:14A-25.3(a)1 (for a reason other than the review under this subsection of the operating entity's waiver);**

**2. That stormwater discharge is identified under (a)4ii, (a)4iii, or (a)4v above (special designations); or**

**3. Information specific to the small MS4 demonstrates to the Department's satisfaction that the stormwater discharge from the small MS4:**

**i. Contributes substantially to the pollutant loadings of a physically interconnected MS4 (see (a)4i above) that requires a NJPDES permit under (a) above;**

**ii. Contains a pollutant(s) for which stormwater controls have been established as part of a USEPA approved or established "total maximum daily load" (TMDL) that addresses the pollutant(s) of concern; or**

**iii. Requires an individual UIC permit under N.J.A.C. 7:14A-8.5(d).**

**(f) Whenever a NJPDES permit is required under (a)4 above (special designations), or a municipality is assigned to Tier A under N.J.A.C. 7:14A-25.3(a)1v, 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.**

**1. If the operating entity applies for an individual NJPDES permit in response to such notice, 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**



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USEPA under 40 C.F.R. 122.26(a)(9)(i)(C) or (a)(9)(i)(D), or under 40 C.F.R. 123.35(b) or (c).

2. If the operating entity is a municipality that has applied for or received authorization under the Tier B Municipal Stormwater Permit (see N.J.A.C. 7:14A-25.8), the applicable requirements of N.J.A.C. 7:14A-6.13 shall also be followed.

7:14A-25.3 Assignment of municipalities to Tier A or Tier B

(a) All municipalities are assigned either to Tier A or to Tier B as follows:

1. An entire municipality is assigned to Tier A if that municipality:

i. Is located entirely or partially within an urbanized area as determined by the 2000 Decennial Census by the Bureau of the Census or a subsequent and superseding Decennial Census, and has a population of at least 1,000 within an urbanized area as determined by that Census;

ii. Has a population density of at least 1,000 per square mile, and a population of at least 10,000 as determined by that Census;

iii. Has a stormwater sewer system discharging directly into the salt waters of Monmouth, Ocean, Atlantic, or Cape May counties (using the N.J.A.C. 7:22A-1.4 definitions of “stormwater sewer system” and “salt waters”). A municipality is deemed to have such a system if that municipality is one of the “Affected Municipalities” listed in N.J.A.C. 7:22A Appendix A, unless it is determined in response to a petition under N.J.A.C. 7:22A-3.2(b) or 4.9(b) that N.J.A.C. 7:22A Appendix A erroneously includes or omits the municipality;

iv. Requests Tier A assignment from the Department; or

v. Operates a stormwater discharge(s) identified under N.J.A.C. 7:14A-25.2(a)4 (special designations), provided that the Department determines that such identification warrants assignment of the municipality to Tier A. In making this determination, the Department may consider the following with respect to the identified stormwater discharge(s) and to other stormwater discharge(s) from small MS4(s), if any, operated by the municipality: the location or size of the discharge from the small MS4(s), the quantity and nature of pollutants reaching the water of the State, the quality of the receiving waters, or other relevant factors.

2. Every municipality not assigned to Tier A is assigned to Tier B.

3. The Department shall publish in the New Jersey Register a notice of administrative change revising the list of Tier A and Tier B municipalities in the table below, and shall mail notice of such revision to the affected municipality(ies) and county(ies). Each notice under this paragraph shall identify the reason for the revision. The list in this table is for informational purposes only. Any person may obtain the most current list of such

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**municipalities from the Department’s Division of Water Quality, Bureau of Nonpoint Pollution Control at PO Box 029, Trenton, New Jersey 08625, or from the Division’s website (<http://www.state.nj.us/dep/dwq>).**

	<b><u>Tier A Municipalities</u></b>	<b><u>Tier B Municipalities</u></b>
<b><u>Atlantic County</u></b>	<b><u>All municipalities not listed under Tier B</u></b>	<b><u>Hammonton Town</u> <u>Mullica Township</u></b>
<b><u>Bergen County</u></b>	<b><u>All municipalities not listed under Tier B</u></b>	<b><u>Rockleigh Borough</u> <u>Teterboro Borough</u></b>
<b><u>Burlington County</u></b>	<b><u>All municipalities not listed under Tier B</u></b>	<b><u>Bass River Township</u> <u>Fieldsboro Borough</u> <u>New Hanover Township</u> <u>North Hanover Township</u> <u>Springfield Township</u> <u>Washington Township</u> <u>Woodland Township</u> <u>Wrightstown Borough</u></b>
<b><u>Camden County</u></b>	<b><u>All municipalities not listed under Tier B</u></b>	<b><u>Pine Valley Borough</u> <u>Tavistock Borough</u></b>
<b><u>Cape May County</u></b>	<b><u>All municipalities not listed under Tier B</u></b>	<b><u>Woodbine Borough</u></b>
<b><u>Cumberland County</u></b>	<b><u>Bridgeton City</u> <u>Millville City</u> <u>Vineland City</u></b>	<b><u>All municipalities not listed under Tier A</u></b>
<b><u>Essex County</u></b>	<b><u>All municipalities</u></b>	<b><u>None</u></b>

