

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

ENVIRONMENTAL PROTECTION

COMPLIANCE AND ENFORCEMENT

Water Pollution Control Act Rules

Proposed Amendments: N.J.A.C. 7:14-8.1, 8.2, 8.4, 8.5 through 8.10, 8.12, 8.14, 8.16 through 8.17, and Appendix A, 7:14A-1.2, 19.3, 19.4, 19.6 and Appendix A

Proposed New Rule: N.J.A.C. 7:14-8.4A and 8.18

Proposed Recodification: N.J.A.C. 7:14-8.18 as 8.19

Authorized by: Lisa P. Jackson, Commissioner, Department of Environmental Protection

Authority: N.J.S.A. 13:1D-1 et seq., 13:1D-125 through -133

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

DEP Docket Number: 08-06-06/435

Proposal Number: PRN 2006 -

Submit written comments concerning this proposal by (60 days after publication) to:

Alice A. Previte, Esq.

Attn: DEP Docket Number 08-06-06/435

Office of Legal Affairs

Department of Environmental Protection

PO Box 402

Trenton, New Jersey 08625-0402

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

The Department of Environmental Protection (Department) requests that commenters submit comments on disk or CD as well as on paper. Submittal of a disk or CD is not a requirement. The Department prefers Microsoft Word 6.0 or above. Macintosh™ formats should not be used. Each comment should be identified by the applicable N.J.A.C. citation with the commenter's name and affiliation following the comment.

This rule proposal document can be viewed or downloaded from the Department's web page at www.state.nj.us/dep.

The agency proposal follows:

Summary

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

The Department is proposing amendments and new rules in the Water Pollution Control Act rules (N.J.A.C. 7:14) to identify violations of New Jersey Pollutant Discharge Elimination Program (NJPDES) (N.J.A.C. 7:14A), and portions of the Underground Storage Tanks rules (N.J.A.C. 7:14B) as either minor or non-minor for the purpose of providing grace periods in accordance with N.J.S.A. 13:1D-125 et seq., commonly known as the Grace Period Law. The proposed amendments and new rules set forth how the Department will respond to any violation identified as minor.

The Department also proposes to amend N.J.A.C. 7:14-8.1, 8.4(b), 8.17(c)iv and Appendix A to N.J.A.C. 7:14 to correct omissions and inaccuracies in cross-references.

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.
Proposed Grace Period Amendments and New Rules

On December 22, 1995, the Legislature enacted the Grace Period Law, N.J.S.A. 13:1D-125 et seq., which requires the Department to establish procedures to ensure the consistent application of grace (compliance) periods for minor violations of certain environmental statutes. Pursuant to that law, the Department is required to designate, through rulemaking, certain types of violations of rules contained in 16 environmental statutes as minor or non-minor violations. Under the Grace Period Law, any person responsible for a minor violation is afforded a period of time by the Department to correct the violation. This period of time is known as a grace period. If the minor violation is corrected as required, then the Department will not assess a penalty. In those cases where a violation is not corrected within the grace period, the Department may pursue enforcement action in accordance with its statutory authority including, but not limited to, the assessment of penalties as may be appropriate within the exercise of the Department's traditional, judicially recognized enforcement discretion.

The law does not affect the Department's enforcement authority, including the exercise of enforcement discretion to treat a violation as minor. In those situations where a violation is labeled as minor in these amended rules, but in fact the specific violation as it occurred does not fulfill all the statutory requirements for a minor violation (N.J.S.A. 13:1D-129(b)), the Department reserves its discretion to treat the violation as non-minor.

In designating, through rulemaking, types or categories of violations as minor, the Department must apply the criteria set forth in the law at N.J.S.A. 13:1D-129(b). These criteria are as follows:

- (1) The violation is not the result of the purposeful, knowing, reckless or criminally negligent conduct of the person responsible for the violation;

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

- (2) The violation poses minimal risk to the public health, safety and natural resources;
- (3) The violation does not materially and substantially undermine or impair the goals of the regulatory program;
- (4) The activity or condition constituting the violation has existed for less than 12 months prior to the date of discovery by the Department or local government agency;
- (5) In the case of a permit violation, the person responsible for the violation has not been identified in a previous enforcement action by the Department or a local government agency as responsible for a violation of the same requirement of the same permit within the preceding 12 month period;
- (6) In the case of a violation that does not involve a permit, the person responsible for the violation has not been identified in a previous enforcement action by the Department or a local government agency as responsible for the same or a substantially similar violation at the same facility within the preceding 12-month period;
- (7) In the case of any violation, the person responsible for the violation has not been identified by the Department or a local government agency as responsible for the same or substantially similar violations at any time that reasonably indicate a pattern of illegal conduct and not isolated incidents on the part of the person responsible; and
- (8) The activity or condition constituting the violation is capable of being corrected and compliance achieved within the period of time prescribed by the Department.

The Grace Period Law also requires the Department to establish the length of the grace period, which may be no fewer than 30 days or more than 90 days (unless extended), based upon the nature and extent of the minor violation and a reasonable estimate of the time necessary to

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

achieve compliance. The Department may establish a special class of minor violations that, for public health and safety reasons, must be corrected within a period of fewer than 30 days. Of the criteria established by the Grace Period Law, only criteria (2), (3) and (8), as listed above, may pertain to all violations of a particular regulatory requirement. Therefore, the Department determined that violations that pose minimal risk to public health, safety, and the environment; do not undermine or impair the goals of the program; and can be corrected within a time period of up to 30 days, would be designated as minor in the tables proposed at N.J.A.C. 7:14-8.18. The additional statutory criteria identified above as (1), (4), (5), (6) and (7), regarding, respectively, the intent of the violator, the duration of the violation, and whether it is a repeat offense are fact-specific for each violation and can be applied only on a case-by-case basis. Thus, each violation listed at proposed new N.J.A.C. 7:14-8.18 that is identified as minor will be eligible for a grace period only if it meets these additional criteria, as discussed below. It should be noted that the Water Pollution Control Act sets forth mandatory civil administrative penalties at N.J.S.A. 58:10A-10.1. Pursuant to N.J.S.A. 13:1D-129(c), any violation subject to the assessment of mandatory penalties pursuant to N.J.S.A. 58:10A-10.1 shall not be designated as a minor violation. Therefore, the proposed identification of violations as minor or non-minor, and establishment of grace periods identified in proposed N.J.A.C. 7:14-8.18, are consistent with the constraints of the provisions of the Water Pollution Control Act. Moreover, the 10 day cure period that N.J.S.A. 13:1D-129(d) provides is different from a grace period, and will not be affected by the proposed amendments and new rules.

The Department developed a discussion document in November 1996 setting forth a proposed list of minor and non-minor violations for the Water Compliance and Enforcement program and conducted a series of four workshops so that interested parties could comment and

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN. raise issues associated with the proposed rules. These proposed amendments of N.J.A.C 7:14, which identify minor and non-minor violations of N.J.A.C. 7:14A, 14B, and 18, and provide the terms and conditions by which a grace period shall be afforded, reflect the Department's consideration of the input obtained at those workshops.

Subchapter 8 Civil Administrative Penalties and Requests for Adjudicatory Hearings

N.J.A.C. 7:14-8 sets forth the procedures for the assessment, payment and settlement of civil administrative penalties for violations of the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., and implementing rules, violations of the Act Concerning Pretreatment of Industrial Wastewater, N.J.S.A. 58:11-49 et seq., and implementing rules, and the New Jersey Underground Storage of Hazardous Substances Act, N.J.S.A. 58:10A-21 et seq., and implementing rules.

At N.J.A.C. 7:14-8.2 Definitions, the Department is proposing to add a definition of "grace period," which is the period of time afforded under the Grace Period Law for a person to correct a minor violation in order to avoid imposition of a penalty that would otherwise be applicable for such violation.

Proposed new N.J.A.C. 7:14-8.4A(a) and (b) identify whether a violation is initially classified minor or non-minor for purposes of a grace period. Proposed new N.J.A.C. 7:14-8.4A(c) identifies the remaining criteria that must be satisfied for a particular violation to be treated as a minor violation, and eligible for a grace period under the statutory criteria of N.J.S.A. 13:1D-129, as discussed above. Generally, a violation that is purely administrative in nature, and does not result in a discharge, is identified as minor, provided the violation does not "materially and substantially undermine or impair the goals of the regulatory program."

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN. However, failure to maintain records is a non-minor violation, because without records it is not possible to determine whether a discharge occurred. A violation that results or could have resulted in a discharge is designated non-minor. The New Jersey Water Pollution Control Act requires minimum mandatory penalties for any violation that constitutes a serious violation or triggers the significant noncomplier threshold; accordingly, violations for which the Act requires minimum mandatory penalties are also designated non-minor. See N.J.S.A. 13:1D-129(c). Finally any violation that constitutes a contravention of the intent of the Department's regulatory program is designated non-minor.

Proposed new N.J.A.C. 7:14-8.4A(d) provides that the Department or local government agency will issue a notice of violation to the person responsible for the violation. The notice must identify the violation, the statutory or other provision violated, and the length of the grace period. The notice is necessary in order that the person responsible may take advantage of the grace period. If the person responsible demonstrates that he or she has corrected the violation within the applicable grace period, then proposed new N.J.A.C. 7:14-8.4A(d)2 provides that no penalty will be assessed for the violation.

The Department proposes new N.J.A.C. 7:14-8.4A(d)3 in order to verify that the person responsible for a minor violation has taken appropriate measures to achieve compliance within the grace period. The responsible person must submit, in writing, information detailing the corrective action taken or compliance achieved.

The Department may investigate to determine that the information submitted is accurate and that compliance has been achieved. Under proposed new N.J.A.C. 7:14-8.4A(d)4, if a person responsible for a minor violation seeks additional time beyond the specified grace period to achieve compliance, the Department or local government agency issuing the notice of

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN. violation may extend the grace period for up to an additional 90 days. (See N.J.S.A 13:1D-127(b).) In order to obtain an extension, the person responsible for a violation must submit a written request for an extension to the Department or the local government agency at least one week prior to the expiration of the initial grace period and explain why additional time is needed. The request must be certified to be true. The Department or local government agency may, at its discretion, issue a written extension to the grace period specified in the notice of violation.

