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N.J.A.C. 7:14A-1

**POLLUTANT DISCHARGE ELIMINATION SYSTEM**

**SUBCHAPTER 21. REQUIREMENTS FOR INDIRECT USERS**

Statutory authority: N.J.S.A. 13:1B-3 et seq., 13:1D-1 et seq., 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.

Date last amended: January 5, 2009

For regulatory history and effective dates see the New Jersey Administrative Code  
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## **SUBCHAPTER 21. REQUIREMENTS FOR INDIRECT USERS**

### **7:14A-21.1 Purpose and scope**

- (a) This subchapter establishes requirements to:
  - 1. Establishes requirements to 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. Sets forth the minimum discharge criteria and reporting requirements for all indirect users; and
  - 3. Sets forth the specific requirements for an individual NJPDES-SIU permit for a significant indirect user as defined in N.J.A.C. 7:14A-1.2 discharging into a non-delegated local agency's treatment works.
- (b) The Department adopts and incorporates herein by reference the General Pretreatment Regulations for Existing and New Sources of Pollution, 40 CFR 403, and National Pretreatment Standards in 40 CFR chapter I, subchapter N, as amended and supplemented.

### **7:14A-21.2 Minimum requirements for all indirect users**

- (a) The following conditions apply to all indirect users:
  - 1. The prohibitions, as set forth in 40 CFR Part 403.5, against the introduction into a local agency's treatment works any of the following:
    - i. Any pollutant(s) which causes pass through or interference;
    - ii. Any pollutants which create a fire or explosion hazard in the local agency's treatment works including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR 261.21;

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- iii. Any pollutants which will cause corrosive structural damage to the local agency's treatment works, but in no case a discharge with pH lower than 5.0, unless the treatment works is specifically designed to accommodate such discharges;
  - iv. Any solid or viscous pollutants in amounts which will cause obstruction to the flow in the local agency's treatment works resulting in interference;
  - v. Any pollutant, including oxygen demanding pollutants (for example, BOD) released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the local agency's treatment works;
  - vi. Heat in amounts which will inhibit biological activity at the local agency's treatment works resulting in interference, but in no case heat in such quantities that the temperature at the local agency's treatment works exceeds 40 degrees Celsius (104 degrees Fahrenheit) unless the Department, upon request of the local agency, approves alternative temperature limits;
  - vii. Petroleum oil, nonbiodegradable cutting oil, or any product of mineral oil origin in amounts that will cause interference or pass through;
  - viii. Any pollutants which result in the presence of toxic gases, vapors, or fumes within the local agency's treatment works in a quantity that may cause acute worker health and safety problems; or
  - ix. Any trucked or hauled pollutant, except at discharge points designated by the local agency.
- 2. The State pretreatment standards for petroleum hydrocarbons pursuant to N.J.A.C. 7:14A-12; and
  - 3. Local limits developed by the local agency pursuant to N.J.A.C. 7:14A-19.7.
- (b) All indirect users shall notify the local agency immediately of all discharges that could cause problems to the local agency's treatment works, including any slug discharge loading.
  - (c) The penalties, including mandatory minimum penalties, and the settlement restrictions applicable to any civil administrative penalty assessment, as specified under N.J.A.C. 7:14-8, are fully applicable to violations by indirect users occurring on or after January 19, 1999.

**7:14A-21.3 Additional requirements for all significant indirect users**

- (a) Within 60 days after the effective date of a pretreatment standard for a subcategory under which an indirect user may be included, the indirect user may request that the control authority provide written determination on whether the indirect user falls within that particular subcategory. If an existing indirect user adds or changes a process or operation which may be included in a subcategory, the existing indirect user shall request this determination prior to commencing discharge from the added or changed process or operation. A new source shall request this determination prior to commencing discharge. Each request shall include:
  - 1. A description of which subcategories might be applicable;
  - 2. Evidence and reasons why a particular subcategory is applicable and why others are not applicable; and
  - 3. The following certification over the signature of the person submitting the request:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”
- (b) Within 180 days after the effective date of a categorical pretreatment standard or 180 days after the final decision by the control authority on the categorical determination request submitted under (a) above, whichever is later, each existing indirect user subject to a categorical pretreatment standard and currently discharging or scheduled to discharge to a local agency shall submit to the control authority a baseline report. The baseline report shall contain the information specified in (b)1 through 7 below. New sources and sources that became users subsequent to the promulgation of an applicable categorical standard shall submit the information specified in (b)1 through 5 below.
  - 1. Identifying information, specifically the name and address of the facility and including the name of the operator and owners;
  - 2. A list of any environmental control permits held by or for the facility;

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3. A brief description of the nature, average rate of production, and Standard Industrial Classification of the operation(s) carried out by such indirect user. This description shall include a schematic process diagram which indicates points of discharge to the local agency from the regulated processes;
4. Information showing the measured average daily and maximum daily flow, in gallons per day, to the local agency's treatment works from each of the following:
  - i. Regulated process streams; and
  - ii. Other streams as necessary to allow use of the combined wastestream formula of N.J.A.C. 7:14A-21.4(h). The control authority may accept verifiable estimates of these flows instead of measured flows where justified by cost or feasibility considerations;
5. Pollutant levels measured as follows:
  - i. The indirect user shall identify the pretreatment standards applicable to each regulated process;
  - ii. The indirect user shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the standard or control authority) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations. In cases where the standard requires compliance with a best management practice or pollution prevention alternative, the user shall submit documentation as required by the control authority or the applicable categorical standards to determine compliance with the standard;
  - iii. The indirect user shall take a minimum of one representative sample to compile data necessary to comply with the requirements of this paragraph;
  - iv. Samples shall be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the indirect user shall measure the flows and concentrations necessary to allow use of the combined wastestream formula of N.J.A.C. 7:14A-21.4(h) in order to evaluate compliance with the pretreatment standards. Where an

