NJPDES Permits

A Citizen’s Guide to
the New Jersey National Pollutant
Discharge Elimination System
Permitting Process

A Joint Project of
The Environmental and Natural Resources Law Clinic of the Delaware Law School and the Mid-Atlantic Environmental Law Center
NJPDES Permits:
A Citizen’s Guide to the New Jersey
National Pollutant Discharge Elimination System Permitting
Process

by

the Mid-Atlantic Environmental Law Center
and the
Delaware Law School’s
Environmental and Natural Resources Law Clinic

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PURPOSE OF THIS GUIDE

Congress set lofty goals for the country when it passed the Clean Water Act in 1972. Part of the Act’s original goal was to eliminate the discharge of pollutants into navigable waters by 1985, 33 U.S.C. § 1251(a)(1).* Forty years ago, only a third of the nation’s waters were safe for fishing and swimming. Sewage and industrial wastes flowed largely unregulated into the rivers, lakes, and streams of the United States. One of the Clean Water Act’s primary tools for attacking this problem was a system of permits known as the National Pollutant Discharge Elimination System. This program has been instrumental in reducing these discharges and allowing our waterways to become clean and usable once again: today, fully two-thirds of the nation’s surveyed waters are safe for fishing and swimming.

Built into New Jersey’s National Pollutant Discharge Elimination System (“NJPDES”) permitting process is the opportunity for public input. As you will see below, the NJPDES permit program works by requiring that when facilities discharge pollutants into the water, they must do so in compliance with a NJPDES permit. By participating in the process, a member of the public can add his or her thoughts to the body of information the New Jersey Department of Environmental Protection must consider when writing and issuing a final permit.

This guide is written to help New Jersey citizens participate effectively in the NJPDES permitting process. It is designed to help you understand the permitting process and to give you the tools to help you effectively participate in that process.

*Federal statutes are found in the United States Code (U.S.C.), federal regulations are found in the Code of Federal Regulations (C.F.R.), New Jersey state statutes are found in the New Jersey Statutes Annotated (N.J. Stat. Ann. Code) and New Jersey state regulations are found in the New Jersey Administrative Code (N.J. Admin. Code). These abbreviations will be used throughout the guide to identify the specific provisions where legal requirements can be found.
## KEY TERMS AND DEFINITIONS

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
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</thead>
<tbody>
<tr>
<td>Clean Water Act</td>
<td>The federal law that regulates the discharge of pollutants into water from a point source into a navigable water, 33 U.S.C. §§ 1251 et seq.</td>
</tr>
<tr>
<td>Comment and Response Document</td>
<td>A document issued by the New Jersey Department of Environmental Protection that summarizes and responds to all of the significant and relevant comments made during the public comment period, N.J. Admin. Code § 7:14A-15.16</td>
</tr>
<tr>
<td>Effluent Limitation</td>
<td>As defined in the Clean Water Act, “any restriction established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into navigable waters, the waters of the contiguous zone, or the ocean, including schedules of compliance,” 33 U.S.C. § 1362(11)</td>
</tr>
<tr>
<td>Discharge Monitoring Report</td>
<td>A mandatory monthly report of a facility’s effluent discharge samples to ensure that it is in compliance with its NJPDES permit, 40 C.F.R. § 122.48, N.J. Admin. Code § 7:14A-15.6.5</td>
</tr>
<tr>
<td>Draft Permit</td>
<td>A draft of a NJPDES permit that is published in the DEP Bulletin for public comment prior to permit finalization, N.J. Admin. Code § 7:14A-15.10</td>
</tr>
<tr>
<td>Environmental Protection Agency (EPA)</td>
<td>The federal agency that regulates pollutants under the Clean Water Act and delegates permitting authority to the states</td>
</tr>
<tr>
<td><strong>Final Permit</strong></td>
<td>The final version of a facility’s NJPDES permit requires it to comply with the federal Clean Water Act and state Water Pollution Control Act, N.J. Admin. Code § 7:14A–15.15</td>
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<tr>
<td><strong>National Pollutant Discharge Elimination System (“NJPDES”) Permit</strong></td>
<td>A permit that regulates the discharge of pollutants from a point source into navigable waters, 33 U.S.C. § 1342</td>
</tr>
<tr>
<td><strong>New Jersey Department of Environmental Protection (NJDEP)</strong></td>
<td>The state agency that has been delegated authority by the EPA to regulate pollutants under the Clean Water Act and issue and enforce NJPDES permits</td>
</tr>
<tr>
<td><strong>New Jersey Water Pollution Control Act</strong></td>
<td>The state law that regulates the discharge of pollutants and is the state counterpart to the federal Clean Water Act. N.J. Stat. Ann. Code § 58:10A-1 et seq.</td>
</tr>
<tr>
<td><strong>Permit Application</strong></td>
<td>A NJPDES permit application that must be submitted by any point source that wishes to discharge pollutants into a navigable water, 40 C.F.R. § 122.21, N.J. Admin. Code § 7:14A-4.2</td>
</tr>
<tr>
<td><strong>Point Source</strong></td>
<td>As defined by the Clean Water Act, “any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture,” 33 U.S.C. § 1362(14)</td>
</tr>
<tr>
<td><strong>Pollutant</strong></td>
<td>As defined by the Clean Water Act, “dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. This term does not mean (A)</td>
</tr>
</tbody>
</table>
“sewage from vessels or a discharge incidental to the normal operation of a vessel of the Armed Forces” within the meaning of section 1322 of this title; or (B) water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located,” 33 U.S.C. § 1362(6)

<table>
<thead>
<tr>
<th>Public Comment Period</th>
<th>30-day (extendable by 15 days under certain circumstances) public comment period during which the NJDEP accepts written comments from the public on a permit action, N.J. Admin. Code § 7:14A-15.10(c)(1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Violation</td>
<td>An exceedance of a permit holder’s effluent limitations or a failure of a permittee to comply with monitoring and reporting requirements specified in its permit, 33 U.S.C. § 1319</td>
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</table>
THE BASICS

Section 301 of the Clean Water Act, 33 U.S.C. § 1311(a), Section 301, prohibits the discharge of a pollutant from a point source into navigable waters, “[e]xcept as in compliance with this section and sections 1312, 1316, 1317, 1328, 1342, and 1344 of [the Clean Water Act].” Thus, if a discharge from a point source is not in compliance with at least one of these sections, it violates the Clean Water Act and the person discharging the pollutant is liable for that violation. The exception at 33 U.S.C. § 1342 -- Section 402 of the Clean Water Act — is the focus of this guide.

Section 402 creates the National Pollutant Discharge Elimination System permit program. In New Jersey, these permits are referred to as NJPDES permits and this acronym will be used throughout the guide, whether speaking about the federal or state program. A person whose discharge complies with the terms of an NJPDES permit falls within the exception of Section 301 and, therefore, is not prohibited under the Act. The NJPDES permit program is central to regulating the discharge of pollutants in compliance with the Clean Water Act.

The Clean Water Act authorizes the federal Environmental Protection Agency (“EPA”) to administer the NJPDES program. However, the EPA has delegated this authority to many of the states’ environmental protection agencies, as provided by 33 U.S.C. § 1342(b), including the New Jersey Department of Environmental Protection (“NJDEP” or “Department” or “agency”). Through this delegation, state agencies, such as the NJDEP, are given the authority to regulate and enforce certain programs under the Clean Water Act. The EPA can still take action against a facility that is in violation of its NJPDES permit, even if the state has been delegated the authority to administer the program. Additionally, if the EPA finds that the state’s administration of the Clean Water Act is inadequate, it can remove the state’s authority through de-delegation, a process that takes away the state’s NPDES program authority under the Clean Water Act.

The EPA has issued regulations, contained in 40 C.F.R. §124 et seq., that apply to the state NJPDES program. These regulations represent the minimum protections the state must provide; however, each state is free to adopt more protective standards should it deem them appropriate. New Jersey’s corresponding NJPDES procedure is contained N.J. Admin. Code § 7:14A 1.1 et seq.

In 1977, the New Jersey Legislature enacted the New Jersey Water Pollution Control Act (“WPCA”), L.1977, c. 74, N.J. Stat. Ann. Code § 58:10A-1 et seq., which serves as a parallel state law to the federal Clean Water Act. The WPCA’s purpose is to
empower NJDEP to implement the Clean Water Act, including the issuance of NJPDES permits.

NJPDES permits regulate the discharge of pollutants from a point source into navigable waters. The permits last for five years and the facility must apply for renewal of the permit at least 180 days before the expiration of its current permit. N.J. Admin. Code § 7:14A–4.2(e)3. The primary pollution control mechanisms in the NJPDES program are called the effluent limitation standards (sometimes referred to as “permit limits”), which limit the amount of each pollutant a point source may discharge. NJPDES permits also contain monitoring and reporting requirements. Most NJPDES permits are approved unless the Department has determined that the waterbody that a facility wants to discharge into cannot handle anymore pollutants; however, the effluent limitations ensure that the water body is protected from excessive pollution. The determination of how much pollution a water body can handle is further discussed in Effluent Limitations section further on in this guide.

If you would like to take a look at the state regulations, they are available at: http://www.state.nj.us/oal/rules/accessp/

Definitions

There are many terms used within the NJPDES permit program that are defined by the Clean Water Act. Here are some of the major terms you need to be familiar with:

**Discharge:** “(A) any addition of any pollutant to navigable waters from any point source, (B) any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft.” 33 U.S.C. § 1362(12).

**Point Source:** “any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture.” 33 U.S.C. § 1362(14).

**Navigable Water:** “waters of the United States, including the territorial seas.” 33 U.S.C. § 1362(7).

**Pollutant:** “dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and
industrial, municipal, and agricultural waste discharged into water. This term does not mean (A) “sewage from vessels or a discharge incidental to the normal operation of a vessel of the Armed Forces” within the meaning of section 1322 of this title; or (B) water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if such State determines that such injection or disposal will not result in the degradation of ground or surface water resources.” 33 U.S.C. § 1362(6).

**Effluent Limitation**: “any restriction established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into navigable waters, the waters of the contiguous zone, or the ocean, including schedules of compliance” 33 U.S.C. § 1362(11).

The definition of each term is not as straightforward as one would think. For example: What is a discernible, confined and discrete conveyance? And are not all waters considered a “water of the United States”? The federal courts have, over many cases, discussed the meaning of these terms and are still wrestling with what Congress meant by each.

The first of these definitional puzzles involves “discharge of a pollutant”—which under Section 301 is illegal unless a statutory exception (like the NJPDES permits in § 402) applies. At first glance, this language suggests that any discharge qualifies. However, the definition of “discharge” listed above indicates that it only applies to an addition of a pollutant “from any point source.” For example, discharge from a “point source” does not normally include runoff, which is traditionally considered non-point source pollution.

Another of these definitional puzzles involves “waters of the United States.” Not every water body qualifies. For example, the Supreme Court in *Rapanos v. United States*, 547 U.S. 715 (2006), held that wetlands must have “a continuous surface connection” to “relatively permanent, standing or continuously flowing bodies of water” connected to “traditional interstate navigable waters” or have a “significant nexus between the wetlands in question and navigable waters in the traditional sense . . .” in order to be a “water of the United States.” Even the Supreme Court’s explanation of the term requires further analysis.

Often, the definitions need further definition, which leads to confusion and litigation. In some cases, federal agencies other than the EPA, such as the Army Corp of
Engineers, which regulates certain types of discharges under the Clean Water Act, have promulgated regulations to clarify definitions. However, these regulations often still leave room for interpretation by the courts. For example, the Army Corp of Engineers have defined “waters of the United States” to include:

- “All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.”
- “All interstate waters including interstate wetlands”
- “All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce. . . .”
- “Tributaries of [the foregoing waters]”
- “Wetlands adjacent to [the foregoing waters]” 33 C.F.R. § 328.3

However, courts have wrestled with this definition, as well. In 2014, the EPA released a new proposed rule to more precisely define those waters that are protected under the Clean Water Act. This rule was finalized in May 2015. For more information on the new “Water Rule” see: http://www2.epa.gov/cleanwaterrule

The important thing to remember is this basic idea: a facility must have a permit before sending harmful materials into the water via a point source, or it will be in violation of both federal and state law and subject to an enforcement action.

The Water Pollution Control Act also defines terms that are important to NJPDES permits (these definitions are identical to those found in the regulations):

**Discharge:** “an intentional or unintentional action or omission resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying, or dumping of a pollutant into the waters of the State, onto land or into wells from which it might flow or drain into said waters or into waters or onto lands outside the jurisdiction of the State, which pollutant enters the waters of the State. “Discharge” includes the release of any pollutant into a municipal treatment works” (emphasis added) N.J. Stat. Ann. Code § 58:10A-3e.

**Point Source:** “any discernible, confined and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other
floating craft, from which pollutants are or may be discharged” N.J. Stat. Ann. Code § 58:10A-3m.

**Pollution:** “means any dredged spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, radioactive substance, thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal or agricultural waste or other residue discharged into the waters of the State. “Pollutant” includes both hazardous and nonhazardous pollutants” N.J. Stat. Ann. Code § 58:10A-3n.

**Waters of the State:** “the ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of this State or subject to its jurisdiction;” N.J. Stat. Ann. Code § 58:10A-3t.

As you can see, the New Jersey WPCA’s definition of “discharge” is more detailed than the definition found in the Clean Water Act. This definition also makes clear that regardless of whether the discharge was intentional, or unintentional, it is prohibited under the Act.

The WPCA definition for “point source,” on the other hand, is identical to that found in the federal law, without the exception of agricultural discharges and return flows. Similarly, the WPCA definition for “pollution” does not include the exception of discharge from vessels of the Armed forces, nor discharge related to oil or gas production. Eliminating those few exceptions to the federal Clean Water Act makes the New Jersey WPCA more comprehensive and allows for more discharge to be regulated. As you can see, the WPCA also specifically defines “Waters of the State,” instead of using the more vague term “navigable waters,” as used by the Clean Water Act.
History of the
Regulation of Water Pollution in New Jersey

New Jersey’s regulation of pollution began all the way back in 1899 (over 70 years before the federal Clean Water Act was enacted!). In fact, the definition of “Waters of the State,” goes back to 1907 and has not been altered since that original delineation (P.L. p. 361). In the 1899 Act, the state could enjoin polluting persons, municipalities, or private corporations from polluting if it found “that any of the waters of this state [were] being polluted in such manner as to cause or threaten injury to any of the inhabitants of this state, either in health, comfort or property” (emphasis added).

Even the argument over what a “water of the state” means dates back to the early 1900s. In a 1914 case, Board of Health of the State of New Jersey v. Inhabitants of Town of Phillipsburg, 83 N.J. Eq. 402, the court held that the town of Phillipsburg was liable for polluting the Delaware River under the 1899 Act. The defendant claimed that because the Delaware River is the boundary between New Jersey and Pennsylvania, the state did not have jurisdiction over the water. However, the court held that the Delaware River was a “water of this state,” because New Jersey had jurisdiction over the body of water for navigation and public use.

Regulated Pollutants

As noted, “pollutant” under the Clean Water Act not only encompasses those toxic chemicals and garbage that one would associate with the term, but also heat, rock, sand, and dirt. Which pollutants are regulated in each permit depends on the point source that holds the permit. Each point source’s discharge is its own mixture of different chemicals, metals, and debris, and the impacts from that discharge might vary depending on the water into which it is discharging. For example, a discharge of heated water into a small stream can have serious impacts on the fish in that stream, while the same amount of heated water discharged into a large river like the Passaic might not. Each permit will have a list of pollutants that are regulated and monitored for each outflow of pollutants from the facility. Some of the most common regulated pollutants are: Total Suspended Solids, Chlorine, pH, Temperature, Metals, Fecal Coliform (E.coli), Nitrogen, Phosphorus, Dissolved Oxygen, and Biochemical Oxygen Demand.
TYPES OF PERMITS

General Permits

State agencies draft general permits that apply to all facilities in a specific industry or that apply specific activities, such as municipal stormwater discharges. General permits are used when the agency has determined that, due to the nature of the type of facility or activity, standard effluent limitations, monitoring, and reporting requirements are adequate for each applicant instead of consideration of unique requirements for each application. New Jersey has twenty nine (29) General Permits, N.J. Admin. Code § 7:14A–6.13(c). With so many General Permits, the Department often falls behind in renewing them when their given year expiration dates pass. This is an important area to monitor permit renewals and contact the NJDEP when there is a particular permit you have concern about. These permits are available on the NJDEP’s website at: http://www.state.nj.us/dep/dwq/gp_surfacewater.htm

Individual Permits

If a facility or an activity does not fall into one of these general categories, or the NJDEP determines a general permit is not appropriate for a particular facility, it must apply for an individual permit. N.J. Admin. Code § 7:14A–6.13. These are designed specifically for each facility and have effluent limitations, monitoring, and reporting requirements tailored to the applicant. See Appendix pg. xxvii for an example of an Individual NJPDES Permit.

There are opportunities for public involvement when NJDEP decides whether to issue a new permit. This is the case for both an individual permit and a general permit, and the procedures for each are all but identical to each other.

New Jersey Individual NJPDES Permits

- Domestic – Category A
- Industrial – Category B
New Jersey General NJPDES Permits

- Stormwater Basins at Sanitary Landfills
- Potable Water Treatment Plant Basins and Drying Beds
- Existing Sanitary Subsurface Disposal Systems
- Lined Surface Impoundment
- Wood Recyclers
- Dental Facilities Onsite Wastewater Treatment Systems
- Concentrated Animal Feeding Operations (CAFO)
- Scrap Metal Processing/Auto Recycling
- Basic Industrial Stormwater
- Tier A Municipal Stormwater
- Tier B Municipal Stormwater
- Public Complex Stormwater
- Highway Agency Stormwater
- Mining and Quarrying Activity Stormwater
- Construction Activity Stormwater
- Concrete Products Manufacturing Stormwater
- Newark Airport Complex Stormwater
- Hot Mix Asphalt Producers Stormwater
- Non-Contact Cooling Water
- Groundwater Petroleum Product Clean-up
- Wastewater Beneficial Reuse
- Groundwater Remediation Cleanup
- Combined Sewer Systems
- Swimming Pool Discharges
- Hydrostatic Test Water
- Construction Dewatering
- Land Application Food Processing Residuals
- Residuals Transfer Facilities
- Residuals – Reed Beds
Major and Minor Permits

Facilities are broken up into two main categories: major facilities and minor facilities. Under the Water Pollution Control Act, N.J. Admin. Code § 7:14A-1.2, a Major facility is “any facility which scores 80 or more points on the NPDES permit rating work sheet using the USEPA rating criteria,” or a facility “classified as a Major facility by the Regional Administrator or the Department,” and “any POTW with a design flow of 1.0 Million Gallons per Day or greater.” A Minor facility is simply one that is not classified as a Major facility. N.J. Admin. Code § 7:14A-1.2. The designation of the permit as major or minor only affects the effluent toxicity monitoring requirements, N.J. Admin. Code § 7:14A-14.2 and the toxicity reduction requirements, N.J. Admin. Code § 7:14A-13.17, under the permit program. In either case — whether the facility is designated as a Major facility or a Minor facility on its permit — a discharge by a facility in violation of a permit under which it operates constitutes a violation.

EFFLUENT LIMITATIONS

One of the major pieces of a NJPDES permit is effluent limitations, also known as parameters or “permit limits.”. Effluent limitations are quantitative limits on how much of a particular pollutant a point source can discharge. These limitations are specified in each NJPDES permit. Effluent limitations come in two forms: water quality based limitations or technology based limitations.

Water Quality Standards

Each state must create water quality standards for the state’s waterways. Standards must be reviewed every three years. 33 U.S.C. § 1313(c). In order to create these standards, a state must first designate a waters “use” The use designation given to the waterbody forms the basis upon which the NJDEP develops its water quality criteria. Once the NJDEP has designated a use for a waterway it may determine that the waterway is “impaired,” or more polluted than NJDEP thinks is proper for that use. When the NJDEP finds that a water is impaired by a pollutant or pollutants it calculates the Total Maximum Daily Load (“TMDL”) of each pollutant the waterway can handle while maintaining, or returning to, levels appropriate to its use. The TMDL is then divided such that the NJDEP can inform each facility discharging into that water the maximum amount of each pollutant it can discharge.
Technology-Based Standards

A Technology-Based Standards sets a particular quantity as the minimum amount of treatment for a pollutant – expressed either as a mass (pounds or kilograms per day) or a concentration (an amount per quantity of water, 10 milligrams per liter, for example). These standards use available control technologies to minimize the amount of pollutant that is discharged. Facilities have discretion to use any technologies to meet the limit.

Anti-degradation Analysis

A water’s use designation is also important for the NJDEP’s anti-degradation analysis. The Clean Water Act has an anti-degradation policy to ensure that the quality of our water ways only continues to improve and does not degrade any further. The anti-

New Jersey Use Designations
(N.J. Admin. Code § 7:9B-1.15)

Below is a list of the Designated Uses that apply to state waters:

- Natural aquatic environment and its associated biota;
- Primary contact recreation;
- Maintenance, migration and propagation of the natural and established biota, aquatic biota, and biota indigenous to this unique ecological system;
- Cranberry bog water supply and other agricultural uses;
- Maintenance, migration and propagation of the natural and established biota;
- Public potable water supply after conventional filtration treatment and disinfection;
- Industrial and agricultural water supply;
- Shellfish harvesting
- Migration of diadromous fish;
- Maintenance of wildlife;
- Secondary contact recreation; and
- Maintenance and migration of fish populations; and
- Any other reasonable uses.
degradation policy requires the maintenance and protection of the existing uses and water quality conditions.

Under the Clean Water Act, New Jersey must have a state anti-degradation policy and implement such policy through water quality management practices, 40 CFR 131.12. Pursuant to New Jersey’s Anti-degradation Policy, N.J. Admin. Code § 7:9B-1.5(d), the NJDEP must ensure that new and modified permits maintain and protect the existing use of a waterway. The NJDEP must be mindful of this policy when it drafts NJPDES permits for new and modified sources.

**MONITORING REQUIREMENTS**

All facilities are required to monitor their effluent discharges to ensure they are in compliance with their permits. Below is an example of standard language for monitoring requirements in a NJPDES permit:

“Each analysis required by this permit shall be performed by a New Jersey Certified Laboratory that is certified to perform that analysis . . . All Sample frequencies expressed in Part III are minimum requirements. Any additional samples taken consistent with the monitoring and reporting requirements contained herein shall be reported on the Monitoring Report Forms.”

**REPORTING REQUIREMENTS**

Once the facility has its discharge sampling results, it must report the data to the NJDEP. Facilities must complete “Discharge Monitoring Reports,” also known as DMRs, and submit them to the NJDEP every month, as illustrated by this standard language from an NJPDES permit --“The permittee shall submit all monitoring result to the Department in the forms provided to them.” DMRs consist of the sampling data collected by the facility as required by its NJPDES permit.
Sometimes, the data must only be reported and no limitation is established. However, for the effluent limitations that do exist, reported sampling values must be within the parameters of the facility’s permit or they are violating their NJPDES permit, and thus violating the Clean Water Act and Water Pollution Control Act.

In New Jersey, DMRs are available to the public online at the NJDEP’s Data Miner website:


On the Data Miner website, you are able to search by permit number, program interest, or Watershed Management Area. This search can be further narrowed by date. This is an excellent way to monitor a facility’s compliance with its NJPDES permit. Additionally, you can track whether a facility is actually reporting its discharges. See Appendix pg. ix for step-by-step instructions on how to use Data Miner.

Failure to correctly monitor and report is also a violation of the NJPDES permit and is actionable by either the NJDEP or interested citizens. Often, reporting violations accompany discharge violations, however, this is not always the case. Without a facility submitting its DMRs, how can a citizen know if that facility is exceeding its effluent limitations?

Some courts have questioned a citizen’s ability to sue a facility on the sole basis of failure to report its effluent limitations as required by its NJPDES permit. As we will discuss later in the guide, a citizen or group needs “standing” to bring suit under the Clean Water Act. This requires that the plaintiff show that it has been injured in some way by the defendant’s actions. In Public Interest Research Group of NJ v. Magnesium Elektron, Inc., 123 F.3d 111 (3rd Cir. 1997), the federal Third Circuit Court of Appeals (which hears cases for New Jersey, Pennsylvania, and Delaware), left the door open for citizens to bring suit solely for reporting violations, stating “we think that it is at least possible that some plaintiff in the future might allege a specific and concrete injury arising from a defendant’s failure to monitor and report its effluent discharges.”

However, litigation is not the only way to hold facilities accountable for reporting violations. Citizens can also send letters to the NJDEP regarding the reporting violations, send letters to the facilities about the reporting violations, or when a facility is renewing its permit, include the reporting violations into a public comment.
HOW NJPDES PERMITS GET ISSUED

Application

The first step for an individual who wishes to discharge from a point source in New Jersey is to apply to do so under one of two NJPDES permits: a general permit or an individual permit. Public notice of a completed application is not required. However, the NJDEP does publish all permit actions in the DEP Bulletin. The DEP Bulletin contains the latest information about NJDEP actions and is available the first and third Wednesday of every month, when it officially becomes public. It is available online at: http://www.nj.gov/dep/bulletin/. In the Appendix, pg.vii you will find a step-by-step guide on how to search the DEP Bulletin. Both new and renewal applications must be filed at least 180 days prior to the commencement of the activity or the expiration of the current permit, respectively, under N.J. Admin. Code § 7:14A–4.2(e).

A Note About Renewal Permits

Many permits are “administratively continued” by the NJDEP beyond their expiration date. This means that if an applicant submits a complete renewal application at least 180 days prior to the expiration of its current permit, its current permit will remain effective while NJDEP reviews and issues the renewal permit. N.J. Admin. Code 7:14A–2.8. The New Jersey DEP, along with environmental agencies all over the country, has a significant backlog of renewal NJPDES permit applications.

Draft Permit and Public Comment Period

After the Application is deemed to be complete by the NJDEP, the agency creates a Draft Permit for the discharger. When the NJDEP has prepared a new draft permit — either the initial draft, or a draft after a major revision to the permit — it posts public notice in the DEP Bulletin (and sometimes one or more newspapers) under N.J. Admin. Code § 7:14A–15.10(c)(1). This begins the 30-day (extendable by 15 days under certain circumstances) public comment period during which the NJDEP accepts written comments from the public.

The NJDEP will also prepare a fact sheet listing information about the draft permit and the basis on which the Department developed the draft permit guidelines, N.J. Admin. Code § 7:14A–15.8. The notice of the draft permit will include the address and telephone number of the office where you can get a copy of the fact sheet, N.J. Admin. Code § 7:14A-15.10(h).
Fact Sheets

Pursuant to N.J. Admin. Code § 7:14A–15.89(c), the Fact Sheet will include:

(1) A brief description of the type of facility or activity which is the subject of the draft permit;

(2) The type and quantity of wastes, fluids, or pollutants which are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged;

(3) A sketch or detailed description of the location of the discharge(s) or regulated activity described in the application or, for general permits, a map or description of the area;

(4) A brief summary of the basis for the draft permit conditions, including references to applicable statutory or regulatory provisions and appropriate supporting references to the administrative record required by N.J. Admin. Code § 7:14A–15.17;

(5) A summary of the Department's determination whether to include any requested variances or alternatives to permit conditions;

(6) The name and telephone number of a Department staff person to contact for additional information;

(7) Any calculations or other necessary explanation, or a reference where calculations or explanations can be found, of the derivation of specific effluent limitations and conditions or standards for residual use or disposal, including a citation to the applicable effluent limitation guideline or performance standard or standard for residual use or disposal as required under N.J. Admin. Code § 7:14A–13 or 20. The fact sheet shall also state the reasons why they are applicable or provide an explanation of how the alternate effluent limitations were developed.

(8) For permits that include a notification plan under N.J. Admin. Code § 7:14A–20.7(a)3, a brief description of the conditions of the permit that address approval of residual land application sites not identified at the time of permit issuance.

See Appendix pg. xxi for an example of a General Permit Fact Sheet
Public Hearings

Under N.J. Admin. Code § 7:14A–15.11(b), during the public comment period you and any group or organization of persons may “request a public hearing on a draft permit for which public notice has been published.” The public hearing, if there is one, is an opportunity to make your comments stand out by putting a face and a voice — ideally, several faces and voices — to your message. Public hearings are formal and structured. These hearings give the public an opportunity to present oral and/or written comments for the record.

Remember, although you have the right to request a public hearing, your request does not always have to be granted. The NJDEP is only required to hold a public hearing “if there is or may be a significant degree of public interest in favor of holding a public hearing.” The NJDEP has the option of holding a public hearing “if it determines that a hearing is likely to clarify one or more legal and/or factual issues on a draft permit and that oral testimony is essential to adequately express all issues and concerns,” N.J. Admin. Code § 7:14A–15.12(a). Therefore, you have the best chance of your request being granted if your request is specific and thoughtful.

Final Permit

Finally, the NJDEP will take final agency action and either issue or deny the permit. After the comment period and public hearing, if any, the agency will make any necessary changes to the permit and either take final agency action, if the changes are relatively minor, or, if the changes are major, produce another draft and hold another comment period. If the agency takes final action, comments received will be available for review, and “the Department also shall notify, in writing, the applicant or permittee and each person who submitted written comments or requested notice of the final permit decision,” N.J. Admin. Code § 7:14A–15.15(a). If there is no appeal, this is the end of the process, and the permit goes into effect.