As set forth at proposed new N.J.A.C. 7:14-8.4A(d)4i through iv, in exercising its discretion to approve a request for an extension the Department or local government agency will consider whether the violator has taken reasonable measures to achieve compliance in a timely manner, whether the delay has been caused by circumstances beyond the control of the violator, whether the delay will pose a risk to the public health, safety and natural resources, and whether the delay will materially or substantially undermine or impair the goals of the regulatory program. As set forth in proposed N.J.A.C. 7:14-8.4A(d)6, the Department or local government agency will consider only one request for an extension of the grace period specified in a notice of violation. If the person responsible for the violation fails to demonstrate to the Department or a local government agency that compliance has been achieved within the period of time specified in the notice of violation or any approved extension of the grace period, then under proposed new N.J.A.C. 7:14-8.4A(d)5 the Department or a local government agency can impose a penalty retroactive to the date the notice of violation was first issued.

The existing rules provide at N.J.A.C. 7:14-8.5 for the determination of civil administrative penalties. The Department proposes to amend N.J.A.C. 7:14-8.5(d) to indicate that the grace periods provisions of proposed new N.J.A.C. 7:14-8.18 will apply to penalties assessed under N.J.A.C. 7:14-8.5. The Department proposes a similar amendment to N.J.A.C.

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN. 7:14-8.16(d), which applies to civil administrative penalties for indirect dischargers.

At N.J.A.C. 7:14-8.6 through 8.10, 8.12, 8.14, and 8.17, the existing rules describe the manner in which the Department will respond to certain categories of violations. N.J.A.C. 7:14-8.6 establishes civil administrative penalties for submitting inaccurate or false information in any application, registration, record or other document that is required to be maintained or submitted pursuant to the Water Pollution Control Act, the New Jersey Underground Storage of Hazardous Substances Act, or any rule, water quality standard, effluent limitation, administrative order or permit issued under those Acts. N.J.A.C. 7:14-8.7 establishes civil administrative penalties for failure to allow lawful entry and inspection. N.J.A.C. 7:14-8.8 establishes civil administrative penalties for conducting activities that are not authorized. N.J.A.C. 7:14-8.9 enables the Department to assess a civil administrative penalty for failure to conduct properly a monitoring or sampling that is required under the Water Pollution Control Act. N.J.A.C. 7:14-8.10 establishes civil administrative penalties for failure to pay a fee when due. N.J.A.C. 7:14-8.14 allows the Department to impose a civil administrative penalty for failing to provide information to the Department when requested, and for improperly destroying records. N.J.A.C. 7:14-8.17 allows the Department to commence an enforcement action for failure to implement an approved industrial pretreatment program.

The Department is proposing to amend N.J.A.C. 7:14-8.6 through 8.10, 8.12, 8.14, and 8.17 to specify the violations under the sections that are non-minor and, accordingly, not subject to a grace period. A violation of the type that the Department proposes to identify as non-minor prevents the Department from determining compliance with the purpose of the enforcement program, and would materially or substantially undermine or impair the goals of the water pollution control program, making the violation ineligible for a grace period under N.J.S.A.

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN. 13:1D-129(b)3.

Proposed new N.J.A.C. 7:14-8.18 contains two tables that identify violations of the NJPDES rules, N.J.A.C. 7:14A (Table 1), and the Underground Storage Tank rules, N.J.A.C. 7:14B (Table 2), as either minor or non-minor for the purpose of providing grace periods. The tables contain columns for the regulatory citation of the violation, a description of the violation, the type of violation as minor (M) or non-minor (NM), and the time allotted for the grace period. A violation of the specific provision identified in the tables as minor would be subject to a grace period, provided that the violation meets the criteria of N.J.S.A. 13:1D-129(b)(1), (4), (5), (6) and (7), which are set forth in proposed new N.J.A.C. 7:14-8.4A(c).

As noted above, the Grace Period Law requires the Department to establish the length of the grace period, which may be no fewer than 30 days or more than 90 days, and is based upon the nature and extent of the minor violation and a reasonable estimate of the time necessary to achieve compliance. The grace periods in the proposed rules are based on Department estimates for compliance, with the majority of minor violations being given a grace period of 30 days. The grace periods were established with the input of interested parties. The instances where the Department proposes a 60 day grace period include activities that may need additional steps to comply, such as hiring a licensed operator or consultant, or obtaining approval of municipal officials.

In order to determine whether a grace period is appropriate for a violation that is not listed in the proposed new tables at N.J.A.C. 7:14-8.18, and is not in proposed amended N.J.A.C. 7:14-8.6 through 8.10, 8.12, 8.14, and 8.17, the Department proposes a new comparability provision at N.J.A.C. 7:4-8.18(b). If the violation is comparable to one in the tables, and the violation in the tables is minor for purposes of a grace period, then under proposed new N.J.A.C.

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

7:14-8.18(b)1i the violation will be considered minor and provided the same grace period as the violation in the tables. Because a violation of N.J.A.C. 7:14-8.6 through 8.10, 8.12, 8.14, and 8.17 that is not identified in the tables is always non-minor, no violation that is comparable to such a violation will be classified minor or provided a grace period. If the violation is not comparable to a violation in the tables, and is not comparable to one of the specific violations in N.J.A.C. 7:14-8.6 through 8.10, 8.12, 8.14, and 8.17, and the violation otherwise meets the criteria to be a minor violation for purposes of a grace period, then the violation will be considered minor, subject to a 30 day grace period, in accordance with proposed new N.J.A.C. 7:8-18(b)1ii.

Similarly, if a violation is not listed in the proposed new tables at N.J.A.C. 7:14-8.18, or proposed amended N.J.A.C. 7:14-8.6 through 8.10, 8.12, 8.14, and 8.17, but is similar to one of those violations, and the listed violation is non-minor, then the violation will also be treated as non-minor, and not subject to a grace period. Finally, if the violation is not similar to the violations listed in the proposed tables at N.J.A.C. 7:14-8.18, and is not one of the violations in proposed amended N.J.A.C. 7:14-8.6 through 8.10, 8.12, 8.14, and 8.17, and does not meet the criteria to qualify for a grace period (proposed new N.J.A.C. 7:14-8.4A(c) and 8:14-8.18(b)1ii(1) through (3)), then the violation is non-minor and not subject to a grace period.

The Department recently proposed to recodify N.J.A.C. 7:14B-1.8(a) and (b) as N.J.A.C. 7:14B-5.9(a) and (b). (See 37 N.J.R. 2923(a).) If both the within proposed rules and the proposed recodification are adopted, the Department will modify Table 2 at N.J.A.C. 7:14-8.18 to reflect the recodification.

The Department is proposing to recodify existing N.J.A.C. 7:14-8.18, as N.J.A.C. 7:14-8.19.

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

7:14A-19 Pretreatment Requirements for Local Agencies

The Grace Period Law at N.J.S.A. 13:1D-126 identifies "environmental law" as including the Water Pollution Control Act (C.58:10A-1 et seq), and any ordinance adopted by a local agency to implement or effectuate the purposes or objectives of an environmental law. As such, the rules and regulations or sewer use ordinances adopted by local agencies are also subject to the Grace Period Law. Although it affects all local agencies, the Grace Period Law and these proposed regulations will impact primarily delegated local agencies (DLAs), which are agencies that implement and enforce a State-approved industrial pretreatment program within their sewer service areas. In order for local agencies to implement the provisions of the Grace Period Law, the Department is proposing changes to N.J.A.C. 7:14A-19.

Under proposed N.J.A.C. 7:14A-19.3(d), local agencies will be required to identify as minor or non-minor violations of the State Act (defined in N.J.A.C. 7:14A as the Clean Water Act or the Federal Water Pollution Control Act, and the New Jersey Water Pollution Control Act), as specified in their rules and regulations or sewer use ordinances, and identify a grace period for minor violations. Similarly, proposed amended N.J.A.C. 7:14A-19.4(d) will require minor and non-minor designations, and grace periods, in enforcement response plans. The Department is also amending Appendix A to N.J.A.C. 7:14A-19 to include a column identified as "Type of Violation and Grace Period." Appendix A is a model enforcement response plan that a DLA may use as a model for the enforcement response plan that it develops in accordance with N.J.A.C. 7:14A-19.4. Proposed new N.J.A.C. 7:14A-19.6(g) requires each delegated local agency to send the Department a copy of its rules and regulations or sewer use ordinance.

The Grace Period Law at N.J.S.A. 13:1D-132 requires the Department to provide the

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN. Governor and the Legislature with a grace period annual report that provides information on the regulatory and enforcement programs that the Department administers. Some of the Department's programs are administered by DLAs, which are agencies that have a State approved industrial pretreatment program. As such, it is necessary that the Department obtain the information from those DLAs for the Department's grace period annual report to the Governor and Legislature. The Department identifies at existing N.J.A.C. 7:14A-19.6(c) the information that the DLAs must provide annually for the Clean Water Enforcement Act, 33 U.S.C. §§ 1251 et seq. At proposed new N.J.A.C. 7:14A-19.6(h), the Department identifies the information that a DLA must provide in its grace period annual report. The information required under the proposed rule is the same as is required under the Grace Period Law.

The Department, through discussions with interested parties, proposes at new N.J.A.C. 7:14A-19.6(i) a report deadline of March 1 of each year for submission of the information for the DLAs' grace period annual report. DLAs are currently required to submit a Clean Water Enforcement Act annual report by February 1 of each year (see existing N.J.A.C. 7:14A-19.6(c)). Although some of the information in these reports may be the same (such as the number of facilities regulated), the Department believes it is prudent to allow additional time for DLAs to compile the necessary data and information for the grace period annual report. To ensure uniformity in the way various DLAs submit their information to the Department, the Department is requiring, under proposed N.J.A.C. 7:14A-19.6(i), that the information submitted in the grace period annual reports be submitted on forms provided by the Department. The Department is proposing a related amendment to N.J.A.C. 7:14-8.17(c)2iv to include a grace period annual report in the list of reports for which failure to submit may result in a penalty.