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**Gloucester County**

**All municipalities not listed under Tier B**

**Elk Township**  
**South Harrison Township**  
**Woolwich Township**

**Hudson County**

**All municipalities**

**None**

**Hunterdon County**

**Clinton Town**  
**Clinton Township**  
**Flemington Borough**  
**High Bridge Borough**  
**Lebanon Borough**  
**Raritan Township**  
**Readington Township**  
**Union Township**

**All municipalities not listed under Tier A**

**Mercer County**

**All municipalities not listed under Tier B**

**Hopewell Borough**

**Middlesex County**

**All municipalities**

**None**

**Monmouth County**

**All municipalities not listed under Tier B**

**Interlaken Borough**  
**Roosevelt Borough**  
**Upper Freehold Township**

**Morris County**

**All municipalities not listed under Tier B**

**Harding Township**

**Ocean County**

**All municipalities not listed under Tier B**

**Plumsted Township**

**Passaic County**

**All municipalities**

**None**

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**Salem County**

**Carneys Point Township**  
**Penns Grove Borough**  
**Pennsville Township**  
**Pittsgrove Township**

**All municipalities not listed under Tier A**

**Somerset County**

**All municipalities not listed under Tier B**

**Far Hills Borough**  
**Millstone Borough**  
**Rocky Hill Borough**

**Sussex County**

**Andover Township**  
**Byram Township**  
**Hopatcong Borough**  
**Newton Town**  
**Sparta Township**  
**Stanhope Borough**

**All municipalities not listed under Tier A**

**Union County**

**All municipalities**

**None**

**Warren County**

**Alpha Borough**  
**Greenwich Township**  
**Hackettstown Town**  
**Independence Township**  
**Lopatcong Township**  
**Mansfield Township**  
**Phillipsburg Town**  
**Pohatcong Township**

**All municipalities not listed under Tier A**

**7:14A-25.4 Deadlines to apply for NJPDES permits for small MS4s**

**(a) The deadline to apply for a NJPDES permit for all stormwater discharges identified under N.J.A.C. 7:14A-25.2(a) is [insert the date 30 days from the effective date of this subchapter], except as provided in (a)1 through (a)3 below.**

**1. If notice from the Department is received that a municipality has been reassigned from Tier B to Tier A, or that a special designation has been made under N.J.A.C. 7:14A-25.2(a)4, the deadline is 180 days after receipt of that notice, unless the Department approves a later date.**

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**2. The following is applicable to entities proposing new facilities or activities (for example, new small MS4s, or increasing the number of employees or students) that would result in any stormwater discharges identified under N.J.A.C. 7:14A-25.2(a):**

**i. General permits for such discharges shall specify deadlines for submitting requests for authorization under such permits.**

**ii. Entities submitting an individual permit application for such discharges shall submit an application at least 180 days before the date on which the activity is proposed to commence (unless the Department approves a later date), or by [insert the date 30 days from the effective date of this subchapter], whichever is later.**

**3. Any entity planning to continue discharging from a small MS4 after the expiration date of its NJPDES permit for that discharge shall comply with N.J.A.C. 7:14A-4.2(e)3. General permits for stormwater discharges from small MS4s shall provide for automatic renewal of authorization when those general permits are renewed (see N.J.A.C. 7:14A-4.2(e)3 and 6.13(d)9).**

**(b) The deadline for Tier B municipalities to apply for the Tier B Municipal Stormwater Permit is set forth in N.J.A.C. 7:14A-25.8(b).**

#### **7:14A-25.5 Applying for a NJPDES permit for a small MS4**

**(a) All operating entities that are required under N.J.A.C. 7:14A-25.2(a) to apply for a NJPDES permit for stormwater discharges from small MS4s shall submit a request for authorization (RFA) under a general NJPDES permit in accordance with (a)1 below, or an application for an individual NJPDES permit under N.J.A.C. 7:14A-25.9.**