Comment and Response Document

After the NJDEP makes its permit decision, it will publish a Comment and Response Document that will respond to all of the comments made during the public comment period. This document is available to the public. Additionally, if you made a comment, you will either be mailed a copy or notified of an electronic posting. You can use this document to help you with appealing an agency decision. A Sample Response Document can be found in the Appendix, pg. lxxxvi.
**Appeals of NJDEP Actions**

When the NJDEP makes its permit decision, you may not agree with the result and may wish to appeal the decision. Your appeal may be on the facts or legal aspects of the permit decision, but in either case must be clear and specific.

An adjudicatory hearing is the first step in the appeal process. You may request a hearing within thirty (30) days of the permit decision. N.J. Admin. Code § 7:14A–15.117.2. In order to make such a request, you must have raised the issue during the public comment period, N.J. Admin. Code § 7:14A–15.13. It is within the NJDEP’s discretion whether to grant your request, but whether it grants or denies your request, it must identify the reasons. N.J. Admin. Code § 7:14A–17.4(c), (e).

Even if your request is granted, that does not mean the permit decision will be stayed, or put on hold – meaning that the facility can discharge according to its issued NJPDES permit. Pursuant to N.J. Admin. Code § 7:14A–17.6(a), you will have to submit a separate written request to stay a permit decision.

If the Department grants your request for a hearing, the hearing will be assigned to a judge within the Office of Administrative Law. The judge will recommend a decision to the NJDEP Commissioner within forty-five (45) days, N.J. State. Ann. Code § 58:10A-10.6. Once the judge issues his or her recommendation, you have thirteen (13) days to submit an objection. Then the NJDEP Commissioner must make his or her final decision based on that judge’s recommendation within forty five (45) days, otherwise the judge’s initial recommendation will be adopted as final, N.J. Stat. Ann. Code § 58:10A-10.6.

In *In re NJPDES Permit No. NJ0025241*, 185 N.J. 474, 486 (2006), the New Jersey Supreme Court held that the dispute over the permit decision must be “about adjudicatory facts or about the application of ‘the law to facts as found’ based on evidence presented in a trial like proceeding.” This means that you cannot appeal the Department’s permit decision if you are challenging the Department’s policy or discretion because such discussion was already exhausted during the public comment period. So when you request an adjudicatory hearing, you must be very careful to only claim issues that you believe are beyond the Department’s discretion.

“Party to the Action”

To request a hearing for a permit decision, you must be considered “a party to the action,” N.J. Admin. Code § 7:14A–17.2(a). According to N.J. Admin. Code § 7:14A–17.3(b), the NJDEP must determine whether you are such within thirty (30) days of your request.

In order to be considered a “party to the action” you must meet the following criteria (found at N.J. Admin. Code § 7:14A–17.3(c)):

1. The person’s objection(s) to the Department’s decision as specified in N.J. Admin. Code § 7:14A–17.2(a) were raised by that person in the public hearing and/or in a written submission within the public comment period established pursuant to N.J. Admin. Code § 7:14A–15;
2. The person demonstrates the existence of a significant issue of law or fact;
3. The person shows that the significant issue of law or fact is likely to affect the permit decision;
4. The person can show an interest, including an environmental, aesthetic, or recreational interest, which is or may be affected by the permit decision and that the interest can be fairly traced to the challenged action and is likely to be redressed by a decision favorable to that person. An organization may contest a permit decision on behalf of one or more of its members if the organization’s member or members could otherwise be a party to the action in their own right, and the interests the organization seeks to protect are germane to the organization’s purpose; and
5. The person submits the information required under N.J. Admin. Code § 7:14A–17.2(f) [including a list of information about the facility, the person requesting the hearing, and your claim]. (emphasis added)

Appeals of Hearing Board Decisions to Appellate Division

If you are not happy with the Hearing Board’s decision, you can appeal to the Appellate Division of the New Jersey Superior Court, which is a court of law. The court will only review the record of the adjudicatory hearing. This appeal must be filed within forty five (45) days of the NJDEP Commissioner’s final decision. N.J. Stat. Ann. Code § 58:10A-10.6.
PUBLIC PARTICIPATION

In the first section of the Clean Water Act, Congress specifically called for the public to participate in the decision-making process:

“Public participation in the development, revision, and enforcement of any regulation, standard, effluent limitation, plan, or program established by the Administrator or any State under this chapter shall be provided for, encouraged, and assisted by the Administrator and the States.” 33 U.S.C. § 1251(e) (emphasis added).

With all of the laws, regulations, and permits regulating the quality of our water, government agencies are unable to fully monitor and enforce all activity under the Clean Water Act. Whether citizens comment on regulations, monitor compliance with permit provisions, or bring suit against violating facilities, the role of the public is essential to the preservation and enhancement of our environment.

Each person who seeks to participate in the decision-making process does so for his or her own reasons. You may want to stop or delay a permit; ensure that a permit meets minimum legal standards; ensure that issuance or denial of a permit is consistent with the department’s mission or policies; confirm that any compliance issues that the facility had in the past are addressed in the new permit, or any other reason that is important to you or your group or organization. If, in the final decision, one of those things does not happen in response to your initial involvement with the process, and you think it should have, then you may have grounds for appealing the NJDEP’s decision.
OPPORTUNITIES TO PARTICIPATE

Permit Application

Draft NJPDES Permit

30-Day Public Comment Period

Public Hearing

Submit Written Comments

NJDEP Review

Second Draft Permit

Second 30 Day Public Comment Period

NJDEP Review

Final NJPDES Permit
Permit Application

The best time to influence a permit is when it is in its earliest stages -- after the application is submitted, but before the NJDEP issues a draft permit. Public notice of a completed application for an individual NJPDES permit must be provided, with a 30 day period when people can request additional information, submit comments, and request public hearings on the applications. N.J. Stat. Ann. Code § 58:10A-9(b). Most often, the application will be noticed in the DEP Bulletin (Found at: http://www.nj.gov/dep/bulletin/ ). A copy of the application and additional information about the permit application must be made available upon request. N.J. Stat. Ann. Code § 58:10A-9(c). You can also search on Data Miner to find the status of pending permits, which will give you the necessary information to request a copy of the application. You can learn how to navigate Data Miner at Appendix, pg. ix. It is important to note that public notice is not required for minor modifications of permits. N.J. Admin. Code § 7:14A–15.10(b)(2).

The public comment period does not officially begin until there is a draft permit, but you should begin preparing to comment when the applicant first files — it may be as few as 180 days from that point before the applicant will be operating under this permit. You may be able to request copies of applications, prior similar permits to compare to the eventual draft, and other useful documents and information through an Open Public Records Act, or “OPRA” Request, discussed in the How to Participate section of this guide. If the new permit is a general permit, there is no requirement of public notice until NJDEP has produced a draft.

Public Comment Period

The public notice will instruct you where to send comments, and any other directions particular to the permit under consideration, N.J. Admin. Code § 7:14A–15.10(f)

The Data Miner web site, described in further detail below in How to Participate, can also come in handy for tracking specific permits: http://datamine2.state.nj.us/DEP_OPRA/OpraMain/categories?category=Pending+Permit+Progress+Reports
A Note on Public Participation Concerning General Permits

The above permitting process is specific to individual permits. General permits have a slightly different process. If the NJDEP is issuing a new general permit, or is revising a general permit, it “shall publish in the New Jersey Register a notice of administrative change revising the list of general permits . . . to reflect any of these general permit actions.” N.J. Admin. Code § 7:14A–6.13(c).

If a general permit has already been issued by the NJDEP, then the applicant must submit a written request for authorization with the NJDEP under N.J. Admin. Code § 7:14A–6.13(d). It is the applicant’s responsibility to ensure that “a certification that arrangements have been made for publication, in a daily or weekly newspaper within the area affected by the facility, of a notice which states that a request for authorization under a general permit has been submitted pursuant to N.J. Admin. Code § 7:14A–6.13(d).”

General permits should be renewed every five years and the law requires the permits to be up for public comment when they are renewed, N.J. Admin. Code § 7:14A–15.10. No matter when or if public notice is required for a discharge under a general permit, there is very limited opportunity for public involvement in the renewal process (likely because the public is invited to participate in the initial rulemaking which resulted in the General Permit under which renewal is sought).

Public Hearing

The DEP Bulletin, and possibly your local newspaper, will carry notice of a public hearing. As covered above in “How NJPDES Permits Get Issued,” public notice of the hearing will include the telephone number and address of the office from which you may request a fact sheet. If you requested a fact sheet when notice of the draft permit issued, you will receive notice of the hearing by mail, and you will automatically receive any updated versions of the fact sheet. The online NJDEP Public Participation Calendar will
also display information about any scheduled public hearings on NJPDES permits: http://www.nj.gov/dep/calendar/public.html

The public hearing is a good opportunity to meet agency employees and other officials connected to the decision making process, and you may be able to lay the groundwork for future communication.

You can watch a video of a public hearing by clicking on the following link: http://pittsburghfoundation.org/node/33931. The permit in question is not a NJPDES permit, but the process and the concerns of the parties are identical, and if you have never attended a public hearing this will prepare you for what to expect and allow you to see what works and what does not when presenting comments.

HOW TO PARTICIPATE

Public participation in the NJPDES permitting process is relatively straightforward however truly effective participation requires at least adequate preparation, sufficient information, and the right stylistic choices.

Finding the Facilities

If you would like to find out if a facility in New Jersey is discharging pollutants under an NJPDES permit, you can search by using the NJDEP’s Data Miner web site. You can go to the main website to search based on the information you have: http://www.nj.gov/dep/opra/online.html. See Appendix pg. ix for step-by-step instructions on how to navigate this website.

If you would rather get the information by telephone, you may also call the NJDEP Division of Water Quality at the main office. The full contact information is available here: http://www.nj.gov/dep/easyaccess/water.htm#waterquality

Preparation

The first step is to decide what outcome you hope to achieve. Do you hope to improve the permit, support issuance of the permit, have the permit denied, or some other outcome? Maybe you will not know your precise objective for certain until you familiarize yourself with the law and review the draft permit itself or a fact sheet, as described in N.J. Admin. Code § 7:14A–15.8, which the NJDEP will send you upon request after public notice of the draft permit under N.J. Admin. Code § 7:14A–15.8(b). Before reviewing any of the permit documents, you will need to become familiar with
the scope of the issue. This involves knowing the pertinent statutes and agency regulations. Create a checklist of what you hope to see in the permit. (See Appendix pg. ii-iii for examples of a checklist.) Base the checklist on the requirements contained in the statutes and regulations you have at this point familiarized yourself with, as well as facts and concerns you have that are not addressed but that you believe the NJDEP should consider.

It is also good to do some research on the facility whose permit you are commenting on. Is it renewing its permit? Has it had past permit violations? What pollutants does it discharge? Has the agency taken enforcement action against the facility in the past? All of this information should be publically available under the New Jersey Open Public Records Act (N.J. Stat. Ann. Code § 47:1A-1 et seq)

**Open Public Records Act**

Under the New Jersey Open Public Records Act, anyone can request access to public documents. Citizens can submit a formal request in the form of a letter, paper form, online form or can schedule an informal file review with the appropriate agency to review the documents.

You can use this tool to review previous NJPDES permits, DMRs, or any other public documents related to a particular facility. This can help you understand more about a facility and will give you information to help you write effective comments.

You can also request that any fees be waived, although there is no official fee waiver policy.

For more information about NJDEP’s OPRA procedure, go to: [http://www.nj.gov/dep/opra/forminfo.html](http://www.nj.gov/dep/opra/forminfo.html)

Additionally, the EPA has a database called the Enforcement and Compliance History Online, or ECHO, available at: [http://www.echo.epa.gov](http://www.echo.epa.gov). You can search this database for facilities with NJPDES permits. Each facility page will include information on the facility’s permit, location, compliance history, environmental conditions, pollutants, and demographic profile. You will be able to click on a permit number for
more detailed information on the facility’s permit history, outfalls, effluent limitations, violations, and inspections. At the time of publication, the ECHO database did not have information on New Jersey facilities after 2012. However, it is good to refer back to the database for past information, as well as check back in with the database in the case that the information does get updated. See Appendix pg. xviii for step-by-step instructions.

HOW TO COMMENT

Written Comments:

The most common method of public participation is the written comment. A written comment to the NJDEP about an issue (or issues) with a permit application or draft permit, received during the public comment period, becomes part of the administrative record upon which the decision to permit or deny is made. Once a comment is part of the record, the NJDEP must consider it when making its permit decision.

Most of the major steps in preparing written comments should be followed even if your ultimate goal is to submit a verbal comment or simply preserve issues for appeal. You will need the same information as you would for a written comment and you should present it in the same clear and easy-to-understand manner so that the reader understands the issues you want addressed, and what you think the best method is to address them.

Written comments are made to the NJDEP Contact Office listed in the notice that the public comment period has opened.

Another simple way to provide a written comment is to join forces with a local organization or group. If the group is already planning to comment, then you can join in its comment, and there may be a spot for you to add a note to go with the main comment. If the group is not planning to comment, you may be able to interest them if you have some information to present, particularly if the group is local to the facility.

Verbal Comments:

If the NJDEP concludes that there is significant public interest in a permit — either on its own, or after petitioning by the public — there will be a public hearing (or meeting) on the issues. At this hearing, members of the public may make brief comments that will become part of the administrative record and must be responded to by the NJDEP before it takes final action. It is most effective to use verbal commenting
as a supplement to written comment, and it is not much more effort since the preparation for each is essentially identical.

You will see the call for requests or petitions for public hearings in the notice of public comment in the DEP Bulletin, where you will also see notice of any public hearing. A great place to look for events such as public hearings is the DEP Public Participation Calendar, located online here: http://www.nj.gov/dep/calendar/public.html

For specific information on how to best make your written and verbal comments, see the Effective Participation section, below.

Follow Up

After you have submitted your comment you can take several steps to ensure that your voice is heard by the agency. First, review other people’s comments (if possible) and submit additional comments if you have discovered more information or evidence to back up your original comments. If you made comments at a public hearing, send in written comments outlining what you said at the hearing. If you are an organization, make your comment publically available and issue a press release. Encourage others to submit comments, as well. The more people voicing an opinion, the more likely the agency will take it seriously when making their permit decision. Finally, once the comment period has ended, obtain a copy of the NJDEP’s response to public comments. This document can be useful for future comments or when appealing a permit decision. As mentioned earlier in this guide, the comment and response document will be noticed and available to the public by request. Additionally, if you made a comment, you will either be mailed a copy or noticed of an electronic posting. See Appendix pg. lxxxvi for a Sample Response Document.

APPEALS

The NJDEP made a final permit decision and you are not happy with it – so you want to appeal. If you have not done so already, you should seek legal counsel for an appeal of a permit. Although legal representation is not required for an individual at this stage, the appeals process is complex and some parts of the process require specialized experience in order to do them correctly (and some must be done correctly the first time). Not only will an experienced lawyer know more about how to navigate the appeals procedure, but she will also have a better chance of spotting issues for your appeal. Public interest attorneys are often willing and able to take on these types of cases at no charge and can sometimes receive attorney’s fees if you win the case.
CITIZEN SUIT

The Clean Water Act also contains a very important provision: the Citizen Suit, 33 U.S.C. § 1365. While this topic is beyond the scope of this guide, it is important to know the basics. The Citizen Suit provision allows a person to bring suit against anyone who discharges pollutants in violation of his or her permit or without a permit at all. An individual can also bring suit against the EPA or state administrator who has failed to perform a non-discretionary act. So long as you have a cognizable interest in the illegal discharge or failure to act, you can bring suit to ensure compliance with the law. Citizens can monitor permits and facilities to be sure that they are complying with the Clean Water Act and parallel state laws. Once you learn about the permitting process and what must be in a permit, monitoring permits that are of interest to you becomes a fairly simple task that just requires time. Although bringing legal action can involve knowledge beyond that of a typical individual or organization, there are several organizations that can help guide you through the process or find an attorney to represent you, including the Environmental and Natural Resources Law Clinic at the Delaware Law School and the Mid-Atlantic Environmental Law Center.

Attorney’s Fees

The WPCA does not have a provision which awards reasonable attorneys’ fees to the winner after a law suit brought pursuant to the WPCA. A bill was introduced in both 2010 and 2014 to allow for such fees to be awarded, however, no further action by the NJ legislature has been taken to enact such a provision.

However, most often you will bring suit under the Clean Water Act, which has the Citizen Suit provision. Under the Clean Water Act, § 1365(d) allows for reasonable attorney’s fees.
Mandatory Administrative Penalties

Pursuant to the WPCA, N.J. Stat. Ann. Code § 58:10A-10.1, the NJDEP “shall assess a minimum mandatory civil administrative penalty” for each:

- Serious violation ($1,000);
- Significant noncomplier ($5,000); and
- Effluent parameter omitted on a discharge monitoring report ($100).

A “serious violation” is “an exceedance of an effluent limitation for a discharge point source . . . by 20 percent or more for a hazardous pollutant, or by 40 percent or more for a nonhazardous pollutant,” N.J. Stat. Ann. Code § 58:10A-3v.

A “significant noncomplier” is “any person who commits a serious violation for the same [ ] pollutant . . . at the same discharge point source, in any two months of any six-month period, or who exceeds the monthly average or, in a case of a pollutant for which no monthly average has been established, the monthly average of the daily maximums for an effluent limitation for the same pollutant at the same discharge point source by any amount in any four months of any six-month period, or who fails to submit a completed discharge monitoring report in any two months of any six-month period,”

As a result of this provision, the Department has a non-discretionary duty to take action against those facilities that discharge in exceedance of their effluent limitations. If the NJDEP does not impose these minimum mandatory administrative penalties, citizens, under the WPCA, can bring legal action against the agency.
EFFECTIVE PARTICIPATION

Contact the NJDEP Office

Individuals at the NJDEP Main Office can help answer your trickier questions, and may be able to tell you the status of permit applications or draft permits before you would otherwise know about them. This can be important to your cause, because the best time to influence any agency document is before it is written. The NJDEP office may also be able to put you on a notification list, so that you will get updated information without having to search for it. Often times the permit writer’s name will be located in the DEP Bulletin public notice and is available on Data Miner.

Have a Direct Influence on the Permit

The most common method for influencing an NJPDES permit is submission of a comment, written or verbal, during the public comment period. We covered the process for doing this above in the How to Comment section. No matter what else you choose to do, you should submit a written comment: the preparation of a written comment includes the steps you should take to prepare for any other type of involvement, and written comments must be considered by the agency.

The second method is to get involved in the formulation of a draft permit before it becomes public. This will require the most extensive and difficult preparation because, although this requires essentially the same as preparing and submitting a written comment, you will need to have, or quickly acquire, significant knowledge of the issues and laws involved to comment effectively at this stage. However, as soon as you are notified of a permit application, you can prepare comments for the draft permit and submit to the NJDEP, even without knowing whether a draft permit is in the works. Although the NJDEP is not required to consider it, it gets your position to the agency before a draft permit is issued.

Make Sure Your Comment Is Heard by the Agency

Coordinate your comments with others to make sure your message is heard, and given the appropriate weight. Contact people and groups who share your concerns, including businesses and other government agencies whose comments are hard for the NJDEP to ignore. Groups often have greater knowledge of the issues and can bring credibility to your comments. The easiest and most certain way to make sure your comment is considered is to join forces with a local group or organization that shares your concern. Groups often choose to petition for signatures for its written comments, petition for a public hearing, or arrange for its members to speak at public hearings.
Often, groups have greater resources and expertise to understand the issues and determine effective tactics. You can do something as simple as adding your name to the group’s comment, or you can get involved by volunteering your time. An alphabetical and searchable list of New Jersey environmental organizations is available from Rutgers University here: http://njedl.rutgers.edu/environmental_organizations

Additionally, no matter what form your input takes, always be firm, respectful, and dignified. The person who reads or hears your comment will not be able to do anything — and will not want to do anything — with a comment that is accusatory, unclear, or off-topic. This is a chance for you to help make the rules, and your input is likely to be discounted if it comes across as hostile.

Compose an Effective Written Comment

Just as you should take a strategic approach to your involvement in the permitting process, you should take a strategic approach to composing your written comment. Your preparation of your written comment should form the basis for any other input you make, for instance, any verbal comment you make should cover the same points as your written comment.

Follow these steps as you prepare to compose your comment:

**First,** decide what outcome you want from your comment. What would you like to have happen as a result? Do you want the permit denied, approved, or added to in some way, or is there some other outcome you seek? Two important pitfalls to avoid at this stage are composing a comment in the form of a question and composing a comment that is not grounded in any legal requirement of the permit or the permitting process.

A comment in the form of a question is something similar to:

“Why did the NJDEP not consider the impact of the facility on ‘X’ when drafting the permit?”

Even if this question is valid, the purpose of the public comment period is not to answer the public’s questions and a question will not impact a final permit. Even if you are correct, and the NJDEP should have considered this factor in drafting this permit, the agency will not do the work of turning your question into the critique you intend it to be. As a result your comment will not be given much weight and an important observation may be lost in the process. What you want to say instead, if applicable, is:
This type of comment connects the NJDEP’s failure to consider the factor to a particular legal requirement that the NJDEP consider such a factor. A comment that is not grounded in any legal basis will not be seen as pertinent by the reader, and will not effectively persuade the reader that anything about the permit or the permitting process followed — or whatever the issue you wanted to make clear happened to be — should (or should not) be reconsidered.

Take the following comment:

“The permit should not be granted because I live downstream from the facility and I do not want it there”

A comment such as this one may well be factual and very likely influences your decision to comment. However, if you think the NJDEP has done something particularly right that should not be changed, or has done something wrong that should, then your comment will have to be designed to make it clear precisely what you mean.

Whatever we might wish it to be, the job of the NJDEP in drafting, granting, and denying NJPDES permits is to follow the existing laws and regulations. Therefore, to be effective your comments will need to clearly tie what you would like to see happen to the permit to some requirement that has a basis in law. Similarly, your comment will be more persuasive when it is supported with evidence, whether scientific, or more simply, your recorded observations.

Here is a better way to communicate your concern:

“The permit should not be issued because the water into which the facility will discharge under the permit has been designated an Outstanding National Resource Water and the impacts this facility’s permit would have to water quality would violate the requirements of N.J. Admin. Code § 7:9B–1.5(a)(6) by providing for discharge limitations that would fail to maintain and protect existing uses.

As an added benefit, if you are correct but the NJDEP does not follow the legal requirement, it can be the basis for the Hearing Board overturning the NJDEP’s action on appeal.
**Second**, consider coordinating your comment with a local group or organization that shares your concern and seeks an outcome similar to yours. You can refer to the Rutgers University list of organizations to find one, if you do not already have one in mind. See: [http://njedl.rutgers.edu/environmental_organizations](http://njedl.rutgers.edu/environmental_organizations)

**Third**, create a checklist of things you would like to see in the permit. See Appendix pg. ii-iii for examples. This will be a reflection of what you want the outcome to be. If you want the permit denied, your checklist will be the things in the draft permit you think violate the law or make approval a bad idea. If you want the draft permit altered, your checklist will be the sections for which you propose changes, or sections you wish to add.

When you are ready to compose your comment, follow these guidelines:

- Be concise, clear, and convincing. The person reading your comments will be busy, and will not want to have to make changes to the draft. If your comment is too long, or it is difficult to understand, it is less likely to achieve the outcome you want. Think of the rest of these guidelines as tools to help you be concise, clear, and convincing.

- Stick to your strongest points, and make the stronger of those first. It will not serve your strategic purpose to suggest every correction that occurs to you. Don’t lose the impact of your main point by overloading your comment with suggestions that do not support it.

- Be specific. If you are not specific, your comments will not be clear and your reader will not know how to make the changes you want. Use real-world examples if you can and hypothetical examples if you need to.

Providing suggested language in your written comment is ideal. Your ideas are far more likely to become reality if you make it as clear and easy as possible for the permit authors to understand and implement them. In this case the NJDEP can tell exactly what you want because you have provided it with precisely what you would like to see as the final result. If you provide suggested language—and your entire comment is concise and convincing—you stand a good chance of influencing the agency’s final decision on the permit.

Along with your suggestions for changes, identify sections of the permit you particularly like, if at all possible. The agency may well contemplate changes you do not want and your support for those sections may make a difference. Finally, and perhaps obviously, it never hurts to let someone know you appreciate his or her work.
Make an Effective Verbal Comment

Verbal comments are made at public hearings. These hearings are held if the NJDEP determines that there is sufficient public interest. Local groups and organizations may circulate a petition to gather signatures to show the NJDEP that public interest is sufficient. If you organize your own petition, make sure the signatures you collect accompany your written comment and that everything is sent to the correct NJDEP office by the deadline.

Here are some tips for making an effective verbal comment:

- Verbal comments are most effective when they are made in conjunction with a written comment, and when they are made in conjunction with a group, organization, or a number of fellow commenters.

- Practice making your comment out loud before the day of the meeting. Do not read directly from a script if you can manage it; instead, use notecards to remind you of key facts and to mark where you are.

- Bring a copy of your full comment with you to share with officials you meet and to enter into the record.

- Be sure to stay within the time limit given. (Tip: 1 minute = 140-160 words)

- Address all of your remarks to “the Chair,” who is the man or woman who leads the hearing.

- Bring photos or other visual aids, such as a stack of petition cards or pictures of the polluting industry.

- At the meeting, introduce yourself to people and write down their names. This will help you figure out whom to follow up with later, and it will help the people hearing your comment remember it.

- Include your name and contact information, but remember that your comment will become a public document.
Before you speak at a public hearing, you should compose your comment.

First, compose a written comment by following the guidelines for written comments above. The preparation for each type of comment is the same, and the steps are necessary for you to compose a comment that gets the attention and results you want.

Second, pick one to three key points from your written comment to make up your verbal comment. Limiting what goes into your verbal comment allows you to fully explain the points you include, and to fit those points into the few minutes you are given to make them.

Following Up On Your Submitted Comment

If you want to continue participating in the process after you have made your comments, even after the close of the official comment period, there are a few ways to do so, some of which, we have discussed earlier in the guide.

After you review the comments of others, you may submit an additional comment that responds directly to the points of the other commenters. These other comments may also alert you to another point or additional facts you would like to include in the record. Follow the same procedure as you would for any other comment. If it is after the comment period your new comment may or may not be included in the record, but it is not a useless exercise.

If you only made verbal comments, you should send a written copy of your comment, along with a letter requesting inclusion in the administrative record, to your NJDEP office.

Extra Tips for an Effective Verbal Comment

1. Only speak to what you are an expert on (law, health, family, social justice, etc.)

2. Be engaged, smile, say thank you

3. If you are preparing robust comments to an agency, establish a relationship with them. Speak with the agency before giving your comments to find out what they are looking for, what they need help with, or to discuss ideas you have that they may not have thought of
You may also rally support and get publicity for your position independent of the administrative process. Involve local groups, businesses, organizations, fellow citizens, legislators at any level that represent you. If you are an organization, make your comment publically available and issue a press release.

CONCLUSION

We hope that this guide has been able to help you navigate the New Jersey NJPDES permitting process. Public participation in this process is vital to its success. The Appendix that follows this guide gives you additional information on how to review a NJPDES permit and how to use a multitude of state and federal websites to find information on NJPDES permits, as well as sample permit documents to help you familiarize yourself prior to getting involved in the permitting process.
Secondary Sources


Email from Brent Walls, Upper Potomac Riverkeeper, Potomac Riverkeeper, to author (Jan. 23, 2015, 10:06 am) (on file with author).

Email from Gretchn Dahlkemper, Moms Clean Air Force, to author (Jan. 16, 2015, 8:49 am) (on file with author).


Public Participation Calendar, State of New Jersey Dep’t of Envtl Protection http://www.nj.gov/dep/calendar/public.html.


Cases

Board of Health of the State of New Jersey v. Inhabitants of Town of Phillipsburg, 83 N.J. Eq. 402 (1914)

Donovan v. United States, 661 F.3d 174 (3d Cir. 2011).


Statutes


§ 1251(a)(1)

§ 1251(e)

§ 1311(a)

§1313(c)

§1319

§ 1342

§ 1342(o)

§ 1362

§§ 1362(6), (7), (11), (12), (14)
§ 1365

§ 58:10A-3e, m, n, t, v
§ 58:10A-9(b), (c)
§ 58:10A-10.1
§ 58:10A-10.6

Regulations
33 C.F.R. § 328.3
40 C.F.R. § 122.21
§ 122.48
§§124 et seq.
N.J. Admin. Code §§ 7:9B-1.5(d)
§ 7:9B-1.15(a)(6)
§ 7:9B-1.15
§ 7:14A-1.2
§ 7:14A-2.8
§ 7:14A-4.2
§ 7:14A-4.2(e)
§ 7:14A–6.13
§§ 7:14A–6.13(c), (d)
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§ 7:14A-13.17
§ 7:14A-14.2
§ 7:14A–15
§ 7:14A-15.6.5
§ 7:14A–15.8
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§ 7:14A–15.10
§§ 7:14A-15.10(b)(2),(c)(1), (f),(h)
§ 7:14A–15.11(b)
§ 7:14A–15.12(a)
§ 7:14A–15.13
§ 7:14A–15.15
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§ 7:14A-15.17
§ 7:14A–15.89(c)
§ 7:14A–15.117.2
§ 7:14A–17
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§§ 7:14A–17.3(b), (c)
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PURPOSE OF THIS GUIDE

Congress set lofty goals for the country when it passed the Clean Water Act in 1972. Part of the Act’s original goal was to eliminate the discharge of pollutants into navigable waters by 1985, 33 U.S.C. § 1251(a)(1).* Forty years ago, only a third of the nation’s waters were safe for fishing and swimming. Sewage and industrial wastes flowed largely unregulated into the rivers, lakes, and streams of the United States. One of the Clean Water Act’s primary tools for attacking this problem was a system of permits known as the National Pollutant Discharge Elimination System. This program has been instrumental in reducing these discharges and allowing our waterways to become clean and usable once again: today, fully two-thirds of the nation’s surveyed waters are safe for fishing and swimming.