With respect to the grace period proposed at N.J.A.C. 7:14A-19, the Department met with

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

representatives of the DLAs during a November 4, 2005 stakeholder meeting. The proposed grace periods were developed based on input from these DLAs, as well as the Department's experience with ensuring compliance with the regulations and the complexity of the action necessary to fully comply with the regulatory requirements. For example the Department proposes a 30 day grace period if the local agency's compliance depends on the local agency's own personnel, such as the plant manager or the Industrial Pretreatment Program (IPP) coordinator. The Department proposes a 60 day grace period for violations that may need additional steps, technical information or data for the DLA to comply. This might include the approval of the agency's Board of Directors or Board of Commissioners. The Department proposes a 90 day grace period for violations that require input from the public or consultants hired by the local agency before compliance is achieved.

Miscellaneous Corrections

The Department proposes to amend N.J.A.C. 7:14-8.1(a) to correct a typographical error, and to remove the language referring to the rules governing laboratory certification and standard of performance, N.J.A.C. 7:14-18. The Department amended the rule to delete the laboratory certification language in 1991 (see 22 N.J.R. 287(a), 23 N.J.R. 1926(a)); however, the amended text was not published in the New Jersey Administrative Code.

Similarly, the Department proposes to amend N.J.A.C. 7:14-8.1(a) to delete reference to the Water Supply and Wastewater Operators' Licensing Act, N.J.S.A. 58:11-64 et seq. In 1996, the Department recodified the Licensing of Water Supply and Wastewater Treatment System Operators rules as N.J.A.C. 7:10A. At the same time, the Department promulgated in N.J.A.C. 7:10A rules for civil administrative penalties for violations of the Water Supply and Wastewater

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN. Operators' Licensing Act, and implementing regulations. (See 28 N.J.R. 4300(a), 29 N.J.R.

480(a).) Accordingly, the civil administrative penalty provisions of N.J.A.C. 7:14-8 no longer apply to violations of the Water Supply and Wastewater Operators' Licensing Act, and implementing rules.

The Department proposes to amend N.J.A.C. 7:14-8.4(b) and 8.17(c)2iv to correct cross-references. The errors resulted from recodification of the target citations, at which time the referencing citations were not changed. Similarly, the Department proposes to correct a cross-reference in each of the financial assurance mechanisms found in N.J.A.C. 7:14 Appendix A. Additionally, the Department proposes to delete references in each of the financial assurance mechanisms found in Appendix A that require a violator to provide financial assurance in an amount equal to the amount of the civil administrative penalty in the Notice of Civil Administrative Penalty Assessment (NOCAPA) as a precondition for an adjudicatory hearing on the Notice of Civil Administrative Penalty Assessment. This requirement, formerly cited in the rules at N.J.A.C. 7:14-8.4(a), was found to be unconstitutional and was removed from the rule text; however, the Department did not remove the requirement from Appendix A. In place of the reference to the NOCAPA, the Department is inserting reference to an administrative consent order, since this is the only document that requires the violator to post financial assurance pursuant to N.J.A.C. 7:14-8.3(h).

The Department also proposes to amend Appendix A to update contact information.

Social Impact

The Department anticipates that the proposed grace period rules will have a positive social impact by encouraging cooperation between the Department and the regulated community.

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN. By removing the threat of penalties for certain types of violations where compliance is achieved within the time specified, the proposed amendments will encourage the regulated community to take positive action toward achieving compliance.

The Department anticipates that the proposed miscellaneous corrections and changes to the rules will have no social impact.

Economic Impact

The proposed grace period rules will have little economic impact on the regulated community, inasmuch as the rules formalize the Department's existing policy with regard to allowing an opportunity for correction of minor violations. To the extent that the proposed amended rules formally classify violations as minor for which the Department or a DLA has not previously provided a grace period, the regulated community will realize an economic benefit. No longer will the facility be subject to immediate penalty, but instead the facility will have between 10 and 120 days (if the initial grace period is extended) to achieve compliance, without being assessed a penalty.

The proposed rules at N.J.A.C. 7:14A-19 impact the approximately 450 publicly owned treatment works within the State that have rules and regulations (rules) or a sewer use ordinances (SUOs) regulating discharges into their treatment plants. These agencies need to review their SUOs or rules and characterize whether violations of each requirement or provision therein would be "minor" or "non-minor" for the purpose of providing a grace period. Completion of this task is estimated to cost each local agency \$1,000 to \$2,000.

Proposed new N.J.A.C. 7:14A-19.6(g) and 19.6(h) will impact 24 DLAs in the State. DLAs currently track permittee violations and their own enforcement actions/initiatives as part

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

of their existing reporting requirements under the 40 CFR Part 403 annual report and the Clean Water Enforcement Act annual report (See N.J.A.C. 7:14A-19.6(c)). Further classification and tracking of violations as “minor” and “non-minor” to comply with proposed N.J.A.C. 7:14A-19.6(g) will be completed using various means, depending upon the size and complexity of the DLA pretreatment program. A DLA with few permittees can manually track such violations, but a DLA with a large number of permittees may need to modify its electronic databases to be able to classify these violations. As such, the economic impact of tracking these violations will range from less than \$100.00 (representing only staff time to compile and report the statistics) to several thousand dollars, which may be needed to re-program and/or modify DLA computer data bases and software to properly track and report the necessary information.

The Department anticipates that the proposed miscellaneous corrections and changes to the rules will have no economic impact.

Environmental Impact

The proposed grace period provisions would allow a violator an opportunity to correct certain violations within the time provided and thereby avoid a penalty. The Department anticipates that these rules will encourage the regulated community to correct certain types of violations in a timely manner. Prompt correction will reduce the potential risk these minor violations may have created and will, therefore, result in an additional positive environmental impact.

The Department anticipates that the proposed miscellaneous corrections and changes to the rules will have no environmental impact.

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

Federal Standards Statement

Executive Order 27 (1994) and N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c.65) require State administrative agencies that adopt, readopt or amend any State rules that exceed any Federal standards or requirements to include in the rulemaking document a Federal Standards analysis.

The Department has conducted an analysis of the proposed amendments and new rules and has determined that they do not exceed any standard or requirement imposed by Federal law, and are consistent with Federal law and Federal penalty assessment guidance. Accordingly, no Federal Standard Analysis is required.

Jobs Impact

The proposed rules will not result in either the generation or loss of jobs within the State. No facility will incur any costs unless it commits a violation that results in a penalty assessment. To the extent that the proposed rules impose requirements on local agencies, the requirements will not result in any job losses or gains, inasmuch as the activities can be completed using existing personnel.

Agriculture Industry Impact

In accordance with N.J.S.A. 4:1C-10.3, the Right to Farm Act, the Department has reviewed this proposal and has determined that it will have little or no impact upon the Agriculture Industry. If there is any effect at all upon members of the agricultural industry, it is anticipated that such effect will be to afford those members the same opportunity as others to

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN. correct certain types of violations in a manner as provided by the rules and thereby avoid a possible penalty assessment.

Regulatory Flexibility Statement

As required by the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Department has evaluated the proposed rules and has determined they do not impose reporting, record keeping, or compliance requirements upon businesses, large or small, as long as they are operating in compliance with the Water Pollution Control Act and the rules promulgated thereunder. An estimated 10 to 15 percent of the facilities that are authorized by a New Jersey Pollutant Discharge Elimination System permit to discharge are considered to be small businesses.

The establishment of grace periods will allow a small business responsible for a violation to avoid penalties if the violation is corrected within the time provided. It is, therefore, anticipated that the rules will encourage violators to achieve compliance in a timely fashion, avoid repetition of the violation without the use of penalty actions and quickly and efficiently address minor compliance matters without the need for professional services. Grace periods are not provided based on business size, thereby ensuring a fair, efficient and effective penalty scheme.

The amendments under N.J.A.C. 7:14A-19 of this regulation affect only publicly owned treatment works, which do not meet the definition of a small business. As such, these regulations do not have a direct effect on small businesses.

The proposed miscellaneous corrections and changes to the rules do not impose reporting, record keeping, or compliance requirements upon small businesses.

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

Smart Growth Impact

Executive Order No. 4 (2002) requires State agencies that adopt, amend or repeal any rule to include in the rulemaking document a Smart Growth Impact statement that describes the impact of the proposed rules on the achievement of smart growth and implementation of the State Development and Redevelopment Plan (State Plan). The Department has evaluated this rulemaking to determine the nature and extent of the proposed rules' impact on smart growth and the implementation of the State Plan. The proposed rules do not involve land use policies or infrastructure development and, therefore, do not impact the achievement of smart growth or implementation of the State Plan. Since the proposed rules will encourage protection of water quality, the rules support the conservation and environmental protection goals and policies underlying the State Plan.

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

CHAPTER 14 WATER POLLUTION CONTROL ACT

Subchapter 8. Civil Administrative Penalties and Requests for Adjudicatory Hearings

7:14-8.1 Authority and purpose

(a) The purpose of this subchapter is to establish a civil administrative penalty policy governing the uniform assessment of civil administrative penalties. This subchapter shall also govern the Department's assessment of civil administrative penalties for violations of the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., including violation on any rule or regulation, water

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

quality standard, effluent limitation, administrative order or permit issued pursuant to the Water Pollution Control Act, [violation of the rules governing laboratory certification and standards of performance, N.J.A.C. 7:18,] and for violations of the Act Concerning Pretreatment of Industrial Wastewater, N.J.S.A. 58:11-64 et seq., [the Water Supply and Wastewater Operators' Licensing Act, N.J.S.A. 58:11-64 et seq.,] and N.J.S.A. 58:10A-21 et seq. (also known as the New Jersey Underground Storage of Hazardous Substances Act). In addition, this subchapter shall govern the Department's administrative assessment of costs pursuant to N.J.S.A. 58:10A-10d(1)(c). This subchapter shall also govern the procedure for requesting an adjudicatory hearing on a notice of civil administrative penalty assessment or an administrative order.

(b)-(f) (No change.)

7:14-8.2 Definitions

As used in this subchapter, the following words and terms shall, in addition to those provided in N.J.A.C. 7:14A-1.2, have the following meanings unless the context clearly indicates otherwise.

...