**1. An operating entity seeking authorization under a general NJPDES permit shall submit to the Department a written RFA. The RFA shall include a certification acknowledging the best management practices and measurable goals specified in the general permit and required by N.J.A.C. 7:14A-25.6, and shall also include information specified in the general permit in accordance with N.J.A.C. 7:14A-6.13(d)2.**

**(b) All Tier B municipalities that are required under N.J.A.C. 7:14A-25.2(b) to apply for the Tier B Municipal Stormwater Permit shall submit a request for authorization in accordance with N.J.A.C. 7:14A-25.8(d).**

#### **7:14A-25.6 Content of NJPDES permits for small MS4s**

**(a) The NJPDES small MS4 permit shall require at a minimum that the permittee develop, implement, and enforce a stormwater program designed to reduce the discharge of pollutants from the permittee's small MS4 to the maximum extent practicable, to protect water quality, and to satisfy the appropriate water quality requirements of the Federal Act**

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**and the State Act. The stormwater program required under a general permit shall include the Statewide Basic Requirements (SBRs) that are listed under (b)1 and (b)3 through (b)8 below (and that may be set forth in more detail in the NJPDES permit). The stormwater program shall also include any Additional Measures (AMs) required under (e) below, and any other control or evaluation measures specified in the NJPDES permit. At the permittee's discretion, the stormwater program may also include Optional Measures (OMs) in accordance with (i) below. Except as provided in N.J.A.C. 7:14A-25.8(e)1 and (g), this section and N.J.A.C. 7:14A-25.7 do not apply to the Tier B Municipal Stormwater Permit.**

**1. Best management practice (BMP) requirements are generally the most appropriate form of effluent limitations when designed to satisfy technology-based requirements (including reductions of pollutants to the maximum extent practicable) and to protect water quality. Implementation of BMPs (other than OMs) consistent with the provisions of the stormwater program required pursuant to this section and the provisions of the NJPDES permit required pursuant to N.J.A.C. 7:14A-25.2(a) constitutes compliance with the standard of reducing pollutants to the maximum extent practicable.**

**2. The NJPDES permit shall specify (for the permittee's first permit term) a time period of up to five years from the date of notification of general permit authorization (or the date of individual permit issuance) for the permittee to fully develop and implement its stormwater program for SBRs, and for any other measures specified in the NJPDES permit. For an AM required under (e) below, the Water Quality Management Plan will specify a time period for the permittee to fully develop and implement its stormwater program for that AM, and that time period will be listed in the permit when the permit is issued or in a minor modification to the permit.**

**3. The permittee shall prepare and implement a written stormwater pollution prevention plan (SPPP) that describes the permittee's stormwater program, and identifies the person or persons responsible for implementing or coordinating that program (including, at the permittee's discretion, OMs). If the permittee wants to share responsibilities for implementing one or more control measures (other than OMs) with one or more other entities pursuant to N.J.A.C. 7:14A-25.7(a), the SPPP must describe which measure(s) the permittee will implement, and identify the entity(ies) that will implement the other measure(s) within the area served by the permittee's small MS4.**

**4. The Department shall include the requirements in N.J.A.C. 7:14A-25.4 through 25.7 in any NJPDES permit issued for small MS4s, or develop limits in an individual NJPDES permit based on a permit application submitted for a small MS4 under N.J.A.C. 7:14A-25.5 and 25.9.**

**5. The Department shall issue under N.J.A.C. 7:14A-6.13 one or more general NJPDES permits for stormwater discharges from small MS4s. The Department shall make**

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**guidance available to assist permittees in the design and implementation of stormwater programs.**

**(b) The Statewide Basic Requirements (SBRs) are as follows:**

**1. Public involvement/participation:**

**The permittee shall, at a minimum, comply with applicable State and local public notice requirements when providing for public participation in the development and implementation of the permittee's stormwater program.**

**2. Construction site stormwater runoff control:**

**This SBR applies to discharges to surface water only. Under N.J.A.C. 7:14A-25.7(b), any NJPDES permit issued for small MS4s shall recognize that the Department is responsible for developing, implementing, and enforcing a NJPDES permit program to reduce pollutants in stormwater runoff to small MS4s from construction activities that result in a land disturbance of one acre or more. Reduction of pollutants in stormwater discharges from construction activity disturbing less than one acre shall be included in the program if the construction activity is part of a larger common plan of development or sale that would disturb one acre or more. This program is part of the NJPDES permit program for stormwater discharges associated with construction activity addressed under N.J.A.C. 7:14A-24.10.**