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alternative concentration or mass limit has been calculated in accordance with N.J.A.C. 7:14A-21.4 this adjusted limit along with supporting data shall be submitted to the control authority;

- v. Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto. Where 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the Department determines that the 40 CFR Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the local agency or other parties, approved by the Department;
  - vi. The control authority may allow the submission of a baseline report which utilizes only historical data so long as the data are sufficient to determine the need for industrial pretreatment measures; and
  - vii. The baseline report shall indicate the time, date and place, of sampling, and methods of analysis, and shall contain a certification from an authorized representative that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the local agency's treatment works;
6. A statement, reviewed by an authorized representative of the indirect user and certified to by a qualified professional, as to whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance and/or additional pretreatment is required for the indirect user to meet the pretreatment standards and requirements; and
7. If additional pretreatment and/or operation and maintenance shall be required to meet the pretreatment standards, the shortest compliance schedule under which the indirect user shall provide such additional pretreatment and/or operation and maintenance shall be submitted. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.
- i. Where the indirect user's categorical pretreatment standard has been modified by the combined wastestream formula pursuant to N.J.A.C. 7:14A-21.4(h) and/or a fundamentally different factors variance pursuant to N.J.A.C. 7:14A-21.5 at the time the indirect user submits the baseline report required under this subsection, the information required under (b)6 above and this paragraph

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shall pertain to the modified limits;

- ii. If the categorical pretreatment standard is modified by the combined wastestream formula pursuant to N.J.A.C. 7:14A-21.4(h) and/or a fundamentally different factors variance pursuant to N.J.A.C. 7:14A-21.5 after the indirect user submits the baseline report required under this subsection, any necessary amendments to the information required under (b)6 above and this paragraph shall be submitted by the indirect user to the control authority within 60 days after the modified limit is approved.
- (c) Existing sources shall comply with categorical pretreatment standards within three years of the date the standard is effective unless a sooner compliance deadline is specified in the applicable subpart of 40 CFR chapter I, subchapter N. Existing sources which become indirect users subsequent to promulgation of an applicable categorical pretreatment standard shall be considered existing indirect users except where such sources meet the definition of a "new source" under N.J.A.C. 7:14A-1.2. New sources shall install and have in operating condition, and shall "start-up" all pollution control equipment required to meet applicable pretreatment standards, before beginning to discharge. Within the shortest feasible time, not to exceed 90 days from commencement of discharge, new sources shall meet all applicable pretreatment standards.
- (d) As conditions to any compliance schedule for meeting categorical pretreatment standards pursuant to (b)7 above, the indirect user shall:
1. Incorporate in the compliance schedule increments of progress described as dates for the commencement and completion of milestones in the construction and operation of additional pretreatment as required for the indirect user to meet the applicable categorical pretreatment standards (for example, hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction). No such increment shall exceed nine months; and
  2. Not later than 14 days following each date in the compliance schedule and the final date for compliance, submit a progress report to the control authority including, at a minimum, whether or not the indirect user met the increment of progress on such date and, if not, the anticipated date of compliance with such increment of progress, the reason for delay, and the steps being taken by the indirect user to resume the construction schedule established. In no event shall more than nine months elapse between such progress reports to the control authority.

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- (e) Within 90 days following the date for final compliance with applicable categorical pretreatment standards or, in the case of a new source, within 90 days following commencement of the introduction of wastewater into the local agency's treatment works, any indirect user subject to pretreatment standards and requirements shall submit to the control authority a report containing the information described in (b)4 through 6 above. For indirect users subject to equivalent mass or concentration limits established by the control authority in accordance with the procedures in N.J.A.C. 7:14A-21.4, this report shall contain a reasonable measure of the indirect user's long term production rate. For all other indirect users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the indirect user's actual production during the appropriate sampling period.
- (f) Periodic reports on continued compliance shall be submitted as follows:
  - 1. Any indirect user subject to a categorical pretreatment standard (except a non-significant categorical indirect user as defined at N.J.A.C. 7:14A-1.2), after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the local agency, shall submit to the control authority during the months of June and December, unless required more frequently in the pretreatment standard or by the control authority, a report indicating the nature and concentration of pollutants in the effluent which are limited by such categorical pretreatment standards. This report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the discharge reported in (b)4 above except that the control authority may require more detailed reporting of flows. In cases where the pretreatment standard requires compliance with a best management practice (or pollution prevention alternative), the user shall submit documentation required by the control authority or the pretreatment standard necessary to determine the compliance status of the user. At the discretion of the control authority and in consideration of such factors as local high or low flow rates, holidays, and budget cycles, the control authority may approve the designation of months other than June and December during which the above reports are to be submitted.
  - 2. An indirect user subject to a categorical pretreatment standard may be authorized by a control authority to forgo sampling of a pollutant regulated by a categorical pretreatment standard if the indirect user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the indirect user. This authorization is subject to the following conditions:



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- i. A monitoring waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility, provided that the sanitary wastewater is not regulated by an applicable categorical standard and otherwise includes no process wastewater.
- ii. The monitoring waiver shall be valid only for the duration of the effective period of the permit or other equivalent individual control mechanism, but in no case longer than five years. The user shall submit a new request for the monitoring waiver before the waiver can be granted for each subsequent control mechanism.
- iii. In making a demonstration that a pollutant is not present, the indirect user shall provide data from at least one sampling of the facility's process wastewater prior to any treatment provided at the facility that is representative of all wastewater from all processes. The request for a monitoring waiver shall be signed in accordance with N.J.A.C. 7:14A-4.9(a), and include the certification statement at (a)3 above. Non-detectable sample results may be used as a demonstration that a pollutant is not present only if the USEPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.
- iv. The monitoring waiver approved shall be included as a condition in the user's control mechanism. The reasons supporting the monitoring waiver and any information submitted by the user in its request for the waiver shall be maintained by the control authority for five years after expiration of the waiver.
- v. Upon approval of the monitoring waiver and revision of the user's control mechanism by the control authority, the indirect user shall certify each report, using the statement below, that there has been no increase in the pollutant in its wastestream due to activities of the indirect user:

“Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR (specify applicable National Pretreatment Standard part(s)), I certify that, to the best of my knowledge and belief, there has been no increase in the level of (list pollutant(s)) in the wastewaters due to the activities at the facility since filing of the last periodic report under N.J.A.C. 7:14A-21.3(f)1.”
- vi. In the event that a pollutant for which the monitoring waiver has been granted is found to be present or is expected to be present based on changes that occur in the user's operations, the user shall immediately notify the control authority and comply with the monitoring requirements of (f)1 above or other more frequent monitoring requirements imposed by the control authority.