“Grace period” means the period of time afforded under N.J.S.A. 13:1D-125 et seq., commonly known as the Grace Period Law, for a person to correct a minor violation in order to avoid imposition of a penalty that would be otherwise applicable for such violation.

...

7:14-8.4 Procedures to request an adjudicatory hearing to contest an administrative order, a notice of civil administrative penalty assessment or a notice of civil administrative cost assessment; procedures for conducting adjudicatory hearings

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

- (a) (No change.)
- (b) The Department shall deny the hearing request if the Department does not receive a complete hearing request pursuant to (a) above within 20 days after receipt by the violator of the Notice of a Civil Administrative Penalty Assessment, the Administrative Order, or Notice of Civil Administrative Cost Assessment being challenged. A violator's failure to notify the Department in writing, within the 30 days allotted under (a)[8]10(i) above, of the existence of extenuating circumstances which prevented timely submission of a complete discharge monitoring report, shall be grounds for the Department to deny any hearing request on a notice of civil administrative penalty assessment pursuant to N.J.A.C. 7:14-8.9(e).
- (c) (No change.)

7:14-8.4A Grace period applicability; procedures

(a) Each violation identified in the tables at N.J.A.C. 7:14-8.18 by an "M" in the Type of Violation column and for which the conditions at (c) below are satisfied, is a minor violation, and is subject to a grace period, the length of which is indicated in the column with the heading Grace Period.

(b) Each violation identified in the tables at N.J.A.C. 7:14-8.18 by an "NM" in the Type of Violation column is a non-minor violation and is not subject to a grace period.

(c) The Department or a local government agency shall provide a grace period for any violation identified as minor under this section, provided the following conditions are met:

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

1. The violation is not the result of the purposeful, knowing, reckless or criminally negligent conduct of the person responsible for the violation;

2. The activity or condition constituting the violation has existed for less than 12 months prior to the date of discovery by the Department or local government agency;

3. In the case of a violation that involves a permit, the person responsible for the violation has not been identified in a previous enforcement action by the Department or local government agency as responsible for a violation of the same requirement of the same permit within the preceding 12-month period;

4. In the case of a violation that does not involve a permit, the person responsible for the violation has not been notified in a previous enforcement action by the Department or local government agency as responsible for the same or a substantially similar violation at the same facility within the preceding 12-month period;

5. In the case of any violation, the person responsible for the violation has not been identified by the Department or local government agency as responsible for the same or substantially similar violations at any time that reasonably indicate a pattern of illegal conduct and not isolated incidents on the part of the person responsible; and

(d) For a violation determined to be minor under (c) above, the following provisions apply:

1. The Department or local government agency shall issue a notice of violation to the person responsible for the minor violation that:

i. Identifies the condition or activity that constitutes the violation and the specific statutory and regulatory provision or other requirement violated; and

ii. Specifies that a penalty may be imposed unless the minor violation is

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.
corrected and compliance is achieved within the specified grace period.

2. If the person responsible for the minor violation corrects that violation and demonstrates, in accordance with (d)3 below, that compliance has been achieved within the specified grace period, the Department or local government agency shall not impose a penalty for the violation.

3. The person responsible for a violation shall submit to the Department or local government agency, before the end of the specified grace period, written information certified to be true and signed by the person responsible for the minor violation, detailing the corrective action taken or compliance achieved.

4. If the person responsible for the minor violation seeks additional time beyond the specified grace period to achieve compliance, the person shall request an extension of the specified grace period. The request shall be made in writing, be certified to be true and signed by the person responsible for the minor violation, and received by the Department or local government agency no later than one week before the end of the specified grace period. The request shall include the anticipated time needed to achieve compliance, the specific cause or causes of the delay, and any measures taken or to be taken to minimize the time needed to achieve compliance. The Department or local government agency may, at its discretion, approve in writing an extension, which shall not exceed 90 days, to accommodate the anticipated delay in achieving compliance. In exercising its discretion to approve a request for an extension, the Department or local government agency may consider the following:

i. Whether the violator has taken reasonable measures to achieve compliance in a timely manner;

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

ii. Whether the delay has been caused by circumstances beyond the

control of the violator;

iii. Whether the delay will pose a risk to the public health, safety and

natural resources; and

iv. Whether the delay will materially or substantially undermine or

impair the goals of the regulatory program.

5. If the person responsible for the minor violation fails to demonstrate to the Department or local government agency that the violation has been corrected and compliance achieved within the specified grace period or within the approved extension, if any, the Department or local government agency may, in accordance with the provisions of this chapter, impose a penalty that is retroactive to the date the notice of violation under (d)1 was issued.

6. The person responsible for a minor violation shall not request more than one extension of a grace period specified in a notice of violation.

7:14-8.5 Civil administrative penalty determination

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

(d) Unless the Department assesses a civil administrative penalty pursuant to N.J.A.C. 7:14-8.6 through N.J.A.C. 7:14-8.12, the Department shall assess a civil administrative penalty for violations described in this section as described in (e) below, **including any applicable grace period in accordance with N.J.A.C. 7:14-8.18.**

(e)-(i) (No change.)

7:14-8.6 Civil administrative penalty for submitting inaccurate or false information

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.
(a) – (d) (No change.)

(e) **Except as set forth in Table 1 or Table 2 at N.J.A.C. 7:14-8.18, a violation under this section is non-minor and, therefore, not subject to a grace period.**

7:14-8.7 Civil administrative penalty for failure to allow lawful entry and inspection

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

(e) **A violation under this section is non-minor and, therefore, not subject to a grace period.**

7:14-8.8 Civil administrative penalty for conducting unapproved activities

(a)-(b) (No change.)

(c) **A violation under this section is non-minor and, therefore, not subject to a grace period.**

7:14-8.9 Civil administrative penalty for failure to properly conduct monitoring or sampling under the Water Pollution Control Act

(a)-(e) (No change.)

(f) **A violation under this section is non-minor and, therefore, not subject to a grace period.**

7:14-8.10 Civil administrative penalty for failure to pay a fee

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

(d) **A violation under this section is non-minor and, therefore, not subject to a grace**

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN. **period.**

7:14-8.12 Civil administrative penalty for violation of whole effluent toxicity limitations

(a)-(e) (No change.)

(f) A violation under this section is non-minor and, therefore, not subject to a grace period.

7:14-8.14 Civil administrative penalty for failing to comply with an information request or administrative subpoena, and the destruction of records

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

(e) Except as set forth in Table 1 or Table 2 at N.J.A.C. 7:14-8.18, a violation under this section is non-minor and, therefore, not subject to a grace period.

7:14-8.16 Civil administrative penalty determination for indirect dischargers

(a) – (c) (No change.)

(d) Unless the Department assesses a civil administrative penalty as set forth in N.J.A.C.

7:14-8.6 through 7:14-8.12, the Department may assess a civil administrative penalty for violations described in this section as described in (e) below, **including any applicable grace period in accordance with N.J.A.C. 7:14-8.18.**

(e)-(i) (No change.)

7:14-8.17 Enforcement actions for failure to implement an approved industrial

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.
pretreatment program

(a)-(b) (No change.)

(c) The Department may assess a civil administrative penalty for violations described in this section at the mid-point of the following ranges except as adjusted pursuant to (e) below:

1. (No change.)

2. For failure to implement any of the following pre-treatment program requirements, the civil administrative penalty shall be in an amount up to \$20,000:

i.- iii. (No change.)

iv. Submit a 40 CFR Part 403 annual report, and/or the CWEA annual report pursuant to N.J.S.A. 5[3]8:10A-14.2 **and/or the grace period annual report pursuant to N.J.A.C. 7:14A-19.6(g) and (h).**

3. (No change.)

(d) - (g) (No change.)

7:14-8.18 Tables of minor and non-minor violations; grace periods

(a) Tables 1 and 2 below identify particular violations of the Pollutant Discharge Elimination System rules, N.J.A.C. 7:14A, and the Underground Storage Tanks rules, N.J.A.C. 7:14B, as minor or non-minor for purposes of a grace period, and identify the duration of the grace period for minor violations. The descriptions of the violations set forth in the tables in this section are provided for informational purposes only. In the event that there is a conflict between a violation description in the tables and the rule to which the violation description corresponds, the rule shall govern.

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

(b) The Department may assess a civil administrative penalty for a violation of the Water Pollution Control Act, the Act Concerning Pretreatment of Industrial Wastewater, the New Jersey Underground Storage of Hazardous Substances Act, and/or for a violation of any rule, consent agreement or administrative order adopted or issued pursuant thereto, that is not listed in Tables 1 and 2, or in N.J.A.C. 7:14-8.6 through 8.10, 8.12, 8.14, or 8.17, according to the following:

1. The Department shall determine whether the violation is a minor violation and subject to a grace period or whether the violation is non-minor and not subject to a grace period as follows:

i. If, pursuant to (c) below, the violation is comparable to a violation listed in Tables 1 and 2 and the comparable violation in Tables 1 and 2 is minor, then the violation under this section is also minor, provided the criteria at N.J.A.C. 7:14-8.4A(c) are also met. The minor violation shall be subject to the grace period set forth in Tables 1 and 2 for the comparable violation, and the penalty shall be assessed in accordance with N.J.A.C. 7:14-8.5 or 8.16;

ii. If the violation is not comparable to a violation listed in Tables 1 and 2, or in N.J.A.C. 7:14-8.6 through 8.10, 8.12, 8.14, or 8.17 and the violation meets all of the criteria at (b)1ii(1) through (3) below as well as the criteria at N.J.A.C. 7:14-8.4A(c), then the violation under this section is minor. The minor violation shall be subject to a grace period of 30 days, and the penalty shall be assessed in accordance with N.J.A.C. 7:14-8.5 or 8.16.

