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N.J.A.C. 7:14A-19.1 et seq.

**SUBCHAPTER 19. PRETREATMENT PROGRAM REQUIREMENTS FOR LOCAL AGENCIES**

Statutory authority: N.J.S.A. 13:1B-3 et seq., 13:1D-1 et seq., 13:1D-125 through 13:1D-129, 13:1E-1 et seq., 26-2C-1 et seq., 58:10-23.11 et seq., 58:10A-1 et seq., 58:11-49 et seq., 58:11-64 et seq., 58:11A-1 et seq., and 58:12A-1 et seq.

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For regulatory history and effective dates see the New Jersey Administrative Code  
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## **SUBCHAPTER 19. PRETREATMENT PROGRAM REQUIREMENTS FOR LOCAL AGENCIES**

### **7:14A-19.1 Purpose and scope**

- (a) This subchapter establishes requirements to:
  - 1. Prevent the introduction of pollutants into a local agency's treatment works which may:
    - i. Interfere with the operation of the local agency's treatment works;
    - ii. Pass through or would otherwise be incompatible with the local agency's treatment works; or
    - iii. Interfere with the local agency's chosen method of sludge management;
  - 2. Set forth the minimum requirements for all local agencies to control the discharge of pollutants by indirect users of the agencies' treatment works; and
  - 3. Set forth the minimum requirements for the establishment and implementation of an approvable industrial pretreatment program (IPP) by local agencies. Such a program shall require the local agency to establish a regulatory program with adequate legal authority contained in IPP regulations which allows that agency to deny or permit contributions of pollutants to the treatment works, as well as enforce the applicable pretreatment program requirements.
- (b) The Department adopts and incorporates herein by reference the General Pretreatment Regulations for Existing and New Sources of Pollution, 40 CFR Part 403, and the National Pretreatment Standards in 40 CFR chapter I, subchapter N, as amended and supplemented.
- (c) Nothing in this subchapter shall preclude or deny the right of a local agency to independently implement an IPP or adopt any pretreatment requirements or standards which are more stringent than the requirements in 40 CFR Part 403, 40 CFR chapter I, subchapter N, or the requirements in this subchapter.

### **7:14A-19.2 Industrial pretreatment program development by local agencies**

- (a) Any local agency, or combination of treatment works operated by the same local agency, which meets the following criteria shall establish an IPP unless the Department exercises its option to implement the IPP:

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1. The treatment works total design flow is greater than five million gallons per day (MGD); and
  2. The treatment works receives pollutants from indirect users which pass through or interfere with the operation of the treatment works or are otherwise subject to pretreatment standards.
- (b) The Department shall require a local agency, or combination of treatment works operated by the same local agency, with a design flow of five MGD or less to establish an IPP if the nature or volume of industrial influent, treatment process upsets, violations of effluent limitations, contamination of municipal sludge, or other circumstances warrant the establishment of an IPP in order to prevent interference with the treatment works or pass through.
- (c) Any local agency required to establish an IPP pursuant to (a) or (b) above shall develop and submit to the Department for approval an IPP in accordance with the requirements of 40 CFR Part 403 and the additional requirements of this subchapter. The local agency required to develop an IPP shall have a pretreatment program compliance schedule incorporated into the NJPDES permit at the time of issuance, re-issuance, or modification of the permit. The compliance schedule shall require the development and submission of an IPP which addresses the requirements of this subchapter no later than one year after receipt of written notification from the Department that such an IPP is required.

**7:14A-19.3 Industrial pretreatment program requirements for all local agencies**

- (a) As specified at N.J.A.C. 7:14A-16.3 and 16.4, the Department may reissue or modify a local agency's NJPDES permit to include IPP requirements as set forth in this subchapter.
- (b) All local agencies, including those not required by N.J.A.C. 7:14A-19.2(a) and (b) to establish an IPP, shall comply with the following IPP requirements:
1. All local agencies shall, pursuant to their permit or upon written request from the Department or whenever the local sewer use ordinance or rules and regulations are modified, submit a copy of the local sewer use ordinance or rules and regulations, including any amendments, to the Bureau of Pretreatment and Residuals in the Department at 401 East State Street, CN-029, Trenton, N.J. 08625;
  2. All local agencies shall identify and locate indirect users as specified below:
    - i. All delegated local agencies shall update their inventory of indirect users at a frequency and diligence adequate to ensure proper identification of indirect users subject to pretreatment standards, appropriate characterization of the nature of their discharges, and

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correct designation of indirect users as categorical, significant/major, or other regulated. This update shall be completed at a minimum frequency of once per year, and shall be included in the 40 CFR 403 Annual Report required under N.J.A.C. 7:14A-19.6(f).