Built into New Jersey’s National Pollutant Discharge Elimination System (“NJPDES”) permitting process is the opportunity for public input. As you will see below, the NJPDES permit program works by requiring that when facilities discharge pollutants into the water, they must do so in compliance with a NJPDES permit. By participating in the process, a member of the public can add his or her thoughts to the body of information the New Jersey Department of Environmental Protection must consider when writing and issuing a final permit.

This guide is written to help New Jersey citizens participate effectively in the NJPDES permitting process. It is designed to help you understand the permitting process and to give you the tools to help you effectively participate in that process.

*Federal statutes are found in the United States Code (U.S.C.), federal regulations are found in the Code of Federal Regulations (C.F.R.), New Jersey state statutes are found in the New Jersey Statutes Annotated (N.J. Stat. Ann. Code) and New Jersey state regulations are found in the New Jersey Administrative Code (N.J. Admin. Code). These abbreviations will be used throughout the guide to identify the specific provisions where legal requirements can be found.
<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clean Water Act</td>
<td>The federal law that regulates the discharge of pollutants into water from a point source into a navigable water, 33 U.S.C. §§ 1251 et seq.</td>
</tr>
<tr>
<td>Comment and Response Document</td>
<td>A document issued by the New Jersey Department of Environmental Protection that summarizes and responds to all of the significant and relevant comments made during the public comment period, N.J. Admin. Code § 7:14A-15.16</td>
</tr>
<tr>
<td>Effluent Limitation</td>
<td>As defined in the Clean Water Act, “any restriction established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into navigable waters, the waters of the contiguous zone, or the ocean, including schedules of compliance,” 33 U.S.C. § 1362(11)</td>
</tr>
<tr>
<td>Discharge Monitoring Report</td>
<td>A mandatory monthly report of a facility’s effluent discharge samples to ensure that it is in compliance with its NJPDES permit, 40 C.F.R. § 122.48, N.J. Admin. Code § 7:14A-15.6.5</td>
</tr>
<tr>
<td>Draft Permit</td>
<td>A draft of a NJPDES permit that is published in the <em>DEP Bulletin</em> for public comment prior to permit finalization, N.J. Admin. Code § 7:14A–15.10</td>
</tr>
<tr>
<td>Environmental Protection Agency (EPA)</td>
<td>The federal agency that regulates pollutants under the Clean Water Act and delegates permitting authority to the states</td>
</tr>
<tr>
<td>Term</td>
<td>Definition</td>
</tr>
<tr>
<td>------</td>
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</tr>
<tr>
<td>Final Permit</td>
<td>The final version of a facility’s NJPDES permit requires it to comply with the federal Clean Water Act and state Water Pollution Control Act, N.J. Admin. Code § 7:14A–15.15</td>
</tr>
<tr>
<td>National Pollutant Discharge Elimination System (“NJPDES”) Permit</td>
<td>A permit that regulates the discharge of pollutants from a point source into navigable waters, 33 U.S.C. § 1342</td>
</tr>
<tr>
<td>New Jersey Department of Environmental Protection (NJDEP)</td>
<td>The state agency that has been delegated authority by the EPA to regulate pollutants under the Clean Water Act and issue and enforce NJPDES permits</td>
</tr>
<tr>
<td>Permit Application</td>
<td>A NJPDES permit application that must be submitted by any point source that wishes to discharge pollutants into a navigable water, 40 C.F.R. § 122.21, N.J. Admin. Code § 7:14A-4.2</td>
</tr>
<tr>
<td>Point Source</td>
<td>As defined by the Clean Water Act, “any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture,” 33 U.S.C. § 1362(14)</td>
</tr>
<tr>
<td>Pollutant</td>
<td>As defined by the Clean Water Act, “dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. This term does not mean (A)</td>
</tr>
</tbody>
</table>
“sewage from vessels or a discharge incidental to the normal operation of a vessel of the Armed Forces” within the meaning of section 1322 of this title; or (B) water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located,” 33 U.S.C. § 1362(6)

<table>
<thead>
<tr>
<th>Public Comment Period</th>
<th>30-day (extendable by 15 days under certain circumstances) public comment period during which the NJDEP accepts written comments from the public on a permit action, N.J. Admin. Code § 7:14A-15.10(c)(1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Violation</td>
<td>An exceedance of a permit holder’s effluent limitations or a failure of a permittee to comply with monitoring and reporting requirements specified in its permit, 33 U.S.C. § 1319</td>
</tr>
</tbody>
</table>
NJPDES PERMIT PROGRAM

THE BASICS

Section 301 of the Clean Water Act, 33 U.S.C. § 1311(a), Section 301, prohibits the discharge of a pollutant from a point source into navigable waters, “[e]xcept as in compliance with this section and sections 1312, 1316, 1317, 1328, 1342, and 1344 of [the Clean Water Act].” Thus, if a discharge from a point source is not in compliance with at least one of these sections, it violates the Clean Water Act and the person discharging the pollutant is liable for that violation. The exception at 33 U.S.C. § 1342 -- Section 402 of the Clean Water Act — is the focus of this guide.

Section 402 creates the National Pollutant Discharge Elimination System permit program. In New Jersey, these permits are referred to as NJPDES permits and this acronym will be used throughout the guide, whether speaking about the federal or state program. A person whose discharge complies with the terms of an NJPDES permit falls within the exception of Section 301 and, therefore, is not prohibited under the Act. The NJPDES permit program is central to regulating the discharge of pollutants in compliance with the Clean Water Act.

The Clean Water Act authorizes the federal Environmental Protection Agency (“EPA”) to administer the NJPDES program. However, the EPA has delegated this authority to many of the states’ environmental protection agencies, as provided by 33 U.S.C. § 1342(b), including the New Jersey Department of Environmental Protection (“NJDEP” or “Department” or “agency”). Through this delegation, state agencies, such as the NJDEP, are given the authority to regulate and enforce certain programs under the Clean Water Act. The EPA can still take action against a facility that is in violation of its NJPDES permit, even if the state has been delegated the authority to administer the program. Additionally, if the EPA finds that the state’s administration of the Clean Water Act is inadequate, it can remove the state’s authority through de-delegation, a process that takes away the state’s NPDES program authority under the Clean Water Act.

The EPA has issued regulations, contained in 40 C.F.R. §124 et seq., that apply to the state NJPDES program. These regulations represent the minimum protections the state must provide; however, each state is free to adopt more protective standards should it deem them appropriate. New Jersey’s corresponding NJPDES procedure is contained N.J. Admin. Code § 7:14A 1.1 et seq.

In 1977, the New Jersey Legislature enacted the New Jersey Water Pollution Control Act (“WPCA”), L.1977, c. 74, N.J. Stat. Ann. Code § 58:10A-1 et seq., which serves as a parallel state law to the federal Clean Water Act. The WPCA’s purpose is to
empower NJDEP to implement the Clean Water Act, including the issuance of NJPDES permits.

NJPDES permits regulate the discharge of pollutants from a point source into navigable waters. The permits last for five years and the facility must apply for renewal of the permit at least 180 days before the expiration of its current permit. N.J. Admin. Code § 7:14A-4.2(e)3. The primary pollution control mechanisms in the NJPDES program are called the effluent limitation standards (sometimes referred to as “permit limits”), which limit the amount of each pollutant a point source may discharge. NJPDES permits also contain monitoring and reporting requirements. Most NJPDES permits are approved unless the Department has determined that the waterbody that a facility wants to discharge into cannot handle anymore pollutants; however, the effluent limitations ensure that the water body is protected from excessive pollution. The determination of how much pollution a water body can handle is further discussed in *Effluent Limitations* section further on in this guide.

If you would like to take a look at the state regulations, they are available at: [http://www.state.nj.us/oal/rules/accessp/](http://www.state.nj.us/oal/rules/accessp/)

**Definitions**

There are many terms used within the NJPDES permit program that are defined by the Clean Water Act. Here are some of the major terms you need to be familiar with:

**Discharge:** “(A) any addition of any pollutant to navigable waters from any point source, (B) any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft.” 33 U.S.C. § 1362(12).

**Point Source:** “any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture.” 33 U.S.C. § 1362(14).

**Navigable Water:** “waters of the United States, including the territorial seas.” 33 U.S.C. § 1362(7).

**Pollutant:** “dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and
industrial, municipal, and agricultural waste discharged into water. This term does not mean (A) “sewage from vessels or a discharge incidental to the normal operation of a vessel of the Armed Forces” within the meaning of section 1322 of this title; or (B) water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if such State determines that such injection or disposal will not result in the degradation of ground or surface water resources.” 33 U.S.C. § 1362(6).

**Effluent Limitation:** “any restriction established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into navigable waters, the waters of the contiguous zone, or the ocean, including schedules of compliance” 33 U.S.C. § 1362(11).

The definition of each term is not as straightforward as one would think. For example: What is a discernible, confined and discrete conveyance? And are not all waters considered a “water of the United States”? The federal courts have, over many cases, discussed the meaning of these terms and are still wrestling with what Congress meant by each.

The first of these definitional puzzles involves “discharge of a pollutant”—which under Section 301 is illegal unless a statutory exception (like the NJPDES permits in § 402) applies. At first glance, this language suggests that *any* discharge qualifies. However, the definition of “discharge” listed above indicates that it only applies to an addition of a pollutant “from any point source.” For example, discharge from a “point source” does not normally include runoff, which is traditionally considered non-point source pollution.

Another of these definitional puzzles involves “waters of the United States.” Not every water body qualifies. For example, the Supreme Court in *Rapanos v. United States*, 547 U.S. 715 (2006), held that wetlands must have “a continuous surface connection” to “relatively permanent, standing or continuously flowing bodies of water” connected to “traditional interstate navigable waters” or have a “significant nexus between the wetlands in question and navigable waters in the traditional sense . . .” in order to be a “water of the United States.” Even the Supreme Court’s explanation of the term requires further analysis.

Often, the definitions need further definition, which leads to confusion and litigation. In some cases, federal agencies other than the EPA, such as the Army Corp of
Engineers, which regulates certain types of discharges under the Clean Water Act, have promulgated regulations to clarify definitions. However, these regulations often still leave room for interpretation by the courts. For example, the Army Corp of Engineers have defined “waters of the United States” to include:

- “All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.”
- “All interstate waters including interstate wetlands”
- “All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce. . . .”
- “Tributaries of [the foregoing waters]”
- “Wetlands adjacent to [the foregoing waters]” 33 C.F.R. § 328.3

However, courts have wrestled with this definition, as well. In 2014, the EPA released a new proposed rule to more precisely define those waters that are protected under the Clean Water Act. This rule was finalized in May 2015. For more information on the new “Water Rule” see: [http://www2.epa.gov/cleanwaterrule](http://www2.epa.gov/cleanwaterrule)

The important thing to remember is this basic idea: a facility must have a permit before sending harmful materials into the water via a point source, or it will be in violation of both federal and state law and subject to an enforcement action.

The Water Pollution Control Act also defines terms that are important to NJPDES permits (these definitions are identical to those found in the regulations):

**Discharge:** “an intentional or unintentional action or omission resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying, or dumping of a pollutant into the waters of the State, onto land or into wells from which it might flow or drain into said waters or into waters or onto lands outside the jurisdiction of the State, which pollutant enters the waters of the State. “Discharge” includes the release of any pollutant into a municipal treatment works” (emphasis added) N.J. Stat. Ann. Code § 58:10A-3e.

**Point Source:** “any discernible, confined and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other
floating craft, from which pollutants are or may be discharged” N.J. Stat. Ann. Code § 58:10A-3m.

**Pollution:** “means any dredged spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, radioactive substance, thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal or agricultural waste or other residue discharged into the waters of the State. “Pollutant” includes both hazardous and nonhazardous pollutants” N.J. Stat. Ann. Code § 58:10A-3n.

**Waters of the State:** “the ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of this State or subject to its jurisdiction;” N.J. Stat. Ann. Code § 58:10A-3t.

As you can see, the New Jersey WPCA’s definition of “discharge” is more detailed than the definition found in the Clean Water Act. This definition also makes clear that regardless of whether the discharge was intentional, or unintentional, it is prohibited under the Act.

The WPCA definition for “point source,” on the other hand, is identical to that found in the federal law, without the exception of agricultural discharges and return flows. Similarly, the WPCA definition for “pollution” does not include the exception of discharge from vessels of the Armed forces, nor discharge related to oil or gas production. Eliminating those few exceptions to the federal Clean Water Act makes the New Jersey WPCA more comprehensive and allows for more discharge to be regulated. As you can see, the WPCA also specifically defines “Waters of the State,” instead of using the more vague term “navigable waters,” as used by the Clean Water Act.
History of the
Regulation of Water Pollution in New Jersey

New Jersey’s regulation of pollution began all the way back in 1899 (over 70 years before the federal Clean Water Act was enacted!). In fact, the definition of “Waters of the State,” goes back to 1907 and has not been altered since that original delineation (P.L. p. 361). In the 1899 Act, the state could enjoin polluting persons, municipalities, or private corporations from polluting if it found “that any of the waters of this state [were] being polluted in such manner as to cause or threaten injury to any of the inhabitants of this state, either in health, comfort or property” (emphasis added).

Even the argument over what a “water of the state” means dates back to the early 1900s. In a 1914 case, Board of Health of the State of New Jersey v. Inhabitants of Town of Phillipsburg, 83 N.J. Eq. 402, the court held that the town of Phillipsburg was liable for polluting the Delaware River under the 1899 Act. The defendant claimed that because the Delaware River is the boundary between New Jersey and Pennsylvania, the state did not have jurisdiction over the water. However, the court held that the Delaware River was a “water of this state,” because New Jersey had jurisdiction over the body of water for navigation and public use.

Regulated Pollutants

As noted, “pollutant” under the Clean Water Act not only encompasses those toxic chemicals and garbage that one would associate with the term, but also heat, rock, sand, and dirt. Which pollutants are regulated in each permit depends on the point source that holds the permit. Each point source’s discharge is its own mixture of different chemicals, metals, and debris, and the impacts from that discharge might vary depending on the water into which it is discharging. For example, a discharge of heated water into a small stream can have serious impacts on the fish in that stream, while the same amount of heated water discharged into a large river like the Passaic might not. Each permit will have a list of pollutants that are regulated and monitored for each outflow of pollutants from the facility. Some of the most common regulated pollutants are: Total Suspended Solids, Chlorine, pH, Temperature, Metals, Fecal Coliform (E.coli), Nitrogen, Phosphorus, Dissolved Oxygen, and Biochemical Oxygen Demand.
TYPES OF PERMITS

General Permits

State agencies draft general permits that apply to all facilities in a specific industry or that apply specific activities, such as municipal stormwater discharges. General permits are used when the agency has determined that, due to the nature of the type of facility or activity, standard effluent limitations, monitoring, and reporting requirements are adequate for each applicant instead of consideration of unique requirements for each application. New Jersey has twenty nine (29) General Permits, N.J. Admin. Code § 7:14A–6.13(c). With so many General Permits, the Department often falls behind in renewing them when their given year expiration dates pass. This is an important area to monitor permit renewals and contact the NJDEP when there is a particular permit you have concern about. These permits are available on the NJDEP’s website at: http://www.state.nj.us/dep/dwq/gp_surfacewater.htm

Individual Permits

If a facility or an activity does not fall into one of these general categories, or the NJDEP determines a general permit is not appropriate for a particular facility, it must apply for an individual permit. N.J. Admin. Code § 7:14A–6.13. These are designed specifically for each facility and have effluent limitations, monitoring, and reporting requirements tailored to the applicant. See Appendix pg. xxvii for an example of an Individual NJPDES Permit.

There are opportunities for public involvement when NJDEP decides whether to issue a new permit. This is the case for both an individual permit and a general permit, and the procedures for each are all but identical to each other.
New Jersey General NJPDES Permits

- Stormwater Basins at Sanitary Landfills
- Potable Water Treatment Plant Basins and Drying Beds
- Existing Sanitary Subsurface Disposal Systems
- Lined Surface Impoundment
- Wood Recyclers
- Dental Facilities Onsite Wastewater Treatment Systems
- Concentrated Animal Feeding Operations (CAFO)
- Scrap Metal Processing/Auto Recycling
- Basic Industrial Stormwater
- Tier A Municipal Stormwater
- Tier B Municipal Stormwater
- Public Complex Stormwater
- Highway Agency Stormwater
- Mining and Quarrying Activity Stormwater
- Construction Activity Stormwater
- Concrete Products Manufacturing Stormwater
- Newark Airport Complex Stormwater
- Hot Mix Asphalt Producers Stormwater
- Non-Contact Cooling Water
- Groundwater Petroleum Product Clean-up
- Wastewater Beneficial Reuse
- Groundwater Remediation Cleanup
- Combined Sewer Systems
- Swimming Pool Discharges
- Hydrostatic Test Water
- Construction Dewatering
- Land Application Food Processing Residues
- Residuals Transfer Facilities
- Residuals – Reed Beds
**Major and Minor Permits**

Facilities are broken up into two main categories: major facilities and minor facilities. Under the Water Pollution Control Act, N.J. Admin. Code § 7:14A-1.2, a Major facility is “any facility which scores 80 or more points on the NPDES permit rating work sheet using the USEPA rating criteria,” or a facility “classified as a Major facility by the Regional Administrator or the Department,” and “any POTW with a design flow of 1.0 Million Gallons per Day or greater.” A Minor facility is simply one that is not classified as a Major facility. N.J. Admin. Code § 7:14A-1.2. The designation of the permit as major or minor only affects the effluent toxicity monitoring requirements, N.J. Admin. Code § 7:14A-14.2 and the toxicity reduction requirements, N.J. Admin. Code § 7:14A-13.17, under the permit program. In either case — whether the facility is designated as a Major facility or a Minor facility on its permit — a discharge by a facility in violation of a permit under which it operates constitutes a violation.

**EFFLUENT LIMITATIONS**

One of the major pieces of a NJPDES permit is effluent limitations, also known as parameters or “permit limits.” Effluent limitations are quantitative limits on how much of a particular pollutant a point source can discharge. These limitations are specified in each NJPDES permit. Effluent limitations come in two forms: water quality based limitations or technology based limitations.

**Water Quality Standards**

Each state must create water quality standards for the state’s waterways. Standards must be reviewed every three years. 33 U.S.C. § 1313(c). In order to create these standards, a state must first designate a waters “use” The use designation given to the waterbody forms the basis upon which the NJDEP develops its water quality criteria. Once the NJDEP has designated a use for a waterway it may determine that the waterway is “impaired,” or more polluted than NJDEP thinks is proper for that use. When the NJDEP finds that a water is impaired by a pollutant or pollutants it calculates the Total Maximum Daily Load (“TMDL”) of each pollutant the waterway can handle while maintaining, or returning to, levels appropriate to its use. The TMDL is then divided such that the NJDEP can inform each facility discharging into that water the maximum amount of each pollutant it can discharge.
Technology-Based Standards

A Technology-Based Standards sets a particular quantity as the minimum amount of treatment for a pollutant – expressed either as a mass (pounds or kilograms per day) or a concentration (an amount per quantity of water, 10 milligrams per liter, for example). These standards use available control technologies to minimize the amount of pollutant that is discharged. Facilities have discretion to use any technologies to meet the limit.

Anti-degradation Analysis

A water’s use designation is also important for the NJDEP’s anti-degradation analysis. The Clean Water Act has an anti-degradation policy to ensure that the quality of our water ways only continues to improve and does not degrade any further. The anti-
degradation policy requires the maintenance and protection of the existing uses and water quality conditions.

Under the Clean Water Act, New Jersey must have a state anti-degradation policy and implement such policy through water quality management practices, 40 CFR 131.12. Pursuant to New Jersey’s Anti-degradation Policy, N.J. Admin. Code § 7:9B-1.5(d), the NJDEP must ensure that new and modified permits maintain and protect the existing use of a waterway. The NJDEP must be mindful of this policy when it drafts NJPDES permits for new and modified sources.

MONITORING REQUIREMENTS

All facilities are required to monitor their effluent discharges to ensure they are in compliance with their permits. Below is an example of standard language for monitoring requirements in a NJPDES permit:

“Each analysis required by this permit shall be performed by a New Jersey Certified Laboratory that is certified to perform that analysis . . . All Sample frequencies expressed in Part III are minimum requirements. Any additional samples taken consistent with the monitoring and reporting requirements contained herein shall be reported on the Monitoring Report Forms.”

REPORTING REQUIREMENTS

Once the facility has its discharge sampling results, it must report the data to the NJDEP. Facilities must complete “Discharge Monitoring Reports,” also known as DMRs, and submit them to the NJDEP every month, as illustrated by this standard language from an NJPDES permit -- “The permittee shall submit all monitoring result to the Department in the forms provided to them.” DMRs consist of the sampling data collected by the facility as required by its NJPDES permit.

Anti-Backsliding Provision

The Clean Water Act also contains an anti-backsliding provision, 33 U.S.C. § 1342(o), which prohibits, with a few exceptions, a permit to have less stringent effluent limitations than the previous permit. Therefore, a facility should not be allowed to discharge more than it did in the past.
Sometimes, the data must only be reported and no limitation is established. However, for the effluent limitations that do exist, reported sampling values must be within the parameters of the facility’s permit or they are violating their NJPDES permit, and thus violating the Clean Water Act and Water Pollution Control Act.

In New Jersey, DMRs are available to the public online at the NJDEP's Data Miner website:


On the Data Miner website, you are able to search by permit number, program interest, or Watershed Management Area. This search can be further narrowed by date. This is an excellent way to monitor a facility's compliance with its NJPDES permit. Additionally, you can track whether a facility is actually reporting its discharges. See Appendix pg. ix for step-by-step instructions on how to use Data Miner.

Failure to correctly monitor and report is also a violation of the NJPDES permit and is actionable by either the NJDEP or interested citizens. Often, reporting violations accompany discharge violations, however, this is not always the case. Without a facility submitting its DMRs, how can a citizen know if that facility is exceeding its effluent limitations?

Some courts have questioned a citizen’s ability to sue a facility on the sole basis of failure to report its effluent limitations as required by its NJPDES permit. As we will discuss later in the guide, a citizen or group needs “standing” to bring suit under the Clean Water Act. This requires that the plaintiff show that it has been injured in some way by the defendant’s actions. In Public Interest Research Group of NJ v. Magnesium Elektron, Inc., 123 F.3d 111 (3rd Cir. 1997), the federal Third Circuit Court of Appeals (which hears cases for New Jersey, Pennsylvania, and Delaware), left the door open for citizens to bring suit solely for reporting violations, stating “we think that it is at least possible that some plaintiff in the future might allege a specific and concrete injury arising from a defendant’s failure to monitor and report its effluent discharges.”

However, litigation is not the only way to hold facilities accountable for reporting violations. Citizens can also send letters to the NJDEP regarding the reporting violations, send letters to the facilities about the reporting violations, or when a facility is renewing its permit, include the reporting violations into a public comment.
HOW NJPDES PERMITS GET ISSUED

Application

The first step for an individual who wishes to discharge from a point source in New Jersey is to apply to do so under one of two NJPDES permits: a general permit or an individual permit. Public notice of a completed application is not required. However, the NJDEP does publish all permit actions in the DEP Bulletin. The DEP Bulletin contains the latest information about NJDEP actions and is available the first and third Wednesday of every month, when it officially becomes public. It is available online at: http://www.nj.gov/dep/bulletin/. In the Appendix, pg.vii you will find a step-by-step guide on how to search the DEP Bulletin. Both new and renewal applications must be filed at least 180 days prior to the commencement of the activity or the expiration of the current permit, respectively, under N.J. Admin. Code § 7:14A-4.2(e).

A Note About Renewal Permits

Many permits are “administratively continued” by the NJDEP beyond their expiration date. This means that if an applicant submits a complete renewal application at least 180 days prior to the expiration of its current permit, its current permit will remain effective while NJDEP reviews and issues the renewal permit. N.J. Admin. Code 7:14A–2.8. The New Jersey DEP, along with environmental agencies all over the country, has a significant backlog of renewal NJPDES permit applications.

Draft Permit and Public Comment Period

After the Application is deemed to be complete by the NJDEP, the agency creates a Draft Permit for the discharger. When the NJDEP has prepared a new draft permit — either the initial draft, or a draft after a major revision to the permit — it posts public notice in the DEP Bulletin (and sometimes one or more newspapers) under N.J. Admin. Code § 7:14A–15.10(c)(1). This begins the 30-day (extendable by 15 days under certain circumstances) public comment period during which the NJDEP accepts written comments from the public.

The NJDEP will also prepare a fact sheet listing information about the draft permit and the basis on which the Department developed the draft permit guidelines, N.J. Admin. Code § 7:14A–15.8. The notice of the draft permit will include the address and telephone number of the office where you can get a copy of the fact sheet, N.J. Admin. Code § 7:14A–15.10(h).
Pursuant to N.J. Admin. Code § 7:14A–15.89(c), the Fact Sheet will include:

1. A brief description of the type of facility or activity which is the subject of the draft permit;

2. The type and quantity of wastes, fluids, or pollutants which are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged;

3. A sketch or detailed description of the location of the discharge(s) or regulated activity described in the application or, for general permits, a map or description of the area;

4. A brief summary of the basis for the draft permit conditions, including references to applicable statutory or regulatory provisions and appropriate supporting references to the administrative record required by N.J. Admin. Code § 7:14A–15.17;

5. A summary of the Department's determination whether to include any requested variances or alternatives to permit conditions;

6. The name and telephone number of a Department staff person to contact for additional information;

7. Any calculations or other necessary explanation, or a reference where calculations or explanations can be found, of the derivation of specific effluent limitations and conditions or standards for residual use or disposal, including a citation to the applicable effluent limitation guideline or performance standard or standard for residual use or disposal as required under N.J. Admin. Code § 7:14A–13 or 20. The fact sheet shall also state the reasons why they are applicable or provide an explanation of how the alternate effluent limitations were developed.

8. For permits that include a notification plan under N.J. Admin. Code § 7:14A–20.7(a)3, a brief description of the conditions of the permit that address approval of residual land application sites not identified at the time of permit issuance.

See Appendix pg. xxi for an example of a General Permit Fact Sheet.
Public Hearings

Under N.J. Admin. Code § 7:14A–15.11(b), during the public comment period you and any group or organization of persons may “request a public hearing on a draft permit for which public notice has been published.” The public hearing, if there is one, is an opportunity to make your comments stand out by putting a face and a voice — ideally, several faces and voices — to your message. Public hearings are formal and structured. These hearings give the public an opportunity to present oral and/or written comments for the record.

Remember, although you have the right to request a public hearing, your request does not always have to be granted. The NJDEP is only required to hold a public hearing “if there is or may be a significant degree of public interest in favor of holding a public hearing.” The NJDEP has the option of holding a public hearing “if it determines that a hearing is likely to clarify one or more legal and/or factual issues on a draft permit and that oral testimony is essential to adequately express all issues and concerns,” N.J. Admin. Code § 7:14A–15.12(a). Therefore, you have the best chance of your request being granted if your request is specific and thoughtful.

Final Permit

Finally, the NJDEP will take final agency action and either issue or deny the permit. After the comment period and public hearing, if any, the agency will make any necessary changes to the permit and either take final agency action, if the changes are relatively minor, or, if the changes are major, produce another draft and hold another comment period. If the agency takes final action, comments received will be available for review, and “the Department also shall notify, in writing, the applicant or permittee and each person who submitted written comments or requested notice of the final permit decision,” N.J. Admin. Code § 7:14A–15.15(a). If there is no appeal, this is the end of the process, and the permit goes into effect.

Comment and Response Document

After the NJDEP makes its permit decision, it will publish a Comment and Response Document that will respond to all of the comments made during the public comment period. This document is available to the public. Additionally, if you made a comment, you will either be mailed a copy or noticed of an electronic posting. You can use this document to help you with appealing an agency decision. A Sample Response Document can be found in the Appendix, pg. lxxxvi.
**Appeals of NJDEP Actions**

When the NJDEP makes its permit decision, you may not agree with the result and may wish to appeal the decision. Your appeal may be on the facts or legal aspects of the permit decision, but in either case must be clear and specific.

An adjudicatory hearing is the first step in the appeal process. You may request a hearing within thirty (30) days of the permit decision. N.J. Admin. Code § 7:14A–15.117.2. In order to make such a request, you must have raised the issue during the public comment period, N.J. Admin. Code § 7:14A–15.13. It is within the NJDEP’s discretion whether to grant your request, but whether it grants or denies your request, it must identify the reasons. N.J. Admin. Code § 7:14A–17.4(c), (e).

Even if your request is granted, that does not mean the permit decision will be stayed, or put on hold — meaning that the facility can discharge according to its issued NJPDES permit. Pursuant to N.J. Admin. Code § 7:14A–17.6(a), you will have to submit a separate written request to stay a permit decision.