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

(1) The violation poses minimal risk to the public health, safety and natural resources;

(2) The violation does not materially and substantially undermine or impair the goals of the regulatory program; and

(3) The activity or condition constituting the violation is capable of being corrected and compliance achieved within the time prescribed by the Department;

iii. If, pursuant to (c) below, the violation is comparable to a violation listed in Tables 1 and 2, or in N.J.A.C. 7:14-8.6 through 8.10, 8.12, 8.14, or 8.17, and the comparable violation in Tables 1 and 2, or in N.J.A.C. 7:14-8.6 through 8.10, 8.12, 8.14, or 8.17 is non-minor, then the violation under this section is also non-minor and the penalty shall be assessed in accordance with N.J.A.C. 7:14-8.5 through 8.10, 8.12, 8.14, 8.16, or 8.17.

iv. If the violation is not comparable to a violation listed in Tables 1 and 2, or in N.J.A.C. 7:14-8.6 through 8.10, 8.12, 8.14, or 8.17 and the violation does not meet the requirements of N.J.A.C. 7:14-8.4A(c), and does not meet the criteria of (b)1ii(1) through (3) above, the violation is non-minor and the penalty shall be assessed in accordance with N.J.A.C. 7:14-8.5 or 8.16.

(c) Comparability of a violation under (b) above with a violation listed in Tables 1 and 2, or in N.J.A.C. 7:14-8.6 through 8.10, 8.12, 8.14, or 8.17 is based upon the nature of the

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN. violation (for example, a violation of recordkeeping, permit limitation, or monitoring).

TABLE 1

N.J.A.C. 7:14A POLLUTANT DISCHARGE ELIMINATION SYSTEM RULES

<u>Rule Citation</u>	<u>Description of Violation</u>	<u>Type of Violation</u>	<u>Grace Period</u>
<u>7:14A-2.1(d)</u>	<u>Discharging any pollutant except in conformity with a valid NJPDES permit issued by the Department, unless specifically exempted by N.J.A.C. 7:14A.</u>	<u>NM</u>	
<u>7:14A-2.1(e)</u>	<u>Building, installing, modifying, or operating any facility for the collection, treatment, or discharge of any pollutant, except in conformance with the TWA requirements contained in N.J.A.C. 7:14A-22 and 23.</u>	<u>NM</u>	
<u>7:14A-2.11(a)</u>	<u>Failure of a person, upon receipt of written notice from the Department, to provide information regarding a discharge or potential discharge when the Department has reason to believe that a person has, or may have, information relevant to a discharge or potential discharge of a pollutant.</u>	<u>NM</u>	
<u>7:14A-2.11(c)</u>	<u>Failure to provide information requested in the form and manner prescribed by the Department.</u>	<u>M</u>	<u>30 days</u>

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-2.11(d)</u>	<u>Failure of person receiving a request for information made pursuant to 7:14A-2.11(a) to comply with the requirements of 7:14A-2.11(d) 1,2 and 3.</u>	<u>NM</u>	
<u>7:14A-2.11(d)</u>	<u>Failure of person receiving a subpoena issued pursuant to 7:14A-2.10 to comply with the requirements of 7:14A-2.11(d) 1, 2 and 3.</u>	<u>NM</u>	
<u>7:14A-2.11(e)1</u>	<u>Failure to allow an authorized representative of the Department to enter upon a person's premises for the purposes of inspection, sampling, copying or photographing.</u>	<u>NM</u>	
<u>7:14A-2.11(e)2</u>	<u>Failure to allow an authorized representative of the Department to have access to and copy any records that must be kept under the conditions of a NJPDES permit.</u>	<u>NM</u>	
<u>7:14A-2.11(e)3</u>	<u>Failure to allow an authorized representative of the Department to inspect any facilities, equipment, practices or operations regulated or required under a NJPDES permit.</u>	<u>NM</u>	
<u>7:14A-2.11(e)4</u>	<u>Failure to allow an authorized representative of the Department to sample or monitor any substance or parameter at any location.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-2.11(f)</u>	<u>Failure of permittee to submit relevant facts previously omitted in a permit application, or request for authorization or submit corrected information for a permit application, request for authorization or any report within 10 days of becoming aware of the correct information.</u>	<u>M</u>	<u>30 days</u>
<u>7:14A-2.13(a)</u>	<u>Failure to obtain a permit for any discharge from an animal feeding operation that meets the criteria for a concentrated animal feeding operation or is required to obtain a permit under 7:14A-2.13(d).</u>	<u>NM</u>	
<u>7:14A-2.14(a)</u>	<u>Failure to obtain a permit for any discharge from an animal production facility that meets the criteria for an animal production facility or is required to obtain a permit under 7:14A-2.14(d).</u>	<u>NM</u>	
<u>7:14A-3.1(a)3</u>	<u>Failure of NJPDES permittee/applicant to submit payment within 30 days of assessment of the permit fee.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<p><u>7:14A-3.1(j)</u></p>	<p><u>Failure to submit to the soil conservation district the applicable fee with each request for authorization submitted under NJPDES Permit No. NJ0088323 (referred to as the category 5G3 “construction activity” stormwater general permit), except as provided in N.J.A.C. 7:14A-3.1(j)1.</u></p>	<p><u>NM</u></p>	
<p><u>7:14A-3.1(j)1</u></p>	<p><u>Failure to submit to the Department the applicable fee for any project that the New Jersey Department of Transportation (NJDOT) is constructing or proposes to construct for which a stormwater discharge is regulated under NJPDES Permit No. NJ0088323.</u></p>	<p><u>NM</u></p>	
<p><u>7:14A-4.2(c)</u></p>	<p><u>Failure of an operating entity to obtain a NJPDES permit when a facility or activity is owned by one or more persons.</u></p>	<p><u>NM</u></p>	
<p><u>7:14A-4.2(e)3</u></p>	<p><u>Failure of person to file an application for renewal or a request for authorization under a general permit at least 180 calendar days prior to the expiration of the existing permit.</u></p>	<p><u>NM</u></p>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-4.5(b)</u>	<u>Failure of an applicant with an individual NJPDES permit for an existing discharge or activity to submit a complete renewal application in accordance with N.J.A.C. 7:14A-2.7, and when the Department determines additional water quality information is necessary, to submit water quality studies as provided in N.J.A.C. 7:14A-2.12(a).</u>	<u>NM</u>	
<u>7:14A-4.8(a)</u>	<u>Failure of existing concentrated animal feeding operation to provide in its application the information required under N.J.A.C. 7:14A-4.8(a)1 through 3.</u>	<u>M</u>	<u>30 days</u>
<u>7:14A-4.8(b)</u>	<u>Failure of existing concentrated aquatic animal production facility to provide in its application the information required under N.J.A.C. 7:14A-4.8(b)1 through 5.</u>	<u>M</u>	<u>30 days</u>
<u>7:14A-4.9(a)</u>	<u>Failure to have permit application, request for authorization, reports other than DMRs, and other requested information signed by a person described in N.J.A.C. 7:14A-4.9(a)1 through 4.</u>	<u>M</u>	<u>30 days</u>

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-4.9(c)</u>	<u>Failure to submit a new authorization satisfying the requirements of N.J.A.C. 7:14A-4.9(b) prior to or together with any reports, information or applications signed by an authorized representative.</u>	<u>M</u>	<u>30 days</u>
<u>7:14A-4.9(d)</u>	<u>Failure of person signing a report required by permits, other than DMRs, and other information requested by the Department, to make the certification in N.J.A.C. 7:14A-4.9(d).</u>	<u>M</u>	<u>30 days</u>
<u>7:14A-6.2(a)</u>	<u>Failure to comply with any general conditions applicable to all NJPDES permits specified in N.J.A.C. 7:14A-6.2(a) excluding 7:14-6.2(a)6, 7, 8, 9, 10 and 14.</u>	<u>NM</u>	
<u>7:14A-6.2(a)9</u>	<u>Failure of a permittee with discharges that flow through an outfall pipe, unless such outfall pipe is completely and continuously submerged, or is not assigned a Discharge Serial Number (DSN), to notify the Department that a tag to mark the location of the pipe has been or will be installed on the pipe by the effective date of the permit, or by May 5, 1998, whichever is sooner.</u>	<u>M</u>	<u>30 days</u>

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-6.2(a)9</u>	<u>Failure of a permittee with discharges that flow through an outfall pipe, unless such outfall pipe is completely and continuously submerged, to provide an outfall tag which meets the requirements specified in N.J.A.C. 7:14A-6.2(a)9i and ii.</u>	<u>M</u>	<u>30 days</u>
<u>7:14A-6.2(a)14</u>	<u>Failure of a permittee to furnish to the Department, within a reasonable timeframe specified by the Department, any information that the Department may request to determine whether cause exists for issuing, modifying, revoking and reissuing, or revoking a discharge permit, or to determine compliance with a NJPDES permit; or to provide copies of records required to be kept by the permit.</u>	<u>NM</u>	
<u>7:14A-6.4</u>	<u>Failure to comply with a schedule of compliance in a permit, including interim deadlines for progress or reports of progress towards compliance with the State and Federal Acts and all other applicable authority for N.J.A.C. 7:14A.</u>	<u>NM</u>	
<u>7:14A-6.5(a)1</u>	<u>Failure to take samples and measurements representative of the monitored activity.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-6.5(a)2</u>	<u>Failure of permittee to perform all analyses in accordance with the analytical test procedures specified in 40 CFR 136, 40 CFR 503 or other test procedures specified in the permit.</u>	<u>NM</u>	
<u>7:14A-6.5(a)2</u>	<u>Failure of a permittee to indicate a suitable analytical procedure and provide the Department with literature references or a detailed description of the procedure when no approved test procedure is available.</u>	<u>M</u>	<u>30 days</u>
<u>7:14A-6.5(b)1</u>	<u>Failure to properly install, use, and maintain monitoring equipment and use proper monitoring methods.</u>	<u>NM</u>	
<u>7:14A-6.5(b)2</u>	<u>Failure to properly monitor a discharge in accordance with the monitoring type, interval and frequency as specified in the permit.</u>	<u>NM</u>	
<u>7:14A-6.5(b)4</u>	<u>Failure to monitor in accordance with the edition of the Department’s “Field Sampling Procedures Manual” applicable at the time of sampling, or an alternate method approved by the Department.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-6.5(d)1</u>	<u>Failure of a permittee to automatically adjust its effluent monitoring and reporting frequency to monthly when required by N.J.A.C. 7:14A-6.5(d)1i or ii.</u>	<u>NM</u>	
<u>7:14A-6.5(d)3</u>	<u>Failure of a permittee to continue this monthly schedule until the permittee has submitted six consecutive monthly Discharge Monitoring Reports that show compliance with the particular serious violation parameter at the particular discharge point.</u>	<u>NM</u>	
<u>7:14A-6.6</u>	<u>Failure to comply with record keeping requirements.</u>	<u>NM</u>	
<u>7:14A-6.7(a)</u>	<u>Failure to comply with written notice requirements for planned physical alterations or additions to a permitted facility that meet the criteria in N.J.A.C. 7:14A-6.7(b).</u>	<u>NM</u>	
<u>7:14A-6.8(a)</u>	<u>Failure of permittee to report monitoring results on the DMR and/or the Baseline Reports (BR) or other monitoring report forms required by the permit or the Department at the intervals specified in the permit.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-6.8(b)</u>	<u>Failure of permittee with effluent limits expressed as daily maxima or minima without a monthly average for a particular parameter to report the average of all daily maxima or minima values obtained during the reporting month.</u>	<u>NM</u>	
<u>7:14A-6.8(c)</u>	<u>Failure of permittee to automatically adjust its reporting frequency to monthly.</u>	<u>NM</u>	
<u>7:14A-6.8(e)</u>	<u>Failure of permittee to include in any calculation and report on the form specified by the Department if a permittee monitors any pollutant more frequently than required by the permit in accordance with the permit requirements for sample type, location, and analysis.</u>	<u>NM</u>	
<u>7:14A-6.8(f)</u>	<u>Failure to utilize an arithmetic mean for calculations for all limitations that require averaging of measurements, unless otherwise specified in the permit by the Department.</u>	<u>M</u>	<u>30 days</u>