- ii. Non-delegated local agencies shall submit an annual report, on forms provided by the Department, that consists of a listing of all indirect users that meet the significant indirect user definition in N.J.A.C. 7:14A-1.2, and a statement whether the local agency accepts hauled wastes and, if so, the types of waste;
  3. All local agencies shall develop local limits or demonstrate that such limits are not necessary in accordance with N.J.A.C. 7:14A-19.7;
  4. Of the amount of any penalty assessed and collected pursuant to an action brought by a local agency in accordance with N.J.S.A. 58:10A-10, 10 percent shall be deposited in the Wastewater Treatment Operators' Training Account established in accordance with N.J.S.A. 58:10A-14.5 and used to finance the cost of training operators of municipal treatment works. The remainder shall be used by the local agency solely for enforcement purposes and for upgrading municipal treatment works; and
  5. Except as otherwise provided in N.J.S.A. 47:1A-3, any records, reports, or other information obtained by a local agency pursuant to this paragraph or N.J.S.A. 58:11-53, including any correspondence relating thereto, shall be available to the public. However, upon a showing satisfactory to the local agency by any person that the making public of any record, report, or information, or a part thereof, other than effluent data, would divulge methods or processes entitled to protection as trade secrets, the local agency shall consider such record, report, or information, or part thereof, to be confidential and access thereto shall be limited to authorized officers or employees of the Department, local agency, and the Federal government.
- (c) All delegated local agencies (DLAs) shall comply with the following IPP requirements:
1. All DLAs shall notify indirect users of the responsibilities required in the DLA's rules and regulations or sewer use ordinance as soon as possible but no later than 30 days from the determination that such indirect users are subject to regulation under the IPP. This notice shall not preclude the DLA from taking any enforcement action against an indirect user;
  2. All DLAs shall issue an IPP permit to indirect users, as required by the DLA's NJPDES permit;

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3. All DLAs shall perform compliance monitoring and inspections of indirect users, as required by the DLA's NJPDES permit;
4. All DLAs shall review and respond to violations of an IPP permit or the sewer use ordinance/rules and regulations, within 60 days of receipt of the compliance information generated by indirect users or the DLA;
5. All DLAs shall take enforcement actions based upon indirect users' noncompliance in accordance with the approved Enforcement Response Plan (ERP). In the absence of an approved ERP, the enforcement action shall be taken in accordance with the IPP as approved;
6. All DLAs shall develop and maintain a data management system which includes an indirect user inventory, characterization of the nature of indirect user discharges, compliance status, permit status, and enforcement actions. The DLA shall retain for a minimum of five years records of its monitoring activities and results (whether or not such activities are required by the DLA's NJPDES permit) and shall make such records available to EPA and the Department upon request;
7. All DLAs shall sample their treatment works and sludges as specified below:
  - i. Perform, at least once per year, an analysis for those priority pollutants listed in N.J.A.C. 7:14A-4, Appendix A, Tables II and III, and molybdenum (Mo), ammonia (NH<sub>3</sub>), and phosphorus (P), of the discharge from, and inflow to, the municipal treatment works;
    - (1) The requirement to monitor for the pollutants molybdenum (Mo), ammonia (NH<sub>3</sub>), and phosphorus (P), at (c)7i above takes effect January 5, 2010; and
  - ii. Perform, at least once per year, a priority pollutant scan on the sludge produced at the municipal treatment works. This analysis must be completed on those parameters listed in the Sludge Quality Assurance Regulations, N.J.A.C. 7:14C. The sludge samples shall be collected to coincide with the influent and effluent monitoring for priority pollutants required in (c)7i above;
8. All DLAs shall comply with the public participation and notification requirements in N.J.A.C. 7:14A-19.10;
9. All DLAs shall notify their significant indirect users (SIUs) in writing, in accordance with 40 CFR 403.8(f)(2)(iii), of the SIUs' obligation to comply with applicable requirements under Subtitles C and D of the Resource Conservation and Recovery Act (RCRA);
10. All DLAs shall secure and maintain sufficient resources and qualified

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personnel, in accordance with 40 CFR 403.8(f)(3), to carry out the program implementation procedures described in this subchapter;

11. All DLAs shall submit annual reports required by N.J.A.C. 7:14A-19.6(c), (f) and (h); and
  12. Of the penalty amount collected through the issuance of a summons pursuant to N.J.S.A. 58:10A-10.4, 10 percent shall be paid to the municipality or municipalities in which the municipal court retains jurisdiction for use for court purposes, with the remainder to be retained by the DLA.
- (d) Each local agency shall identify, within its sewer use ordinance or rules and regulations, violations of the requirements of the ordinance or rules and regulations based on the State Act that are minor or non-minor in accordance with the criteria of the Grace Period Law, N.J.S.A. 13:1D-129(b). A time period for correction of minor violations and to achieve compliance shall be established in accordance with N.J.S.A. 13:1D-127.
- (e) All delegated local agencies shall include within their local sewer use ordinance or rules and regulations, their authority to:
1. Grant sampling waivers to categorical indirect users, consistent with 40 CFR 403.12(e)(2);
  2. Develop and utilize best management practices in lieu of numeric local limits, consistent with 40 CFR 403.5(c)(4) and 403.8(f)(1)(B)(3);
  3. Use equivalent concentration limits, consistent with 40 CFR 403.6(c)(6);
  4. Use equivalent mass limits, consistent with 40 CFR 403.6(c)(5); and
  5. Define and classify non-significant categorical indirect users including the criteria, reporting, and oversight conditions consistent with 40 CFR 403.3(v), 403.8(f)(2)(v)(B), and 403.12(q), respectively.
- (f) Each delegated local agency shall, no later than July 4, 2009, submit to the Department for review the delegated local agency's draft local sewer use ordinance or rules and regulations that include the provisions specified in (e) above.