**3. Post-construction stormwater management in new development and redevelopment:**

**i. To prevent or minimize water quality impacts, the permittee shall develop, implement, and enforce a program to address stormwater runoff from new development and redevelopment projects that disturb one acre or more, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into the permittee's small MS4. The permittee shall in its program:**

**(1) Develop and implement strategies which include a combination of structural and/or nonstructural BMPs appropriate for the permittee's small MS4;**

**(2) Use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under State law (or Federal law, if the permittee is a Federal agency); and**

**(3) Ensure adequate long-term operation and maintenance of BMPs.**

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**ii. The program under (b)3i above shall require compliance with the applicable design and performance standards established under N.J.A.C. 7:8 for major development as defined in N.J.A.C. 7:8-1, unless:**

**(1) Those standards do not apply because of a variance or exemption under N.J.A.C. 7:8; or**

**(2) Alternative standards are applicable under a Water Quality Management Plan adopted in accordance with N.J.A.C. 7:15.**

**iii. The program under (b)3i above shall also require compliance with standards set forth in the NJPDES permit to control passage of solid and floatable materials through storm drainage inlets. For purposes of this subsection, “solid and floatable materials” means sediment, debris, trash, and other floating, suspended, or settleable solids.**

**iv. If the permittee is a municipality, the municipality shall, in its program under (b)3i above:**

**(1) Ensure that any residential development and redevelopment projects that are subject to the Residential Site Improvement Standards for stormwater management (N.J.A.C. 5:21-7) comply with those standards;**

**(2) Adopt and reexamine a municipal stormwater management plan in accordance with N.J.A.C. 7:8; and**

**(3) Adopt and implement a municipal stormwater control ordinance or ordinances in accordance with N.J.A.C. 7:8. The ordinance(s) shall control stormwater from non-residential development and redevelopment projects. Where necessary to implement the municipal stormwater management plan, the ordinance(s) shall also:**

**(A) Control aspects of residential development and redevelopment projects that are not pre-empted by the Residential Site Improvement Standards; and**

**(B) Set forth special area standards approved by the Site Improvement Advisory Board for residential development or redevelopment projects under N.J.A.C. 5:21-3.5.**

**4. Public education on stormwater impacts:**

**The permittee shall implement a public education program about the impacts of stormwater discharges on surface water and groundwater, and about the steps that the public can take to reduce pollutants in stormwater runoff. As part of this education program, the permittee shall inform public employees, businesses, and the general public of hazards associated with illicit connections and improper disposal of waste.**



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**5. Prohibiting improper disposal of waste:**

**i. The permittee shall develop a map, showing the location of the end of all MS4 outfall pipes (if any) that are operated by the permittee, and that discharge within the permittee's jurisdiction to a surface water body (for example, a lake or pond, the Atlantic Ocean or one of its estuaries, or a river or stream including an intermittent stream). This map shall also show the location (and name, where known to the permittee) of all surface water bodies receiving discharges from those outfall pipes. The permittee shall submit a copy of this map to the Department if requested.**

**ii. The permittee shall develop, implement and enforce a program to detect and eliminate illicit connections to the permittee's small MS4. The permittee shall, to the extent allowable under State law (or Federal law, if the permittee is a Federal agency), effectively prohibit, through ordinance or other regulatory mechanism, illicit connections to the permittee's small MS4, and implement appropriate enforcement procedures and actions.**

**iii. The permittee shall, to the extent allowable under State law (or Federal law, if the permittee is a Federal agency) effectively prohibit, through ordinance or other regulatory mechanism, other improper disposal of waste into the permittee's small MS4, and implement appropriate enforcement procedures and actions. "Improper disposal of waste" does not include any discharge that is regulated by a NJPDES permit other than the NJPDES permit for discharges from the permittee's small MS4.**

**iv. The permittee shall coordinate its programs under (b)5i, (b)5ii, and (b)5iii above with related components of the permittee's education program under (b)4 above.**

**6. Control of solid and floatable materials:**

**The permittee shall develop and implement an operation and maintenance program that prevents or reduces the discharge of solid and floatable materials resulting from the permittee's small MS4. This program is applicable to areas owned or operated by the permittee (including roads).**

**7. Maintenance yards and highway service areas:**

**The permittee shall develop and implement an operation and maintenance program that prevents or reduces pollutant runoff from maintenance yards and highway service areas owned or operated by the permittee.**