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- vii. The provisions of (f)2 above do not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.
- 3. Where the control authority has imposed mass limitations on indirect users as provided for by N.J.A.C. 7:14A-21.4(h), the report required under (f)1 above shall indicate the mass of pollutants regulated by pretreatment standards in the discharge from the indirect user.
- 4. For indirect users subject to equivalent mass or concentration limits established by the control authority in accordance with the procedures in N.J.A.C. 7:14A-21.4(a), the report required under (f)1 above shall contain a reasonable measure of the indirect user's long term production rate. For all other indirect users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report required under (f)1 above shall include the indirect user's actual average production rate for the reporting period.
- (g) Monitoring and analysis to demonstrate continued compliance shall be conducted as follows:
  - 1. Except in the case of non-significant categorical indirect users, the reports required under (b), (e) and (f) above and (h) below shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the control authority, of pollutants contained therein which are limited by the applicable pretreatment standards. This sampling and analysis may be performed by the control authority in lieu of the indirect user. Where the control authority performs the required sampling and analysis in lieu of the indirect user, the indirect user will not be required to submit the compliance certification required under (b)6 and (e) above. In addition, where the control authority itself collects all the information required for the report, including flow data, the indirect user will not be required to submit the report required under (b), (e) and (f) above and (h) below.
  - 2. If sampling performed by an indirect user indicates a violation of pretreatment standards, the indirect user shall notify the control authority within 24 hours of becoming aware of the violation. The indirect user shall repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within 30 days after becoming aware of the violation. Where the control authority has performed the sampling and analysis in lieu of the indirect user, the control authority shall perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the

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repeat analysis. Resampling is not required if:

- i. The control authority conducts sampling of the indirect user's discharge at a frequency of at least once per month; or
  - ii. The control authority conducts sampling of the indirect user's discharge between the time when the initial sampling was conducted and the time when the indirect user or the control authority receives the results of this sampling.
3. The reports required under (b), (e), and (f) above and (h) below shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period. The control authority shall require monitoring at a frequency necessary to assess and ensure compliance by indirect users with applicable pretreatment standards and requirements. Sampling shall be as follows:
  - i. Grab samples shall be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds.
  - ii. For all pollutants not in (g)3i above, 24-hour composite samples shall be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the control authority.
  - iii. Where time-proportional composite sampling or grab sampling is authorized by the control authority, the samples shall be representative of the discharge and the decision to allow the alternative sampling shall be documented in the indirect user file for that facility or facilities.
  - iv. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate USEPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows:
    - (1) For cyanide, total phenols, and sulfides, the samples may be composited in the laboratory or in the field.
    - (2) For volatile organics and oil and grease, the samples may be composited in the laboratory.
    - (3) Composite samples for other parameters unaffected by the compositing procedures as documented in approved USEPA methodologies may be authorized by the control authority, as appropriate.
4. For sampling required in support of baseline monitoring and 90-day compliance reports required in (b) and (e) above, a minimum of four grab samples shall be used for pH, cyanide, total phenols, oil and

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grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the control authority may authorize a lower minimum where historical data is representative of the current discharge and demonstrates compliance. For the reports required by (f) above and (h) below, the number of grab samples necessary to assess and ensure compliance with applicable pretreatment standards and requirements shall be determined by the control authority.

5. All analyses shall be performed in accordance with procedures contained in 40 CFR Part 136, as amended, or with any other test procedures approved by the Department. Sampling shall be performed in accordance with the techniques approved by the Department. Where 40 CFR Part 136 does not include sampling or analytical techniques for the pollutants in question, or where the Department determines that the 40 CFR Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other sampling and analytical procedures, including procedures suggested by the control authority, local agency or the indirect user, approved by the Department.
  6. If an indirect user subject to the reporting requirement in (f) above and (h) below monitors any regulated pollutant at the appropriate sampling location more frequently than required by the control authority, using the procedures prescribed in (g)5 above, the results of this monitoring shall be included in the report.
- (h) Significant indirect users as defined in N.J.A.C. 7:14A-1.2 shall submit to the control authority at least once each month (on dates specified by the control authority) a description of the nature, concentration, and flow of the pollutants required by the control authority to be reported. These reports shall be based on sampling and analysis performed in the period covered by the report, and in accordance with the techniques described in 40 CFR Part 136, as amended. This sampling and analysis may be performed by the control authority in lieu of the significant indirect user. In cases where a local limit requires compliance with a best management practice or pollution prevention alternative, the user shall submit documentation required by the control authority to determine the compliance status of the user.
- (i) Requirements for notification regarding hazardous waste are as follows:
1. The indirect user shall notify the local agency, the USEPA Regional Waste Management Division Director, and the Department's Division of Solid and Hazardous Waste in writing of any discharge into the local agency's treatment works of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification shall include the name of the hazardous waste as set forth

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in 40 CFR Part 261, the USEPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the indirect user discharges more than 100 kilograms of such waste per calendar month to the local agency's treatment works, the notification shall also contain the following information to the extent such information is known and readily available to the indirect user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. Indirect users who commence discharging after the effective date of this chapter shall provide the notification no later than 180 days after the discharge of the listed or characteristic hazardous waste. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notification of changed discharges must be submitted under (j) below. The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of (b), (e) and (f) above.