#### **7:14A-19.4 Enforcement response plan**

- (a) A delegated local agency shall develop and implement an enforcement response plan in accordance with this section. The plan shall contain detailed procedures describing how a delegated local agency shall investigate and respond to instances of indirect user noncompliance. The plan shall, at a minimum:
1. Describe how the delegated local agency shall investigate instances of noncompliance;

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2. Describe the types of escalating enforcement responses the delegated local agency shall take in response to all anticipated types of indirect user violations and the time frames within which responses shall take place;
  3. Identify (by title) the official(s) responsible for each type of response;
  4. Adequately reflect the delegated local agency's primary responsibility to enforce all applicable pretreatment requirements and standards as detailed in 40 CFR 403.8(f)(1) and (f)(2), and the delegated local agency's approved pretreatment program and amendments; and
  5. Contain noncompliance and nature of violation criteria and responses as set forth in the plan contained in Appendix A of this subchapter, incorporated hereby by reference, which denotes the minimum requirements.
- (b) A delegated local agency may develop an enforcement response plan in tabular format for easy reference, such as the enforcement response plan set forth in Appendix A.
- (c) The enforcement response plan shall be included within the rules and regulations or sewer use ordinance of a delegated local agency.
- (d) The enforcement response plan shall include or shall incorporate by reference all mandatory penalties, settlement restrictions, uniform penalty policies, grace period provisions, and other requirements applicable to the Department in accordance with N.J.A.C. 7:14-8.1(f), including, without limitation, the civil administrative penalty determination procedure specified in N.J.A.C. 7:14-8.16.
- (e) The development of the ERP in accordance with this section shall not preclude a DLA from initiating other available enforcement responses where violations are not specifically identified in the ERP.

#### **7:14A-19.5 Enforcement requirements in an industrial pretreatment program**

- (a) All delegated local agencies shall, at a minimum, include in their sewer use ordinance or rules and regulations the following enforcement and penalty provisions:
1. The ability to issue an order in accordance with N.J.S.A. 58:10A-10a(1);
  2. The ability to bring a civil action, including injunctive relief, in accordance with N.J.S.A. 58:10A-10a(2) and 58:11-55(b);
  3. The ability to petition the county prosecutor or Attorney General to bring a criminal action in accordance with N.J.S.A. 58:10A-6.i. and 58:10A-10a(5);

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4. The ability to issue a civil administrative penalty in accordance with N.J.S.A 58:10A-10.5;
  5. The ability to bring an action for a civil penalty in accordance with N.J.S.A. 58:10A-10a(4);
  6. The ability to issue a summons in accordance with N.J.S.A. 58:10A-10.4;
  7. The ability to assess a penalty for each violation that causes a violator to be, or continue to be, a significant noncomplier as defined at N.J.A.C. 7:14-8.2;
  8. The ability to assess a penalty for each serious violation as defined at N.J.A.C. 7:14-8.2;
  9. The ability to assess a penalty in accordance with N.J.A.C. 7:14-8.16;
  10. The ability to assess a penalty for submitting inaccurate or false information in accordance with N.J.A.C. 7:14-8.6; and
  11. The ability to assess a penalty for failure to properly conduct monitoring or sampling activities or to submit discharge monitoring reports/self-monitoring reports, or other pretreatment monitoring reports in accordance with N.J.A.C. 7:14-8.9(c), (d) and (e).
- (b) All delegated local agencies shall include in their sewer use ordinance or rules and regulations procedural and substantive requirements regarding:
1. Notice of a penalty assessment and notice of the opportunity to request an administrative hearing on the assessment of a civil administrative penalty in accordance with N.J.S.A. 58:10A-10.5 and N.J.A.C. 7:14-8.4;
  2. Opportunity to file exceptions, objections, and replies to the head of the delegated local agency in accordance with N.J.S.A. 58:10A-10.6;
  3. Issuance of a final decision or order in accordance with N.J.S.A. 58:10A-10.6 and 10.7;
  4. Appeal of a civil administrative penalty, the payment of interest, the collection of the civil administrative penalty and other procedures in accordance with N.J.S.A. 58:10A-10.8; and
  5. Civil administrative penalty settlement restrictions in accordance with N.J.A.C. 7:14-8.3(e).