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-6.8(g)</u>	<u>Failure of the permittee to submit with the report the level of production that actually occurred during the reporting month and the limitations, standards, or prohibitions applicable to that level of production when subject to limitations based on a measure of production.</u>	<u>NM</u>	
<u>7:14A-6.8(h)</u>	<u>Failure of the permittee to report all instances of noncompliance not reported under N.J.A.C. 7:14A-6.10 at the time DMRs are submitted.</u>	<u>NM</u>	
<u>7:14A-6.8(h)</u>	<u>Failure of the permittee to submit reports that contain the information required in the written submission listed in N.J.A.C. 7:14A-6.10(e), if not already submitted to the Department.</u>	<u>NM</u>	
<u>7:14A-6.8(i)</u>	<u>Failure of SIUs, DSW major industrial facilities, DGWs, and DSW local agencies, other than those discharging only stormwater or non-contact cooling water, required to submit DMRs to the Department to submit the required reporting forms to the Department on a monthly basis when sampling is required on a monthly basis for one or more parameters.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-6.9</u>	<u>Failure to comply with DMR and BR signature and certification requirements.</u>	<u>NM</u>	
<u>7:14A-6.10(c)</u>	<u>Failure of permittee to submit noncompliance report information within two hours of commencement of a discharge, or of the permittee becoming aware of a discharge for the situations listed in N.J.A.C. 7:14A-6.10(a)1i through iv, 2 and 3.</u>	<u>NM</u>	
<u>7:14A-6.10(d)</u>	<u>Failure of permittee to submit noncompliance report information within 24 hours of commencement of a discharge, or of the permittee becoming aware of a discharge for the situations listed in N.J.A.C. 7:14A-6.10(a)1v and 3.</u>	<u>NM</u>	
<u>7:14A-6.10(e)</u> <u>and 7:14A-6.10(f)</u>	<u>Failure to comply with written submission requirements for noncompliance reporting.</u>	<u>NM</u>	
<u>7:14A-6.10(i)</u>	<u>Failure to comply with written report requirements for serious violations.</u>	<u>NM</u>	
<u>7:14A-6.10(j)</u>	<u>Failure of permittee to comply with reporting requirements on instances of noncompliance not reported under N.J.A.C. 7:14A-6.10 at the time DMRs are regularly submitted.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-6.12(a)</u>	<u>Failure of permittee to, at all times, maintain in good working order and operate the treatment works and facilities which are installed or used by the permittee to achieve compliance with the terms and conditions of the discharge permit.</u>	<u>NM</u>	
<u>7:14A-6.12(b)</u>	<u>Failure of a permittee who operates a treatment works to satisfy the licensing requirements of the “Water Supply and Wastewater Operators Licensing Act.”</u>	<u>M</u>	<u>60 days</u>
<u>7:14A-6.12(c)</u>	<u>Failure to comply with operation and maintenance manual requirements for treatment works, including related appurtenances and collection system.</u>	<u>NM</u>	
<u>7:14A-6.12(d)</u>	<u>Failure to comply with emergency plan requirements.</u>	<u>NM</u>	
<u>7:14A-6.12(e)</u>	<u>Failure of a municipality or sewerage authority to properly operate and maintain a treatment works when that entity is not a permittee, but owns and operates a treatment works used only for the collection or transportation of domestic sewage.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-6.15(a)</u>	<u>Failure of a permittee to comply with land-based sludge management criteria and conform with the requirements for the management of residuals and grit and screenings pursuant to the requirements in N.J.A.C. 7:14A-6.15(a)1 through 5.</u>	<u>NM</u>	
<u>7:14A-7.2(b)</u>	<u>Failure to obtain a discharge to ground water permit prior to discharge except as otherwise provided in N.J.A.C. 7:14A-7.4 and N.J.A.C. 7:14A-7.5.</u>	<u>NM</u>	
<u>7:14A-7.3(a)</u>	<u>Failure to comply with all requirements of N.J.A.C. 7:14A-7, except those persons listed in N.J.A.C. 7:14A-7.3(c), (d), and (e), and 7:14A-7.4.</u>	<u>NM</u>	
<u>7:14A-7.3(b)</u>	<u>Failure of persons responsible for the activities, pollution sources, or regulated units listed at N.J.A.C. 7:14A-7.3(b)1 through 7 to comply with the requirements of N.J.A.C. 7:14A-7.</u>	<u>NM</u>	
<u>7:14A-7.6</u>	<u>Failure to comply with the Ground Water Protection Plan requirements.</u>	<u>NM</u>	
<u>7:14A-7.7</u>	<u>Failure to comply with the Ground Water Sampling Procedures and Statistical Analysis requirements.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-7.8</u>	<u>Failure to comply with any measures specified in a NJPDES permit to address any contravention of the ground water quality standards.</u>	<u>NM</u>	
<u>7:14A-8.3</u>	<u>Failure to obtain a permit-by-rule or individual UIC permit prior to construction of any well or any underground injection required to have a permit (including, where applicable, a well permit) under N.J.A.C. 7:14A-8.</u>	<u>NM</u>	
<u>7:14A-8.4</u>	<u>Failure to comply with any Department prescribed requirement necessary to control or prevent the movement of fluids into underground sources of drinking water.</u>	<u>NM</u>	
<u>7:14A-8.5(a), (b) and (c)</u>	<u>Failure to submit required inventory information within 90 days of Department notice for a permit-by-rule.</u>	<u>M</u>	<u>30 days</u>
<u>7:14A-8.5(h)</u>	<u>Failure to cease injection pursuant to this N.J.A.C. 7:14A-8.5.</u>	<u>NM</u>	
<u>7:14A-8.7(a)</u>	<u>Operation of a Class IV injection well and/or injection of hazardous or radioactive wastes via Class I injection wells without Department authorization.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-8.7(c)</u>	<u>Failure to abandon and close any injection well that is injecting, or has ever injected, hazardous wastes (including Class IV and Class I injection wells) in compliance with all applicable Department regulations for remediation of contaminated sites, including the Procedures for Department Oversight of the Remediation of Contaminated Sites (N.J.A.C. 7:26C).</u>	<u>NM</u>	
<u>7:14A-8.9(a)</u> <u>1,2, and 6</u>	<u>Failure to comply with any Additional Condition Applicable to Class I, II, III and V UIC Permits incorporated in an UIC permit.</u>	<u>M</u>	<u>30 days</u>
<u>7:14A-8.9(a)3,4</u> <u>and 5</u>	<u>Failure to report any condition that may endanger or cause fluid to migrate to a potable supply well or underground source of drinking water in accordance with the prescribed time frames.</u>	<u>NM</u>	
<u>7:14A-8.11</u>	<u>Failure to comply with any of the requirements for corrective or preventative action.</u>	<u>NM</u>	
<u>7:14A-8.12</u>	<u>Failure to comply with the Specific Operating Criteria and Construction Standards.</u>	<u>NM</u>	
<u>7:14A-8.13</u>	<u>Failure to comply with the Specific Operating Criteria and Construction Standards Applicable to Class I Wells.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-8.14</u>	<u>Failure to comply with the Specific Operating Criteria and Construction Standards Applicable to Class II Wells.</u>	<u>NM</u>	
<u>7:14A-8.15</u>	<u>Failure to comply with the Specific Operating Criteria and Construction Standards Applicable to Class III Wells.</u>	<u>NM</u>	
<u>7:14A-8.16</u>	<u>Failure to comply with the Specific Operating Criteria and Construction Standards Applicable to Class V Wells.</u>	<u>NM</u>	
<u>7:14A-8.17</u>	<u>Failure to submit information required by Additional Requirements for Application for Individual UIC Permits</u>	<u>M</u>	<u>30 days</u>
<u>7:14A-8.18</u>	<u>Failure to comply with the Specific Operating Criteria and Construction Standards applicable to permit-by-rule authorization for underground injection and seepage pits.</u>	<u>NM</u>	
<u>7:14A-9.2</u>	<u>Failure to apply for a NJPDES permit to conduct ground water monitoring.</u>	<u>NM</u>	
<u>7:14A-9.3</u>	<u>Failure to meet the ground water monitoring system performance standards.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-9.4</u>	<u>Failure to meet the General Ground Water Monitoring Well requirements except for N.J.A.C. 7:14A-9.4(a)5.</u>	<u>NM</u>	
<u>7:14A-9.4(a)5</u>	<u>Failure to permanently mark both the elevation of the top of the well casing or the number assigned or approved by the Department on the well casing.</u>	<u>M</u>	<u>30 days</u>
<u>7:14A-9.5</u>	<u>Failure to comply with the Ground Water Monitoring Program requirements for Sanitary Landfills.</u>	<u>NM</u>	
<u>7:14A-9.7</u>	<u>Failure to comply with the Leak Detection Monitoring Program requirements.</u>	<u>NM</u>	
<u>7:14A-9.8</u>	<u>Failure to comply with the Assessment Monitoring Program requirements.</u>	<u>NM</u>	
<u>7:14A-9.9</u>	<u>Failure to comply with the Assessment of Corrective Measures requirements</u>	<u>NM</u>	
<u>7:14A-9.10</u>	<u>Failure to comply with the Selection of Remedy requirements.</u>	<u>NM</u>	
<u>7:14A-9.11</u>	<u>Failure to comply with the Implement and Corrective Action Program requirements.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14-11.3</u>	<u>Failure of existing manufacturing, commercial, mining, and silviculture dischargers and research facilities that discharge to surface water to comply with additional reporting notification requirements.</u>	<u>NM</u>	
<u>7:14A-12.2(a)</u>	<u>Failure of a direct discharges to surface water from publicly or privately owned domestic treatment works to comply with the effluent quality standards set forth in N.J.A.C. 7:14A-12.2(b) through (f).</u>	<u>NM</u>	
<u>7:14A-12.4(a)</u>	<u>Failure of a direct discharge to surface water for which (BOD5 or CBOD5) water quality based effluent limitations based upon water quality studies acceptable to the Department have not been developed, but are required under N.J.A.C. 7:9B-1.5 or 1.6, to comply with the minimum treatment requirements for BOD5 specified in N.J.A.C. 7:14A-12.4(b).</u>	<u>NM</u>	
<u>7:14A-12.5(a)</u>	<u>Failure to comply with continuous year round disinfection standards set forth in N.J.A.C. 7:14A-12.5(b) prior to discharge into surface waters a wastewater that could contain pathogenic organisms such as fecal coliform and/or enterococci organisms.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-12.8(a)</u>	<u>Failure of an indirect user to comply with any local agency standards for non-petroleum based oil and grease.</u>	<u>NM</u>	
<u>7:14A-12.8(c)</u>	<u>Failure of a direct discharger to surface waters to limit the oil and grease effluent content as specified in N.J.A.C. 7:14A-12.8.</u>	<u>NM</u>	
<u>7:14A-12.8(d)</u>	<u>Failure of an indirect user discharging petroleum based oil and grease to meet the petroleum hydrocarbon effluent standards set forth in N.J.A.C. 7:14A-12.8.</u>	<u>NM</u>	
<u>7:14A-12.11(d)</u>	<u>Failure to comply with the chemical specific toxic pollutant effluent standards set forth in N.J.A.C. 7:14A-12 Appendix B for a discharge to surface water from a site remediation project.</u>	<u>NM</u>	
<u>7:14A-12.11(e)</u>	<u>Failure to comply with the chemical specific toxic pollutant effluent standards set forth in N.J.A.C. 7:14A-12 Appendix C for a new source, new discharge or expanded direct discharge to surface water.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-16.2(a)</u>	<u>Failure of a permittee to provide due notice to the Department in accordance with N.J.A.C. 7:14-16.2(b) or (d) when transferring a NJPDES permit to any person.</u>	<u>NM</u>	
<u>7:14A-19.2(c)</u>	<u>Failure of a local agency, or combination of treatment works operated by the same local agency, required to establish an IPP pursuant to N.J.A.C. 7:14A-19.2(a) or (b) to develop and submit an IPP in accordance with the requirements of 40 CFR Part 403 and the requirements of N.J.A.C. 7:14A-19.</u>	<u>NM</u>	
<u>7:14A-19.3(b)1</u>	<u>Failure of a local agency, including those not required by N.J.A.C. 7:14A-19.2(a) and (b), to submit a copy of the local sewer use ordinance to the Department.</u>	<u>M</u>	<u>30 days</u>
<u>7:14A-19.3(b)2i</u>	<u>Failure of a delegated local agency to update its inventory of indirect users.</u>	<u>NM</u>	
<u>7:14A-19.3(b)2ii</u>	<u>Failure of a non-delegated local agency to submit a report annually listing all indirect users that meet the indirect user definition.</u>	<u>M</u>	<u>30 days</u>
<u>7:14A-19.3(b)3</u>	<u>Failure of a local agency to develop local limits or demonstrate that such limits are not necessary in accordance with N.J.A.C. 7:14A-19.7</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-19.3(b)4</u>	<u>Failure of a local agency to deposit 10 percent of the amount of penalties collected into the Wastewater Treatment Operators' Training Account.</u>	<u>M</u>	<u>60 days</u>
<u>7:14A-19.3(c)1</u>	<u>Failure of delegated local agency to notify indirect users of the responsibilities required in the DLA's rules and regulations or sewer use ordinance.</u>	<u>M</u>	<u>30 days</u>
<u>7:14A-19.3(c)2</u>	<u>Failure of delegated local agency to issue an IPP permit to its indirect users.</u>	<u>NM</u>	
<u>7:14A-19.3(c)3</u>	<u>Failure of delegated local agency to perform compliance monitoring and inspections of indirect users.</u>	<u>M</u>	<u>30 days</u>
<u>7:14A-19.3(c)4</u>	<u>Failure of delegated local agency to 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.</u>	<u>M</u>	<u>30 days</u>
<u>7:14A-19.3(c)5</u>	<u>Failure of delegated local agency to take enforcement actions based upon indirect users' noncompliance.</u>	<u>M</u>	<u>30 days</u>