2. Dischargers are exempt from the requirements of (i)1 above during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Additional notification is not required in subsequent months during which the indirect user discharges more than such quantities of any hazardous waste.
  3. In the case of any new promulgated regulation under section 3001 of RCRA or the State's Solid Waste Management Act identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the indirect user shall notify the local agency, the USEPA Regional Waste Management Waste Division Director, and the Division of Solid and Hazardous Waste of the discharge of such substance within 90 days of the effective date of such regulation.
  4. In the case of any notification made under this subsection, the indirect user shall certify that it has a program in place to reduce the volume and toxicity of hazardous waste generated to the degree it has determined to be economically practical.
- (j) All indirect users shall promptly notify the control authority (and the local agency if the local agency is not the control authority) in advance of any

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substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the indirect user has submitted initial notification pursuant to (i) above.

- (k) A facility determined to be an NSCIU pursuant to N.J.A.C. 7:14A-21.9(g) shall annually submit an NSCIU report that includes:
  - 1. The following certification statement:

“Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical pretreatment standards under 40 CFR \_\_\_\_, I certify that, to the best of my knowledge and belief that during the period from (month, day, year) to (month, day, year): (a) The facility described as (facility name) met the definition of a non-significant categorical indirect user as described in N.J.A.C. 7:14A-21.9(g); (b) the facility complied with all applicable pretreatment standards and requirements during this reporting period; and (c) the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period. This compliance certification is based upon the following information: (user shall list supporting information).”
  - 2. Information necessary to support the certification statement; and
  - 3. A signature in accordance with N.J.A.C. 7:14A-4.9(a).

**7:14A-21.4 Categorical standards, calculation of equivalent and/or alternative limits**

- (a) When the categorical pretreatment standards are expressed in terms of production, equivalent effluent limitations shall be calculated as follows:
  - 1. When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the control authority may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual indirect users.
  - 2. A control authority calculating equivalent mass-per-day limitations under (a)1 above shall calculate such limitations by multiplying the limits in the categorical pretreatment standard by the indirect user's average rate of production. This average rate of production shall be based not upon the designed production capacity but rather upon a reasonable measure of the indirect user's actual long-term daily production, such as the average daily production during a representative year. For new sources, actual production shall be estimated using projected production.
  - 3. A control authority calculating equivalent concentration limitations

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under (a)1 above shall calculate such limitations by dividing the mass limitations derived under (a)2 above by the average daily flow rate of the indirect user's regulated process wastewater. This average daily flow rate shall be based upon a reasonable measure of the indirect user's actual long-term average flow rate, such as the average daily flow rate during the representative year. For new sources, flow rate shall be estimated using projected flow rate.

- (b) When the limits in a categorical pretreatment standard are expressed only in terms of pollutant concentrations, an indirect user may request that the control authority convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the control authority.

1. To be eligible for equivalent mass limits, the indirect user shall:
  - i. Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its control mechanism;
  - ii. Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical pretreatment standard, and not have used dilution as a substitute for treatment;
  - iii. Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate shall be representative of current operating conditions;
  - iv. Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the discharge; and
  - v. Have consistently complied with all applicable categorical pretreatment standards during the period (determined by the control authority) prior to the user's request for equivalent mass limits.
2. An indirect user subject to equivalent mass limits shall:
  - i. Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;
  - ii. Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;
  - iii. Continue to record the facility's production rates and notify the control authority whenever production rates are expected to vary by more than 20 percent from those production rates determined

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in (b)1iii above. Upon notification of a revised production rate, reassessment and revision of the equivalent mass limit will be performed by the control authority as necessary to reflect changed conditions at the facility; and

- iv. Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to (b)1ii above, so long as the indirect user discharges under an equivalent mass limit.
- (c) Mass limits for the categorical pretreatment standards at 40 CFR Parts 414, 419 and 455 may be converted to concentration limits by the control authority for purposes of calculating limitations applicable to individual indirect users provided:
  - 1. The concentrations listed in the applicable subparts of 40 CFR Parts 414, 419 and 455 are used; and
  - 2. The user documents that dilution is not being substituted for treatment as prohibited by (g) below.
- (d) Equivalent limitations calculated in accordance with (a), (b) and (c) above are deemed pretreatment standards for the purposes of section 307(d) of the Federal Act and this subchapter. Once incorporated into its control mechanism, the indirect user will be required to comply with the equivalent limitations in lieu of the promulgated categorical standards from which the equivalent limitations were derived.
- (e) When a categorical pretreatment standard that specifies one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum monthly average, or four-day average, limitations are applied, the same production or flow figure shall be used in calculating both the maximum and average equivalent limitations.
- (f) Any indirect user operating under a control mechanism incorporating equivalent mass or concentration limits calculated from a production based standard shall notify the control authority within two business days after the indirect user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any indirect user that does not notify the control authority of such anticipated change shall be required to meet the mass or concentration limits in its IPP permit that were based on the original estimate of the long term average production rate.
- (g) Except where expressly authorized to do so by an applicable pretreatment standard or requirement, no indirect user shall increase the use of process water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement. The control authority may impose mass limitations on indirect users which are using dilution to meet applicable



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pretreatment standards or requirements, or in other cases where the imposition of mass limitations is appropriate.

- (h) Where process effluent is mixed prior to treatment with wastewaters other than those generated by the regulated process, fixed alternative categorical limits shall be derived by the control authority or by the indirect user with the written concurrence of the control authority. These alternative categorical limits shall be applied to the mixed effluent. When deriving alternative categorical limits, the control authority or indirect user shall calculate both an alternative daily maximum value using the daily maximum value(s) specified in the appropriate categorical pretreatment standard(s) and an alternate monthly or consecutive sampling day average value using the monthly or consecutive sampling day average value(s) specified in the appropriate categorical pretreatment standard(s). The indirect user shall comply with the alternative categorical daily maximum and monthly average or consecutive sampling day limits fixed by the control authority, in the indirect user's permit. Modification is authorized whenever there is a material or significant change in the values used in the calculation to fix alternative categorical limits for the regulated pollutant. An indirect user shall immediately report any such material or significant change to the control authority. Where appropriate, alternative categorical limits shall be re-calculated within 30 days of being informed of changes by the indirect user.