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**8. Employee training:**

**Using training materials that are available from USEPA, the Department or another State agency, or other organizations, the programs under (b)5iii, (b)6, and (b)7 above shall include (where applicable) employee training to prevent and reduce stormwater-related pollution from activities such as park and open space maintenance, vehicle fleet and building maintenance, new construction and land disturbances, and stormwater system maintenance.**

**(c) For each of the SBRs listed under (b)1 and (b)3 through (b)8 above, BMPs and measurable goals shall be specified or identified as follows:**

**1. Any general NJPDES permit for small MS4s shall specify:**

**i. The BMPs that the permittee or another entity (see (a)3 above) will implement for each of those SBRs; and**

**ii. The measurable goals for each of those BMPs including, as appropriate, an implementation schedule specifying the month and year in which the permittee or another entity will undertake each required action, including interim milestones and the frequency of the action.**

**2. Individual NJPDES permit applications under N.J.A.C. 7:14A-25.9(d) shall identify the information in (c)1i and (c)1ii above. The individual NJPDES permit as issued may specify BMPs and measurable goals that are the same as or different from the BMPs and measurable goals identified in the application.**

**(d) If, at the time the NJPDES permit is issued, a qualifying State or local program requires the permittee to implement one or more of the SBRs (or SBR components) listed under (b) above, or of the AMs (or AM components) required under (e) below, the Department may include conditions in the NJPDES permit that direct the permittee to follow that qualifying program's requirements rather than the corresponding requirements under (b) above or (e) below. For purposes of this subsection, a qualifying State or local program is a State or local municipal stormwater program that imposes, at a minimum, the relevant requirements under (b) above or (e) below. This subsection does not apply to the requirements in (b)2 above (construction site stormwater runoff control), or to the requirements in (b)3 above for compliance with the Stormwater Management Rules (N.J.A.C. 7:8) and the Residential Site Improvement Standards (N.J.A.C. 5:21).**

**(e) The permittee's stormwater program shall include any Additional Measures (AMs) required under this subsection. AMs are non-numeric or numeric effluent limitations that are expressly required to be included in the stormwater program by a Water Quality**

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**Management Plan (WQM plan) adopted in accordance with N.J.A.C. 7:15. AMs may modify, or be in addition to, SBRs listed under (b) above.**

**1. AMs may be adopted in a WQM Plan before or after the Department issues the NJPDES permit. The Department shall provide written notice of the adoption of the AM to each permittee whose stormwater program must include that AM, and shall list each adopted AM in the permit when the permit is issued or in a minor modification to the permit. For AMs other than numeric effluent limitations, the WQM plan shall specify the BMPs that the permittee or another entity (see (a)3 above and N.J.A.C. 7:14A-25.8(e)) will implement, and the measurable goals for each of those BMPs. AMs may be required by:**

**i. A TMDL approved or established by USEPA, or an equivalent analysis that determines such AMs are needed to protect water quality;**

**ii. A regional stormwater management plan adopted under N.J.A.C. 7:8; or**

**iii. Other elements of WQM plans adopted in accordance with N.J.A.C. 7:15.**

**(f) Whenever a NJPDES permit specifies measures other than SBRs, AMs, or numeric effluent limitations, the NJPDES permit shall specify the BMPs that the permittee or another entity (see (a)3 above) shall implement, and the measurable goals for each of those BMPs.**

**(g) Permittees shall meet measurable goals specified under (c), (e), or (f) above in order to demonstrate compliance with SBRs, AMs, or other measures, respectively. The Department shall make guidance available for those measures prior to [insert the date 30 days from the effective date of this subchapter] (for SBRs), when AMs are adopted in WQM plans, or when the Department issues the NJPDES permit (for other measures).**

**(h) The permittee shall comply with other applicable NJPDES permit requirements, standards and conditions established in the individual or general NJPDES permit.**

**(i) At the permittee's discretion, and to the extent allowable under law, the stormwater program may also include Optional Measures (OMs), which are BMPs that are not implemented for SBRs or AMs (or for other measures specified in the NJPDES permit), but that prevent or reduce the pollution of waters of the State. The SPPP shall specifically identify such BMPs (if any) as OMs, and identify actions to implement those OMs. Failure to implement an OM identified in the SPPP shall not be considered a violation of the NJPDES permit or this section.**

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**(i) Requirements for evaluation, recordkeeping, and reporting are as follows:**