If the Department grants your request for a hearing, the hearing will be assigned to a judge within the Office of Administrative Law. The judge will recommend a decision to the NJDEP Commissioner within forty-five (45) days, N.J. State. Ann. Code § 58:10A-10.6. Once the judge issues his or her recommendation, you have thirteen (13) days to submit an objection. Then the NJDEP Commissioner must make his or her final decision based on that judge’s recommendation within forty five (45) days, otherwise the judge’s initial recommendation will be adopted as final, N.J. Stat. Ann. Code § 58:10A-10.6.

In *In re NJPDES Permit No. NJ0025241*, 185 N.J. 474, 486 (2006), the New Jersey Supreme Court held that the dispute over the permit decision must be “about adjudicatory facts or about the application of ‘the law to facts as found’ based on evidence presented in a trial like proceeding.” This means that you cannot appeal the Department’s permit decision if you are challenging the Department’s policy or discretion because such discussion was already exhausted during the public comment period. So when you request an adjudicatory hearing, you must be very careful to only claim issues that you believe are beyond the Department’s discretion.

“Party to the Action”

To request a hearing for a permit decision, you must be considered “a party to the action,” N.J. Admin. Code § 7:14A–17.2(a). According to N.J. Admin. Code § 7:14A–17.3(b), the NJDEP must determine whether you are such within thirty (30) days of your request.

In order to be considered a “party to the action” you must meet the following criteria (found at N.J. Admin. Code § 7:14A–17.3(c)):

1. The person’s objection(s) to the Department’s decision as specified in N.J. Admin. Code § 7:14A–17.2(a) were raised by that person in the public hearing and/or in a written submission within the public comment period established pursuant to N.J. Admin. Code § 7:14A–15;
2. The person demonstrates the existence of a significant issue of law or fact;
3. The person shows that the significant issue of law or fact is likely to affect the permit decision;
4. The person can show an interest, including an environmental, aesthetic, or recreational interest, which is or may be affected by the permit decision and that the interest can be fairly traced to the challenged action and is likely to be redressed by a decision favorable to that person. An organization may contest a permit decision on behalf of one or more of its members if the organization’s member or members could otherwise be a party to the action in their own right, and the interests the organization seeks to protect are germane to the organization’s purpose; and
5. The person submits the information required under N.J. Admin. Code § 7:14A–17.2(f) [including a list of information about the facility, the person requesting the hearing, and your claim]. (emphasis added)

Appeals of Hearing Board Decisions to Appellate Division

If you are not happy with the Hearing Board’s decision, you can appeal to the Appellate Division of the New Jersey Superior Court, which is a court of law. The court will only review the record of the adjudicatory hearing. This appeal must be filed within forty five (45) days of the NJDEP Commissioner’s final decision. N.J. Stat. Ann. Code § 58:10A-10.6.
PUBLIC PARTICIPATION

In the first section of the Clean Water Act, Congress specifically called for the public to participate in the decision-making process:

“Public participation in the development, revision, and enforcement of any regulation, standard, effluent limitation, plan, or program established by the Administrator or any State under this chapter shall be provided for, encouraged, and assisted by the Administrator and the States.” 33 U.S.C. § 1251(e) (emphasis added).

With all of the laws, regulations, and permits regulating the quality of our water, government agencies are unable to fully monitor and enforce all activity under the Clean Water Act. Whether citizens comment on regulations, monitor compliance with permit provisions, or bring suit against violating facilities, the role of the public is essential to the preservation and enhancement of our environment.

Each person who seeks to participate in the decision-making process does so for his or her own reasons. You may want to stop or delay a permit; ensure that a permit meets minimum legal standards; ensure that issuance or denial of a permit is consistent with the department’s mission or policies; confirm that any compliance issues that the facility had in the past are addressed in the new permit, or any other reason that is important to you or your group or organization. If, in the final decision, one of those things does not happen in response to your initial involvement with the process, and you think it should have, then you may have grounds for appealing the NJDEP’s decision.
Permit Application

The best time to influence a permit is when it is in its earliest stages — after the application is submitted, but before the NJDEP issues a draft permit. Public notice of a completed application for an individual NJPDES permit must be provided, with a 30 day period when people can request additional information, submit comments, and request public hearings on the applications. N.J. Stat. Ann. Code § 58:10A-9(b). Most often, the application will be noticed in the DEP Bulletin (Found at: http://www.nj.gov/dep/bulletin/). A copy of the application and additional information about the permit application must be made available upon request. N.J. Stat. Ann. Code § 58:10A-9(c). You can also search on Data Miner to find the status of pending permits, which will give you the necessary information to request a copy of the application. You can learn how to navigate Data Miner at Appendix, pg. ix. It is important to note that public notice is not required for minor modifications of permits. N.J. Admin. Code § 7:14A–15.10(b)(2).

The public comment period does not officially begin until there is a draft permit, but you should begin preparing to comment when the applicant first files — it may be as few as 180 days from that point before the applicant will be operating under this permit. You may be able to request copies of applications, prior similar permits to compare to the eventual draft, and other useful documents and information through an Open Public Records Act, or “OPRA” Request, discussed in the How to Participate section of this guide. If the new permit is a general permit, there is no requirement of public notice until NJDEP has produced a draft.

Public Comment Period

The public notice will instruct you where to send comments, and any other directions particular to the permit under consideration, N.J. Admin. Code § 7:14A–15.10(f)

The Data Miner web site, described in further detail below in How to Participate, can also come in handy for tracking specific permits: http://datamine2.state.nj.us/DEP_OPRA/OpraMain/categories?category=Pending+Permit+Progress+Reports
A Note on Public Participation
Concerning General Permits

The above permitting process is specific to individual permits. General permits have a slightly different process. If the NJDEP is issuing a new general permit, or is revising a general permit, it “shall publish in the New Jersey Register a notice of administrative change revising the list of general permits . . . to reflect any of these general permit actions.” N.J. Admin. Code § 7:14A–6.13(c).

If a general permit has already been issued by the NJDEP, then the applicant must submit a written request for authorization with the NJDEP under N.J. Admin. Code § 7:14A–6.13(d). It is the applicant’s responsibility to ensure that “a certification that arrangements have been made for publication, in a daily or weekly newspaper within the area affected by the facility, of a notice which states that a request for authorization under a general permit has been submitted pursuant to N.J. Admin. Code § 7:14A–6.13(d).”

General permits should be renewed every five years and the law requires the permits to be up for public comment when they are renewed, N.J. Admin. Code § 7:14A–15.10. No matter when or if public notice is required for a discharge under a general permit, there is very limited opportunity for public involvement in the renewal process (likely because the public is invited to participate in the initial rulemaking which resulted in the General Permit under which renewal is sought).

Public Hearing

The DEP Bulletin, and possibly your local newspaper, will carry notice of a public hearing. As covered above in “How NJPDES Permits Get Issued,” public notice of the hearing will include the telephone number and address of the office from which you may request a fact sheet. If you requested a fact sheet when notice of the draft permit issued, you will receive notice of the hearing by mail, and you will automatically receive any updated versions of the fact sheet. The online NJDEP Public Participation Calendar will
also display information about any scheduled public hearings on NJPDES permits:  
http://www.nj.gov/dep/calendar/public.html

The public hearing is a good opportunity to meet agency employees and other officials connected to the decision making process, and you may be able to lay the groundwork for future communication.

You can watch a video of a public hearing by clicking on the following link:  
http://pittsburghfoundation.org/node/33931. The permit in question is not a NJPDES permit, but the process and the concerns of the parties are identical, and if you have never attended a public hearing this will prepare you for what to expect and allow you to see what works and what does not when presenting comments.

**HOW TO PARTICIPATE**

Public participation in the NJPDES permitting process is relatively straightforward however truly effective participation requires at least adequate preparation, sufficient information, and the right stylistic choices.

**Finding the Facilities**

If you would like to find out if a facility in New Jersey is discharging pollutants under an NJPDES permit, you can search by using the NJDEP’s Data Miner web site. You can go to the main website to search based on the information you have:  

If you would rather get the information by telephone, you may also call the NJDEP Division of Water Quality at the main office. The full contact information is available here:  
http://www.nj.gov/dep/easyaccess/water.htm#waterquality

**Preparation**

The first step is to decide what outcome you hope to achieve. Do you hope to improve the permit, support issuance of the permit, have the permit denied, or some other outcome? Maybe you will not know your precise objective for certain until you familiarize yourself with the law and review the draft permit itself or a fact sheet, as described in N.J. Admin. Code § 7:14A–15.8, which the NJDEP will send you upon request after public notice of the draft permit under N.J. Admin. Code § 7:14A–15.8(b). Before reviewing any of the permit documents, you will need to become familiar with
the scope of the issue. This involves knowing the pertinent statutes and agency regulations. Create a checklist of what you hope to see in the permit. (See Appendix pg. ii-iii for examples of a checklist.) Base the checklist on the requirements contained in the statutes and regulations you have at this point familiarized yourself with, as well as facts and concerns you have that are not addressed but that you believe the NJDEP should consider.

It is also good to do some research on the facility whose permit you are commenting on. Is it renewing its permit? Has it had past permit violations? What pollutants does it discharge? Has the agency taken enforcement action against the facility in the past? All of this information should be publically available under the New Jersey Open Public Records Act (N.J. Stat. Ann. Code § 47:1A-1 et seq)

Additionally, the EPA has a database called the Enforcement and Compliance History Online, or ECHO, available at: http://www.echo.epa.gov. You can search this database for facilities with NJPDES permits. Each facility page will include information on the facility’s permit, location, compliance history, environmental conditions, pollutants, and demographic profile. You will be able to click on a permit number for

Open Public Records Act

Under the New Jersey Open Public Records Act, anyone can request access to public documents. Citizens can submit a formal request in the form of a letter, paper form, online form or can schedule an informal file review with the appropriate agency to review the documents.

You can use this tool to review previous NJPDES permits, DMRs, or any other public documents related to a particular facility. This can help you understand more about a facility and will give you information to help you write effective comments.

You can also request that any fees be waived, although there is no official fee waiver policy.

For more information about NJDEP’s OPRA procedure, go to:
http://www.nj.gov/dep/opra/forminfo.html
more detailed information on the facility’s permit history, outfalls, effluent limitations, violations, and inspections. At the time of publication, the ECHO database did not have information on New Jersey facilities after 2012. However, it is good to refer back to the database for past information, as well as check back in with the database in the case that the information does get updated. See Appendix pg. xviii for step-by-step instructions.

**HOW TO COMMENT**

**Written Comments:**

The most common method of public participation is the written comment. A written comment to the NJDEP about an issue (or issues) with a permit application or draft permit, received during the public comment period, becomes part of the administrative record upon which the decision to permit or deny is made. Once a comment is part of the record, the NJDEP must consider it when making its permit decision.

Most of the major steps in preparing written comments should be followed even if your ultimate goal is to submit a verbal comment or simply preserve issues for appeal. You will need the same information as you would for a written comment and you should present it in the same clear and easy-to-understand manner so that the reader understands the issues you want addressed, and what you think the best method is to address them.

Written comments are made to the NJDEP Contact Office listed in the notice that the public comment period has opened.

Another simple way to provide a written comment is to join forces with a local organization or group. If the group is already planning to comment, then you can join in its comment, and there may be a spot for you to add a note to go with the main comment. If the group is not planning to comment, you may be able to interest them if you have some information to present, particularly if the group is local to the facility.

**Verbal Comments:**

If the NJDEP concludes that there is significant public interest in a permit — either on its own, or after petitioning by the public — there will be a public hearing (or meeting) on the issues. At this hearing, members of the public may make brief comments that will become part of the administrative record and must be responded to by the NJDEP before it takes final action. It is most effective to use verbal commenting
as a supplement to written comment, and it is not much more effort since the preparation for each is essentially identical.

You will see the call for requests or petitions for public hearings in the notice of public comment in the DEP Bulletin, where you will also see notice of any public hearing. A great place to look for events such as public hearings is the DEP Public Participation Calendar, located online here: http://www.nj.gov/dep/calendar/public.html

For specific information on how to best make your written and verbal comments, see the Effective Participation section, below.

Follow Up

After you have submitted your comment you can take several steps to ensure that your voice is heard by the agency. First, review other people’s comments (if possible) and submit additional comments if you have discovered more information or evidence to back up your original comments. If you made comments at a public hearing, send in written comments outlining what you said at the hearing. If you are an organization, make your comment publically available and issue a press release. Encourage others to submit comments, as well. The more people voicing an opinion, the more likely the agency will take it seriously when making their permit decision. Finally, once the comment period has ended, obtain a copy of the NJDEP’s response to public comments. This document can be useful for future comments or when appealing a permit decision. As mentioned earlier in this guide, the comment and response document will be noticed and available to the public by request. Additionally, if you made a comment, you will either be mailed a copy or noticed of an electronic posting. See Appendix pg. lxxxvi for a Sample Response Document.

APPEALS

The NJDEP made a final permit decision and you are not happy with it – so you want to appeal. If you have not done so already, you should seek legal counsel for an appeal of a permit. Although legal representation is not required for an individual at this stage, the appeals process is complex and some parts of the process require specialized experience in order to do them correctly (and some must be done correctly the first time). Not only will an experienced lawyer know more about how to navigate the appeals procedure, but she will also have a better chance of spotting issues for your appeal. Public interest attorneys are often willing and able to take on these types of cases at no charge and can sometimes receive attorney’s fees if you win the case.
CITIZEN SUIT

The Clean Water Act also contains a very important provision: the Citizen Suit, 33 U.S.C. § 1365. While this topic is beyond the scope of this guide, it is important to know the basics. The Citizen Suit provision allows a person to bring suit against anyone who discharges pollutants in violation of his or her permit or without a permit at all. An individual can also bring suit against the EPA or state administrator who has failed to perform a non-discretionary act. So long as you have a cognizable interest in the illegal discharge or failure to act, you can bring suit to ensure compliance with the law. Citizens can monitor permits and facilities to be sure that they are complying with the Clean Water Act and parallel state laws. Once you learn about the permitting process and what must be in a permit, monitoring permits that are of interest to you becomes a fairly simple task that just requires time. Although bringing legal action can involve knowledge beyond that of a typical individual or organization, there are several organizations that can help guide you through the process or find an attorney to represent you, including the Environmental and Natural Resources Law Clinic at the Delaware Law School and the Mid-Atlantic Environmental Law Center.

Attorney’s Fees

The WPCA does not have a provision which awards reasonable attorneys’ fees to the winner after a law suit brought pursuant to the WPCA. A bill was introduced in both 2010 and 2014 to allow for such fees to be awarded, however, no further action by the NJ legislature has been taken to enact such a provision.

However, most often you will bring suit under the Clean Water Act, which as the Citizen Suit provision. Under the Clean Water Act, § 1365(d) allows for reasonable attorney’s fees.
Mandatory Administrative Penalties

Pursuant to the WPCA, N.J. Stat. Ann. Code § 58:10A-10.1, the NJDEP “shall assess a minimum mandatory civil administrative penalty” for each:

- Serious violation ($1,000);
- Significant noncomplier ($5,000); and
- Effluent parameter omitted on a discharge monitoring report ($100).

A “serious violation” is “an exceedance of an effluent limitation for a discharge point source . . . by 20 percent or more for a hazardous pollutant, or by 40 percent or more for a nonhazardous pollutant,” N.J. Stat. Ann. Code § 58:10A-3v.

A “significant noncomplier” is “any person who commits a serious violation for the same pollutant . . . at the same discharge point source, in any two months of any six-month period, or who exceeds the monthly average or, in a case of a pollutant for which no monthly average has been established, the monthly average of the daily maximums for an effluent limitation for the same pollutant at the same discharge point source by any amount in any four months of any six-month period, or who fails to submit a completed discharge monitoring report in any two months of any six-month period,”

As a result of this provision, the Department has a non-discretionary duty to take action against those facilities that discharge in exceedance of their effluent limitations. If the NJDEP does not impose these minimum mandatory administrative penalties, citizens, under the WPCA, can bring legal action against the agency.
EFFECTIVE PARTICIPATION

Contact the NJDEP Office

Individuals at the NJDEP Main Office can help answer your trickier questions, and may be able to tell you the status of permit applications or draft permits before you would otherwise know about them. This can be important to your cause, because the best time to influence any agency document is before it is written. The NJDEP office may also be able to put you on a notification list, so that you will get updated information without having to search for it. Often times the permit writer’s name will be located in the DEP Bulletin public notice and is available on Data Miner.

Have a Direct Influence on the Permit

The most common method for influencing an NJPDES permit is submission of a comment, written or verbal, during the public comment period. We covered the process for doing this above in the How to Comment section. No matter what else you choose to do, you should submit a written comment: the preparation of a written comment includes the steps you should take to prepare for any other type of involvement, and written comments must be considered by the agency.

The second method is to get involved in the formulation of a draft permit before it becomes public. This will require the most extensive and difficult preparation because, although this requires essentially the same as preparing and submitting a written comment, you will need to have, or quickly acquire, significant knowledge of the issues and laws involved to comment effectively at this stage. However, as soon as you are notified of a permit application, you can prepare comments for the draft permit and submit to the NJDEP, even without knowing whether a draft permit is in the works. Although the NJDEP is not required to consider it, it gets your position to the agency before a draft permit is issued.

Make Sure Your Comment Is Heard by the Agency

Coordinate your comments with others to make sure your message is heard, and given the appropriate weight. Contact people and groups who share your concerns, including businesses and other government agencies whose comments are hard for the NJDEP to ignore. Groups often have greater knowledge of the issues and can bring credibility to your comments. The easiest and most certain way to make sure your comment is considered is to join forces with a local group or organization that shares
your concern. Groups often choose to petition for signatures for its written comments, petition for a public hearing, or arrange for its members to speak at public hearings.

Often, groups have greater resources and expertise to understand the issues and determine effective tactics. You can do something as simple as adding your name to the group’s comment, or you can get involved by volunteering your time. An alphabetical and searchable list of New Jersey environmental organizations is available from Rutgers University here: http://njedl.rutgers.edu/environmental_organizations

Additionally, no matter what form your input takes, always be firm, respectful, and dignified. The person who reads or hears your comment will not be able to do anything — and will not want to do anything — with a comment that is accusatory, unclear, or off-topic. This is a chance for you to help make the rules, and your input is likely to be discounted if it comes across as hostile.

Composing an Effective Written Comment

Just as you should take a strategic approach to your involvement in the permitting process, you should take a strategic approach to composing your written comment. Your preparation of your written comment should form the basis for any other input you make, for instance, any verbal comment you make should cover the same points as your written comment.

Follow these steps as you prepare to compose your comment:

First, decide what outcome you want from your comment. What would you like to have happen as a result? Do you want the permit denied, approved, or added to in some way, or is there some other outcome you seek? Two important pitfalls to avoid at this stage are composing a comment in the form of a question and composing a comment that is not grounded in any legal requirement of the permit or the permitting process.

A comment in the form of a question is something similar to:

“Why did the NJDEP not consider the impact of the facility on ‘X’ when drafting the permit?”

Even if this question is valid, the purpose of the public comment period is not to answer the public’s questions and a question will not impact a final permit. Even if you are correct, and the NJDEP should have considered this factor in drafting this permit, the agency will not do the work of turning your question into the critique you intend it to be.
As a result your comment will not be given much weight and an important observation may be lost in the process. What you want to say instead, if applicable, is:

“The NJDEP is required to consider the impact of the facility on ‘X’ because ‘Y’ law says it must.”

This type of comment connects the NJDEP’s failure to consider the factor to a particular legal requirement that the NJDEP consider such a factor. A comment that is not grounded in any legal basis will not be seen as pertinent by the reader, and will not effectively persuade the reader that anything about the permit or the permitting process followed — or whatever the issue you wanted to make clear happened to be — should (or should not) be reconsidered.

Take the following comment:

“The permit should not be granted because I live downstream from the facility and I do not want it there”

A comment such as this one may well be factual and very likely influences your decision to comment. However, if you think the NJDEP has done something particularly right that should not be changed, or has done something wrong that should, then your comment will have to be designed to make it clear precisely what you mean.

Whatever we might wish it to be, the job of the NJDEP in drafting, granting, and denying NJPDES permits is to follow the existing laws and regulations. Therefore, to be effective your comments will need to clearly tie what you would like to see happen to the permit to some requirement that has a basis in law. Similarly, your comment will be more persuasive when it is supported with evidence, whether scientific, or more simply, your recorded observations.

Here is a better way to communicate your concern:

“The permit should not be issued because the water into which the facility will discharge under the permit has been designated an Outstanding National Resource Water and the impacts this facility’s permit would have to water quality would violate the requirements of N.J. Admin. Code § 7:9B–1.5(a)(6) by providing for discharge limitations that would fail to maintain and protect existing uses.
As an added benefit, if you are correct but the NJDEP does not follow the legal requirement, it can be the basis for the Hearing Board overturning the NJDEP’s action on appeal.

**Second**, consider coordinating your comment with a local group or organization that shares your concern and seeks an outcome similar to yours. You can refer to the Rutgers University list of organizations to find one, if you do not already have one in mind. See: [http://njedl.rutgers.edu/environmental_organizations](http://njedl.rutgers.edu/environmental_organizations)

**Third**, create a checklist of things you would like to see in the permit. See Appendix pg. ii-iii for examples. This will be a reflection of what you want the outcome to be. If you want the permit denied, your checklist will be the things in the draft permit you think violate the law or make approval a bad idea. If you want the draft permit altered, your checklist will be the sections for which you propose changes, or sections you wish to add.

When you are ready to compose your comment, follow these guidelines:

- Be concise, clear, and convincing. The person reading your comments will be busy, and will not want to have to make changes to the draft. If your comment is too long, or it is difficult to understand, it is less likely to achieve the outcome you want. Think of the rest of these guidelines as tools to help you be concise, clear, and convincing.

- Stick to your strongest points, and make the stronger of those first. It will not serve your strategic purpose to suggest every correction that occurs to you. Don’t lose the impact of your main point by overloading your comment with suggestions that do not support it.

- Be specific. If you are not specific, your comments will not be clear and your reader will not know how to make the changes you want. Use real-world examples if you can and hypothetical examples if you need to.

Providing suggested language in your written comment is ideal. Your ideas are far more likely to become reality if you make it as clear and easy as possible for the permit authors to understand and implement them. In this case the NJDEP can tell exactly what you want because you have provided it with precisely what you would like to see as the final result. If you provide suggested language—and your entire comment is concise and convincing—you stand a good chance of influencing the agency’s final decision on the permit.
Along with your suggestions for changes, identify sections of the permit you particularly like, if at all possible. The agency may well contemplate changes you do not want and your support for those sections may make a difference. Finally, and perhaps obviously, it never hurts to let someone know you appreciate his or her work.

**Make an Effective Verbal Comment**

Verbal comments are made at public hearings. These hearings are held if the NJDEP determines that there is sufficient public interest. Local groups and organizations may circulate a petition to gather signatures to show the NJDEP that public interest is sufficient. If you organize your own petition, make sure the signatures you collect accompany your written comment and that everything is sent to the correct NJDEP office by the deadline.

Here are some tips for making an effective verbal comment:

- Verbal comments are most effective when they are made in conjunction with a written comment, and when they are made in conjunction with a group, organization, or a number of fellow commenters.

- Practice making your comment out loud before the day of the meeting. Do not read directly from a script if you can manage it; instead, use notecards to remind you of key facts and to mark where you are.

- Bring a copy of your full comment with you to share with officials you meet and to enter into the record.

- Be sure to stay within the time limit given. (Tip: 1 minute = 140-160 words)

- Address all of your remarks to “the Chair,” who is the man or woman who leads the hearing.

- Bring photos or other visual aids, such as a stack of petition cards or pictures of the polluting industry.

- At the meeting, introduce yourself to people and write down their names. This will help you figure out whom to follow up with later, and it will help the people hearing your comment remember it.

- Include your name and contact information, but remember that your comment will become a public document.
Before you speak at a public hearing, you should compose your comment.

**First**, compose a written comment by following the guidelines for written comments above. The preparation for each type of comment is the same, and the steps are necessary for you to compose a comment that gets the attention and results you want.

**Second**, pick one to three key points from your written comment to make up your verbal comment. Limiting what goes into your verbal comment allows you to fully explain the points you include, and to fit those points into the few minutes you are given to make them.

**Following Up On Your Submitted Comment**

If you want to continue participating in the process after you have made your comments, even after the close of the official comment period, there are a few ways to do so, some of which, we have discussed earlier in the guide.

After you review the comments of others, you may submit an additional comment that responds directly to the points of the other commenters. These other comments may also alert you to another point or additional facts you would like to include in the record. Follow the same procedure as you would for any other comment. If it is after the comment period your new comment may or may not be included in the record, but it is not a useless exercise.

If you only made verbal comments, you should send a written copy of your comment, along with a letter requesting inclusion in the administrative record, to your NJDEP office.

---

**Extra Tips for an Effective Verbal Comment**

1. Only speak to what you are an expert on (law, health, family, social justice, etc.)

2. Be engaged, smile, say thank you

3. If you are preparing robust comments to an agency, establish a relationship with them. Speak with the agency before giving your comments to find out what they are looking for, what they need help with, or to discuss ideas you have that they may not have thought of.
You may also rally support and get publicity for your position independent of the administrative process. Involve local groups, businesses, organizations, fellow citizens, legislators at any level that represent you. If you are an organization, make your comment publically available and issue a press release.

**CONCLUSION**

We hope that this guide has been able to help you navigate the New Jersey NJPDES permitting process. Public participation in this process is vital to its success. The Appendix that follows this guide gives you additional information on how to review a NJPDES permit and how to use a multitude of state and federal websites to find information on NJPDES permits, as well as sample permit documents to help you familiarize yourself prior to getting involved in the permitting process.
Secondary Sources


Email from Brent Walls, Upper Potomac Riverkeeper, Potomac Riverkeeper, to author (Jan. 23, 2015, 10:06 am) (on file with author).

Email from Gretchn Dahlkemper, Moms Clean Air Force, to author (Jan. 16, 2015, 8:49 am) (on file with author).


Hearings, Office of Administrative Law, http://www.state.nj.us/oal/hearings.html


Pending Permit Progress Reports, Data Miner, Open Public Records Act, New Jersey Dep’t of Envlt Protection, http://datamine2.state.nj.us/DEP_OPRA/OpraMain/categories?category=Pending+Permit+Progress+Reports.

Public Participation Calendar, State of New Jersey Dep’t of Envtl Protection http://www2.epa.gov/cleanwaterrule.


Cases

Board of Health of the State of New Jersey v. Inhabitants of Town of Phillipsburg, 83 N.J. Eq. 402 (1914)

Donovan v. United States, 661 F.3d 174 (3d Cir. 2011).


Statutes


§ 1251(a)(1)
§ 1251(e)
§ 1311(a)
§ 1313(c)
§ 1319
§ 1342
§ 1342(o)
§ 1362
§§ 1362(6), (7), (11), (12), (14)
§ 1365


§ 58:10A-3e, m, n, t, v

§ 58:10A-9(b), (c)

§ 58:10A-10.1

§ 58:10A-10.6

Regulations

33 C.F.R. § 328.3

40 C.F.R. § 122.21

§ 122.48

§§124 et seq.

N.J. Admin. Code §§ 7:9B-1.5(d)

§ 7:9B-1.15(a)(6)

§ 7:9B-1.15


§ 7:14A-1.2

§ 7:14A-2.8

§ 7:14A-4.2

§ 7:14A-4.2(e)

§ 7:14A–6.13

§§ 7:14A–6.13(c), (d)

§ 7:14A-13

§ 7:14A-13.17
§ 7:14A-14.2
§ 7:14A–15
§ 7:14A-15.6.5
§ 7:14A–15.8
§ 7:14A–15.8(b)
§ 7:14A–15.10
§§ 7:14A-15.10(b),(c)(1), (f),(h)
§ 7:14A–15.11(b)
§ 7:14A–15.12(a)
§ 7:14A–15.13
§ 7:14A–15.15
§ 7:14A-15.16
§ 7:14A-15.17
§ 7:14A–15.89(c)
§ 7:14A–15.117.2
§ 7:14A–17
§§ 7:14A–17.2(a), (f)
§§ 7:14A–17.3(b), (c)
§§ 7:14A–17.4(c), (e)
§§ 7:14A–17.6(a)
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CHECKLIST FOR INDIVIDUAL NJPDES PERMITS

☐ If the permit is a renewal permit, compare the draft permit to the old permit.
  
  - Are there any changes? If so, each change needs to have a reason why. Assess the reasoning given for each change.
  - Is there an increase of effluent limitations, a forgiveness period or a reduction in reporting or monitoring? If there is backsliding, it is illegal and should be addressed.
  - Read the fine print and all the clauses carefully, there may be hints of backsliding, variances or adjustments after a period of time.

☐ Is the facility new or is the facility increasing its capacity?

☐ Are the limits technology based or water quality based? If the receiving stream is on the 303(d) list or has a TMDL, water quality based limits are important in maintaining water quality.

☐ Are the effluent limitations stringent enough to protect the receiving water?

☐ What is the frequency of sampling for effluents?
  
  - What kind of discharge is coming from the facility?
  - Is the discharge affected by rain events?
  - Is the frequency of sampling often enough to record important events, such as rain events?

☐ What type of facility is it? Does it have all the parameters listed that should be listed?

☐ Are there parameters that are "measure only"? If so, there needs to be a reason why and a time frame as to when limits will be set.