1. For purposes of these formulas, the average daily flow means a reasonable measure of the average daily flow for a 30-day period. For new sources, flows shall be estimated using projected values. The alternative limit for a specified pollutant shall be derived by the use of either of the following formulas:

- i. Alternative concentration limit.

$$C_T = \frac{\sum_{i=1}^N C_i F_i}{\sum_{i=1}^N F_i} * \frac{F_T - F_D}{F_T}$$

where

$C_T$  = the alternative concentration limit for the combined wastestream.

$C_i$  = the categorical pretreatment standard concentration limit for a pollutant in the regulated stream  $i$ .

$F_i$  = the average daily flow (at least a 30-day average) of

stream i to the extent that it is regulated for such pollutant.

$F_D$  = the average daily flow (at least a 30-day average) from:

- (1) Boiler blowdown streams, non-contact cooling streams, stormwater streams, and demineralizer backwash streams, provided, however, that where such streams contain a significant amount of a pollutant, and the combination of such streams, prior to treatment, with an indirect user's regulated process wastestream(s) will result in a substantial reduction of that pollutant, the control authority, upon application of the indirect user, may exercise its discretion to determine whether such stream(s) shall be classified as diluted or unregulated. In its permit application to the control authority, the indirect user shall provide engineering, production, sampling and analysis and such other information so that the control authority can make its determination; or
- (2) Sanitary wastestreams where such streams are not regulated by a categorical pretreatment standard; or
- (3) From any process wastestreams which were or could have been entirely exempted from categorical pretreatment standards pursuant to paragraph 8 of the NRDC v. Costle Consent Decree (12 ERC 1833) for one or more of the following reasons :
  - (A) The pollutants of concern are not detectable in the effluent from the indirect user (paragraph (8)(a)(iii)) and/or as specified in the appropriate categorical standards;
  - (B) The pollutants of concern are present only in trace amounts and are neither causing nor likely to cause toxic effects (paragraph (8)(a)(iii)) and/or as specified in the appropriate categorical pretreatment standards;
  - (C) The pollutants of concern are present in amounts too small to be effectively reduced by technologies known to the Administrator (paragraph (8)(a)(iii)); or
  - (D) The wastestream contains only pollutants which are compatible with the local agency's treatment works (paragraph (8)(b)(i)) and/or as specified in the appropriate categorical standards.

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$F_T$  = The average daily flow (at least a 30-day average) through the indirect user's treatment works (includes  $F_i$ ,  $F_D$  and unregulated streams).

$N$  = The total number of regulated streams.

ii. Alternative mass limit.

$$M_T = \sum_{i=1}^N M_i * \frac{F_T - F_D}{\sum_{i=1}^N F_i}$$

where

$M_T$  = the alternative mass limit for a pollutant in the combined wastestream.

$M_i$  = the categorical pretreatment standard mass limit for a pollutant in the regulated stream  $i$  (the categorical pretreatment mass limit multiplied by the appropriate measure of production).

$F_i$  = the average flow (at least a 30-day average) of stream  $i$  to the extent that it is regulated for such pollutant.

$F_D$  = the average daily flow (at least a 30-day average) from:

- (1) Boiler blowdown streams, non-contact cooling streams, stormwater streams, and demineralizer backwash streams, provided, however, that where such streams contain a significant amount of a pollutant, and the combination of such streams, prior to treatment, with an indirect user's regulated process wastestream(s) will result in a substantial reduction of that pollutant, the control authority, upon application of the indirect user, may exercise its discretion to determine whether such stream(s) shall be classified as diluted or unregulated. In its permit application to the control authority, the indirect user shall provide engineering, production, sampling and analysis and such other information so that the control authority can make its determination; or
- (2) Sanitary wastestreams where such streams are not regulated by a categorical pretreatment standard; or
- (3) From any process wastestreams which were or could have been entirely exempted from categorical pretreatment

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standards pursuant to paragraph 8 of the NRDC v. Costle Consent Decree (12 ERC 1833) for one or more of the following reasons:

- (A) The pollutants of concern are not detectable in the effluent from the indirect user (paragraph (8)(a)(iii)) and/or as specified in the appropriate categorical standards;
- (B) The pollutants of concern are present only in trace amounts and are neither causing nor likely to cause toxic effects (paragraph (8)(a)(iii)) and/or as specified in the appropriate categorical standards;
- (C) The pollutants of concern are present in amounts too small to be effectively reduced by technologies known to the Administrator (paragraph (8)(a)(iii)); or
- (D) The wastestream contains only pollutants which are compatible with the local agency's treatment works (paragraph 8(b)(i)) and/or as specified in the appropriate categorical standards.

$F_T$  = The average flow (at least a 30-day average) through the indirect user's treatment works (includes  $F_i$ ,  $F_D$  and unregulated streams).

$N$  = The total number of regulated streams.

2. An alternative pretreatment limit shall not be used if such alternative limit is below the analytical detection limit for any of the regulated pollutants.
3. The indirect user shall monitor, to ensure compliance with the alternative categorical limits, in accordance with the requirements of N.J.A.C. 7:14A-21.3(g).
4. Where a treated regulated process wastestream is combined prior to treatment with wastewaters other than those generated by the regulated process, the indirect user may monitor either the segregated process wastestream or the combined wastestream for the purpose of determining compliance with applicable pretreatment standards. If the indirect user monitors the segregated process wastestream, it shall apply the applicable categorical pretreatment standard. If the indirect user chooses to monitor the combined wastestream, it shall apply an alternative discharge limit calculated using the combined wastestream formula as provided in this section. The indirect user may change

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monitoring points only after receiving approval from the control authority. The control authority shall ensure that any change in an indirect user's monitoring point(s) will not allow the indirect user to substitute dilution for adequate treatment to achieve compliance with applicable standards.