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-19.3(c)6</u>	<u>Failure of delegated local agency to 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.</u>	<u>M</u>	<u>90 days</u>
<u>7:14A-19.3(c)7</u>	<u>Failure of delegated local agency to sample its treatment works and sludges.</u>	<u>NM</u>	
<u>7:14A-19.3(c)9</u>	<u>Failure of delegated local agency to notify its 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).</u>	<u>M</u>	<u>30 days</u>
<u>7:14A-19.3(c)10</u>	<u>Failure of delegated local agency to secure and maintain sufficient resources and qualified personnel, in accordance with 40 CFR 403.8(f)(3), to carry out the program implementation procedures.</u>	<u>NM</u>	
<u>7:14A-19.3(d)</u>	<u>Failure of a local agency to comply with the requirements of the Grace Period Law by establishing type or category of minor violation and time period to correct the violation as noted in its rules and regulations or sewer use ordinance.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-19.4(a)</u>	<u>Failure of a delegated local agency to develop and implement an enforcement response plan in accordance with N.J.A.C. 7:14A-19.4.</u>	<u>NM</u>	
<u>7:14A-19.4(c)</u>	<u>Failure of a delegated local agency to include an enforcement response plan within the rules and regulations or sewer use ordinance of a delegated local agency.</u>	<u>NM</u>	
<u>7:14A-19.4(d)</u>	<u>Failure of a delegated local agency to include or incorporate by reference in its enforcement response plan 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.</u>	<u>NM</u>	
<u>7:14A-19.5</u>	<u>Failure of a delegated local agency to include in its sewer use ordinance or rules and regulations the enforcement and penalty provisions and procedural and substantive requirements set forth in N.J.A.C. 7:14A-19.5.</u>	<u>M</u>	<u>90 days</u>

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-19.6(a)</u>	<u>Failure of a delegated local agency to comply with the additional requirements for delegated local agencies as set forth in N.J.A.C. 7:14A-19.6.</u>	<u>M</u>	<u>60 days</u>
<u>7:14A-19.6(b)</u>	<u>Failure of a delegated local agency to inspect any permittee that meets the significant noncomplier definition 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.</u>	<u>NM</u>	
<u>7:14A-19.6(c)</u>	<u>Failure of a delegated local agency to submit a Clean Water Enforcement Act annual report to the Department by February 1.</u>	<u>NM</u>	
<u>7:14A-19.6(d)</u>	<u>Failure of a delegated local agency to submit additional information outlined in N.J.A.C. 7:14A-19.6.</u>	<u>NM</u>	
<u>7:14A-19.6(e)</u>	<u>Failure of a delegated local agency to submit the information required in N.J.A.C. 7:14A-19.6(c) and (d) on forms provided by the Department.</u>	<u>NM</u>	
<u>7:14A-19.6(f)</u>	<u>Failure of a delegated local agency to submit a 40 CFR Part 403 annual report that describes its pretreatment program activities.</u>	<u>M</u>	<u>30 days</u>

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-19.6(g)</u>	<u>Failure of a delegated local agency to submit a grace period annual report to the Department by March 1.</u>	<u>M</u>	<u>30 days</u>
<u>7:14A-19.6(h)</u>	<u>Failure of a delegated local agency to submit the information required in N.J.A.C. 7:14A-19.6(g) on forms provided by the Department.</u>	<u>NM</u>	
<u>7:14A-19.7(a)</u>	<u>Failure of a local agency to perform a headworks analysis in order to develop local limits or demonstrate that local limits are not necessary.</u>	<u>NM</u>	
<u>7:14A-19.7(b)</u>	<u>Failure of a delegated local agencies to submit a work plan to 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.</u>	<u>M</u>	<u>60 days</u>
<u>7:14A-19.7(c)</u>	<u>Failure of a delegated local agency, when proposing and adopting local limits, to comply with the public notice and hearing requirements.</u>	<u>M</u>	<u>90 days</u>
<u>7:14A-19.7(d)</u>	<u>Failure of a delegated local agency to submit a written technical evaluation to revise local limits.</u>	<u>NM</u>	
<u>7:14A-19.7(e)</u>	<u>Failure of a delegated local agency to submit an acceptable written technical evaluation that includes all the information outlined in N.J.A.C. 7:14A-19.7.</u>	<u>M</u>	<u>60 days</u>