☐ What is the discharge flow rate of the facility compared to the flow rate of the receiving stream? Make sure that the receiving stream flow rate is up to date and accurate.

☐ Review the toxicity testing of the effluents. Is there something that stands out?

☐ Do a compliance review: Review the most recent Discharge Monitoring Reports to see if there are any violations or errors in the reporting, and inspection reports to see if there is a repetitive error or issue that could be addressed in the permit.
CHECKLIST FOR GENERAL NJPDES PERMITS

☐ Is the general permit over five years old? If so, the general permit must be renewed
  o NJDEP is required to renew general permits every five years.
  o Write to the NJDEP to encourage the agency to renew the general permit.
  o If NJDEP is unresponsive, you can bring an action.

☐ Is there a public notice requirement when a facility issued a Notice of Intent for a general permit?
  o Public notice for an NOI is not generally required, but this does not stop citizens from encouraging NJDEP to require it.
  o Public notice can take different forms under 25 Pa. Code § 92a.84(c):
    ▪ Notice of an application in a daily or weekly newspaper in the affected area.
    ▪ Notice approval for coverage under a general permit in the DEP Bulletin.
  o Public notice of an NOI will alert the public as to new facilities that will be regulated under the NJPDES permit program, allowing the public to better monitor such facilities.

☐ Are the effluent limitations stringent enough to protect the receiving water?

☐ What is the frequency of sampling for effluents?
  o What kind of discharge is coming from the facility?
  o Is the discharge affected by rain events?
  o Is the frequency of sampling often enough to record important events, such as rain events?

☐ What type of facility is it? Does it have all the parameters listed that should be listed?

☐ Are there parameters that are "measure only"? If so, there needs to be a reason why and a time frame as to when limits will be set.

☐ Review the toxicity testing of the effluents. Is there something that stands out
If construction is involved, a treatment works approval is required before construction, N.J.A.C. 7:14A-22 and 23.

Final permit decision is issued N.J.A.C. 7:14A-15.15

Final permit decision is issued and administrative record in accordance with N.J.A.C. 7:14A-15.17 is retained on file.

Request for adjudicatory hearing (optional) N.J.A.C. 7:14A-17.2

Within 30 days of receipt of the final permit decision a request for a hearing shall be made. A hearing is limited to the issues raised during the public comment period in accordance with N.J.A.C. 7:14A-15.13.

Request for stay of permit conditions (optional) N.J.A.C. 7:14A-17.6

A request for an adjudicatory hearing does not automatically result in a stay of permit conditions. Requests for stays are decided in accordance with N.J.A.C. 7:14A-17.6.

Adjudicatory hearing held in Office of Administrative Law

Office of Administrative Law initial decision sent to DEP Commissioner

Commissioner reviews decision and issues a final decision

Final decision issued by DEP Commissioner

Superior Court Appellate Division to appeal final decision
HOW-TO GUIDES

Step-by-Step Instructions on How to Use the Most Common Federal and State Websites
HOW TO USE
DEP PUBLIC PARTICIPATION CALENDAR

FIRST, use your computer’s web browser to visit: http://www.nj.gov/dep/calendar/public.html

Note: The Calendar is put up month by month, so you will be unable to see the following month’s meetings.
HOW TO USE
DEP BULLETIN

FIRST, use your computer’s web browser to visit: http://www.nj.gov/dep/bulletin/

Note: The DEP Bulletin is issued every other Wednesday.
THEN, click on the issue of the DEP Bulletin that you wish to view.

IF you do not know which issue you would like to view, but know the name, permit number, or other information about the facility you are looking for, you can search the DEP Bulletin using a word or phrase.

This search will bring up a list of DEP Bulletin Issues that contain the search terms or phrases you used.

You may have to look through several of the issues before you find the information you are looking for. Using the permit number or the name of the facility is the best way to not only find the notice you are looking for, but to see the history of notices for the facility.

NEXT, you can go through the issue for the information you are looking for, such as notice of a permit application, permit status, or permit decision. Below is an excerpt sample of an issue of the DEP Bulletin
HOW TO USE
DATA MINER

Data Miner is NJDEP’s electronic source for information related to NJPDES permits (among many other things). It can be a little overwhelming due to the vast amount of information available. Below are some various ways to gather information on NJPDES permits, whether it is one specific permit you are looking at, or all of the permits in a particular location.

FIRST, use your computer’s web browser to visit: http://www.nj.gov/dep/opra/online.html

THEN, click on the button on the right hand side of the page to enter “DEP Data Miner”
You can Search by Location, Name, ID Number, Keyword, or do an Advanced Search (which lets you search by Address and Site Name).

IF you want a more narrow search, we recommend that you search “Reports by Category.”
You will see a list of “Report Categories.” Each category will have a list of reports and links to further searches.

For NJPDES permits, there are two (2) report categories: (1) NJPDES Permitting Program and (2) Pending Permit Progress Reports

**NJPDES Permitting Program**

**START**, by clicking on NJPDES Permitting Program.

**FIRST**, you can find Permit Information by going to “Access EPA NJPDES Reports”:

If you **CLICK** on “Limits for Particular NJPDES Permit,” you can find out the effluent limitations for a specific permit:
Below is an **EXAMPLE** of permit limits:

<table>
<thead>
<tr>
<th>Parameter Code</th>
<th>Parameter Description</th>
<th>Sample Point Code</th>
<th>Sample Point Description</th>
<th>DMR Column Number</th>
<th>Numerical Limit</th>
<th>Unit Description</th>
<th>Statistical Base Description</th>
<th>Report Only Flag</th>
<th>Monitoring Frequency</th>
<th>Sample Type Description</th>
<th>Quantitative Limit Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>02204</td>
<td>Oxygen Demand, Chem (COD)</td>
<td>1</td>
<td>Effluent Gross Value</td>
<td>3</td>
<td>MILLIGRAMS PER LITER</td>
<td>Daily Maximum Y</td>
<td>Quarterly Maximum Y</td>
<td>Quarterly Maximum Y</td>
<td>1 Quarter</td>
<td>Grub</td>
<td></td>
</tr>
<tr>
<td>02204</td>
<td>Oxygen Demand, Chem (COD)</td>
<td>1</td>
<td>Effluent Gross Value</td>
<td>4</td>
<td>MILLIGRAMS PER LITER</td>
<td>Daily Minimum Y</td>
<td>Monthly Minimum Y</td>
<td>Monthly Minimum Y</td>
<td>1 Month</td>
<td>Grub</td>
<td></td>
</tr>
<tr>
<td>02204</td>
<td>Oxygen Demand, Chem (COD)</td>
<td>1</td>
<td>Effluent Gross Value</td>
<td>5</td>
<td>MILLIGRAMS PER LITER</td>
<td>Daily Average Y</td>
<td>Monthly Average Y</td>
<td>Monthly Average Y</td>
<td>1 Month</td>
<td>Grub</td>
<td></td>
</tr>
<tr>
<td>02204</td>
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<td>1</td>
<td>Effluent Gross Value</td>
<td>5</td>
<td>MILLIGRAMS PER LITER</td>
<td>Daily Minimum Y</td>
<td>Monthly Minimum Y</td>
<td>Monthly Minimum Y</td>
<td>1 Quarter</td>
<td>Grub</td>
<td></td>
</tr>
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<td>02204</td>
<td>pH</td>
<td>1</td>
<td>Effluent Gross Value</td>
<td>1</td>
<td>STANDARD UNITS (pH)</td>
<td>Daily Minimum Y</td>
<td>Monthly Minimum Y</td>
<td>Monthly Minimum Y</td>
<td>Grub</td>
<td></td>
<td></td>
</tr>
<tr>
<td>02204</td>
<td>pH</td>
<td>1</td>
<td>Effluent Gross Value</td>
<td>1</td>
<td>STANDARD UNITS (pH)</td>
<td>Daily Maximum Y</td>
<td>Monthly Maximum Y</td>
<td>Monthly Maximum Y</td>
<td>1 Quarter</td>
<td>Grub</td>
<td></td>
</tr>
<tr>
<td>02204</td>
<td>pH</td>
<td>1</td>
<td>Effluent Gross Value</td>
<td>1</td>
<td>STANDARD UNITS (pH)</td>
<td>Daily Average Y</td>
<td>Monthly Average Y</td>
<td>Monthly Average Y</td>
<td>1 Month</td>
<td>Grub</td>
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</tr>
<tr>
<td>02204</td>
<td>Total Suspended</td>
<td>1</td>
<td>Effluent Gross Value</td>
<td>1</td>
<td>MILLIGRAMS PER LITER</td>
<td>Daily Maximum Y</td>
<td>Monthly Maximum Y</td>
<td>Monthly Maximum Y</td>
<td>1 Quarter</td>
<td>Grub</td>
<td></td>
</tr>
<tr>
<td>02204</td>
<td>Total Suspended</td>
<td>1</td>
<td>Effluent Gross Value</td>
<td>1</td>
<td>MILLIGRAMS PER LITER</td>
<td>Daily Maximum Y</td>
<td>Monthly Maximum Y</td>
<td>Monthly Maximum Y</td>
<td>1 Quarter</td>
<td>Grub</td>
<td></td>
</tr>
<tr>
<td>02204</td>
<td>Perme Hydrocarbons, Total</td>
<td>1</td>
<td>Effluent Gross Value</td>
<td>1</td>
<td>MILLIGRAMS PER LITER</td>
<td>Daily Maximum Y</td>
<td>Monthly Maximum Y</td>
<td>Monthly Maximum Y</td>
<td>1 Quarter</td>
<td>Grub</td>
<td></td>
</tr>
<tr>
<td>02204</td>
<td>Perme Hydrocarbons, Total</td>
<td>1</td>
<td>Effluent Gross Value</td>
<td>1</td>
<td>MILLIGRAMS PER LITER</td>
<td>Daily Maximum Y</td>
<td>Monthly Maximum Y</td>
<td>Monthly Maximum Y</td>
<td>1 Quarter</td>
<td>Grub</td>
<td></td>
</tr>
</tbody>
</table>
SECOND, you can view Active NJPDES Permits by going to “Access EPA NJPDES Reports”:

This list of reports will allow you to view Active Permits, DMR Data, Waste water Characterization Report Data, and Residual Transfer Reports. You can view these reports by searching by Permit Number, Program Interest, Watershed Management Area, and Discharge Category (depending on the report).

THIRD, you can see DMR Data by clicking on “Access the NJPDES Permitting Program Reports”: 

Click Here for DMR Data
For an **EXAMPLE**, to view DMR data by clicking on “NJPDES DMR Data by Permit Number.

**HERE**, you can enter the dates you want the DMR Reports for and select the permit number. You will see a report like the one below:
Pending Permit Progress Reports

On the other hand, if you are interesting in viewing information about a facility that has a permit pending, go back to the main “Reports by Category” page and click on “Pending Permit Progress Reports”:

As an EXAMPLE, here is what a search by County- Municipality would look like:

FIRST, click on “Access Pending Permit Progress Reports:
SECOND, pick your County and Municipality. You also need to narrow your search to the “Water Quality” program:

You will need to skim through the permits to find the one you are looking for. But once you locate your particular permit, you will be able to see the Status of the permit, if it is Backlogged and Who is assigned to your permit (this is the person who you want to contact).
Here you can find the status of the pending

If the permit is delayed

Atlantic - Atlantic City

Program: Water Quality
1801 ABSECON BLVD Atlantic City
NJ 08401

ATLANTIC COUNTY UTILITIES AUTH WWTF (46088)

DGW 100001

Discharge to Ground Water

<table>
<thead>
<tr>
<th>Program Description</th>
<th>DEP Contact Name</th>
<th>DEP Contact Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water Quality</td>
<td>On Call Support</td>
<td>(609) 633-7021</td>
</tr>
</tbody>
</table>

NJPDES permits are required for discharges to ground water of both sanitary and industrial wastes, as defined in N.J.A.C. 7:14A-1.9. These permits, which limit the mass and/or concentration of pollutants discharged, are issued to sanitary and industrial facilities that have ongoing, operational discharges of wastewater to ground water. The pollution control requirements contained in NJPDES permits are those conditions necessary to restrict the discharge of pollutants to the ground, the state and protect the public health and the environment. More information is available at http://www.state.nj.us/dep/dwp/groundw.htm.

Ground Water Renewal Permit Action

<table>
<thead>
<tr>
<th>Clock</th>
<th>Days Allotted</th>
<th>Days Elapsed</th>
<th>Days Remaining</th>
<th>Permit Review Status</th>
</tr>
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<tbody>
<tr>
<td>Ticking</td>
<td>365</td>
<td>1666</td>
<td></td>
<td>Backlogged</td>
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</tbody>
</table>

Standard Tasks

<table>
<thead>
<tr>
<th>Standard Tasks</th>
<th>Completed Date</th>
<th>Assigned To</th>
</tr>
</thead>
<tbody>
<tr>
<td>Receive Application</td>
<td>10/14/2010</td>
<td>DeBlois, Annette</td>
</tr>
<tr>
<td>Start Administrative Review</td>
<td>10/14/2010</td>
<td>DeBlois, Annette</td>
</tr>
<tr>
<td>Issue Notice of Administrative Deficiency</td>
<td>10/22/2010</td>
<td>DeBlois, Annette</td>
</tr>
<tr>
<td>End Administrative Review</td>
<td>12/2/2010</td>
<td>DeBlois, Annette</td>
</tr>
<tr>
<td>Start Technical Review</td>
<td>12/2/2010</td>
<td>DeBlois, Annette</td>
</tr>
</tbody>
</table>

Final Decision awaiting from: 

TWA 070013

TWA Project Number: 07-0276

Treatment Works Approval

<table>
<thead>
<tr>
<th>Program Description</th>
<th>DEP Contact Name</th>
<th>DEP Contact Phone</th>
</tr>
</thead>
</table>
The EPA’s Enforcement and Compliance History Online [“ECHO”] database is, like the Pennsylvania DEP’s tools above, a way to find facilities with permits using an internet based search tool.

FIRST, point your computer's browser to the ECHO main page using this web address: http://echo.epa.gov/?redirect=echo

NOTE: if you need detailed assistance using the ECHO site, click on the word “Tutorial” directly under the “Quick Search” field. That will take you to a page with a video demonstration of how to use the ECHO site. There are also links to further assistance with the site to the right of the screen (http://echo.epa.gov/help/tutorials)

NEXT, if you know the city, state, or zip code of the area where you wish to find a permitted facility, you may enter that information in the field under “Quick Search” near the center of your screen, and click “search.” This is the screen that comes up if you enter the zip code “19081:”
The top portion of the screen is a satellite image of the area surrounding the zip code (or city, or state—whichever search criterion you used), while the bottom portion is occupied by a list of the permitted facilities in the area. To the right is a list of popular search statistics, such as: facilities with: current violations; violations in the past three years; formal enforcement actions within the past five years; etc.

**NOTE:** the ECHO site is used for searching for all types of facilities emitting or discharging pollutants under all types of environmental permits. To find facilities operating under NPDES permits look for those “with CWA Permits” (because the NPDES system is created by the Clean Water Act).

Clicking on the name of the facility or the letter “C” in the red box in the list of facilities below the map will take you to a screen with a “Detailed Facility Report.”

As you can see in the screenshot on the left, the Borough of Swarthmore operates under an NPDES Permit (indicated here as a Clean Water Act Permit). Clicking on the permit number brings you to a page with the details of the particular permit. In this case, Swarthmore is discharging under a general permit.
If you know the facility name or identification number, click on the blue square labeled “Explore Facilities” to the left center of the screen. This will change the search frame to one requesting the facility name or identification number and provide links to types of information about the facility’s compliance. There are also links to more advanced types of searches:
SAMPLE FACT SHEET
FACT SHEET

This fact sheet sets forth the principal facts and the significant factual, legal, and policy considerations examined during preparation of the draft permit.

PERMIT ACTION: Stormwater Discharge New Permit Action

1 Name and Address of the Applicant:

[Blank]

2 Name and Address of the Facility:

[Blank]

3 Name and Classification of the Receiving Water:

Delaware river
Mainstem Delaware-Zone 3

4 Description of the Facility/Site:

The above named applicant has applied for a New Jersey Pollutant Discharge Elimination System (NJPDES) New Permit to the New Jersey Department of Environmental Protection (NJDEP), Bureau Nonpoint Pollution Control. A location map of the facility is included. The applicant is involved with the collection, crushing, and screening of recycled concrete. The recycled concrete is then used as an aggregate in the onsite production of ready-mixed concrete. The facility also conducts a wood chipping/mulching/dying operation for bulk distribution onsite. A maintenance garage, scrap asphalt and minimal tire storage are present at the site as well. The Facility operates under the Standard Industrial Classification (SIC) 5093 (recycling) and 3273 (ready-mixed concrete). The proposed permit regulates stormwater discharges to the Delaware river, classified as Mainstem Delaware-zone 3.
After discussions with representatives of a decision was reached to issue a new Individual Stormwater Permit. This permit requires the facility to develop and implement a Stormwater Pollution Prevention Plan (SPPP), which includes a Drainage Control Plan (DCP), to control the quality of its stormwater discharges, which is consistent with other Individual and General Permit requirements.

5 Description of the Receiving Water and Discharge Locations or Local Agency:

Riverine Tidal Freshwater

6 Type and Quantity of the Wastes, Fluids, or Pollutants:

The facility accepts and stores concrete debris for recycling. The facility also manufactures a ready-mixed concrete product. Potential pollutant sources include: TSS, pH, metals from rebar and other structural additives, PCBs from recycled concrete debris, and COD from chemical additives.

The facility operates a wood chipping and dyeing operation onsite. Potential pollutant sources include: TSS, pH, Nutrients from the breakdown of organic material, Metals included in inbound wood materials, BOD and ammonia from wood breakdown.

The facility conducts vehicle fueling and maintenance onsite. Potential pollutants sources include: Petroleum hydrocarbons from fueling and maintenance, TSS, and COD from vehicle fluids.

7 Summary of Permit Conditions:

The objective of this regulatory action is issue a new NJPDES permit under the procedures established in N.J.A.C. 7:14A-15, 16, and 17.

In accordance with the Federal Clean Water Act and its implementing regulations, specifically, discharges permitted prior to February 4, 1987, and discharges associated with industrial activity (40 CFR 122.26), this facility is required to have a permit for its stormwater discharges to surface water.

Permit effluent limitations, non-numeric effluent limitations, monitoring requirements, Best Management Practices (BMPs) and other conditions are authorized by the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and the Water Pollution Control Act (State Act; N.J.S.A. 58:10A-1 et seq). These statutes are implemented by the National Pollutant Discharge Elimination System (NPDES) (40 CFR Part 122) and the New Jersey Pollutant Discharge Elimination System (NPDES) (N.J.A.C. 7:14A) permit programs.

The proposed effluent limitations, non-numeric effluent limitations, and other pertinent information concerning the draft permit are described in the Fact Sheet Summary Table. The effluent limitations for pH, Total Suspended Solids (TSS) and Chemical Oxygen Demand (COD), were included to reflect the standards developed for the Industry specific general permit for wood chip recyclers (R7). A large portion of the facility is dedicated to wood chip recycling. Justification for the sampling requirements included in this permit can be found in the fact sheet for the R7 permit at http://www.nj.gov/dep/dwq/pdf/r7_final_permit.pdf. The facility is also primarily engaged in the recycling of concrete and production of ready-mixed concrete product. The Department has created a Concrete General permit (CPM), which address these types of facilities. Requirements of that general permit have also been incorporated into this permit.
Concerning the proposed **New Permit**, the NJDEP is authorized under the federal regulations (40 CFR 122.44) and under NJPDES rules (N.J.A.C. 7:14A-6.2(b) to impose Best Management Practices (BMPs) to control or abate the discharge of pollutants in lieu of numeric effluent limitations in NJPDES permits. BMPs may be imposed when the NJDEP finds numeric effluent limitations to be infeasible or when BMPs are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the State and Federal Acts. Additionally, the NJDEP believes that it is not feasible at this time to establish water quality based effluent limits (WQBEL) for this stormwater discharge. The proposed limitations incorporated in the SPPP are consistent with the NJDEP's and EPA's stormwater permitting philosophy of reducing the amount of pollution created and to prevent pollution from occurring in the first place (See 24 N.J.R. 2352). The SPPP requirements and monitoring requirements operate as limitations and controls on stormwater effluent discharges to prevent stormwater contamination and are intended to achieve Best Available Technology Economically Achievable (BAT) and Best Conventional Pollutant Control Technology (BCT). The SPPP proposed will consist of requirements for preparing the SPPP, certifying the preparation and submitting the plan, implementation of the SPPP by a compliance date, certification of implementation of the SPPP, and annual recertification and reporting of the effectiveness of the SPPP. The objective of the SPPP is to prevent stormwater contamination through the elimination and/or minimization of exposure, during and after storm events, of industrial materials, machinery, waste products, and other source materials associated with industrial activity located at the facility, to stormwater that is discharged through separate storm sewers to surface waters.

### 8 Description of Procedures for Reaching a Final Decision on the Draft Action:

These procedures are set forth in N.J.A.C. 7:14A-15, 16, and 17. Included in the public notice are requirements for the submission of comments by a specified date, procedures for requesting a hearing, and other procedures for participation in the final agency decision.

### 9 Name, Bureau, and Phone Number of Contact Person:

Additional information concerning the Draft Permit renewal may be obtained between the hours of 8:30 A.M. and 4:00 P.M., Monday through Friday from **Daniel Kuti**, Bureau of Nonpoint Pollution Control, at (609) 633-7021.

### 10 Permit Summary Table: (Add/Delete Parameters as appropriate)

<table>
<thead>
<tr>
<th>Facility Name: [REDACTED]</th>
<th>Permit #: [REDACTED]</th>
</tr>
</thead>
<tbody>
<tr>
<td>LAT: To be determined</td>
<td>Discharge Type: Stormwater</td>
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<tr>
<td>LONG: To be determined</td>
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</table>

<table>
<thead>
<tr>
<th>PARAMETER</th>
<th>Application Characterization Data</th>
<th>Design Criteria</th>
<th>EFFLUENT LIMITATION</th>
<th>DRAFT PERMIT REQUIREMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chemical Oxygen</td>
<td>AVG/MAX 1150</td>
<td>NA</td>
<td>65</td>
<td>Effluent Limit</td>
</tr>
<tr>
<td>Demand</td>
<td>3820</td>
<td>NA</td>
<td>100</td>
<td>Effluent Limit</td>
</tr>
<tr>
<td>----------------------------</td>
<td>------</td>
<td>------</td>
<td>------</td>
<td>----------------</td>
</tr>
<tr>
<td>Total Suspended Solids</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>pH range (S.U.)</td>
<td>7.8</td>
<td>NA</td>
<td>6-9</td>
<td>Effluent Limit</td>
</tr>
<tr>
<td>BOD 5-day</td>
<td>171</td>
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<td>Monitor Only</td>
</tr>
<tr>
<td>Petroleum Hydrocarbons</td>
<td>12.2</td>
<td>NA</td>
<td>10/15</td>
<td>Effluent Limit</td>
</tr>
<tr>
<td>Total Kjeldahl Nitrogen</td>
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<td>Monitor Only</td>
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<td>Nitrate</td>
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<td>0.68</td>
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<td>Monitor Only</td>
</tr>
<tr>
<td>Phosphorus</td>
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<tr>
<td>Iron</td>
<td>90.3</td>
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<td>None</td>
<td>Monitor Only</td>
</tr>
<tr>
<td>Ammonia</td>
<td>NA</td>
<td>3.0</td>
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<td>Monitor Only</td>
</tr>
<tr>
<td>Arsenic</td>
<td>NA</td>
<td>0.17</td>
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<td>Monitor Only</td>
</tr>
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<td>Aluminum</td>
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<td>Monitor Only</td>
</tr>
<tr>
<td>Copper</td>
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<td>Monitor Only</td>
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<td>Chromium</td>
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<td>Monitor Only</td>
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<tr>
<td>Lead</td>
<td>NA</td>
<td>0.08</td>
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<td>Monitor Only</td>
</tr>
<tr>
<td>PCBs</td>
<td>NA</td>
<td>NA</td>
<td>None</td>
<td>Monitor Only</td>
</tr>
<tr>
<td>Zinc</td>
<td>NA</td>
<td>NA</td>
<td>None</td>
<td>Monitor Only</td>
</tr>
<tr>
<td>Acute Toxicity (LC50)</td>
<td>No measurable Acute Toxicity</td>
<td>LC50&gt;50%</td>
<td>None</td>
<td>Monitor Only</td>
</tr>
<tr>
<td>Industrial Activity</td>
<td></td>
<td></td>
<td></td>
<td>SPPP², Table 2 in permit requirements</td>
</tr>
</tbody>
</table>

S.U. is the abbreviation for standard units.
NOTES


2 - Stormwater Pollution Prevention Plan (SPPP) is derived from Federal (40 CFR 122.44) and State (N.J.A.C. 7:14A-11.2(a)3 rules and will be developed as a non-numeric effluent limit to replace the numeric limits of the prior permit, and to control parameters not listed above. The following outside areas must be addressed in the SPPP, if applicable: (1) vehicle fueling and maintenance areas; (2) waste management/handling areas; (3) ISRA clean-up areas; (4) loading docks; (5) storage areas; and (6) any other areas with "stormwater discharges associated with industrial activity" as defined by N.J.A.C. 7:14A-1.2.

Appendix

CONTENTS OF THE ADMINISTRATIVE RECORD

The following items are used to establish the basis of the draft permit:

(1) Concrete Products Manufacturing General Permit (CPM) NJ0108456
(2) N.J.A.C. 7:14A (NPI)*
(3) 40 CFR 122.28 (NPI)*
(4) N.J.S.A. 58:10A-1 et seq (NPI)*
(5) NJPDES Wood Chip Recyclers General Permit (R7) NJ0138622
(6) Site visit conducted 4/29/2008
(7) Application dated August 28, 2007 and subsequent Sampling Data dated December 19, 2007

*NPI: The document is part of the administrative record, but is not physically included with the record.
SAMPLE INDIVIDUAL PERMIT
Re: Final Surface Water Renewal Permit Action
Category: A - Sanitary Wastewater
NJPDES Permit No. [redacted]

Dear Mr. Horton:

Enclosed is a final New Jersey Pollutant Discharge Elimination System (NJPDES) permit action identified above which has been issued in accordance with N.J.A.C. 7:14A.

No written comments were received on the draft action during the comment period, and no provisions of the draft permit have been changed in the final permit. Therefore, the right by you, or any third party, to contest the permit conditions in an adjudicatory hearing has been waived pursuant to N.J.A.C. 7:14A-15.13.

As per N.J.A.C. 7:14A-4.2(e)3, any person planning to continue discharging after the expiration date of an existing NJPDES permit shall file an application for renewal at least 180 calendar days prior to the expiration of the existing permit.

All monitoring shall be conducted in accordance with 1) the Department's "Field Sampling Procedures Manual" applicable at the time of sampling (N.J.A.C. 7:14A-6.5(b)4), and/or 2) the method approved by the Department in Part IV of the permit. The Field Sampling Procedures Manual is available through Maps and Publications Sales Office: Bureau of Revenue, PO Box 417, Trenton, New Jersey 08625, at (609) 777-1038.

As a result of this permit action, your monitoring report forms (MRFs) have been created/changed and will be mailed to your current MRF recipient. Beginning the effective date of this permit action, please use the new forms. If these revised forms are not received within 2 weeks, please contact the Bureau of Permit Management at (609) 984-4428 for copies.

For your convenience, a schedule of submittal requirements has been included with this permit package.
Questions or comments regarding the final action should be addressed to Ramanathan Asokan at (609) 292-4860.