**1. The permittee shall evaluate compliance with NJPDES permit conditions, including progress towards achieving the measurable goals identified for BMPs under (c), (e), or (f) above.**

**2. The permittee shall keep records required by the NJPDES permit for at least five years from the date of the record. The Department may, at any time, extend this period through a written notice in accordance with N.J.A.C. 7:14A-6.6(a). The permittee shall submit these records to the Department if requested. The permittee shall make these records, including its SPPP, available to the public at reasonable times during regular business hours (see N.J.A.C. 7:14A-18 for confidentiality provisions).**

**3. The permittee shall submit an annual report to the Department unless the permittee is relying on another entity to satisfy all of its NJPDES permit obligations under N.J.A.C. 7:14A-25.7(a) (including its obligation to file the annual report required by this paragraph). The report, which shall be submitted on a form provided by the Department, shall include:**

**i. The status of compliance with NJPDES permit conditions, including progress towards achieving the measurable goals;**

**ii. For those SBRs or AMs (if any) that give the permittee a choice of BMPs, identification of the BMP(s) chosen by the permittee (including any change in any BMP identified in the previous annual report), and a summary of the actions that the permittee intends to undertake during the next twelve months to implement the chosen BMPs;**

**iii. A summary of the actions undertaken to implement OMs, if any; and**

**iv. Notice that the permittee is relying on another entity to satisfy some of its NJPDES permit obligations (if applicable).**

**7:14A-25.7 Sharing of responsibility to implement control measures for a small MS4**

**(a) A permittee may rely on another governmental or private entity (for example, a watershed association) to satisfy the permittee's NJPDES permit obligations to implement one or more control measures (or component(s) thereof) for that permittee's small MS4 if:**

**1. The other entity, in fact, implements the measure(s), or component(s) thereof;**

**2. The particular measure(s), or component(s) thereof, is at least as stringent as the corresponding NJPDES permit requirement; and**

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**3. The other entity agrees (or is required by law) to implement the measure(s), or component(s) thereof, on the permittee's behalf. The permittee is responsible for compliance with the permittee's NJPDES permit obligations if the other entity fails to implement the measure(s), or component(s) thereof. In the annual reports the permittee must submit under N.J.A.C. 7:14A-25.6(j)3, the permittee shall specify that it is relying on another entity to satisfy some of the permittee's NJPDES permit obligations. If the permittee is relying on another entity regulated under the NJPDES permit program to satisfy all of that permittee's NJPDES permit obligations, including that permittee's obligation to file annual reports required by N.J.A.C. 7:14A-25.6(j)3, the permittee shall notify the Department of this reliance in writing, and shall also note this reliance in the permittee's SPPP.**

**(b) In some cases, the Department may recognize, either in an individual NJPDES permit or in a general NJPDES permit, that a governmental entity other than the permittee in question is responsible under a NJPDES permit for implementing one or more of the control measures, or component(s) thereof, for that permittee's small MS4, or that the Department itself is responsible. Where the NJPDES permit provides such recognition, the permittee in question is not required to include such measure(s), or component(s) thereof, in that permittee's stormwater program. The permittee is not responsible for such measure(s), or component(s) thereof, but is responsible for the all other measure(s), or component(s) thereof, in the stormwater program. Under N.J.A.C. 7:14A-16.4(b)21, the NJPDES permit may be reopened and modified to include the requirement to implement a measure(s), or component(s) thereof, if the other governmental entity or the Department does not implement it. At a minimum, any NJPDES permit issued for small MS4s shall recognize that under N.J.A.C. 7:14A-25.6(b)2, the Department is responsible for implementing the SBR for construction site stormwater runoff control.**

#### **7:14A-25.8 Tier B Municipal Stormwater Permit**

**(a) Each municipality that is assigned to Tier B under N.J.A.C. 7:14A-25.3(a)2, and that operates a small MS4 that discharges to surface water or groundwater, shall apply for the Department's Tier B Municipal Stormwater Permit (Tier B permit). The Department shall make this general NJPDES permit available to Tier B municipalities throughout the State. This general permit is not in any respect a permit under section 402 of the Federal Act (33 U.S.C. §1342).**

**(b) The deadline for Tier B municipalities to apply for authorization under this general permit is [insert the date 30 days from the effective date of this subchapter], except as provided in (b)1 and (b)2 below.**

**1. If a municipality receives notice from the Department that the municipality has been reassigned from Tier A to Tier B, the deadline is 90 days after receipt of that notice.**