**7:14A-19.6 Additional requirements for delegated local agencies**

- (a) Each permitted facility discharging into the municipal treatment works of a

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delegated local agency, other than a facility discharging only stormwater or non-contact cooling water, shall be inspected by the delegated local agency at least once a year. The Department may also inspect a facility required to be inspected by a delegated local agency. Exemption of stormwater facilities from the provisions of this subsection shall not apply to any permitted facility discharging or receiving stormwater runoff having come into contact with a hazardous discharge site on the Federal National Priorities List adopted by the EPA pursuant to the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. §§9601 et seq., or any other hazardous discharge site included by the Department on the master list for hazardous discharge site cleanups adopted pursuant to N.J.S.A. 58:10-23.16. An inspection required under this subsection shall be conducted within six months following a permittee's submission of an application for a permit, permit renewal or issuance of a permit for a new facility, except that if for any reason, a scheduled inspection cannot be made, the inspection shall be rescheduled to be performed within 30 days of the originally scheduled inspection or in the case of a temporary shutdown, of resumed operation. Inspections shall include:

1. A representative sampling of the effluent for each permitted facility, except that in the case of facilities that are not major facilities or significant indirect users, sampling pursuant to this paragraph shall be conducted at least once every three years. Collection of a representative sampling is required to complete an inspection but does not necessarily have to be conducted concurrently with the inspection;
2. An analysis of all collected samples by a laboratory certified by the Department;
3. An evaluation of the maintenance record of the permittee's treatment equipment;
4. An evaluation of the permittee's sampling techniques;
5. A random check of written summaries of test results, prepared by the certified laboratory, providing the test results for the immediately preceding 12-month period, signed by a responsible official of the certified laboratory, certifying the accuracy of the test results. This random check can be completed by reviewing the test results at the permitted facility, and/or through review of test results previously submitted by the permitted facility to the delegated local agency;
6. An inspection of the permittee's sample storage facilities and techniques if the sampling is normally performed by the permittee; and
7. An evaluation of whether the significant indirect user needs a plan or other action to control slug discharges. Each significant indirect user shall be evaluated within one year of being designated a significant indirect

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user. For purposes of this paragraph, a slug discharge is any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the delegated local agency's regulations, local limits or permit conditions. The results of such evaluations shall be available to the Department upon request. Significant indirect users are required to notify the delegated local agency immediately of any changes at its facility affecting potential for a slug discharge. If the delegated local agency decides that a slug control plan is needed, the plan shall contain, at a minimum, the following:

- i. A description of discharge practices, including non-routine batch discharges;
  - ii. A description of stored chemicals;
  - iii. Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition at N.J.A.C. 7:14A-21.2, with procedures for follow-up written notification within five days; and
  - iv. If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.
- (b) In addition to the inspection requirements of (a) above, all delegated local agencies shall inspect any permittee which meets the significant noncomplier definition at N.J.A.C. 7:14A-1.2. The inspection under this subsection shall be conducted within 60 days of receipt of the discharge monitoring report or self-monitoring report that initially results in the permittee's being identified as a significant noncomplier. The inspection shall include a random check of written summaries of test results, prepared by the certified laboratory providing the test results for the immediately preceding 12-month period signed by a responsible official of the certified laboratory, certifying the accuracy of the test results. A copy of each summary shall be maintained by the permittee. The inspection shall be for the purpose of determining compliance and shall only be performed once each calendar year. A delegated local agency is not required to make an inspection hereunder if an inspection has been made pursuant to (a) above within six months of the period within which an inspection is required to be conducted under this subsection.
- (c) A delegated local agency shall submit a "Clean Water Enforcement Act"

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(CWEA) annual report to the Department by February 1 of each year. The CWEA annual report shall include, at a minimum, the information under N.J.S.A. 58:10A-14.2, including all supplements and amendments thereto.

- (d) In addition to the information required in the CWEA annual report under (c) above, delegated local agencies shall also include the following information in the CWEA annual report:
  - 1. The number of indirect users which met the significant non-compliance definition during the calendar year and, by the close of the calendar year, had achieved compliance; and
  - 2. The number of indirect users which had met the significant non-compliance criteria during the prior reporting year which have achieved compliance in the reporting period for which the annual report is being prepared.
- (e) The information required in (c) and (d) above shall be submitted on forms provided by the Department.
- (f) All delegated local agencies shall submit to the Department a "40 CFR Part 403" annual report which describes their pretreatment program activities. This report must contain, at a minimum, the information required under 40 CFR 403.12(i), including all supplements and amendments thereto. This report shall be submitted by the date specified in the delegated local agency's NJPDES permit. This report shall be signed by a principal executive officer, ranking elected official or other duly authorized employee. The duly authorized employee shall be an individual or position having responsibility for the overall operation of the facility or the pretreatment program. This authorization shall be made in writing by the principal executive officer or ranking elected official, and submitted to the Department prior to or together with the report being submitted.
- (g) Each delegated local agency shall, by February 2, 2008, submit to the Department a sewer use ordinance or rules and regulations that include those provisions specified in N.J.A.C. 7:14A-19.3(d).
- (h) A delegated local agency shall submit a grace period annual report to the Department. The grace period annual report shall include, for each calendar year, the information required under N.J.S.A. 13:1D-132, including, but not limited to:
  - 1. The number of facilities regulated;
  - 2. The number of inspections performed;
  - 3. The number of minor violations identified, and the number of facilities