- (i) Categorical pretreatment standards may be adjusted to reflect the presence of pollutants in the indirect user's intake water. Any indirect user wishing to obtain credit for intake pollutants shall submit a written request to the control authority. Upon such request, the applicable standard will be calculated on a "net" basis (that is, adjusted to reflect credit for pollutants in the intake water) if the requirements of (i)1 below are met.
  1. Categorical pretreatment standards may be adjusted to reflect the presence of pollutants in the indirect user's intake water provided either:
    - i. The applicable categorical pretreatment standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or
    - ii. The indirect user demonstrates that the control system it proposes or uses to meet applicable categorical pretreatment standards would, if properly installed and operated, meet the standards in the absence of pollutants in the intake waters.
  2. Credit for generic pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS), and oil and grease shall not be granted unless the indirect user demonstrates that the constituents of the generic measure in the indirect user's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.
  3. Credit shall be granted only to the extent necessary to meet the applicable categorical pretreatment standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credit and compliance with standard(s) adjusted under this section.
  4. Credit shall be granted only if the indirect user demonstrates that the intake water is drawn from the same body of water as that into which the local agency's treatment works discharges. The control authority may waive this requirement if it finds that no environmental degradation will result.

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**7:14A-21.5 Variance from categorical pretreatment standards for fundamentally different factors**

- (a) Any interested person believing that factors relating to an indirect user are fundamentally different from the factors considered during development of a categorical pretreatment standard applicable to that indirect user and that the existence of those factors justifies a different discharge limit than specified in the applicable categorical pretreatment standard may request a fundamentally different factors variance under this section.
  - 1. A request for a variance based upon fundamentally different factors shall be approved only if:
    - i. There is an applicable categorical pretreatment standard which specifically controls the pollutant for which alternative limits have been requested;
    - ii. Factors relating to the discharge controlled by the categorical pretreatment standard are fundamentally different from the factors considered by USEPA in establishing the standards; and
    - iii. The request for a variance is made in accordance with the procedural requirements of (e) and (f) below.
  - 2. A variance request for the establishment of limits less stringent than required by the standard shall be approved only if:
    - i. The alternative limit requested is no less stringent than justified by the fundamental difference;
    - ii. The alternative limit will not result in a violation of any prohibition established under N.J.A.C. 7:14A-21.2(a)1;
    - iii. The alternative limit will not result in a non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the pretreatment standards; and
    - iv. Compliance with the standards (either by using the technologies upon which the standards are based or by using other control alternatives) would result in either:
      - (1) A removal cost (adjusted for inflation) wholly out of proportion to the removal cost considered during development of the standards; or
      - (2) A non-water quality environmental impact (including

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energy requirements) fundamentally more adverse than the impact considered during development of the standards.

3. A variance request for the establishment of limits more stringent than required by the standards shall be approved only if:
  - i. The alternative limit request is no more stringent than justified by the fundamental difference; and
  - ii. Compliance with the alternative limit would not result in either:
    - (1) A removal cost (adjusted for inflation) wholly out of proportion to the removal cost considered during development of the standards; or
    - (2) A non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the standards.
- (b) Factors which may be considered fundamentally different are:
  1. The nature or quality of pollutants contained in the raw waste load of the indirect user's process wastewater;
  2. The volume of the indirect user's process wastewater and effluent discharged;
  3. The non-water quality environmental impact of control and treatment of the indirect user's raw waste load;
  4. The energy requirements of the application of control and treatment technology;
  5. The age, size, land availability, and configuration as they relate to the indirect user's equipment or facilities, processes employed, process changes, and engineering aspects of the application of control technology; and
  6. The cost of compliance with required control technology.
- (c) A variance request or portion of such a request under this section shall not be granted on any of the following grounds:
  1. The feasibility of installing the required waste treatment equipment within the time the Act allows;
  2. The assertion that the standards cannot be achieved with the appropriate waste treatment facilities installed, if such assertion is not

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based on factors listed in (b) above;

3. The indirect user's ability to pay for the required waste treatment; or
  4. The impact of a discharge on the quality of the local agency's receiving waters.
- (d) Nothing in this section shall be construed to impair the right of any local agency to impose more stringent limitations than required by Federal law.
- (e) Requests for a variance and supporting information shall be submitted in writing to the Department no later than 180 days after the date on which a categorical pretreatment standard is published in the Federal Register for a request based on a categorical pretreatment standard promulgated on or after February 4, 1987.
1. Where the indirect user has requested a categorical determination pursuant to N.J.A.C. 7:14A-21.3(a), the indirect user may elect to await the results of the categorical determination before submitting a variance request under this section. Where the indirect user so elects, he or she must submit the variance request within 30 days after a final decision has been made on the categorical determination.
- (f) Written variance requests shall include:
1. The name and address of the person making the request;
  2. Identification of the interest of the requester which is affected by the categorical pretreatment standard for which the variance is requested;
  3. Identification of the local agency currently receiving the waste from the indirect user for which alternative discharge limits are requested;
  4. Identification of the categorical pretreatment standards which are applicable to the indirect user;
  5. A list of each pollutant or pollutant parameter for which an alternative discharge limit is sought;
  6. The alternative discharge limits proposed by the requester for each pollutant or pollutant parameter identified pursuant to (f)5 above;
  7. A description of the indirect user's existing water pollution control facilities;
  8. A schematic flow representation of the indirect user's water system including water supply, process wastewater systems, and points of discharge; and