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**2. If the municipality does not operate a small MS4 on [insert the date 30 days from the effective date of this subchapter], but is proposing to operate a new small MS4 after that date, the deadline is 90 days before the date on which operation is proposed to commence, or [insert the date 30 days from the effective date of this subchapter], whichever is later.**

**(c) The Tier B Permit shall provide for automatic renewal of authorization when the Department renews the general permit (see N.J.A.C. 7:14A-4.2(e)3 and 6.13(d)9).**

**(d) To apply, the municipality shall submit to the Department a written request for authorization (RFA). The RFA shall include a certification acknowledging the best management practices (BMPs) and measurable goals specified in this general permit and required by (f) or (g) below, and shall also include information specified in the general permit in accordance with N.J.A.C. 7:14A-6.13(d)2. After receiving the RFA, the Department shall notify the municipality in writing that the municipality is authorized to discharge under this general permit, or that the municipality is not authorized to discharge under this general permit because the municipality is assigned to Tier A under N.J.A.C. 7:14A-25.3(a)1. The Department shall publish a list of municipalities that are authorized to discharge under this general permit on the Division's website (<http://www.state.nj.us/dep/dwq>).**

**(e) Each municipality that is authorized to discharge under the Tier B Permit shall develop, implement, and enforce a stormwater program that includes the Statewide Basic Requirements (SBRs) listed in (e)1 and (e)2 below (and that may be set forth in more detail in the general permit). The stormwater program shall also include any Additional Measures (AMs) required under (g) below. The municipality may share responsibilities for implementing any of these SBRs or AMs with one or more other entities. Nothing in this section shall be construed as preventing the municipality from also implementing other stormwater control measures as allowed by statute. Such control measures are not governed by the Tier B stormwater program. The SBRs are as follows:**

**1. Post-construction stormwater management in new development and redevelopment:**

**To prevent or minimize water quality impacts, the municipality shall develop, implement, and enforce a program to address stormwater runoff from new development and redevelopment projects. This program shall meet the requirements listed in N.J.A.C. 7:14A-25.6(b)3.**

**2. Public education on stormwater impacts:**

**The municipality shall implement a local public education program about the impacts of stormwater discharges on surface water and groundwater, and about the steps that the public can take to reduce pollutants in stormwater runoff.**

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**(f) The Tier B Permit shall specify:**

**1. The BMPs that the Tier B municipality or another entity will implement for each of the SBRs listed under (e) above; and**

**2. The measurable goals for each of those BMPs including, as appropriate, an implementation schedule specifying the month and year in which the municipality or another entity will undertake each required action, including interim milestones and the frequency of the action.**

**(g) The Tier B municipality's stormwater program shall include any Additional Measures (AMs) required under this subsection. AMs are non-numeric or numeric effluent limitations that are expressly required to be included in the stormwater program by a Water Quality Management Plan (WQM plan) adopted in accordance with N.J.A.C. 7:15. AMs may modify, or be in addition to, SBRs listed under (d)1 and (d)2 above. AMs required under this subsection are subject to N.J.A.C. 7:14A-25.6(e)1.**

**(h) Tier B municipalities shall meet measurable goals specified under (f) or (g) above. The Department shall make guidance available to assist municipalities in the design and implementation of Tier B stormwater programs.**

**(i) Requirements for recordkeeping and reporting are as follows:**

**1. The Tier B municipality shall keep records required by this general permit for at least five years from the date of the record. The municipality shall submit these records to the Department if requested.**

**2. The Tier B municipality shall submit an annual report to the Department. The report, which shall be submitted on a form provided by the Department, shall evaluate progress towards achieving the measurable goals specified for BMPs under (f) or (g) above.**

**7:14A-25.9 Individual NJPDES permit applications for small MS4s**

**(a) An operating entity that is subject to N.J.A.C. 7:14A-25.5(a) shall apply for an individual NJPDES permit under (c) or (d) below for stormwater discharges from small MS4s if:**

**1. An application is required pursuant to N.J.A.C. 7:14A-2.4(c) or 6.13(e), in which case the Department shall specify whether (c) and/or (d) below is applicable; or**

**2. A general NJPDES permit applicable to the entity's small MS4 stormwater discharge is not available.**

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**(b) An operating entity that is not required under (a) above to apply for an individual NJPDES permit may on its own initiative apply for an individual NJPDES permit under (c) below for stormwater discharges from small MS4s.**

**(c) The following is applicable to an operating entity that seeks authorization to discharge under an individual NJPDES permit, and seeks to implement under the permit a stormwater program that is different from the stormwater program under N.J.A.C. 7:14A-25.6.**