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responsible therefore;

4. The number of minor violations corrected during a grace period, and the number of facilities responsible therefore;
  5. The number of minor violations not corrected during a grace period, and the number of facilities responsible therefore;
  6. The number of enforcement actions assessing a penalty initiated for one or more minor violations not corrected during a grace period;
  7. The number of non-minor violations identified, and the number of facilities responsible therefore; and
  8. The number of enforcement actions assessing a penalty initiated for one or more non-minor violations.
- (i) The information required in (h) above shall be submitted to the Department on or before March 1 of the year immediately following the calendar year to which the information applies. The information required in (h) above shall be submitted on forms provided by the Department.
- (j) If a delegated local agency determines to establish equivalent mass limits pursuant to N.J.A.C. 7:14A-21.4(b), the delegated local agency:
1. Shall calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the indirect user by the concentration-based daily maximum and monthly average standard for the applicable categorical pretreatment standard and the appropriate unit conversion factor;
  2. Shall reassess the equivalent mass limit upon notification of a revised production rate and recalculate the limit as necessary to reflect changed conditions at the facility; and
  3. May retain the same equivalent mass limit in the modified or renewed industrial pretreatment program permit, if:
    - i. The indirect user's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies;
    - ii. The actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to N.J.A.C. 7:14A-21.4(g); and
    - iii. The indirect user is in compliance with N.J.A.C. 7:14A-21.6 (regarding the prohibition of bypass).
- (k) A delegated local agency shall not express limits in terms of mass for pollutants such as pH, temperature, radiation, or other pollutants that cannot appropriately be expressed as mass.

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**7:14A-19.7 Development of local limits by local agencies**

- (a) Except as provided in (b) and (c) below, all local agencies 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:
  - 1. Be conducted in accordance with the Local Limits Development Guidance (July, 2004, USEPA, Office of Wastewater Management), incorporated by reference, including all supplements and amendments thereto; and
  - 2. Ensure compliance with the following minimum environmental protection criteria:
    - i. The numerical effluent limitations in the local agency's NJPDES permit;
    - ii. The local agency's process inhibition and upset criteria;
    - iii. The local agency's worker health and safety protection criteria;
    - iv. The sludge quality criteria for a chosen method(s) of sludge management; and
    - v. The limitations in the local agency's Air Pollution Control permit, where applicable.
- (b) In lieu of conducting a complete headworks analysis, a local agency that operates a treatment works, where the treatment works receives only domestic pollutants and the NJDPES discharge permit for the treatment works does not include a water quality based effluent limit for a heavy metal, shall sample the treatment works as follows:
  - 1. Analyze the treatment works influent and effluent at least once per permit term for those pollutants listed in N.J.A.C. 7:14A-4, Appendix A Tables II and III, and molybdenum (Mo), ammonia (NH<sub>3</sub>), and phosphorus (P); and
  - 2. Perform, at least once per permit term, a pollutant scan on the sludge produced at the treatment works. This analysis shall be completed on those parameters found in Appendix A, Tables I through VI in the Sludge Quality Assurance Regulations, N.J.A.C. 7:14C, and any additional pollutants regulated under the local agency's chosen sludge management method. The sludge samples shall be collected to coincide with the influent and effluent monitoring required in (b)1 above.
- (c) A school or correctional facility, that operates a treatment works, is exempt from conducting a headworks analysis pursuant to (a) above, provided:
  - 1. The treatment works receives only domestic pollutants;

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2. The treatment works receives only wastewater generated by the operator; and
  3. The NJPDES permit for the treatment works does not include a water quality based effluent limit for a heavy metal.
- (d) Prior to initiation of any headworks analysis and development of local limits under (a) above, all delegated local agencies shall submit a work plan to the Department, for review and approval with conditions if necessary, which outlines the tasks and time frames in the development of a headworks analysis and local limits. At a minimum, this plan shall include the parameters to be sampled, the sampling locations within the treatment plant and the collection system, and a schematic diagram of the treatment plant showing sampling locations.
- (e) When proposing and adopting local limits, all delegated local agencies shall comply with the public notice and hearing requirements of N.J.A.C. 7:14A-19.10(a).
- (f) All delegated local agencies shall submit a written technical evaluation of the need to revise local limits whenever:
1. There are any changes in the applicable sludge quality criteria or effluent limitations, or there is a significant change in the nature of indirect user contributions to the local agency's influent; or
  2. The local agency's NJPDES permit has been renewed. This written technical evaluation shall be submitted to the Department within six months after the effective date of the renewed permit.
- (g) The written technical evaluation required to be submitted by delegated local agencies under (f) above shall include the following:
1. A listing of all existing local limits and the limiting factor by which each local limit was established;
  2. The date that the existing local limits were established;
  3. A description of any changes in Federal or State regulations, environmental protection criteria, plant design, operational criteria, or any significant change in the nature of industrial contributions which may require the reevaluation of local limits through the completion of a headworks analysis;
  4. A description of the local agency's compliance history over the previous five years, with respect to compliance with effluent limitations, sludge quality, plant inhibition or upset, and worker health and safety;

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5. A listing of all parameters for which limits are established in the local agency's renewed NJPDES permit; and
  6. A statement from the local agency as to whether or not local limits need to be revised based on the information gathered under (g)1 through 5 above.
- (h) The Department shall review the written technical evaluation submitted by a delegated local agency under (f) above and, if necessary, require the delegated local agency to revise the local limits in accordance with (a) above.