Sincerely,

Pilar Patterson, Chief
Bureau of Surface Water Permitting

Enclosures

cc: Permit Distribution List

Masterfile #: 10593; PI #: 46851
## FACILITY SUBMITTALS

### 1. GDR - General Discharge Requirements

<table>
<thead>
<tr>
<th>Task Description</th>
<th>Actual Due Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Submit a Complete Permit Renewal Application</td>
<td>09/01/2014</td>
</tr>
</tbody>
</table>

### 2. A - Sanitary Wastewater

<table>
<thead>
<tr>
<th>Task Description</th>
<th>Actual Due Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Submit a chronic whole effluent toxicity test report</td>
<td>09/26/2010</td>
</tr>
<tr>
<td>Submit a Beneficial Reuse Annual Report</td>
<td>02/01/2011</td>
</tr>
<tr>
<td>Local Ordinance</td>
<td>03/01/2011</td>
</tr>
<tr>
<td>Submit an Acute Whole Effluent Toxicity Test Report</td>
<td>03/26/2011</td>
</tr>
<tr>
<td>Submit a chronic whole effluent toxicity test report</td>
<td>03/26/2011</td>
</tr>
<tr>
<td>Annual Pretreatment Program Report</td>
<td>05/01/2011</td>
</tr>
<tr>
<td>Submit a chronic whole effluent toxicity test report</td>
<td>09/26/2011</td>
</tr>
<tr>
<td>Submit a Beneficial Reuse Annual Report</td>
<td>02/01/2012</td>
</tr>
<tr>
<td>Submit an Acute Whole Effluent Toxicity Test Report</td>
<td>03/26/2012</td>
</tr>
<tr>
<td>Submit a chronic whole effluent toxicity test report</td>
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</tr>
<tr>
<td>Annual Pretreatment Program Report</td>
<td>05/01/2012</td>
</tr>
<tr>
<td>Submit a chronic whole effluent toxicity test report</td>
<td>09/26/2012</td>
</tr>
<tr>
<td>Submit a Beneficial Reuse Annual Report</td>
<td>02/01/2013</td>
</tr>
<tr>
<td>Submit an Acute Whole Effluent Toxicity Test Report</td>
<td>03/26/2013</td>
</tr>
<tr>
<td>Submit a chronic whole effluent toxicity test report</td>
<td>03/26/2013</td>
</tr>
<tr>
<td>Annual Pretreatment Program Report</td>
<td>05/01/2013</td>
</tr>
<tr>
<td>Submit a chronic whole effluent toxicity test report</td>
<td>09/26/2013</td>
</tr>
<tr>
<td>Submit a Beneficial Reuse Annual Report</td>
<td>02/01/2014</td>
</tr>
<tr>
<td>Submit an Acute Whole Effluent Toxicity Test Report</td>
<td>03/26/2014</td>
</tr>
<tr>
<td>Submit a chronic whole effluent toxicity test report</td>
<td>03/26/2014</td>
</tr>
<tr>
<td>Annual Pretreatment Program Report</td>
<td>05/01/2014</td>
</tr>
<tr>
<td>Conduct Local Limits Evaluation</td>
<td>09/01/2014</td>
</tr>
<tr>
<td>Submit a chronic whole effluent toxicity test report</td>
<td>09/26/2014</td>
</tr>
<tr>
<td>Submit a Beneficial Reuse Annual Report</td>
<td>02/01/2015</td>
</tr>
</tbody>
</table>
Table of Contents

This permit package contains the items checked below:

1. Final Cover Letter
2. Facility Submittals
3. Table of Contents
4. NJPDES Permit Authorization Page
5. Part I – General Requirements: NJPDES
6. Part II – General Requirements: Discharge Categories
7. Part III – Limits and Monitoring Requirements
8. Part IV – Specific Requirements: Narrative
9. Appendix A: Chronic Toxicity Testing Specifications for Use in the NJPDES Permit Program
10. Appendix B: Reclaimed Water for Beneficial Reuse Approval Status List
NEW JERSEY POLLUTANT DISCHARGE ELIMINATION SYSTEM

The New Jersey Department of Environmental Protection hereby grants you a NJPDES permit for the facility/activity named in this document. This permit is the regulatory mechanism used by the Department to help ensure your discharge will not harm the environment. By complying with the terms and conditions specified, you are assuming an important role in protecting New Jersey’s valuable water resources. Your acceptance of this permit is an agreement to conform with all of its provisions when constructing, installing, modifying, or operating any facility for the collection, treatment, or discharge of pollutants to waters of the state. If you have any questions about this document, please feel free to contact the Department representative listed in the permit cover letter. Your cooperation in helping us protect and safeguard our state’s environment is appreciated.

Permit Number: 050-001120

Final: Surface Water Renewal Permit Action

Permittee: 
Co-Permittee: 

Property Owner: 
Location Of Activity: 

<table>
<thead>
<tr>
<th>Authorization(s) Covered Under This Approval</th>
<th>Issuance Date</th>
<th>Effective Date</th>
<th>Expiration Date</th>
</tr>
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<tbody>
<tr>
<td>A - Sanitary Wastewater</td>
<td>02/08/2010</td>
<td>04/01/2010</td>
<td>03/31/2015</td>
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</tbody>
</table>

By Authority of:
Commissioner’s Office

DEP AUTHORIZATION
Pilar Patterson, Bureau Chief
Bureau of Surface Water Permitting
Division of Water Quality

(Terms, conditions and provisions attached hereto)

Division of Water Quality
PART I
GENERAL REQUIREMENTS:
NJPDES

A. General Requirements of all NJPDES Permits
  1. Requirements Incorporated by Reference
     a. The permittee shall comply with all conditions set forth in this permit and with all the applicable
        requirements incorporated into this permit by reference. The permittee is required to comply with the
        regulations, including those cited in paragraphs b. through e. following, which are in effect as of the
        effective date of the final permit.
     b. General Conditions
        Penalties for Violations N.J.A.C. 7:14-8.1 et seq.
        Incorporation by Reference N.J.A.C. 7:14A-2.3
        Toxic Pollutants N.J.A.C. 7:14A-6.2(a)4i
        Duty to Comply N.J.A.C. 7:14A-6.2(a)1 & 4
        Duty to Mitigate N.J.A.C. 7:14A-6.2(a)5 & 11
        Inspection and Entry N.J.A.C. 7:14A-2.11(e)
        Enforcement Action N.J.A.C. 7:14A-2.9
        Duty to Reapply N.J.A.C. 7:14A-4.2(e)3
        Signatory Requirements for Applications and Reports N.J.A.C. 7:14A-4.9
        Effect of Permit/Other Laws N.J.A.C. 7:14A-6.2(a)6 & 7 & 2.9(c)
        Severability N.J.A.C. 7:14A-2.2
        Administrative Continuation of Permits N.J.A.C. 7:14A-2.8
        Permit Actions N.J.A.C. 7:14A-2.7(c)
        Reopener Clause N.J.A.C. 7:14A-6.2(a)10
        Permit Duration and Renewal N.J.A.C. 7:14A-2.7(a) & (b)
        Consolidation of Permit Process N.J.A.C. 7:14A-15.5
        Confidentiality N.J.A.C. 7:14A-18.2 & 2.11(g)
        Fee Schedule N.J.A.C. 7:14A-3.1
        Treatment Works Approval N.J.A.C. 7:14A-22 & 23
     c. Operation And Maintenance
        Need to Halt or Reduce not a Defense N.J.A.C. 7:14A-2.9(b)
        Proper Operation and Maintenance N.J.A.C. 7:14A-6.12
     d. Monitoring And Records
        Monitoring N.J.A.C. 7:14A-6.5
        Recordkeeping N.J.A.C. 7:14A-6.6
        Signatory Requirements for Monitoring Reports N.J.A.C. 7:14A-6.9
     e. Reporting Requirements
        Planned Changes N.J.A.C. 7:14A-6.7
        Reporting of Monitoring Results N.J.A.C. 7:14A-6.8
        Noncompliance Reporting N.J.A.C. 7:14A-6.10 & 6.8(h)
        Hotline/Two Hour & Twenty-four Hour Reporting N.J.A.C. 7:14A-6.10(c) & (d)
        Written Reporting N.J.A.C. 7:14A-6.10(c) & (f) & 6.8(h)
        Duty to Provide Information N.J.A.C. 7:14A-2.11, 6.2(a)14 & 18.1
        Schedules of Compliance N.J.A.C. 7:14A-6.4
        Transfer N.J.A.C. 7:14A-6.2(a)8 & 16.2
PART II

GENERAL REQUIREMENTS: DISCHARGE CATEGORIES

A. Additional Requirements Incorporated By Reference

1. Requirements for Discharges to Surface Waters

   a. In addition to conditions in Part I of this permit, the conditions in this section are applicable to activities at the permitted location and are incorporated by reference. The permittee is required to comply with the regulations which are in effect as of the effective date of the final permit.

      i. Surface Water Quality Standards N.J.A.C. 7:9B-1

      ii. Water Quality Management Planning Regulations N.J.A.C. 7:15

B. General Conditions

1. Scope

   a. The issuance of this permit shall not be considered as a waiver of any applicable federal, state, and local rules, regulations and ordinances.

2. Permit Renewal Requirement

   a. Permit conditions remain in effect and enforceable until and unless the permit is modified, renewed or revoked by the Department.

   b. Submit a complete permit renewal application: 180 days before the Expiration Date.

3. Notification of Non-Compliance

   a. The permittee shall notify the Department of all non-compliance when required in accordance with N.J.A.C. 7:14A-6.10 by contacting the DEP HOTLINE at 1-877-WARNDEP (1-877-927-6337).

   b. The permittee shall submit a written report as required by N.J.A.C. 7:14A-6.10 within five days.

4. Notification of Changes

   a. The permittee shall give written notification to the Department of any planned physical or operational alterations or additions to the permitted facility when the alteration is expected to result in a significant change in the permittee's discharge and/or residuals use or disposal practices including the cessation of discharge in accordance with N.J.A.C. 7:14A-6.7.

   b. Prior to any change in ownership, the current permittee shall comply with the requirements of N.J.A.C. 7:14A-16.2, pertaining to the notification of change in ownership.

5. Access to Information
a. The permittee shall allow an authorized representative of the Department, upon the presentation of 
credentials, to enter upon a person's premises, for purposes of inspection, and to access / copy any 
records that must be kept under the conditions of this permit.

6. Operator Certification

a. Pursuant to N.J.A.C. 7:10A-1.1 et seq. every wastewater system not exempt pursuant to N.J.A.C. 
7:10A-1.1(b) requires a licensed operator. The operator of a system shall meet the Department's 
requirements pursuant to N.J.A.C. 7:10A-1.1 and any amendments. The name of the proposed 
operator, where required shall be submitted to the Department at the address below, in order that 
his/her qualifications may be determined prior to initiating operation of the treatment works.

i. Notifications shall be submitted to:
NJDEP 
Examination and Licensing Unit 
P.O. Box 417 
Trenton, New Jersey 08625 
(609)777-1012

b. The permittee shall notify the Department of any changes in licensed operator within two weeks of 
the change.

7. Operation Restrictions

a. The operation of a waste treatment or disposal facility shall at no time create: (a) a discharge, 
except as authorized by the Department in the manner and location specified in Part III of this 
permit; (b) any discharge to the waters of the state or any standing or ponded condition for water or 
transmission, except as specifically authorized by a valid NJPDES permit.

8. Residuals Management

a. The permittee shall comply with land-based sludge management criteria and shall conform with the 
requirements for the management of residuals and grit and screenings under N.J.A.C. 
7:14A-6.15(a), which includes:

i. Standards for the Use or Disposal of Residual, N.J.A.C. 7:14A-20;

ii. Section 405 of the Federal Act governing the disposal of sludge from treatment works treating 
domestic sewage;

iii. The Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and the Solid Waste Management 
Rules, N.J.A.C. 7:26;

iv. The Sludge Quality Assurance Regulations, N.J.A.C. 7:14C;

v. The Statewide Sludge Management Plan promulgated pursuant to the Water Quality Planning 
Act, N.J.S.A. 58:11A-1 et seq., and the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.; and

vi. The provisions concerning disposal of sewage sludge and septage in sanitary landfills set forth at 

vii. Residual that is disposed in a municipal solid waste landfill unit shall meet the requirements in 
40 CFR Part 258 and/or N.J.A.C. 7:26 concerning the quality of residual disposed in a municipal 
solid waste landfill unit. (That is, passes the Toxicty Characteristic Leaching Procedure and 
does not contain "free liquids" as defined at N.J.A.C. 7:14A-1.2.)
b. If any applicable standard for residual use or disposal is promulgated under section 405(d) of the Federal Act and Sections 4 and 6 of the State Act and that standard is more stringent than any limitation on the pollutant or practice in the permit, the Department may modify or revoke and reissue the permit to conform to the standard for residual use or disposal.

c. The permittee shall make provisions for storage, or some other approved alternative management strategy, for anticipated downtimes at a primary residual management alternative. The permittee shall not be permitted to store residual beyond the capacity of the structural treatment and storage components of the treatment works. N.J.A.C. 7:14A-20.8(a) and N.J.A.C. 7:26 provide for the temporary storage of residuals for periods not exceeding six months, provided such storage does not cause pollutants to enter surface or ground waters of the State. The storage of residual for more than six months is not authorized under this permit. However, this prohibition does not apply to residual that remains on the land for longer than six months when the person who prepares the residual demonstrates that the land on which the residual remains is not a surface disposal site or landfill. The demonstration shall explain why residual must remain on the land for longer than six months prior to final use or disposal. Discuss the approximate time period during which the residual shall be used or disposed and provide documentation of ultimate residual management arrangements. Said demonstration shall be in writing, be kept on file by the person who prepares residual, and submitted to the Department upon request.

d. The permittee shall comply with the appropriate adopted District Solid Waste or Sludge Management Plan (which by definition in N.J.A.C. 7:14A-1.2 includes Generator Sludge Management Plans), unless otherwise specifically exempted by the Department.

e. The preparer must notify and provide information necessary to comply with the N.J.A.C. 7:14A-20 land application requirements to the person who applies bulk residual to the land. This shall include, but not be limited to, the applicable recordkeeping requirements and certification statements of 40 CFR 503.17 as referenced at N.J.A.C. 7:14A-20.7(j).

f. The preparer who provides biosolids to another person who further prepares the biosolids for application to the land must provide this person with notification and information necessary to comply with the N.J.A.C. 7:14A-20 land application requirements.

g. Any person who prepares bulk residual in New Jersey that is applied to land in a State other than New Jersey shall comply with the requirement at N.J.A.C. 7:14A-20.7(b).ix to provide written notice to the Department and to the permitting authority for the State in which the bulk residual is proposed to be applied.
PART III
LIMITS AND MONITORING REQUIREMENTS

MONITORED LOCATION: 001A
RECEIVING STREAM: Rancocas Creek
STREAM CLASSIFICATION: FW2-NT(C2)
DISCHARGE CATEGORY(IES): A - Sanitary Wastewater

Location Description
Influent monitoring shall be performed before any treatment, other than degritting, and before the addition of any internal waste streams. The effluent monitoring shall be after the last treatment step (untraviolet disinfection system).

Contributing Waste Types
Sanitary

Surface Water DMR Reporting Requirements:
Submit a Monthly DMR. Within twenty-five days after the end of every month beginning from the effective date of the permit (EDP).

Comments:
The "5 per month" monitoring requirement for E. Coli is applicable at a quarterly frequency. That is, 5 samples shall be collected in only one chosen month during the quarterly monitoring period starting from the EDP. For those months that it is not monitored, please report "Code=N". Please refer to Part IV, Section A.1.1. for further details.

Table III - A-1: Surface Water DMR Limits and Monitoring Requirements

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Sample Point</th>
<th>PHASE Start Date: 04/01/2010</th>
<th>PHASE End Date:</th>
<th>Units</th>
<th>Frequency</th>
<th>Sample Type</th>
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</thead>
<tbody>
<tr>
<td>Flow, In Conduit or Thru Treatment Plant</td>
<td>Effluent Gross Value</td>
<td>REPORT Monthly Average</td>
<td>REPORT Daily Maximum</td>
<td>MGD</td>
<td>****</td>
<td>****</td>
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<tr>
<td>January thru December</td>
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<td>Continuous</td>
<td>Metered</td>
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<tr>
<td>BOD, 5-Day (20 oC)</td>
<td>Raw Sew/influent</td>
<td>****</td>
<td>****</td>
<td>REPORT</td>
<td>Weekly Average</td>
<td>MG/L 3/Month 6 Hour Composite</td>
</tr>
<tr>
<td>January thru December</td>
<td>QL</td>
<td>***</td>
<td>***</td>
<td>REPORT</td>
<td>Weekly Average</td>
<td>MG/L 3/Month 6 Hour Composite</td>
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<tr>
<td>BOD, 5-Day (20 oC)</td>
<td>Effluent Gross Value</td>
<td>98 Monthly Average</td>
<td>147 Weekly Average</td>
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<td>30 Monthly Average</td>
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<td>88.5 Monthly Av Minimum</td>
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Table III - A - 1: Surface Water DMR Limits and Monitoring Requirements

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<tr>
<td>January thru December</td>
<td>QL</td>
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<tr>
<td>pH</td>
<td>Effluent Gross Value</td>
<td>****</td>
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<td></td>
<td>***</td>
<td>***</td>
</tr>
<tr>
<td>January thru December</td>
<td>QL</td>
<td>***</td>
</tr>
<tr>
<td>Solids, Total Suspended</td>
<td>Raw Sew/influent</td>
<td>****</td>
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<tr>
<td></td>
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<td>January thru December</td>
<td>QL</td>
<td>***</td>
</tr>
<tr>
<td>Solids, Total Suspended</td>
<td>Effluent Gross Value</td>
<td>113 Monthly Average</td>
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<td></td>
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<td>QL</td>
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<td>Solids, Total Suspended</td>
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<tr>
<td>Nitrogen, Ammonia Total (as N)</td>
<td>Effluent Gross Value</td>
<td>18.8 Monthly Average</td>
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<tr>
<td>May thru October</td>
<td>QL</td>
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Surface Water DMR Reporting Requirements:
Submit a Monthly DMR: Within twenty-five days after the end of every month beginning from the effective date of the permit (EDP).

Comments:
The "5 per month" monitoring requirement for E. Coli is applicable at a quarterly frequency. That is, 5 samples shall be collected in only one chosen month during the quarterly monitoring period starting from the EDP. For those months that it is not monitored, please report "Code=N". Please refer to Part IV, Section A.1.1. for further details.

### Table III - A - 1: Surface Water DMR Limits and Monitoring Requirements

<table>
<thead>
<tr>
<th>Parameter</th>
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<th>Limit</th>
<th>Limit</th>
<th>Units</th>
<th>Limit</th>
<th>Limit</th>
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<th>Sample Type</th>
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<td>Nitrogen, Ammonia Total (as N)</td>
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<td>75.7 Monthly Average</td>
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<td>KG/DAY</td>
<td>20 Monthly Average</td>
<td>40 Daily Maximum</td>
<td>MG/L</td>
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<tr>
<td>Nitrogen, Nitrate Total (as N)</td>
<td>Efluent Gross Value</td>
<td>***** Monthly Average</td>
<td>***** Daily Maximum</td>
<td>REPORT Monthly Average</td>
<td>REPORT Daily Maximum</td>
<td>MG/L</td>
<td>1/Year</td>
<td>6 Hour Composite</td>
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<tr>
<td>January thru December</td>
<td>QL</td>
<td>***</td>
<td>***</td>
<td>***</td>
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</tr>
<tr>
<td>E. Coli</td>
<td>Efluent Gross Value</td>
<td>***** Monthly Average</td>
<td>***** Daily Maximum</td>
<td>REPORT Monthly Geometric</td>
<td>REPORT Instant Maximum</td>
<td>#/100ML</td>
<td>5/Month</td>
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<tr>
<td>Coliform, Fecal General</td>
<td>Efluent Gross Value</td>
<td>***** Monthly Average</td>
<td>***** Geometric Average</td>
<td>200 Monthly Geometric</td>
<td>400 Weekly Geometric</td>
<td>#/100ML</td>
<td>2/Month</td>
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<td>January thru December</td>
<td>QL</td>
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<td>***</td>
<td>***</td>
<td>***</td>
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<tr>
<td>LC50 Stat 96hr Acute Pimephales</td>
<td>Efluent Gross Value</td>
<td>***** Monthly Average</td>
<td>***** Daily Maximum</td>
<td>REPORT Report Per Minimum</td>
<td>*****</td>
<td>*****</td>
<td>%EFFL</td>
<td>1/Year</td>
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<tr>
<td>January thru December</td>
<td>AL</td>
<td>***</td>
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<td>***</td>
<td>***</td>
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<tr>
<td>IC25 Statre 7day Chr Ceriodaphnia</td>
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<td>***** Monthly Average</td>
<td>***** Daily Maximum</td>
<td>REPORT Report Per Minimum</td>
<td>*****</td>
<td>*****</td>
<td>%EFFL</td>
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<tr>
<td>Chlorine Produced Oxidants</td>
<td>Efluent Gross Value</td>
<td>***** Monthly Average</td>
<td>***** Daily Maximum</td>
<td>REPORT Monthly Average</td>
<td>REPORT Daily Maximum</td>
<td>MG/L</td>
<td>1/Discharge</td>
<td>Grab</td>
</tr>
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<td>January thru December</td>
<td>MDL</td>
<td>***</td>
<td>***</td>
<td>***</td>
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<td>0.1</td>
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</tr>
</tbody>
</table>
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Table III - A - I: Surface Water DMR Limits and Monitoring Requirements

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Sample Point</th>
<th>Limit</th>
<th>Limit</th>
<th>Units</th>
<th>Limit</th>
<th>Limit</th>
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<tbody>
<tr>
<td>Temperature, °C</td>
<td>Raw</td>
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<td>*****</td>
<td>REPORT Per Minimum</td>
<td>REPORT Monthly Average</td>
<td>REPORT Per Maximum</td>
<td>DEG.C</td>
<td>1/Day</td>
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<td>January thru December</td>
<td>QL</td>
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<td>Temperature, °C</td>
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<td>*****</td>
<td>REPORT Per Minimum</td>
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<td>REPORT Per Maximum</td>
<td>DEG.C</td>
<td>1/Day</td>
<td>Grab</td>
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<tr>
<td>January thru December</td>
<td>QL</td>
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<tr>
<td>Oxygen, Dissolved (DO)</td>
<td>Effluent Gross Value</td>
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<td>*****</td>
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<td>MG/L</td>
<td>3/Month</td>
<td>Grab</td>
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<tr>
<td>January thru December</td>
<td>QL</td>
<td>***</td>
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<td>Phosphorus, Total (as P)</td>
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<td>REPORT Weekly Average</td>
<td>MG/L</td>
<td>1/Month</td>
<td>6 Hour Composite</td>
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<td>QL</td>
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<td>Zinc, Total Recoverable</td>
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<td>1/Quarter</td>
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<td>January thru December</td>
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Surface Water WCR - Annual Reporting Requirements:
Submit an Annual WCR: within twenty-five days after the end of every 12 month monitoring period beginning from the effective date of the permit (EDP).

Table III - A - 2: Surface Water WCR - Annual Limits and Monitoring Requirements
PHASE: Final PHASE Start Date: 04/01/2010 PHASE End Date:

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Sample Point</th>
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<th>Monitoring Period</th>
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<tr>
<td>Malathion</td>
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<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
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<td>Demeton</td>
<td>Effluent Gross Value</td>
<td>REPORT</td>
<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Mirex</td>
<td>Effluent Gross Value</td>
<td>REPORT</td>
<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Methoxychlorot</td>
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<td>REPORT</td>
<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
</tr>
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<td>Parachloro-m-cresol</td>
<td>Effluent Gross Value</td>
<td>REPORT</td>
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<td>January thru December</td>
</tr>
<tr>
<td>Parathion</td>
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<td>January thru December</td>
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<tr>
<td>2,4,5-Trichloro-phenol</td>
<td>Effluent Gross Value</td>
<td>REPORT</td>
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<td>January thru December</td>
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<td>Delta BHC, Total (ug/l)</td>
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<td>Endosulfan Sulfate</td>
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<td>Beta Endosulfan</td>
<td>Effluent Gross Value</td>
<td>REPORT RQL = 0.04</td>
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</tr>
<tr>
<td>Alpha Endosulfan</td>
<td>Effluent Gross Value</td>
<td>REPORT RQL = 0.02</td>
<td>UG/L</td>
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<tr>
<td>Endrin Aldehyde</td>
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<td>4,4'-DDE(p,p'-DDE)</td>
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<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
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Surface Water WCR - Annual Reporting Requirements:
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Table III - A - 2: Surface Water WCR - Annual Limits and Monitoring Requirements

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Sample Point</th>
<th>Compliance Quantity</th>
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<th>Sample Type</th>
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<tr>
<td>Aldrin</td>
<td>Effluent Gross Value</td>
<td>REPORT RQL = 0.04</td>
<td>UG/L</td>
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<td>January thru December</td>
</tr>
<tr>
<td>Alpha BHC</td>
<td>Effluent Gross Value</td>
<td>REPORT RQL = 0.02</td>
<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Beta BHC</td>
<td>Effluent Gross Value</td>
<td>REPORT RQL = 0.04</td>
<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Gamma BHC (lindane)</td>
<td>Effluent Gross Value</td>
<td>REPORT RQL = 0.03</td>
<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Chlordane</td>
<td>Effluent Gross Value</td>
<td>REPORT RQL = 0.2</td>
<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Dieldrin</td>
<td>Effluent Gross Value</td>
<td>REPORT RQL = 0.03</td>
<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Endosulfans, Total (alpha and beta)</td>
<td>Effluent Gross Value</td>
<td>REPORT RQL = 0.04</td>
<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Endrin</td>
<td>Effluent Gross Value</td>
<td>REPORT RQL = 0.04</td>
<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Toxaphene</td>
<td>Effluent Gross Value</td>
<td>REPORT RQL = 1</td>
<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Heptachlor</td>
<td>Effluent Gross Value</td>
<td>REPORT RQL = 0.02</td>
<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Heptachlor Epoxide</td>
<td>Effluent Gross Value</td>
<td>REPORT RQL = 0.4</td>
<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
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<tr>
<td>Chlorpyrifos</td>
<td>Effluent Gross Value</td>
<td>REPORT</td>
<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>2-Chlorophenol</td>
<td>Effluent Gross Value</td>
<td>REPORT RQL = 20</td>
<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
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<tr>
<td>2-Nitrophenol</td>
<td>Effluent Gross Value</td>
<td>REPORT RQL = 18</td>
<td>UG/L</td>
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<td>January thru December</td>
</tr>
<tr>
<td>2,4-Dichlorophenol</td>
<td>Effluent Gross Value</td>
<td>REPORT RQL = 10</td>
<td>UG/L</td>
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<td>January thru December</td>
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</table>
Surface Water WCR - Annual Reporting Requirements:
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Table III - A - 2: Surface Water WCR - Annual Limits and Monitoring Requirements

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Sample Point</th>
<th>Compliance Quantity</th>
<th>Units</th>
<th>Sample Type</th>
<th>Monitoring Period</th>
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<tr>
<td>2,4-Dimethylphenol</td>
<td>Effluent Gross Value</td>
<td>REPORT RQL = 13.5</td>
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<td>24 Hour Composite</td>
<td>January thru December</td>
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<tr>
<td>2,4-Dinitrophenol</td>
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</tr>
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<td>2,4,6-Trichlorophenol</td>
<td>Effluent Gross Value</td>
<td>REPORT RQL = 20</td>
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<tr>
<td>4-Nitrophenol</td>
<td>Effluent Gross Value</td>
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<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>4,6-Dinitro-o-cresol</td>
<td>Effluent Gross Value</td>
<td>REPORT RQL = 60</td>
<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
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<tr>
<td>Phenol</td>
<td>Single Compound</td>
<td>REPORT RQL = 30</td>
<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Pentachlorophenol</td>
<td>Effluent Gross Value</td>
<td>REPORT RQL = 30</td>
<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Guthion</td>
<td>Effluent Gross Value</td>
<td>REPORT</td>
<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
</tr>
</tbody>
</table>
**Surface Water DMR Reporting Requirements:**
Submit a Monthly DMR: Within twenty-five days after the end of every month beginning from the effective date of the permit (EDP).

**Comments:**
The "5 per month" monitoring requirement for E. Coli is applicable at a quarterly frequency. That is, 5 samples shall be collected in only one chosen month during the quarterly monitoring period starting from the EDP. For those months that it is not monitored, please report "Code=N". Please refer to Part IV, Section A.1.1. for further details.

**Table III - A - I: Surface Water DMR Limits and Monitoring Requirements**

<table>
<thead>
<tr>
<th>Parameter</th>
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<th>Limit</th>
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<th>Limit</th>
<th>Limit</th>
<th>Units</th>
<th>Frequency</th>
<th>Sample Type</th>
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<td><strong>pH</strong></td>
<td>Raw Sew/influent</td>
<td>6.0</td>
<td>9.0</td>
<td>1/day</td>
<td>SU</td>
<td>1/Day</td>
<td>Grab</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>January thru December</strong></td>
<td>QL</td>
<td>3</td>
<td>3</td>
<td></td>
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<td></td>
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<tr>
<td><strong>pH</strong></td>
<td>Effluent Gross Value</td>
<td>6.0</td>
<td>9.0</td>
<td>1/day</td>
<td>SU</td>
<td>1/Day</td>
<td>Grab</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>January thru December</strong></td>
<td>QL</td>
<td>3</td>
<td>3</td>
<td></td>
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<tr>
<td><strong>Solids, Total Suspended</strong></td>
<td>Raw Sew/influent</td>
<td>113</td>
<td>170</td>
<td>3/month</td>
<td>MG/L</td>
<td>3/month</td>
<td>6 Hour Composite</td>
<td></td>
<td></td>
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<tr>
<td><strong>January thru December</strong></td>
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<td>3</td>
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<tr>
<td><strong>Solids, Total Suspended</strong></td>
<td>Effluent Gross Value</td>
<td>113</td>
<td>170</td>
<td>3/month</td>
<td>MG/L</td>
<td>3/month</td>
<td>6 Hour Composite</td>
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<td><strong>January thru December</strong></td>
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<td><strong>Solids, Total Suspended</strong></td>
<td>Percent Removal</td>
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<td>PERCENT</td>
<td>3/month</td>
<td>Calculated</td>
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<td>37.9</td>
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<td>MG/L</td>
<td>1/month</td>
<td>Grab</td>
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<tr>
<td><strong>January thru December</strong></td>
<td>QL</td>
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<td>3</td>
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<tr>
<td><strong>Nitrogen, Ammonia (as N)</strong></td>
<td>Effluent Gross Value</td>
<td>18.8</td>
<td>37.9</td>
<td>3/month</td>
<td>MG/L</td>
<td>3/month</td>
<td>6 Hour Composite</td>
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<td><strong>May thru October</strong></td>
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**Surface Water DMR Reporting Requirements:**
Submit a Monthly DMR: Within twenty-five days after the end of every month beginning from the effective date of the permit (EDP).