**1. If the permit is for discharge to surface water, the operating entity shall submit to the Department a permit application that includes the information required by N.J.A.C. 7:14A-25.10(a). The entity does not need to submit the information required by 40 C.F.R. 122.26(d)(1)(ii) and (d)(2)(i) regarding the entity's legal authority, unless the entity intends for the Department to take such information into account when developing the entity's permit conditions.**

**2. If the permit is for discharge to groundwater, the operating entity shall submit to the Department a permit application that includes:**

**i. The information required by N.J.A.C. 7:14A-4.3 (except 4.3(a)11 and 15 through 24) and 7.9. In accordance with N.J.A.C. 7:14A-7.9(a)1, the entity shall submit the information required pursuant to N.J.A.C. 7:14A-7.9(d), except when, after consultation with the Department during a pre-application conference, it is determined that the information is not necessary to develop permit conditions for the small MS4;**

**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 area served by the small MS4 that is the subject of the permit application. The boundaries of that area shall be marked on the copy; and**

**iii. Any information required by the Department under N.J.A.C. 7:14A-8.17 (if an individual UIC permit is sought).**

**(d) An operating entity that seeks to implement a stormwater program under N.J.A.C. 7:14A-25.6 may seek authorization to discharge under an individual NJPDES permit only if the Department requires that entity to submit an application under (a)1 above and this subsection, or if an application is required under (a)2 above. The operating entity shall submit to the Department an application that includes:**

**1. The information required under N.J.A.C. 7:14A-4.3(a)1, (a)2, (a)3, (a)6, and (a)9, and 25.6(c);**



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**2. An estimate of the area, in square miles, served by the entity's small MS4;**

**3. A map, showing the location of the end of MS4 outfall pipes, that satisfies the requirement for such a map in N.J.A.C. 7:14A-25.6(b)5i (if the entity operates any MS4 outfall pipes);**

**4. Any information required under N.J.A.C. 7:14A-8.17 (if an individual UIC permit is sought); and**

**5. Other information required under N.J.A.C. 7:14A-4.3(e).**

**(e) If a small MS4 is in the same urbanized area as a medium or large MS4 with a NJPDES stormwater permit, and if the operating entity for the medium or large MS4 is willing to have the operating entity for that small MS4 participate in its stormwater program, both operating entities may jointly seek a modification of the medium or large MS4 permit to include the operating entity for the small MS4 as a limited co-permittee. As a limited co-permittee, the operating entity for the small MS4 will be responsible for compliance with the NJPDES permit conditions applicable to that entity's jurisdiction. If an operating entity for a small MS4 chooses this option for discharge to surface water, the entity shall comply with N.J.A.C. 7:14A-25.10(a) rather than N.J.A.C. 7:14A-25.6, except that the entity does not need to comply with 40 C.F.R. 122.26(d)(1)(iii) and (iv) and (d)(2)(iii) (discharge characterization). The entity may satisfy the requirements in 40 C.F.R. 122.26(d)(1)(v) and (d)(2)(iv) (identification of a management program) by referring to the medium or large MS4's stormwater program.**

**7:14A-25.10 Requirements for large and medium municipal separate storm sewer discharges**

**(a) Application requirements for operating entities for discharges to surface water from large and medium municipal separate storm sewers are contained in 40 C.F.R. 122.26(d), which is incorporated into this chapter by reference. Also incorporated into this chapter by reference, for purposes of this subsection only, are the definitions at 40 C.F.R. 122.26(b)(5) and (6) of "major municipal separate storm sewer outfall" and "major outfall". References to a "NJPDES permit" or "permit" in 40 C.F.R. 122.26(d) shall be understood to mean a NJPDES permit under this chapter, unless the context clearly indicates otherwise. References to an "illicit discharge" in 40 C.F.R. 122.26(d) shall be understood to mean an "illicit connection" as defined at N.J.A.C. 7:14A-1.2. Any operating entity for a discharge under this subsection is exempt from the requirements of N.J.A.C. 7:14A-4.3(a)11 and 15 through 24, (c) through (e) and 4.4(a) and (b)3 through 7.**

**(b) The operating entity for a large or medium municipal separate storm sewer system that discharges to surface water shall submit an annual report by the anniversary of the date of the issuance of the NJPDES permit for such system. The report shall include the**

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**information required under 40 C.F.R. 122.42(c), which is incorporated into this chapter by reference.**