#### **7:14A-19.8 Requirements for issuance of IPP permits by delegated local agencies**

- (a) All delegated local agencies shall issue an IPP permit to:
1. Any SIU as defined in N.J.A.C. 7:14A-1.2 or as defined in the delegated local agency's sewer use ordinance or rules and regulations; and
  2. Any other indirect user when effluent limitations and other conditions are to be imposed on that user, at the discretion of the local agency.
- (b) The delegated local agency shall include the following requirements in all IPP permits:
1. All permit requirements established in N.J.S.A. 58:10A-6f; and
  2. All permit requirements for IPP/SIU permits established in 40 CFR 403.8(f)(1)(iii)(B)(1) through (6).
- (c) Prior to approving any proposed new indirect user IPP permits, proposed renewed indirect user IPP permits, or proposed major modifications to any existing indirect user IPP permit, all delegated local agencies shall comply with the public notice and hearing requirement of N.J.A.C. 7:14A-19.10(e).
- (d) All delegated local agencies shall include in their sewer use ordinance or rules and regulations the following permit issuance requirements:
1. Procedural and substantive requirements regarding written applications for IPP permits and indirect user authorizations to discharge. The application form must require the submission of full information as to the quantity, character, and composition of the proposed discharge;
  2. Procedural requirements for the issuance, renewal, modification, suspension, revocation of IPP permits or indirect user authorizations. The procedures must include notice, opportunity to comment, and opportunity to request a public hearing on all draft IPP permits. The DLA shall issue a response-to-comments document at the time that a final permit is issued. The response-to-comments document shall:
    - i. State the action the DLA has taken on the final permit;

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- ii. Specify which provisions, if any, of the draft permit have been changed in the final permit, and the reasons for any such change; and
  - iii. Briefly describe and respond to all relevant comments on the draft permit raised during the public comment period, or during the public hearing, if any;
3. The requirement that no IPP permit shall be issued, renewed, or modified by a delegated local agency so as to relax any effluent limitation unless the IPP permittee or applicant has complied with the requirements of N.J.S.A. 58:10A-6k.

**7:14A-19.9 Modifications of an industrial pretreatment program**

- (a) All delegated local agencies shall provide written notice to the Department regarding all substantial and non-substantial IPP modifications, as defined under 40 CFR 403.18.
- (b) For non-substantial modifications, the delegated local agencies shall include a statement of the basis for the modification, and a copy of the elements of the IPP to be modified.
- (c) For substantial modifications, the delegated local agency shall submit:
  1. A statement of basis for the proposed modifications;
  2. A statement of legal authority in accordance with 40 CFR 403.9(b)(1);
  3. Documentation which will allow the Department to identify those parts of the sewer use ordinance or rules and regulations, NJPDES permit, and/or the original program submission, or amendments thereto, which are being modified; and
  4. Any other documentation the Department requests during the review of the proposed modifications.
- (d) While awaiting a decision from the Department on a request for a substantial modification the delegated local agency shall:
  1. Adopt the proposed modifications with the written condition that the modifications shall not become effective and shall not be implemented until the Department has given written approval of the modifications; or
  2. Await Departmental approval prior to adopting the modifications.
- (e) The Department shall approve or disapprove any proposed modification(s) based on the requirements of 40 CFR 403.8(f), following the procedures in 40 CFR 403.11(b) through (f).

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- (f) For industrial pretreatment program modifications, all delegated local agencies shall comply with the public notice and hearing requirement of N.J.A.C. 7:14A-19.10(a).
- (g) All approved modifications to an IPP shall be incorporated, where applicable, into the delegated local agency's NJPDES permit as a minor modification in accordance with N.J.A.C. 7:14A-16.5.