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9. A statement of facts clearly establishing why the variance request should be approved, including detailed support data, documentation, and evidence necessary to fully evaluate the merits of the request, e.g., technical and economic data collected by the USEPA and used in developing each pollutant discharge limit in the pretreatment standard.
- (g) The Department shall act only on written requests for variances that contain all of the information required pursuant to (f) above. Persons who have made incomplete submissions will be notified by the Department that their requests are deficient and unless the time period is extended, will be given up to 30 days to remedy the deficiency. If the deficiency is not corrected within the time period allowed by the Department, the request for a variance shall be denied.
- (h) Upon receipt of a complete request, the Department shall provide public notice of receipt, opportunity to review the submission, and opportunity to comment.
  1. The public notice shall be published in a manner designed to inform interested and potentially interested persons of the request, and shall include mailing notices to:
    - i. The local agency into whose treatment works the indirect user requesting the variance discharges;
    - ii. Adjoining states whose waters may be affected;
    - iii. Agencies responsible for areawide Water Quality Management Plan, Federal and State fish, shellfish and wildlife resource agencies; and
    - iv. Any other person or group who has requested individual notice, including those on appropriate mailing lists.
  2. The public notice shall provide for a period not less than 30 days following the date of the public notice during which time interested persons may review the request and submit written comments on the request.
  3. Following the comment period, the Department will make a determination on the request, taking into consideration any comments received. Notice of this final decision shall be provided to the requester and the indirect user for which the variance is requested, if different, the local agency into whose treatment works the indirect user discharges and all persons who submitted comments on the request.
- (i) Review of requests by the Department is as follows:

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1. Where the Department finds that fundamentally different factors do not exist, it shall deny the request and notify the requester (and indirect user where they are not the same) and the local agency of the denial.
  2. Where the Department finds that fundamentally different factors do exist, it shall forward the request, with a recommendation that the request be approved, to the USEPA Administrator. (Review of the variance request by USEPA is governed by 40 CFR Part 403.13(l)).
- (j) Requests for an adjudicatory hearing shall be as follows:
1. If the Department denies the variance request, the requester may request an adjudicatory hearing pursuant to N.J.A.C. 7:14A-17.
  2. If USEPA denies the variance request, the requester may seek relief pursuant to 40 CFR Part 403.13(m).

#### **7:14A-21.6 Bypass**

- (a) An indirect user may allow any bypass to occur which does not cause pretreatment standards to be violated, but only if such bypass is for essential maintenance to ensure efficient operation. Such bypasses are not subject to (b) and (c) below.
- (b) Notice of bypass shall be as follows:
1. If an indirect user knows in advance of the need for a bypass, it shall submit prior notice to the control authority, if possible at least 10 days before the date of the bypass.
  2. An indirect user shall inform the control authority by telephone or in person of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time the indirect user becomes aware of the bypass. A written submission shall also be provided within five days of the time the indirect user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The control authority may waive the written report on a case-by-case basis if the information of the bypass by telephone or in person was received within 24 hours of the indirect user's becoming aware of the bypass.
- (c) Bypass is prohibited, and the control authority may take enforcement action against an indirect user for a bypass, unless:

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1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  3. The indirect user notified the control authority as required under (b) above.
- (d). The control authority may approve an anticipated bypass, after considering its adverse effects, if the control authority determines that it will meet the conditions in (c)1 through 3 above.

**7:14A-21.7 Additional requirements for facilities which meet the SIU definition and discharge to a delegated local agency's treatment works**

Any indirect user which meets the SIU definition in N.J.A.C. 7:14A-1.2 and discharges or plans to discharge to a delegated local agency's treatment works shall obtain an IPP permit from that delegated local agency unless exempted by the delegated local agency as an NSCIU in accordance with N.J.A.C. 7:14A-21.9(g). Delegated local agencies are required pursuant to N.J.A.C. 7:14A-19.3(c)2 to issue IPP permits to such indirect users.

**7:14A-21.8 Additional requirements for facilities which meet the SIU definition and discharge to a non-delegated local agency's treatment works**

An indirect user which meets the SIU definition in N.J.A.C. 7:14A-1.2 and discharges or plans to discharge to a local agency which is not a delegated local agency as defined at N.J.A.C. 7:14A-1.2 shall obtain an individual NJPDES-SIU permit from the Department pursuant to N.J.A.C. 7:14A-2.4 and 7:14A-4.

**7:14A-21.9 Exemptions from the requirements for an individual NJPDES-SIU permit from the Department**

- (a) An indirect user authorized to discharge by the local agency is exempt from the requirement to obtain an individual NJPDES-SIU permit from the Department if:
1. The indirect user does not meet the SIU definition;
  2. The indirect user discharges to a delegated local agency's treatment works; or

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3. The indirect user meets the non-significant categorical indirect user criteria set forth in (g) below.
- (b) The Department may, at its discretion, revoke a NJPDES-SIU permit if the permittee meets the exemption criteria of (a) above.
- (c) A permittee may request revocation of an individual NJPDES-SIU permit by submitting to the Department a certification by an authorized representative of the permittee stating the date and describing in detail when and why the permittee became eligible for an exemption pursuant to (a) above.
- (d) The Department shall revoke the NJPDES-SIU permit if the permittee establishes pursuant to (c) above that the permittee qualifies for an exemption under (a) above.
- (e) The terms and conditions of the individual NJPDES-SIU permit, including, but not limited to, the requirement to file a timely application for permit renewal, remain in full force and effect unless and until such permit is revoked consistent with the procedures in N.J.A.C. 7:14A-16.
- (f) If an individual NJPDES-SIU permit is revoked pursuant to this section, the user may continue to discharge and shall comply with any pretreatment requirements of the local agency and this subchapter.
- (g) An indirect user subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N, may be determined by the control authority to be an NSCIU rather than a significant indirect user if the user meets the following criteria:
  1. The indirect user never discharges more than 100 GPD of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard);
  2. The indirect user has consistently complied with all applicable categorical pretreatment standards and requirements; and
  3. The indirect user never discharges any untreated concentrated wastewater.