**Comments:**
The "5 per month" monitoring requirement for E. Coli is applicable at a quarterly frequency. That is, 5 samples shall be collected in only one chosen month during the quarterly monitoring period starting from the EDP. For those months that it is not monitored, please report "Code=N". Please refer to Part IV, Section A.1.1. for further details.

**Table III - A - 1: Surface Water DMR Limits and Monitoring Requirements**

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<tr>
<th>Parameter</th>
<th>Sample Point</th>
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<td>Nitrogen, Ammonia</td>
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<td>151.4 Daily Maximum</td>
<td>KG/DAY</td>
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<td>November thru April</td>
<td>QL</td>
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<td>Nitrogen, Nitrate</td>
<td>Effluent Gross Value</td>
<td>***** Monthly Average</td>
<td>***** Daily Maximum</td>
<td>*****</td>
<td>REPORT Monthly Average</td>
<td>REPORT Daily Maximum</td>
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<td>Total (as N)</td>
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<td>QL</td>
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<td>E. Coli</td>
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<td>***** Daily Maximum</td>
<td>*****</td>
<td>REPORT Monthly Geo Avg</td>
<td>REPORT Instant Maximum</td>
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<td>January thru December</td>
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<td>***</td>
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<tr>
<td>Coliform, Fecal</td>
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<td>***** Daily Maximum</td>
<td>*****</td>
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<td>400 Weekly Geometric</td>
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<td>LC50 Stat 96hr Acu</td>
<td>Effluent Gross Value</td>
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<td>*****</td>
<td>REPORT Report Per Minimum</td>
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<td>QL</td>
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<tr>
<td>IC25 Statre 7day Chr</td>
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<td>***** Daily Maximum</td>
<td>*****</td>
<td>REPORT Report Per Minimum</td>
<td>*****</td>
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<td>Ceriodaphnia</td>
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<td>Chlorine Produced</td>
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<td>*****</td>
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<td>REPORT Daily Maximum</td>
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<td>Report Per</td>
<td>DEG.C</td>
<td>1/Day</td>
<td>Grab</td>
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<tr>
<td></td>
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<td>Minimum</td>
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<td>Maximum</td>
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<td>Temperature, °C</td>
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<td>*****</td>
<td>*****</td>
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<td>Report Per</td>
<td>Report Per</td>
<td>DEG.C</td>
<td>1/Day</td>
<td>Grab</td>
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<td>Oxygen, Dissolved (DO)</td>
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<td>*****</td>
<td>4 Weekly Av</td>
<td>Minimum</td>
<td>*****</td>
<td>MG/L</td>
<td>3/Month</td>
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<td>4 Weekly Av</td>
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<td>Report Weekly</td>
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<td>Report Daily</td>
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<tr>
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<th>Units</th>
<th>Sample Type</th>
<th>Monitoring Period</th>
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<tr>
<td>Malathion</td>
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<td>REPORT</td>
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<td>Demeton</td>
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<td>REPORT</td>
<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
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<td>Mirex</td>
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<td>REPORT</td>
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<td>Panchloro-m-</td>
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<td>Parnisron</td>
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<tr>
<td>2,4,5-Trichloro-</td>
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<td>Delta BHC, Total</td>
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<td>Endosulfan Sulfate</td>
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<td>Beta Endosulfan</td>
<td>Effluent Gross Value</td>
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<tr>
<td>Alpha Endosulfan</td>
<td>Effluent Gross Value</td>
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<td>UG/L</td>
<td>24 Hour Composite</td>
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<tr>
<td>Endrin Aldehyde</td>
<td>Effluent Gross Value</td>
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<td>4,4'-DDT(p,p'-DDT)</td>
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<tr>
<td>4,4'-DDE(p,p'-DDE)</td>
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<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
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</table>
Surface Water WCR - Annual Reporting Requirements:
Submit an Annual WCR: within twenty-five days after the end of every 12 month monitoring period beginning from the effective date of the permit (EDP).

Table III - A - 2: Surface Water WCR - Annual Limits and Monitoring Requirements

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Sample Point</th>
<th>Compliance Quantity</th>
<th>Units</th>
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<th>Monitoring Period</th>
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<tr>
<td>Aldrin</td>
<td>Effluent Gross Value</td>
<td>REPORT RQL = 0.04</td>
<td>UG/L</td>
<td>24 Hour Composite</td>
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</tr>
<tr>
<td>Alpha BHC</td>
<td>Effluent Gross Value</td>
<td>REPORT RQL = 0.02</td>
<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Beta BHC</td>
<td>Effluent Gross Value</td>
<td>REPORT RQL = 0.04</td>
<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Gamma BHC (trichlor)</td>
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<td>UG/L</td>
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<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Dieldrin</td>
<td>Effluent Gross Value</td>
<td>REPORT RQL = 0.03</td>
<td>UG/L</td>
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<td>January thru December</td>
</tr>
<tr>
<td>Endosulfan, Total (alpha and beta)</td>
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<td>REPORT RQL = 0.04</td>
<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
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<tr>
<td>Endrin</td>
<td>Effluent Gross Value</td>
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<td>Toxaphene</td>
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<td>Chlorpyrifos</td>
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<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>2-Chlorophenol</td>
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<td>UG/L</td>
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Surface Water WCR - Annual Reporting Requirements:
Submit an Annual WCR: within twenty-five days after the end of every 12 month monitoring period beginning from the effective date of the permit (EDP).

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<table>
<thead>
<tr>
<th>Parameter</th>
<th>Sample Point</th>
<th>Compliance Quantity</th>
<th>Units</th>
<th>Sample Type</th>
<th>Monitoring Period</th>
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<td>2,4,6-Trichlorophenol</td>
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<tr>
<td>4-Nitrophenol</td>
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<tr>
<td>4,6-Dinitro-o-cresol</td>
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<td>Phenol Single Compound</td>
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<td>UG/L</td>
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<td>Pentachlorophenol</td>
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<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
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Surface Water WCR - Semi Annual Reporting Requirements:
Submit a Semi-Annual WCR: within twenty-five days after the end of every 6 month monitoring period beginning from the effective date of the permit (EDP).

Table III - A - 3: Surface Water WCR - Semi Annual Limits and Monitoring Requirements

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Sample Point</th>
<th>Compliance Quantity</th>
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<th>Sample Type</th>
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<td>UG/L</td>
<td>24 Hour Composite</td>
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<td>Cyanide, Total (as CN)</td>
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<td>Grab</td>
<td>January thru December</td>
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<td>Arsenic, Total Recoverable (as As)</td>
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<td>UG/L</td>
<td>24 Hour Composite</td>
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</tr>
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<td>Selenium, Total Recoverable</td>
<td>Effluent Gross Value</td>
<td>REPORT RQL = 10</td>
<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
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<tr>
<td>Thallium, Total Recoverable</td>
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<td>UG/L</td>
<td>24 Hour Composite</td>
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<tr>
<td>Beryllium, Total Recoverable (as Be)</td>
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<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
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<tr>
<td>Barium, Total Recoverable (as Ba)</td>
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<td>REPORT RQL = 20</td>
<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
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<td>Nickel, Total Recoverable</td>
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<td>Silver, Total Recoverable</td>
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<td>Antimony, Total Recoverable</td>
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<td>Mercury, Total Recoverable</td>
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<th>Parameter</th>
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<td>RQL = 10</td>
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<td>Benzo(a)fluoranthene</td>
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<td>UGL</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
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<td>(3,4-naphtho)</td>
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<td>Benzo(k)fluoranthene</td>
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<td>REPORT</td>
<td>UGL</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
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<tr>
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<td>Benzo(a)pyrene</td>
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<tr>
<td>Bis(2-chloroethy1) ether</td>
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<td>UGL</td>
<td>24 Hour Composite</td>
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<td>Bis(2-chloroethoxy) methane</td>
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<td>RQL = 26.5</td>
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<td>Bis (2-chloroiso-propyl) ether</td>
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<td>UGL</td>
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<td>Butyl benzyl phthalate</td>
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<td>REPORT</td>
<td>UGL</td>
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<td>RQL = 20</td>
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<tr>
<td>Chrysene</td>
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<td>REPORT</td>
<td>UGL</td>
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<tr>
<td>1,2-Diphenylhydrazine</td>
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<td>REPORT</td>
<td>UGL</td>
<td>24 Hour Composite</td>
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<td>Fluoranthene</td>
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<td>REPORT</td>
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<td>January thru December</td>
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<td>Fluorene</td>
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Surface Water WCR - Semi Annual Reporting Requirements:
Submit a Semi-Annual WCR: within twenty-five days after the end of every 6 month monitoring period beginning from the effective date of the permit (EDP).

Table III - A-3: Surface Water WCR - Semi Annual Limits and Monitoring Requirements

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Sample Point</th>
<th>Compliance Quantity</th>
<th>Units</th>
<th>Sample Type</th>
<th>Monitoring Period</th>
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<tbody>
<tr>
<td>Hexachlorocyclo-pentadiene</td>
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<td>Hexachloroethane</td>
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<td>Indeno(1,2,3-cd)-pyrene</td>
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<td>N-nitrosodi-n-propylamine</td>
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<td>January thru December</td>
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<td>N-nitrosodimethylamine</td>
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<td>Benzo(ghi)perylene</td>
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<tr>
<td>1,2-Dichlorobenzene</td>
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<td>1,2,4-Trichlorobenzene</td>
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<td>January thru December</td>
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Surface Water WCR - Semi Annual Reporting Requirements:
Submit a Semi-Annual WCR: within twenty-five days after the end of every 6 month monitoring period beginning from the effective date of the permit (EDP).

### Table III - A - 3: Surface Water WCR - Semi Annual Limits and Monitoring Requirements

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Sample Point</th>
<th>Compliance Quantity</th>
<th>Units</th>
<th>Sample Type</th>
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<tr>
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<tr>
<td>1,4-Dichlorobenzene</td>
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<td>REPORT RQL = 20</td>
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<td>24 Hour Composite</td>
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<tr>
<td>2-Chloronaphthalene</td>
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<tr>
<td>Di-n-octyl Phthalate</td>
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<td>REPORT</td>
<td>UG/L</td>
<td>24 Hour Composite</td>
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<tr>
<td>2,4-Dinitrotoluene</td>
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<tr>
<td>2,6-Dinitrotoluene</td>
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<td>UG/L</td>
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<tr>
<td>3,3'-Dichlorobenzidine</td>
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<td>4-Bromophenyl phenyl ether</td>
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<td>UG/L</td>
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<tr>
<td>Naphthalene</td>
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<td>Bis(2-ethylhexyl) phthalate</td>
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<td>Benzidine</td>
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<td>Hexachlorobenzene</td>
<td>Effluent Gross Value</td>
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<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
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<td>Hexachlorobutadiene</td>
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<td>UG/L</td>
<td>24 Hour Composite</td>
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<tr>
<td>1,3-Dichloropropene</td>
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<td>REPORT RQL = 7</td>
<td>UG/L</td>
<td>Grab</td>
<td>January thru December</td>
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</tbody>
</table>
Surface Water WCR - Semi Annual Reporting Requirements:
Submit a Semi-Annual WCR: within twenty-five days after the end of every 6 month monitoring period beginning from the effective date of the permit (EDP).

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Sample Point</th>
<th>Compliance Quantity</th>
<th>Units</th>
<th>Sample Type</th>
<th>Monitoring Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>1,2,4,5-Tetrachlorobenzene</td>
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<td>REPORT</td>
<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>N-nitrosodiethylamine</td>
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<td>REPORT</td>
<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
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<tr>
<td>N-nitrosopyrrolidine</td>
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<td>REPORT</td>
<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
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<tr>
<td>Carbon Tetrachloride</td>
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<tr>
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<td>Bromoform</td>
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<td>Chloroform</td>
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<td>Toluene</td>
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<td>Benzene</td>
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<td>Chlorobenzene</td>
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<td>Chlorodibromomethane</td>
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<td>Ethylbenzene</td>
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<td>REPORT RQL = 6</td>
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<td>Grab</td>
<td>January thru December</td>
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<tr>
<td>Methyl Bromide</td>
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<td>REPORT RQL = 9</td>
<td>UG/L</td>
<td>Grab</td>
<td>January thru December</td>
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Surface Water WCR - Semi Annual Reporting Requirements:
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<table>
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<tr>
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<th>Sample Type</th>
<th>Monitoring Period</th>
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<td>UG/L</td>
<td>Grab</td>
<td>January thru December</td>
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<tr>
<td>Methylene Chloride</td>
<td>Effluent Gross Value</td>
<td>REPORT RQL = 6</td>
<td>UG/L</td>
<td>Grab</td>
<td>January thru December</td>
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<tr>
<td>Tetrachloroethylene</td>
<td>Effluent Gross Value</td>
<td>REPORT RQL = 1.0</td>
<td>UG/L</td>
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<td>UG/L</td>
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<td>1,1-Dichloroethane</td>
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<td>1,1-Dichloroethylene</td>
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<td>1,1,2-Trichloroethane</td>
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<td>1,1,2,2-Tetrachloroethane</td>
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<td>Grab</td>
<td>January thru December</td>
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<tr>
<td>1,2-Dichloropropane</td>
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<td>January thru December</td>
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<td>1,2-trans-Dichloroethylene</td>
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<td>Grab</td>
<td>January thru December</td>
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<td>2-Chloroethyl Vinyl Ether (Mixed)</td>
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<td>REPORT RQL = 4</td>
<td>UG/L</td>
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<td>January thru December</td>
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<td>Bromodichloromethane</td>
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<td>Vinyl Chloride</td>
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<td>UG/L</td>
<td>Grab</td>
<td>January thru December</td>
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<tr>
<td>Trichloroethylene</td>
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<td>REPORT RQL = 1.0</td>
<td>UG/L</td>
<td>Grab</td>
<td>January thru December</td>
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</table>
Surface Water WCR - Semi Annual Reporting Requirements:
Submit a Semi-Annual WCR within twenty-five days after the end of every 6 month monitoring period beginning from the effective date of the permit (EDP).

Table III - A - 3: Surface Water WCR - Semi Annual Limits and Monitoring Requirements

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Sample Point</th>
<th>Compliance Quantity</th>
<th>Units</th>
<th>Sample Type</th>
<th>Monitoring Period</th>
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<tbody>
<tr>
<td>N-Nitrosodi-n-butylamine</td>
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<td>REPORT</td>
<td>UG/L</td>
<td>24 Hour Composite</td>
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<tr>
<td>Chloroethane</td>
<td>Effluent Gross Value</td>
<td>REPORT</td>
<td>UG/L</td>
<td>Grab</td>
<td>January thru December</td>
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<tr>
<td>Phenols</td>
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<td>REPORT</td>
<td>UG/L</td>
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<td>2,3,7,8-Tetrachlorodibenzo-p-dioxin</td>
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<td>REPORT</td>
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<td>4-Chlorophenyl phenyl ether</td>
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<td>Pentachlorobenzene</td>
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<td>REPORT</td>
<td>UG/L</td>
<td>24 Hour Composite</td>
<td>January thru December</td>
</tr>
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</table>
MONITORED LOCATION: RWBR REUSE
RECEIVING STREAM: Rancocas Creek
STREAM CLASSIFICATION: FW2-NT(C2)
DISCHARGE CATEGORY(IES): A - Sanitary Wastewater

Location Description
The reuse sampling point shall be at effluent pump station prior to reuse.

Surface Water WCR - Monthly Reporting Requirements:
Submit a Monthly WCR: within twenty-five days after the end of every month beginning from the effective date of the permit (EDP).

Table III - B - 1: Surface Water WCR - Monthly Limits and Monitoring Requirements

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Sample Point</th>
<th>Compliance Quantity</th>
<th>Units</th>
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<th>Monitoring Period</th>
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<td>Metered</td>
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<td>Coliform, Fecal</td>
<td>Beneficial Reuse</td>
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<td>#/100ML</td>
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<td>General</td>
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</tbody>
</table>
MONITORED LOCATION:
SL3A SQAR-Belt Filter Press

DISCHARGE CATEGORY(IES):
A - Sanitary Wastewater

Location Description
SQAR samples shall be collected on the dewatered sludge being discharged from the belt filter press. Said samples shall be representative of the sludge removed for final use or disposal.

Contributing Waste Types
Dom Residual-Other

Residuals DMR Reporting Requirements:
Submit a Quarterly DMR: due 60 calendar days after the end of each calendar quarter.

<table>
<thead>
<tr>
<th>Table III - C - 1: Residuals DMR Limits and Monitoring Requirements</th>
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<tbody>
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<td><strong>PHASE End Date:</strong></td>
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<tr>
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<td>January thru December</td>
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<td>Nitrate Nitrogen, Dry Weight</td>
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<td>Nitrogen, Kjeldahl Total, Dry Wt</td>
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<td>January thru December</td>
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<tr>
<td>Potassium Dry Weight</td>
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Residuals DMR Reporting Requirements:
Submit a Quarterly DMR: due 60 calendar days after the end of each calendar quarter.

Table III - C - 1: Residuals DMR Limits and Monitoring Requirements

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Sample Point</th>
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Residuals DMR Reporting Requirements:
Submit a Quarterly DMR: due 60 calendar days after the end of each calendar quarter.

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Residuals DMR Reporting Requirements:
Submit a Quarterly DMR: due 60 calendar days after the end of each calendar quarter.

Table III - C - 1: Residuals DMR Limits and Monitoring Requirements

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Residuals WCR - Annual Reporting Requirements:
Submit an Annual WCR: due 60 calendar days after the end of each calendar year.

Table III - C - 3: Residuals WCR - Annual Limits and Monitoring Requirements

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<tr>
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Residuals WCR - Annual Reporting Requirements:
Submit an Annual WCR: due 60 calendar days after the end of each calendar year.

Table III - C - 3: Residuals WCR - Annual Limits and Monitoring Requirements

<table>
<thead>
<tr>
<th>Parameter</th>
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<th>Monitoring Period</th>
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<td>Anthracene, Dry Weight</td>
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Residuals WCR - Annual Reporting Requirements:
Submit an Annual WCR: due 60 calendar days after the end of each calendar year.

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Residuals WCR - Annual Reporting Requirements:
Submit an Annual WCR: due 60 calendar days after the end of each calendar year.

**Table III - C - 3: Residuals WCR - Annual Limits and Monitoring Requirements**

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Sample Point</th>
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<td>MG/KG</td>
<td>Composite</td>
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</tr>
<tr>
<td>Chloroform, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Dichlorobromomethane, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Ethylbenzene, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Methyl Bromide, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Methyl Chloride, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Methylen Chloride, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Tetrachloroethylene, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Toluene, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
</tbody>
</table>
Residuals WCR - Annual Reporting Requirements:
Submit an Annual WCR: due 60 calendar days after the end of each calendar year.

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Sample Point</th>
<th>Compliance Quantity</th>
<th>Units</th>
<th>Sample Type</th>
<th>Monitoring Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trichloroethylene, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Vinyl Chloride, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>1,1-Dichloroethane, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>1,1-Dichloroethylene, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>1,1,1-Trichloroethane, Dry Wt</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>1,1,2-Trichloroethane, Dry Wt</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>1,1,2,2-Tetrachloroethane</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>1,2-Dichloroethane, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>1,2-Dichloropropane, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>1,2-trans-Dichloroethylene, Dry Wt</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>2-Chloroethyl Vinyl Ether, Dry Wt</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Cyanide, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Isophorone, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Phenol, Single Compound, Dry Wt</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>BHC Delta, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
</tbody>
</table>
Residuals WCR - Annual Reporting Requirements:
Submit an Annual WCR: due 60 calendar days after the end of each calendar year.

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Sample Point</th>
<th>Compliance Quantity</th>
<th>Units</th>
<th>Sample Type</th>
<th>Monitoring Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>Endosulfan Sulfate, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Beta Endosulfan</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Alpha Endosulfan</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Endrin Aldehyde, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>4,4'-DDT, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>4,4'-DDD, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
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<tr>
<td>4,4'-DDE, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Aldrin, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Gamma BHC (lindane), Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Chlordane(Tech Mix &amp; Metabolites), Dry Wt</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Dieldrin, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Toxaphene, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Heptachlor Epoxide, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>PCB-1232, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>PCB-1242, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
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</table>
Residuals WCR - Annual Reporting Requirements:
Submit an Annual WCR: due 60 calendar days after the end of each calendar year.

Table III - C - 3: Residuals WCR - Annual Limits and Monitoring Requirements

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Sample Point</th>
<th>Compliance Quantity</th>
<th>Units</th>
<th>Sample Type</th>
<th>Monitoring Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>PCB-1248, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
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<td>PCB-1254, Dry Weight</td>
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<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
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<td>PCB-1260, Dry Weight</td>
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<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
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<tr>
<td>PCB-1016, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>PCB-1221, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
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<tr>
<td>Alpha BHC, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Beta BHC, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Heptachlor, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Endrin, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>p-chloro-m-cresol, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>2-Chlorophenol, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>2-Nitrophenol, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>2,4-Dichlorophenol, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>2,4-Dimethylphenol, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>2,4-Dinitrophenol, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
</tbody>
</table>
Residuals WCR - Annual Reporting Requirements:
Submit an Annual WCR: due 60 calendar days after the end of each calendar year.

<table>
<thead>
<tr>
<th>Parameter</th>
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<th>Units</th>
<th>Sample Type</th>
<th>Monitoring Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>2,4,6 Trichlorophenol, Dry Wt</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>4-Chlorophenylpheny ether, Dry Wt</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>4-Nitrophenol, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>Pentachlorophenol, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
<tr>
<td>4,6-Dinitro-o-cresol, Dry Weight</td>
<td>Residuals</td>
<td>REPORT</td>
<td>MG/KG</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
</tbody>
</table>
Residuals Transfer Reporting Requirements:
Submit a Monthly RTR: due 60 calendar days after the end of each calendar month.
MONITORED LOCATION:
SLP3 SQAR-Sludge Production

DISCHARGE CATEGORY(IES):
A - Sanitary Wastewater

Location Description
SOAR information shall be collected on the dewatered sludge being discharged from the belt filter press. Said information shall be representative of the sludge removed for final use or disposal. Note, the Department has granted a reduction in the amount of parameters on the annual production WCR, and the revised simpler version of the production WCR will become effective upon the first calendar year after the effective date of the permit.

Contributing Waste Types
Dom Residual-Other

Residuals WCR - Annual Reporting Requirements:
Submit an Annual WCR: due 60 calendar days after the end of each calendar year.

Table III - D - 1: Residuals WCR - Annual Limits and Monitoring Requirements

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Sample Point</th>
<th>Compliance Quantity</th>
<th>Units</th>
<th>Sample Type</th>
<th>Monitoring Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amt Sludge Rmvd, Wet Cubic Yards</td>
<td>Residuals</td>
<td>REPORT</td>
<td>WCY/YR</td>
<td>Calculated</td>
<td>January thru December</td>
</tr>
<tr>
<td>Amt Sludge Rmvd, Wet Metric Tons</td>
<td>Residuals</td>
<td>REPORT</td>
<td>WMT/YR</td>
<td>Calculated</td>
<td>January thru December</td>
</tr>
<tr>
<td>Amt Sludge Rmvd, Gallons</td>
<td>Residuals</td>
<td>REPORT</td>
<td>GAL/YEAR</td>
<td>Calculated</td>
<td>January thru December</td>
</tr>
<tr>
<td>Total Amount of Sludge Removed</td>
<td>Residuals</td>
<td>REPORT</td>
<td>DMT/YR</td>
<td>Calculated</td>
<td>January thru December</td>
</tr>
<tr>
<td>Solids, Total</td>
<td>Residuals</td>
<td>REPORT</td>
<td>%TS</td>
<td>Composite</td>
<td>January thru December</td>
</tr>
</tbody>
</table>
PART IV

SPECIFIC REQUIREMENTS: NARRATIVE

Sanitary Wastewater

A. MONITORING REQUIREMENTS

1. Standard Monitoring Requirements

a. Each analysis required by this permit shall be performed by a New Jersey Certified Laboratory that is certified to perform that analysis.

b. The Permittee shall perform all water/wastewater analyses in accordance with the analytical test procedures specified in 40 CFR 136, unless other test procedures have been approved by the Department in writing or as otherwise specified in the permit.

c. The permittee shall utilize analytical methods that will ensure compliance with the Quantification Levels (QLs) listed in PART III. QLs include, but are not limited to, Recommended Quantification Levels (RQLs) and Method Detection Levels (MDLs). If the permittee and/or contract laboratory determines that the QLs achieved for any pollutant(s) generally will not be as sensitive as the QLs specified in PART III, the permittee must submit a justification of such to the Bureau of Surface Water Permitting Region. For limited parameters with no QL specified, the sample analysis shall use a detection level at least as sensitive as the effluent limit.

d. All sampling shall be conducted in accordance with the Department’s Field Sampling Procedures Manual, or an alternate method approved by the Department in writing.

e. All monitoring shall be conducted as specified in Part III.

f. All sample frequencies expressed in Part III are minimum requirements. Any additional samples taken consistent with the monitoring and reporting requirements contained herein shall be reported on the Monitoring Report Forms.

g. Annual and semi-annual wastewater testing shall be conducted in a different quarter of each year so that tests are conducted in each of the four permit quarters of the permit cycle. Testing may be conducted during any month of the permit quarters.

h. Monitoring for Wastewater Characterization Report parameters shall be conducted concurrently with the Whole Effluent Toxicity (WET) monitoring, when feasible.

i. Any influent and effluent sampling for toxic pollutant analyses shall be collected concurrently.

j. The permittee shall perform all residual analyses in accordance with the analytical test procedures specified in 40 CFR 503.8 and the Sludge Quality Assurance Regulations (N.J.A.C. 7:14C) unless other test procedures have been approved by the Department in writing or as otherwise specified in the permit.

k. Flow shall be measured using a flow meter.
1. The samples for E.Coli shall be collected at a minimum frequency of five (5) in any chosen month during the quarterly monitoring period starting from the effective date of the permit (EDP). For other months during the monitoring period when sampling is not required, the permittee shall report CODE=N. Each month that E.Coli is sampled, the permittee shall conduct split sample analyses with Fecal Coliform. The split sample analyses shall be conducted, at a minimum, at the sampling frequency required for Fecal Coliform during that month.

B. RECORDKEEPING

1. Standard Recordkeeping Requirements

   a. The permittee shall retain records of all monitoring information, including 1) all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation (if applicable), 2) copies of all reports required by this NJPDES permit, 3) all data used to complete the application for a NJPDES permit, and 4) monitoring information required by the permit related to the permittee's residual use and/or disposal practices, for a period of at least 5 years, or longer as required by N.J.A.C. 7:14A-20, from the date of the sample, measurement, report, application or record.

   b. Records of monitoring information shall include 1) the date, locations, and time of sampling or measurements, 2) the individual(s) who performed the sampling or measurements, 3) the date(s) the analyses were performed, 4) the individual(s) who performed the analyses, 5) the analytical techniques or methods used, and 6) the results of such analyses.

C. REPORTING

1. Standard Reporting Requirements

   a. The permittee shall submit all required monitoring results to the Department on the forms provided to them. The Monitoring Report Forms (MRFs) may be provided to the permittee in either a paper format or in an electronic file format. Unless otherwise noted, all requirements below pertain to both paper and electronic formats.

   b. Any MRFs in paper format shall be submitted to the following addresses:

      i. NJDEP
         Division of Water Quality
         Bureau of Permit Management
         P.O. Box 029
         Trenton, New Jersey 08625-0029

      ii. Delaware River Basin Commission (DRBC)
          P. O. Box 7360
          West Trenton, New Jersey 08628

      iii. (if requested by the Water Compliance and Enforcement Bureau)
           NJDEP: Southern Bureau of Water Compliance and Enforcement
           One Port Center
           2 Riverside Drive, Suite 201
           Camden, New Jersey 08103

   c. Any electronic data submission shall be in accordance with the guidelines and provisions outlined in the Department's Electronic Data Interchange (EDI) agreement with the permittee. Paper copies must be available for on-site inspection by DEP personnel or provided to the DEP upon written request.
d. All monitoring report forms shall be certified by the highest ranking official having day-to-day managerial and operational responsibilities for the discharging facility.

e. The highest ranking official may delegate responsibility to certify the monitoring report forms in his or her absence. Authorizations for other individuals to sign shall be made in accordance with N.J.A.C. 7:14A-4.9(b).

f. Monitoring results shall be submitted in accordance with the current Discharge Monitoring Report Manual and any updates thereof.

g. If monitoring for a parameter is not required in a monitoring period, the permittee must report "CODE=N" for that parameter.

D. SUBMITTALS

1. Standard Submittal Requirements

a. The permittee shall amend the Operation & Maintenance Manual whenever there is a change in the treatment works design, construction, operations or maintenance which substantially changes the treatment works operations and maintenance procedures.

2. Delaware River Basin PCB Requirements

a. On December 15, 2003, the U.S.EPA, Regions 2 and 3, adopted a Total Maximum Daily Load (TMDL) for PCBs for Zones 2-5 of the Tidal Delaware River. On December 15, 2006, the U.S.EPA, Regions 2 and 3, adopted a Total Maximum Daily Load (TMDL) for PCBs for Zone 6 (Delaware Bay). The TMDLs require that the facilities identified as discharging PCBs to these zone of the Delaware River or to the tidal portions of tributaries to these zones to conduct ongoing monitoring and prepare and implement a PCB Pollutant Minimization Plan (PMP).

b. The permittee is required to collect 2 dry weather samples during dry weather at DSN 001A on an annual basis. Sample collection protocols and criteria referenced at http://www.state.nj.us/drbc/PCB_info.htm shall followed.