**7:14A-19.10 Public notice and public hearing requirements for delegated local agencies**

- (a) All delegated local agencies shall provide public notice and an opportunity for a public hearing for all requests for substantial modification of an industrial pretreatment program following the procedures under 40 CFR 403.11(b). The delegated local agency shall submit to the Department copies of the public notice, all written comments submitted in response to the public notice and public hearing, if conducted, and responses to comments. The Department shall approve or disapprove the modifications following the procedures noted in N.J.A.C. 7:14A-19.9(e).
- (b) All delegated local agencies shall provide public notice identifying those indirect users which met the significant noncompliance criteria under 40 CFR 403.8(f)(2)(viii) at any time during the period covered by the delegated local agency's 40 CFR Part 403 Annual Report submitted to the Department pursuant to N.J.A.C. 7:14A-19.6(f). This public notice shall be published in a newspaper of general circulation that provides meaningful public notice within the jurisdiction served by the delegated local agency no later than 60 days after the 40 CFR 403 Annual Report due date.
- (c) A delegated local agency shall afford an opportunity to the public to comment on a proposed administrative consent order prior to final adoption if the administrative consent order would establish interim enforcement limits that would relax effluent limitations established in a permit or a prior administrative order. The delegated local agency shall provide public notice of the proposed administrative consent order, announce the length of the comment period, which shall be not less than 30 days, commencing from the date of publication of the notice. A notice shall also include a summary statement describing the nature of the violation necessitating the administrative consent order and its terms and conditions; shall specify how additional information on the administrative consent order may be obtained; and shall identify to whom written comments are to be submitted. At least three days prior to publication of the notice, a written notice containing the same information to be provided in the public notice shall be mailed to the mayor and governing body of the municipality and county in which the violation occurred, and to any other persons who have expressed an interest in the public notice, including any other governmental agencies. The delegated local agency shall consider the written comments

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received during the comment period prior to final adoption of the administrative consent order. Not later than the date that final action is taken on the proposed order, the delegated local agency shall notify each person or group having submitted written comments on the main provisions of the approved administrative consent order and respond to the comments received therefrom.

- (d) The delegated local agency, on its own initiative or at the request of any person submitting written comments pursuant to (c) above, may hold a public hearing on the proposed administrative order or administrative consent order, prior to final adoption if the order would establish interim enforcement limits that would relax for more than 24 months effluent limitations established in a permit or a prior administrative order or administrative consent order. Public notice for the public hearing to be held pursuant to this subsection shall be published not more than 30 and not less than 15 days prior to the holding of the hearing. The hearing shall be held in the municipality in which the violation necessitating the order occurred.
- (e) All delegated local agencies shall provide public notice and may hold a public hearing for any proposed new indirect user IPP permits, proposed renewed indirect user IPP permits, proposed revocations of any indirect user IPP permits, or proposed major modifications to any existing indirect user IPP permits.
- (f) Any public hearing held for a proposed permit action under (e) above shall be conducted consistent with N.J.A.C. 7:14A-15.12.

**7:14A-19.11 Enforcement action for failure to implement or enforce an approved industrial pretreatment program**

- (a) The Department may take enforcement action against a delegated local agency pursuant to N.J.A.C. 7:14-8.17 for failure to implement the conditions of an approved industrial pretreatment program and any subsequent amendments thereto or enforce the conditions of an approved industrial pretreatment program, including the approved enforcement response plan, and any subsequent amendments thereto in accordance with N.J.A.C. 7:14-8.

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**N.J.A.C. 7:14A-19: APPENDIX A ENFORCEMENT RESPONSE PLAN**

**UNAUTHORIZED DISCHARGES**

<b>NONCOMPLIANCE</b>	<b>NATURE OF THE VIOLATION</b>	<b>ENFORCEMENT RESPONSES</b>	<b>TIME FRAME</b>	<b>PERSONNEL</b>	<b>TYPE OF VIOL. &amp; GRACE PERIOD</b>
<b>1.</b> Discharge without a permit (Permit required)	No harm to POTW environment	NOV with application form, if needed	60 days		NM
	Harm to POTW/environment (IU meets SNC criteria under 40 CFR Part 403.8(f)(2)(viii))	Take action to halt activity; Public notice	Action-2 days; public notice-annually, but no later than 60 days after 403 annual report submitted to NJDEP		NM
	Noncompliance with order to submit application	Seek penalty	6 months		NM
<b>2.</b> Failure to renew	Failure to submit application prior to 180 days of expiration of current permit	NOV	60 days		NM
	Failure to apply continues after notice by the POTW	Seek penalty	6 months		NM
<b>3.</b> Discharge outside scope of application/permit	Failure to notify in advance of new introductions of pollutants or significant change in existing pollutants	NOV with permit application to be modified	60 days		NM

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**DISCHARGE LIMIT VIOLATION**

NONCOMPLIANCE	NATURE OF THE VIOLATION	ENFORCEMENT RESPONSES	TIME FRAME	PERSONNEL	TYPE OF VIOL. & GRACE PERIOD
1. Exceedance of local or Federal standard (permit limit)	Individual or monthly non-serious violation	NOV; compliance response/corrective action plan, if needed	60 days from receipt		NM
	Serious violation (individual or monthly)	NOV; Seek at least a mandatory minimum penalty in accordance with N.J.A.C. 7:14-8.16	NOV-60 days; penalty within 6 months		NM
2. Exceedance of local or Federal standard (permit limit) (continued)	Significant Noncompliance (IU meets SNC criteria under 40 CFR Part 403)	Public notice	Annually, but no later than 60 days after 403 annual report submitted to NJDEP.		NM
	Significant noncompliance (IU meets SNC criteria in NJWPCA, under N.J.S.A. 58:10A-3.w.)	NOV; Seek at least a mandatory minimum penalty in accordance with N.J.A.C. 7:14-8.16	NOV-60 days; penalty within 6 months		NM