**7:14A-21.10 Establishing conditions and effluent limitations for an individual NJPDES-SIU permit issued by the Department**

- (a) Effluent limitations for NJPDES-SIU permits shall be developed for the applicable pollutants based on one or more of the following:
  1. Applicable or relevant categorical pretreatment standards under 40 CFR Chapter I, Subchapter N, calculated and/or adjusted if applicable in accordance with N.J.A.C. 7:14A-21.4;

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2. Local limits developed in accordance with N.J.A.C. 7:14A-19.7;
  3. In the absence of local limits developed by the local agency in accordance with N.J.A.C. 7:14A-19.7, limitations will be calculated by the Department to prevent pass through or interference at the receiving local agency's treatment works using the Local Limits Guidance Manual (USEPA, Office of Wastewater Management, July 2004), incorporated herein by reference, including any supplements and amendments thereto;
  4. Limitations based upon performance of existing and proposed wastewater pretreatment units; and
  5. Minimum requirements for all indirect users of local agencies specified in N.J.A.C. 7:14A-21.2.
- (b) In addition to effluent limitations, the individual NJPDES-SIU permit shall contain the following conditions, requirements and/or provisions, as applicable:
1. Reporting and filing requirements in accordance with N.J.A.C. 7:14A-21.3;
  2. Slug discharge control plan requirements as specified in N.J.A.C. 7:14A-19.6(a)7.
  3. Residuals management requirements pursuant to N.J.A.C. 7:14A-6.15;
  4. Treatment Works Approval requirements such as proper maintenance and operation of the pretreatment system and, licensed operator requirements in accordance with N.J.A.C. 7:14A-22;
  5. Compliance schedule pursuant to N.J.A.C. 7:14A-6.4(a);
  6. Bypass provisions pursuant to N.J.A.C. 7:14A-21.6; and
  7. Best management practices (BMP) provisions to implement the prohibitions listed in 40 CFR 403.5(a)(1) and (b).

**7:14A-21.11 Violations; closing off of use of sewerage connections**

- (a) The Department or the local agency may, in instances of indirect user non-compliance, take such steps as may be necessary to seal or close off connections from the local agency to the indirect user until it is satisfied that adequate measures have been taken to prevent the recurrence of non-compliance in accordance with N.J.S.A. 58:11-56.

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**7:14A-21.12 Requirements for Dental Facilities**

- (a) This section establishes best management practices and regulatory requirements for owners of dental facilities that generate amalgam waste through the removal or placement of amalgams. The requirements of this section do not apply to a dental facility at which no dentistry is practiced other than any of the following specialties:
  - 1. Orthodontics;
  - 2. Periodontics;
  - 3. Endodontics;
  - 4. Oral and Maxillofacial Surgery;
  - 5. Oral and Maxillofacial Radiology; and
  - 6. Oral and Maxillofacial Pathology.
- (b) Except as provided under (c) below, an owner of any dental facility that generates amalgam waste shall be exempt from the requirement to obtain a NJPDES-SIU permit from the Department or the delegated local agency for the discharge of wastewater into a local agency's treatment works, provided the owner complies with following requirements:
  - 1. The owner of a dental facility shall implement the Best Management Practice described in (d) below no later than October 1, 2008;
  - 2. The owner of the dental facility shall install an amalgam separator to serve every dental chair in the facility where amalgam waste is generated. The amalgam separator must be adequately sized for the maximum expected flow rate. The amalgam separator shall be installed no later than October 1, 2009. The separator shall conform with the ISO 11143 protocol. Each dental facility constructed on or after October 1, 2007 shall include an installed amalgam separator that conforms with the ISO 11143 protocol. A separator shall be deemed to meet the required ISO protocol if it conforms to the ISO 11143 protocol issued in 1999 or later; and
  - 3. The owner of a dental facility subject to this section shall register and certify compliance with the requirements of (b)1 and 2 above. This registration and certification shall be submitted annually to the Department on forms or in the format provided by the Department.
- (c) If a local agency conducts a headworks analysis pursuant to N.J.A.C. 7:14A-19.7(a) and determines that additional mercury control measures are

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necessary to ensure compliance with its NJPDES permit, then the control authority shall impose additional mercury control measures on dischargers to the local agency's treatment works, including, as appropriate, dental facilities subject to this section. Where additional mercury control measures are necessary, all dental facilities discharging to such local agency shall apply for a NJPDES-SIU permit.

- (d) Best management practices require a dental facility to, at a minimum:
1. Use mercury-free material when appropriate;
  2. Eliminate all use of bulk elemental mercury;
  3. Use precapsulated alloys only;
  4. Recycle used disposable capsules containing amalgam;
  5. Maintain and operate the amalgam separator when installed according to its manufacturer's specifications;
  6. Install chair-side traps in both the vacuum system and cuspidor of each operatory where restoration work is done;
  7. Change and clean chair-side traps frequently;
  8. Not rinse traps or vacuum pump filters over drains or in the sinks;
  9. Not throw or place the disposable trap, sludge from reusable trap, or vacuum pump filter or contents with regular garbage;
  10. Not throw or place the disposable trap, sludge from reusable trap, or vacuum pump filter or contents into sharps containers or biohazard bag;
  11. Not flush amalgam waste down the drain;
  12. Use only non-bleach, non-chlorine cleaners to clean vacuum system lines;
  13. Appropriately disinfect and store amalgam pieces from removal and restoration with amalgam waste;
  14. Store amalgam waste in airtight containers;
  15. Have a licensed recycling contractor, mail-in service or hazardous waste hauler remove amalgam waste;
  16. Recycle all amalgam waste containing mercury;

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17. Train staff in the proper handling, management, and disposal of mercury containing material; and
  18. Keep records to document that the BMP requirements are being met.
- (e) Those dental facilities that generate amalgam waste and do not comply with the requirements of (b)1 and 2 above shall apply for a NJPDES-SIU permit from the Department or the DLA in accordance with the following:
1. No later than October 1, 2008, when a dental facility fails to comply with (b)1 above; or
  2. No later than October 1, 2009, when a dental facility fails to comply with (b)2 above.



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