All sample analyses shall be performed using EPA Method 1668A, Revision A: Chlorinated Biphenyl Congeners in Water, Soil, Sediment, and Tissue by HRGC/HRMS. EPA-821-R-00-002, December 1999 as supplemented or amended, and results for the 209 PCB congeners shall be reported. Project-specific analytical modifications, and reporting requirements are found at http://www.state.nj.us/drbc/PCB_info.htm shall followed

Monitoring information, sample data, and reports associated with PCB monitoring shall be submitted in the form of two compact discs in the format referenced at http://www.state.nj.us/drbc/PCB-EDD011309.pdf.

c. In accordance with the U.S. EPA Regions 2 and 3 Total Maximum Daily Loads (TMDL) for PCBs for Zones 2-5 of the Tidal Delaware River Estuary, the permittee completed a Pollutant Minimization Plan (PMP) for PCBs, which was previously approved by the DRBC. Therefore, the permittee shall:

1. Continue to implement the PMP to obtain PCB loading reduction goals, and:

2. Submit an Annual Report to DRBC and the Department consistent with the "Recommended Outline for Pollutant Minimization Plan Annual Reports for Polychlorinated Biphenyls in the Delaware Estuary".
d. The PMP and PCB data shall be submitted to the Department and DRBC at the following addresses:

NJ Department of Environmental Protection
Division of Water Quality, Bureau of Surface Water Permitting
401 East State Street
P.O. Box 029
Trenton, NJ 08625.

Delaware River Basin Commission
Modeling, Monitoring & Assessment Branch
P.O. Box 7560
West Trenton, NJ 08628.

3. E. Coli and Fecal Split Sample Report

a. The permittee shall submit to the Department both hard copy and electronic versions of the summary report contain E. Coli and Fecal split sample data including the dates the samples were taken, along with the renewal application forms. The data submitted in the electronic version shall be provided in a spreadsheet format (i.e. Microsoft Excel, Microsoft Access, etc.) and submitted on a 3.5 inch diskette or CD-Rom.

E. FACILITY MANAGEMENT

1. Discharge Requirements

a. The permittee shall discharge at the location(s) specified in PART III of this permit.

b. The permittee shall not discharge foam or cause foaming of the receiving water that 1) forms objectionable deposits on the receiving water, 2) forms floating masses producing a nuisance, or 3) interferes with a designated use of the waterbody.

c. The permittee's discharge shall not produce objectionable color or odor in the receiving stream.

d. The discharge shall not exhibit a visible sheen.

e. When quantification levels (QL) and effluent limits are both specified for a given parameter in Part III, and the QL is less stringent than the effluent limit, effluent compliance will be determined by comparing the reported value against the QL.

f. When an average of three (3) consecutive rolling monthly average values of the committed flow (actual flow and approved allocated flow) reaches or exceeds 80% of 1.0 MGD (the permitted capacity of the facility), the permittee shall:

i. Develop a Capacity Assurance Program (CAP) in accordance with N.J.A.C. 7:14A-22.16.

ii. For more information concerning the CAP, please contact the Bureau of Finance and Construction Permits Engineering Section South at (609) 984-6840.

iii. Contact the Division of Watershed Management to discuss whether an amendment to the Water Quality Management Plan (WQMP) or Wastewater Management Plan (WMP) will be necessary.

2. Delaware River Basin Commission (DRBC)

a. The permittee shall comply with the Delaware River Basin Commission (DRBC) "Water Quality Regulations." Compliance may be determined by the DRBC based on its own sampling events.
3. Applicability of Discharge Limitations and Effective Dates
   a. Surface Water Discharge Monitoring Report (DMR) Form Requirements
      i. The final effluent limitations and monitoring conditions contained in PART III for DSN 001A apply for the full term of this permit action.
   b. Wastewater Characterization Report (WCR) Form Requirements
      i. The final effluent monitoring conditions contained in PART III for DSN 001A apply for the full term of this permit action.

4. Operation, Maintenance and Emergency conditions
   a. The permittee shall operate and maintain treatment works and facilities which are installed or used by the permittee to achieve compliance with the terms and conditions of this permit as specified in the Operation & Maintenance Manual.
   b. The permittee shall develop emergency procedures to ensure effective operation of the treatment works under emergency conditions in accordance with N.J.A.C. 7:14A-6.12(d).

5. Sludge Management
   a. The permittee shall comply with the provisions of the Burlington County Sludge and Septage Management Plan, developed in accordance with the Statewide Sludge Management Plan and the New Jersey Solid Waste Management Plan Act.

6. Toxicity Testing Requirements - Acute Whole Effluent Toxicity
   a. The permittee shall conduct toxicity tests on its wastewater discharge in accordance with the provisions in this section. Such testing will determine if appropriately selected effluent concentrations adversely affect the test species.
   b. Part III of this permit contains an Action Level (AL) for Acute Whole Effluent Toxicity. Toxicity Reduction and Implementation Requirements may be triggered based on exceedances of this Action Level. See Toxicity Reduction and Implementation Requirements section below for more details.
   c. Acute toxicity tests shall be conducted using the test species and method identified in Part III of this permit.
   d. Any test that does not meet the specifications of N.J.A.C. 7:18, laboratory certification regulations, must be repeated within 30 days of the completion of the initial test. The repeat test shall not replace subsequent testing required in Part III.
   e. The permittee shall collect and analyze the concentration of ammonia-N in the effluent on the day a sample is collected for WET testing. This result is to be reported on the Biomonitoring Report Form.
   f. The permittee shall resubmit an Acute Methodology Questionnaire within 60 days of any change in laboratory.
   g. Submit an acute whole effluent toxicity test report: within twenty-five days after the end of every 12 month monitoring period beginning from the effective date of the permit (EDP). The permittee shall submit toxicity test results on appropriate forms.
   h. Test reports shall be submitted to:
i. New Jersey Department of Environmental Protection
   Division of Water Quality
   Bureau of Surface Water Permitting
   P.O. Box 029
   Trenton, New Jersey 08625.

7. Toxicity Testing Requirements - Chronic Whole Effluent Toxicity

a. The permittee shall conduct toxicity tests on its wastewater discharge in accordance with the provisions in this section. Such testing will determine if appropriately selected effluent concentrations adversely affect the test species.

b. Chronic toxicity tests shall be conducted using the test species and method identified in Part III of this permit.

c. Any test that does not meet the specifications contained in the Department's "Chronic Toxicity Testing Specifications for Use in the NJPDES Program" document must be repeated within 30 days of the completion of the initial test. The repeat test shall not replace subsequent testing required in Part III.

d. The permittee shall collect and analyze the concentration of ammonia-N in the effluent on the day a sample is collected for WET testing. This result is to be reported on the Biomonitoring Report Form.

e. IC25 - Inhibition Concentration - Concentration of effluent which has an inhibitory effect on 25% of the test organisms for the monitored effect, as compared to the control (expressed as percent effluent).

f. Test results shall be expressed as the IC25 for each test endpoint. Where a chronic toxicity testing endpoint yields IC25's from more than one test endpoint, the most sensitive endpoint will be used to evaluate effluent toxicity.

g. When reporting to the Delaware River Basin Commission (DRBC), sample results shall be expressed as No Observed Effect Concentration (NOEC).

h. The permittee shall resubmit a Chronic Methodology Questionnaire within 60 days of any change in laboratory.

i. Submit a chronic whole effluent toxicity test report: within twenty-five days after the end of every 6 month monitoring period beginning from the effective date of the permit (EDP). The permittee shall submit toxicity test results on appropriate forms.

j. Test reports shall be submitted to:

   i. New Jersey Department of Environmental Protection
      Division of Water Quality
      Bureau of Surface Water Permitting
      P.O. Box 029
      Trenton, New Jersey 08625.

   ii. Delaware River Basin Commission (DRBC)
       P. O. Box 7360
       West Trenton, New Jersey 08628

8. Toxicity Reduction Implementation Requirements (TRIR)
a. The permittee shall initiate a tiered toxicity investigation if two out of six consecutive WET tests demonstrate that the effluent does not comply or will not comply with the toxicity limit or action level specified in Part III of this permit.
   i. If the exceedance of the toxicity limit or action level is directly caused by a documented facility upset, or other unusual event which has been identified and appropriately remedied by the permittee, the toxicity test data collected during the event may be eliminated when determining the need for initiating a TRIR upon written Department approval.

b. The permittee shall begin toxicity characterization within 30 days of the end of the monitoring period when the second toxicity test exceeds the toxicity limits or action level in Part III. The monitoring frequency for toxicity testing shall be increased to monthly. Up to 12 additional tests may be required.
   i. The permittee may return to the toxicity testing frequency specified in Part III if four consecutive toxicity tests conducted during the Toxicity Characterization do not exceed the toxicity limit or action level.
   ii. If two out of any six consecutive, acceptable tests again exceed the toxicity limit in Part III, the permittee shall repeat the Toxicity Reduction Implementation Requirements.

c. The permittee shall initiate a preliminary toxicity identification (PTI) upon the third exceedance of the toxicity limit or action level specified in Part III during toxicity characterization.
   i. The permittee may return to the monitoring frequency specified in PART III while conducting the PTI. If more frequent WET testing is performed during the PTI, the permittee shall submit all biomonitoring reports to the DEP and report the results for the most sensitive species on the DMR.
   ii. As appropriate, the PTI shall include:
      (1) treatment plant performance evaluation,
      (2) pretreatment program information,
      (3) evaluation of ammonia and chlorine produced oxidants levels and their effect on the toxicity of the discharge,
      (4) evaluation of chemical use and processes at the facility, and
      (5) an evaluation of incidental facility procedures such as floor washing, and chemical spill disposal which may contribute to effluent toxicity.
   iii. If the permittee demonstrates that the cause of toxicity is the chlorine added for disinfection or the ammonia concentration in the effluent and the chlorine and/or ammonia concentrations are below the established water quality based effluent limitation for chlorine and/or ammonia, the permittee shall identify the procedures to be used in future toxicity tests to account for chlorine and/or ammonia toxicity in their preliminary toxicity identification report.
   iv. The permittee shall submit a Preliminary Toxicity Identification Notification within 15 months of triggering TRIR. This notification shall include a determination that the permittee intends to demonstrate compliance OR plans to initiate a CTI.

d. The permittee must demonstrate compliance with the WET limitation in four consecutive WET tests to satisfy the requirements of the Toxicity Reduction Investigation Requirements. After successful completion, the permittee may return to the WET monitoring frequency specified in PART III.

e. The permittee shall initiate a Comprehensive Toxicity Investigation (CTI) if the PTI does not identify the cause of toxicity and a demonstration of consistent compliance with the toxicity limit in Part III can not be made.
i. The permittee shall develop a project study plan identifying the party or parties responsible for conducting the comprehensive evaluation, establish a schedule for completing the study, and a description of the technical approach to be utilized.

ii. If the permittee determines that the PTI has failed to demonstrate consistent compliance with the toxicity limit in Part III, a Comprehensive Toxicity Investigation Workplan must be prepared and submitted within 90 days.

iii. The permittee shall summarize the data collected and the actions taken in CTI Quarterly Reports. The reports shall be submitted within 30 calendar days after the end of each quarter.

iv. The permittee shall submit a Final CTI Report 90 calendar days after the last quarterly report. The final CTI report shall include the corrective actions identified to reduce toxicity and a schedule for implementing these corrective actions.

f. Upon receipt of written approval from the Department of the corrective action schedule, the permittee shall implement those corrective actions consistent with that schedule.

i. The permittee shall satisfy the requirements of the Toxicity Reduction Implementation Requirements and return to the original toxicity monitoring frequency after corrective actions are implemented and the permittee demonstrates consistent compliance with the toxicity limit or action level in Part III in four consecutive toxicity tests.

ii. If the implemented corrective measures do not result in consistent compliance with the toxicity limit or action level in Part III, the permittee shall submit a plan for resuming the CTI.

9. Introduction to RWBR Requirements

a. The following RWBR sections contain (10-15) sections contain the the conditions for the permittee to beneficially reuse treated effluent or Reclaimed Water for Beneficial Reuse (RWBR), provided the effluent is in compliance with the criteria specified for the particular use specified below.

b. There are two levels of RWBR uses. Public Access and Restricted Access. Conditions applicable to both types of RWBR are included herein, however, authorization is pending for Public Access and will be approved once the required submittals are received by the Department.

c. The following RWBR sections (10-15) are included in this permit for various reuse applications. These sections are inactive and not effective unless the status column in Appendix B states the reuse activity is approved. Any specific RWBR type not approved in the Appendix may be approved at a later date by a minor modification permit action once the appropriate submittal requirements have been received and approved by the Department.

10. RWBR Requirements for Public Access

a. This category of RWBR is not currently authorized at this time, therefore items b-e do not yet apply. The permittee may request a minor modification for authorization under this category.

b. The hydraulic loading rate for land application of RWBR shall not exceed 2 inches per week.

c. Any water diverted for RWBR shall be monitored and comply with the high level treatment requirements listed below and the operational requirements in the approved Operations Protocol. If any of these requirements are not achieved, the effluent shall not be diverted for RWBR.

i. Total Suspended Solids (TSS): Instantaneous maximum of 5.0 mg/L prior to disinfection.

ii. Nitrogen, Total (NO3 + NH3): Daily maximum of 10.0 mg/L. This requirement only applies when RWBR is land applied.
iii. Fecal Coliform: 7-day median maximum of 2.2 colonies per 100 mL and an instantaneous maximum of 14 colonies per 100 mL.

iv. Ultraviolet Disinfection: If the permittee disinfects utilizing UV disinfection, a minimum design UV dose of 100 ml/cm² under maximum daily flow must be used. All aspects of the UV system must meet the requirements of the May 2003 (or most recent) National Water Research Institute’s Ultraviolet Disinfection Guidelines for Drinking Water and Water Reuse, second edition.

v. Turbidity for UV systems: Instantaneous maximum of 2.0 NTU.

d. Monitoring of the diverted public access RWBR shall be conducted in the following manner:

i. Sampling for TSS shall be immediately prior to disinfection. Monitoring for TSS shall be a grab sample once per week.

ii. Sampling for Turbidity in systems shall be sampled immediately prior to disinfection. The permittee shall establish a correlation between Turbidity and TSS in their effluent as detailed in the Reuse Technical Manual. A statistically significant correlation between Turbidity and TSS shall be established prior to commencement of the RWBR program and shall be incorporated into the Operations Protocol and updated annually. The initial correlation should be done as part of a daily monitoring program for at least 30 days. To ensure continuous compliance with the 5.0 mg/L TSS level, Turbidity must be monitored continuously and achieve the level established in the Operations Protocol/Standard Operations Procedure.

iii. For UV systems, UV lamp intensity, UV transmittance and UV flow rate shall be monitored continuously after full disinfection treatment.

iv. Monitoring for Fecal Coliform shall be a grab sample, taken in accordance with Part III, at least a minimum of once per week taken immediately after disinfection. Fecal coliform shall be monitored immediately after disinfection.

v. Monitoring for Total Nitrogen (NO₃ + NH₃) shall be a composite sample, taken in accordance with Part III, at least once per week taken prior to RWBR diversion. Total Nitrogen (NO₃ + NH₃) shall be monitored after the appropriate disinfection treatment is achieved.

c. All monitoring results of the RWBR shall be reported each month on Wastewater Characterization Reports (WCR). Unless noted otherwise, the highest of all measured values for diverted RWBR shall be reported.

i. If ultraviolet disinfection is used, the lowest sampling results obtained during the reporting month shall be reported for lamp intensity and UV transmittance.

11. RWBR Requirements for Restricted Access--Land Application and Non Edible Crops

a. The Restricted Access--Land Application and Non Edible Crops reuse types authorized by this permit are those approved in Appendix B. Other Restricted Access--Land Application and Non Edible Crops reuse types may be added by minor modification of this permit.

b. The hydraulic loading rate for land application of RWBR shall not exceed 2 inches per week.

c. Any water diverted for RWBR shall be monitored and comply with the high level treatment requirements listed below and the operational requirements in the approved Operations Protocol. If any of these requirements are not achieved, the effluent shall not be diverted for RWBR.
d. Nitrogen, Total (NO₃ + NH₃): Daily maximum of 10 mg/L. Frequency of sampling for Total Nitrogen shall be in accordance with Part III of this permit. The sample shall be collected as a composite sample taken prior to diversion for RWBR. Nitrogen, Total (NO₃ + NH₃) shall be monitored after the appropriate disinfection treatment time is achieved.

e. Fecal Coliform: 200 colonies per 100 ml monthly average Geometric Mean, 400 colonies per 100 ml maximum in any one sample. Frequency of sampling for Fecal Coliform shall be in accordance with Part III of this permit. The sample shall be collected as a grab sample taken immediately after disinfection.

f. Ultraviolet Disinfection: For UV disinfection, a minimum design UV dose of 75 ml/cm² under maximum daily flow must be used. This dose must also be based on continuous monitoring of UV lamp intensity, UV transmittance and UV flow rate. All aspects of the UV system must meet the requirements of the May 2003 (or most recent) National Water Research Institute’s Ultraviolet Disinfection Guidelines for Drinking Water and Water Reuse, second edition. UV lamp intensity, UV transmittance and UV flow rate shall be monitored continuously after full disinfection treatment.

g. All monitoring results of the RWBR shall be reported each month on Wastewater Characterization Reports (WCR). Unless noted otherwise, the highest of all measured values for diverted RWBR shall be reported.

12. RWBR Requirements for Restricted Access—Construction and Maintenance Operations

a. The Restricted Access—Construction and Maintenance Operations reuse types authorized by this permit are those approved in Appendix B. Other Restricted Access—Construction and Maintenance Operations reuse types may be added by minor modification of this permit.

b. Fecal Coliform: 200 colonies per 100 ml monthly average Geometric Mean, 400 colonies per 100 ml maximum in any one sample. Frequency of sampling for Fecal Coliform shall be in accordance with Part III of this permit. Fecal coliform shall be monitored immediately after disinfection. This requirement does not apply to sanitary sewer jetting.

13. RWBR Requirements for Restricted Access—Industrial Systems

a. The Restricted Access—Industrial Systems reuse types authorized by this permit are those approved in Appendix B. Other Restricted Access—Industrial Systems reuse types may be added by minor modification of this permit.

14. RWBR Submittal Requirements

a. For all types of Restricted Access RWBR, the permittee shall submit and receive approval of an Operations Protocol or modify the existing Operations Protocol as detailed in the most recent version of the Department’s “Technical Manual for Reclaimed Water for Beneficial Reuse” (Reuse Technical Manual) prior to the commencement of any RWBR activity. A copy of the approved Standard Operations Protocol shall be maintained onsite. Specific requirements for the Standard Operations Protocol are identified in the Reuse Technical Manual. This requirement does not apply to sanitary sewer jetting and STP washdown water.

b. The permittee shall submit a copy of the Reuse Supplier and User Agreement with each request for authorization to distribute RWBR in which the user is a different entity than the supplier. Specific requirements for the Reuse Supplier and User Agreement are identified in the Reuse Technical Manual.
c. For Public Access RWBR on Edible Crops, the permittee shall submit an annual inventory of edible crop irrigation with the Beneficial Reuse Annual Report. Specific requirements for the annual inventory are identified in the Reuse Technical Manual.

d. Submit a Beneficial Reuse Annual Report by February 1 of each year beginning from the effective date of the permit (EDP). The permittee shall compile the total volume of RWBR distributed to each type of authorized RWBR activity for the previous calendar year. Specific requirements for the Annual Reuse Report are identified in the Reuse Technical Manual.

e. The permittee shall submit and receive approval of an Engineering Report in support of RWBR authorization requests for new or expanded RWBR projects as detailed in the most recent version of the Department's "Technical Manual for Reclaimed Water for Beneficial Reuse" (Reuse Technical Manual) prior to the commencement of this/these type/s of RWBR activity. A copy of the approved Engineering Report shall be maintained onsite. Specific requirements for the Engineering Report are identified in the Reuse Technical Manual.

f. All submittals shall be mailed or delivered to: New Jersey Department of Environmental Protection, Division of Water Quality, Bureau of Surface Water Permitting, P.O. Box 029, Trenton, New Jersey 08625.

15. RWBR Operational Requirements

a. Effluent that does not meet the requirements for RWBR established in Part III, Part IV and the operational requirements specified in the facility's approved Operations Protocol Standard Operations Procedure, shall not be diverted for RWBR.

b. The land application of RWBR shall not produce surface runoff or ponding.

c. All setback distances shall be consistent with the distances outlined in the Reuse Technical Manual.

d. Land application sites shall not be frozen or saturated when applying RWBR.

e. A daily log noting the volume of RWBR distributed to each approved application site shall be maintained on-site by the permittee and made available to the Department upon request. The volume of RWBR to be distributed shall be determined through the use of a totalizing flow meter.

f. Any vehicle used to transport and/or distribute RWBR shall be appropriately marked. The vehicle shall not be used to transport water or other fluid that does not meet all limitations and requirements as specified in this permit for water diverted for RWBR, unless the tank has been emptied and adequately cleaned prior to the addition of the RWBR.

g. The permittee shall post Access Control and Advisory Signs in accordance with the requirements of the Reuse Technical Manual.

h. There shall be no cross-connections to potable water systems.

i. All RWBR piping, pipelines, valves, and outlets shall be appropriately color coded, tagged or labeled to warn the public and employees that the water is not intended for drinking. Worker contact with RWBR shall be minimized.

j. The issuance of this permit for the use of RWBR shall not be considered as a waiver of any applicable federal, state or local rule, regulation or ordinance.

F. INDUSTRIAL PRETREATMENT PROGRAM REQUIREMENTS

1. Requirement to Identify and Locate Industrial Users
a. The Permittee shall identify all indirect users which meet the significant indirect user definition in N.J.A.C. 7:14A-1.2 or have reasonable potential to:
   i. interfere with attainment of the effluent limitations contained in the permittee's NPDES permit
   ii. pass through the treatment works and impair the water quality of the receiving stream; or
   iii. affect sludge quality so as to interfere with the use or management of the municipal sludge

2. Notification Requirements

a. The permittee shall provide adequate notice to the NJDEP, Division of Water Quality, Bureau of Pretreatment and Residuals, of the name, address, telephone number and facility contact of all:
   i. new SIUs at the time the proposed user applies to the permittee for connection to the permittee's system,
   ii. any substantial change or proposed change in the volume or character of pollutants being introduced into the POTW by existing SIUs, or
   iii. any substantial change or proposed change in the volume or character of pollutants being introduced into the POTW by a user that causes the user to become an SIU.

b. For purposes of this subsection, adequate notice shall include information on the quality and quantity of effluent introduced into the POTW and any anticipated impact of such change on the quantity or quality of effluent to be discharged from the POTW.

3. Requirement to Develop Local Limits

a. The permittee shall perform a headworks analysis in order to develop local limits or demonstrate that local limits are not necessary. The headworks analysis and, if necessary, development of local limits shall:
   i. be conducted in accordance with the Guidance Manual on the Development and Implementation of Local Discharge Limitations under the Pretreatment Program (December 1987, USEPA Office of Water Enforcement), including all supplements and amendments thereto, including: identifying the sources and pollutants which should be limited in order to address environmental protection criteria of paragraph ii.; characterizing industrial discharges; reviewing applicable environmental protection criteria and pollutant effects data; monitoring of IU discharges, POTW collection system and treatment plant; and calculating local limits for the identified pollutants of concern;
   ii. ensure compliance with the following minimum environmental protection criteria: the numerical effluent limitations in the Part III; The local agency's process inhibition and upset criteria; the local agency's worker health and safety protection criteria; the sludge quality criteria for a chosen method(s) of sludge management; and the limitations in the local agency's Air Pollution Control permit, where applicable.

b. The permittee shall conduct a Local Limits Evaluation: within 54 months from the effective date of the permit (EDP).

4. Submittal Requirements

a. Submit the Local Ordinance: within one year from the effective date of this document.

b. The permittee shall submit updates to its Local Sewer Use Ordinance within 30 days of modification.
c. The permittee shall prepare a Pretreatment Program Report which consists of a listing of all indirect users which meet the significant indirect user definition in N.J.A.C. 7:14A-1.2. The report shall include the name, address, and type of business for each facility.

d. If there are no Significant Indirect Users discharging into its treatment works, the Pretreatment Program Report may take the form of a letter noting such.

e. Submit the Annual Pretreatment Program Report: by May 1 of each year beginning from the effective date of the permit (EDP).

f. The reports shall be submitted to: NJDEP, Bureau of Pretreatment and Residuals, 401 East State Street, P. O. Box 029, Trenton, NJ. 08625-0029

G. CONDITIONS FOR MODIFICATION

1. Notification requirements

   a. The permittee may request a minor modification for a reduction in monitoring frequency for a non-limited parameter when four consecutive test results of "not detected" have occurred using the specified QL.

2. Causes for modification

   a. The Department may modify or revoke and reissue any permit to incorporate 1) any applicable effluent standard or any effluent limitation, including any effluent standards or effluent limitations to control the discharge of toxic pollutants or pollutant parameters such as acute or chronic whole effluent toxicity and chemical specific toxic parameters, 2) toxicity reduction requirements, or 3) the implementation of a TMDL or watershed management plan adopted in accordance with N.J.A.C. 7:15-7.

   b. The permittee may request a minor modification to eliminate the monitoring requirements associated with a discharge authorized by this permit when the discharge ceases due to changes at the facility.
SAMPLE RESPONSE TO COMMENTS
Comments were received on the NJPDES draft Surface Water Renewal Permit Action No. [redacted] issued on September 22, 2010. The thirty (30) day public comment period began on September 27, 2010 when the Public Notice was published in the Burlington County Times. It ended on October 26, 2010. The following person commented during the public comment period:

A. Sara Sorenson, United States Environmental Protection Agency (USEPA), Region 2, in a letter dated October 15, 2010.

A summary of the timely and significant comments received, the New Jersey Department of Environmental Protection's (Department) responses to these comments, and an explanation of any changes from the draft action have been included below:

1. COMMENT:

In EPA's Sept. 16, 2010 letter on the 2009 readoption of the NJPDES rule, comments were included on the issue of whole effluent toxicity (WET). The recently issued Cinnaminson Township draft permit that was noticed on September 1, 2010 illustrates the concern raised by EPA in that letter. Specifically, the default acute action level (LC50>50%) may not always be protective based on the established acute dilution value.

The permit assessed reasonable potential for acute WET based on a dilution factor of 6.0 and determined no reasonable potential. However, the permit established an action level of LC50>50% in accordance with New Jersey regulations which essentially allows a higher dilution of 6.67 (100/50=2.0 TUa/0.3 TUa = 6.67). The extra 0.67 dilution factor (5.56% effluent) may or may not be significant but it is something to keep in mind when action levels are being established. In most New Jersey permits the LC50>50% action level turns out to be more stringent than if calculating a site specific action level but this comment is offered as an example of the point raised in EPA's recent letter.

Also, it appears that the acute WLA (18 TUa) for WET was calculated incorrectly based on an acute dilution value of 6.0 and TSD value of 0.3 TUa (6.0 x 0.3 TUa = 1.8 TUa). The analysis is correct since all the acute results demonstrated no quantifiable toxicity but the final permit should probably be correctly anyway.

RESPONSE:

As noted in the Fact Sheet, the Department performed a complete WET evaluation based on recent site-specific data, an acute dilution factor of 6.0, a permitted effluent flow of 2.0 million gallons per day, and an acute surface water quality criteria of 0.3 TUa. As stated on page 7 of 22, the acute WET data set for Pimephales promelas shows all non-quantifiable effluent data, namely all data values were LC50's >100% effluent. Since all data was non-quantifiable, there can be no cause or reasonable potential to cause an excursion of the Surface Water Quality Standards (SWQS), and a new limitation is not necessary. The existing limitation of LC50≥50% is then retained consistent with antibacksliding requirements at N.J.A.C. 7:14A-13.21(b1). However, in accordance with the NJPDES Regulations (adopted January 5, 2009), the Department now imposes an action level of an LC50≥50% when the existing limitation is based on the repealed state standard of LC50≥50%. The Department believes that an action level is equally protective of water quality as an effluent limit in this circumstance, since the violation of either a WET limitation or the action level carries with it the same enforceable permit condition to initiate the Toxicity Reduction and Implementation Requirements (TRIR), in order to correct the source of the toxicity should the requirement be breached.
As described on page 7 of 22 of the draft permit Fact Sheet and as noted by the commentor, a reasonable potential analysis was not conducted for acute WET since all data points in the data set were non-quantifiable (i.e. LC50's > 100%). Reasonable potential to violate water quality standards does not exist when there is no detectable toxicity shown in the effluent.

The commentor seems to be under the impression that a site specific action level was incorrectly calculated for this facility. At this time, the Department does not calculate site specific action levels for Whole Effluent Toxicity. The currently imposed action level is meant only to comply with antibacksliding regulations. As stated in the Fact Sheet on page 6 of 22, in order to satisfy the requirements of the CWA, the State's SWQS and the NJPDES Regulations, the need for a WQBEL for WET was evaluated for this discharge. Site-specific WET data shows that the discharge neither causes, nor shows a reasonable potential to cause, or contribute to an excursion above the SWQS, therefore no new limitations or action levels are necessary.

In sum, the Department maintains that the currently imposed WET action level is correct and in accordance with the NJPDES Regulations and the EPA Technical Support Document. No change to the permit is necessary as a result of this comment.