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**MONITORING AND REPORTING VIOLATIONS**

NONCOMPLIANCE	NATURE OF THE VIOLATION	ENFORCEMENT RESPONSES	TIME FRAME	PERSONNEL	TYPE OF VIOL. & GRACE PERIOD
1. Reporting violation	Late, 5 or more days after due date (but complete)	NOV, seek penalty, including at least mandatory minimum penalty for overdue effluent parameter information, if any, in accordance with N.J.A.C. 7:14-8.9	6 months		NM
	Late 31 days or more after due date (but complete)	Public notice, NOV, and seek penalty, including at least mandatory minimum penalty for overdue effluent parameter information, if any, in accordance with N.J.A.C. 7:14-8.9	Public notice in accordance with approved program Penalty within 6 months		NM
	Incomplete for effluent parameter omission	Seek at least a mandatory minimum penalty in accordance with N.J.A.C. 7:14-8.9	Penalty within 6 months		NM

**MONITORING AND REPORTING VIOLATIONS (CONTINUED)**

NONCOMPLIANCE	NATURE OF THE VIOLATION	ENFORCEMENT RESPONSES	TIME FRAME	PERSONNEL	TYPE OF VIOL. & GRACE PERIOD
	Incomplete for data omission (IU meets SNC criteria under 40 CFR Part 403)	Public notice	Annually		NM
	Incomplete for effluent parameter omission (IU meets SNC criteria under NJWPCA)	Public notice and seek at least a mandatory minimum penalty in accordance with N.J.A.C. 7:14-8.9 and N.J.A.C. 7:14-8.16(a)	Public notice in accordance with approved program Penalty within 6 months		NM
	Incomplete for other omissions (IU meets SNC criteria under NJWPCA)	Public notice and seek at least a mandatory minimum penalty in accordance with N.J.A.C. 7:14-8.16	Public notice in accordance with approved program Penalty within 6 months		NM
	Incomplete for other omissions	NOV	60 days		M – 10 days
	Falsification	Seek penalty or refer to county prosecutor	60 days		NM
<b>2.</b> Failure to adhere to compliance schedules (in control document, permit, AO/ACO, letter of agreement)	Missed milestone by less than 30 days	NOV; seek penalty (note: penalty may be waived if final compliance is met by due date)	NOV-60 days; penalty within 6 months		NM
	Missed milestone by more than 30 days (IU meets SNC criteria under 40 CFR Part 403)	NOV; seek penalty, public notice (note: penalty may be waived if final compliance is met by due date)	NOV-60 days; penalty within 6 months		NM
	Failure to meet final compliance date	NOV; seek penalty	NOV-60 days; penalty within 6 months		NM

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**MONITORING AND REPORTING VIOLATIONS (CONTINUED)**

NONCOMPLIANCE	NATURE OF THE VIOLATION	ENFORCEMENT RESPONSES	TIME FRAME	PERSONNEL	TYPE OF VIOL. & GRACE PERIOD
3. Failure to notify	Failure to report spill or changed discharge	NOV; seek penalty where necessary	NOV within 60 days of discovery; penalty no later than 6 months of discovery		NM
4. Failure to monitor correctly	Incorrect sample location, incorrect sample type, incorrect sample collection techniques, or incorrect sample analysis	NOV, with proper resampling, including sample analysis	60 days		NM
5. Failure to report additional monitoring	POTW inspection finds additional files	NOV with request to submit additional monitoring data	60 days		NM

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**OTHER PERMIT VIOLATIONS**

<b>NONCOMPLIANCE</b>	<b>NATURE OF THE VIOLATION</b>	<b>ENFORCEMENT RESPONSES</b>	<b>TIME FRAME</b>	<b>PERSONNEL</b>	<b>TYPE OF VIOL. &amp; GRACE PERIOD</b>
1. Wastestreams are diluted to achieve discharge limits	Dilution	NOV; seek penalty	NOV-60 days; penalty- within 6 months		NM
2. Continuing failure to halt or prevent a discharge which caused or causes imminent endangerment to human health, welfare, or the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR 403.8(f)(1)(vi)(B)	Refusal to discontinue activity upon notification	Take physical (effective) action or seek court order to halt discharge	2 days max.		NM
3. Failure to maintain in good working order and properly operate, any facilities or systems of control installed to achieve compliance with the terms and conditions of the permit	Violation of operating requirements	NOV	60 days		NM
4. Entry denial	Entry denied or consent withdrawn. Copies of records denied	NOV, seek penalty	6 months		NM
5. Inadequate record keeping	POTW inspector finds files incomplete or missing	NOV	60 days		NM