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-19.8(a)</u>	<u>Failure of a delegated local agency to issue an IPP permit.</u>	<u>NM</u>	
<u>7:14A-19.8(b)</u>	<u>Failure of a delegated local agency to include the requirements outlined in N.J.A.C. 7:14A-19.8 in each IPP permit.</u>	<u>NM</u>	
<u>7:14A-19.8(c)</u>	<u>Failure of a delegated local agency to comply with public notice and hearing requirements.</u>	<u>M</u>	<u>90 days</u>
<u>7:14A-19.8(d)</u>	<u>Failure of a delegated local agency to include in its sewer use ordinance or rules and regulations outlined in N.J.A.C. 7:14A-19.8.</u>	<u>NM</u>	
<u>7:14A-19.9(a)</u>	<u>Failure of a delegated local agency to provide written notice to the Department regarding each substantial and non-substantial IPP modification, as defined under 40 CFR 403.18.</u>	<u>NM</u>	
<u>7:14A-19.9(b)</u>	<u>Failure of a delegated local agency to provide a statement of the basis for the modification, and a copy of the elements of the IPP to be modified for a non-substantial modifications request.</u>	<u>M</u>	<u>30 days</u>
<u>7:14A-19.9(c)</u>	<u>Failure of a delegated local agency to provide the items outlined in N.J.A.C. 7:14A-19.9(c)1 through 4 for a substantial IPP modification request.</u>	<u>M</u>	<u>60 days</u>

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-19.10(a)</u>	<u>Failure of delegated local agency to comply with public notice and public hearing requirements for a request for substantial modification of an industrial pretreatment program.</u>	<u>M</u>	<u>90 days</u>
<u>7:14A-19.10(b)</u>	<u>Failure of delegated local agency to provide public notice identifying those indirect users that meet the significant noncompliance criteria under 40 CFR 403.8(f)(2)(vii).</u>	<u>M</u>	<u>30 days</u>
<u>7:14A-19.10(c)</u>	<u>Failure of delegated local agency to allow 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.</u>	<u>M</u>	<u>90 days</u>
<u>7:14A-19.10(d)</u>	<u>Failure of delegated local agency to hold a public hearing on the proposed administrative order or administrative consent order prior to final adoption.</u>	<u>M</u>	<u>90 days</u>

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-19.10(e)</u>	<u>Failure of delegated local agency to provide public notice and a public hearing for any proposed new indirect user IPP permit, proposed renewed indirect user IPP permit, proposed revocation of an indirect user IPP permit, or proposed major modification to any existing indirect user IPP permit.</u>	<u>M</u>	<u>90 days</u>
<u>7:14A-20.7(b)</u>	<u>Failure to comply with any general requirement and management practice for the land application of residuals.</u>	<u>NM</u>	
<u>7:14A-20.7(c)</u>	<u>Failure to meet the applicable requirements and pollutant limits in 40 CFR 503.13(a) and (b).</u>	<u>NM</u>	
<u>7:14A-20.7(d)</u>	<u>Failure to meet the operational standards for pathogen and vector attraction reduction pursuant to 40 CFR 503.15(a) and (c).</u>	<u>NM</u>	
<u>7:14A-20.7(e)</u>	<u>Failure to remove foreign material from the residual prior to application.</u>	<u>NM</u>	
<u>7:14A-20.7(f)1</u>	<u>Failure to meet Class B pathogen reduction requirements pursuant to 40 CFR 503.32(b) and one of the vector attraction reduction requirements in 40 CFR 503.33(b)(1) through (b)(10) for land application of domestic septage.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-20.7(f)2</u>	<u>Failure to land apply domestic septage at a whole residual application rate that is equal or less than the agronomic rate in accordance with N.J.A.C. 7:14A-20.7(g).</u>	<u>NM</u>	
<u>7:14A-20.7(f)3</u>	<u>Failure to screen domestic septage through a number 4 mesh screen to remove foreign material.</u>	<u>NM</u>	
<u>7:14A-20.7(f)4</u>	<u>Failure to certify domestic septage as being from domestic sources only, having been analyzed pursuant to N.J.A.C. 7:14A-20.7(a)1, and satisfying the pollutant limits in 40 CFR 503.13(a) and (b).</u>	<u>NM</u>	
<u>7:14A-20.7(f)5</u>	<u>Failure to land apply domestic septage in accordance with one of the land application programs described at N.J.A.C. 7:14A-20.7(h).</u>	<u>NM</u>	
<u>7:14A-20.7(g)</u>	<u>Failure to comply with whole residual application rate requirements.</u>	<u>NM</u>	
<u>7:14A-20.7(h)</u>	<u>Failure to conform to one of the allowable programs based on the level of quality, pathogen reduction and vector attraction reduction achieved for residuals applied to the land.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-20.7(i)</u>	<u>Failure to comply with the frequency of pollutant monitoring, pathogen density requirements and vector attraction reduction requirements in accordance with the frequency specified in 40 CFR 503.16(a) or N.J.A.C. 7:14A-20.7, as applicable.</u>	<u>NM</u>	
<u>7:14A-20.7(j)</u>	<u>Failure to comply with record keeping requirements of 40 CFR 503.17(9a) and N.J.A.C. 7:14A-20.7.</u>	<u>NM</u>	
<u>7:14A-20.7(k)</u>	<u>Failure to comply with the reporting requirements of N.J.A.C. 7:14A-20.7.</u>	<u>NM</u>	
<u>7:14A-20.7(l)</u>	<u>Failure of an out-of-State generator that transports residual into the State to be land applied to comply with all applicable requirements for the land application of residuals pursuant to N.J.A.C. 7:14A and the notice requirements in N.J.A.C. 7:14A-20.7.</u>	<u>NM</u>	
<u>7:14A-20.8(a)</u>	<u>Storage of sewage sludge for more than six months on the land.</u>	<u>NM</u>	
<u>7:14A-20.8(b)</u>	<u>Failure of an owner and/or operator of a sewage sludge surface disposal site to submit a surface disposal site closure plan in accordance with the requirements of N.J.A.C. 7:14A-20.8(d).</u>	<u>M</u>	<u>60 days</u>

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-20.8(c)</u>	<u>Failure of the operating entity for a closed surface disposal site to comply with required management practices.</u>	<u>NM</u>	
<u>7:14A-20.11(a)</u>	<u>Failure of the person who prepares residual to ensure that all residual accepted for processing is compatible with the applicable residual quality limitations.</u>	<u>NM</u>	
<u>7:14A-20.11(b)</u>	<u>Failure to comply with provisions for accepting residual that does not meet the residual quality limitations, when the residual is to be blended with other residual and the final residual applied to the land.</u>	<u>NM</u>	
<u>7:14A-21.2(a)1</u>	<u>Discharging by an indirect user into a local agency's treatment works waste that is prohibited under 40 CFR Part 403.5</u>	<u>NM</u>	
<u>7:14A-21.2(a)2</u>	<u>Discharging by an indirect user into a local agency's treatment works waste above the State pretreatment standards for petroleum hydrocarbons.</u>	<u>NM</u>	
<u>7:14A-21.2(a)3</u>	<u>Discharging by an indirect user into a local agency's treatment works waste above a local limit developed by the local agency.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-21.3(b)</u>	<u>Failure of an indirect user subject to a categorical pretreatment standard to submit to the control authority a baseline report.</u>	<u>NM</u>	
<u>7:14A-21.3(c)</u>	<u>Failure of an indirect user to comply with a categorical pretreatment standard.</u>	<u>NM</u>	
<u>7:14A-21.3(d)</u>	<u>Failure of an indirect user to comply with a compliance schedule for meeting categorical pretreatment standard.</u>	<u>NM</u>	
<u>7:14A-21.3(e)</u>	<u>Failure of an indirect user to submit to the control authority within 90 days a compliance report.</u>	<u>NM</u>	
<u>7:14A-21.3(f)</u>	<u>Failure of an indirect user to submit to the control authority periodic compliance reports.</u>	<u>NM</u>	
<u>7:14A-21.3(g)1</u>	<u>Failure of an indirect user or control authority to submit an acceptable compliance report including the information outlined in N.J.A.C. 7:14A-21.3.</u>	<u>NM</u>	
<u>7:14A-21.3(g)2</u>	<u>Failure of an indirect user to notify the control authority within 24 hours of becoming aware of the violation of pretreatment standard.</u>	<u>NM</u>	
<u>7:14A-21.3(g)3</u>	<u>Failure of an indirect user or control authority to conduct acceptable sampling and analysis required for compliance reporting.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-21.3(g)4</u>	<u>Failure of an indirect user or control authority to conduct analysis in accordance with procedures contained in 40 CFR Part 136, as amended, or with any other test procedures approved by the Department.</u>	<u>NM</u>	
<u>7:14A-21.3(g)5</u>	<u>Failure of an indirect user to include in its compliance report the results of monitoring that was performed more frequently than required by the control authority.</u>	<u>NM</u>	
<u>7:14A-21.3(i)</u>	<u>Failure of indirect user to 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.</u>	<u>NM</u>	
<u>7:14A-21.3(j)</u>	<u>Failure of indirect user to notify the local agency in advance of any substantial change in the volume or character of pollutants in its discharge.</u>	<u>NM</u>	
<u>7:14A-21.4(a)6</u>	<u>Failure of indirect user to notify the control authority that production level will significantly change within the next calendar month.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-21.4(b)</u>	<u>Dilution of a discharge, by an indirect user without authorization, as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement.</u>	<u>NM</u>	
<u>7:14A-21.4(c)</u>	<u>Failure of an indirect user to 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.</u>	<u>NM</u>	
<u>7:14A-21.6(a)</u>	<u>Failure to prohibit a bypass that caused pretreatment standards to be violated, and was not essential maintenance to ensure efficient operation.</u>	<u>NM</u>	
<u>7:14A-21.6(b)</u>	<u>Failure of an indirect user to give prior notice of a bypass to the control authority.</u>	<u>NM</u>	
<u>7:14A-21.6(c)</u>	<u>Bypass by an indirect user, which bypass did not meet the conditions of N.J.A.C. 7:14A-21.6.</u>	<u>NM</u>	
<u>7:14A-21.7</u>	<u>Failure of indirect user to obtain an IPP permit from that delegated local agency.</u>	<u>NM</u>	
<u>7:14A-21.8</u>	<u>Failure of an indirect user to obtain an individual NJPDES-SIU permit from the Department.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-22.2(i)</u>	<u>Permitting, approving or otherwise allowing the installation, modification or operation of any facility or activity that violates the terms, conditions and requirements of this subchapter.</u>	<u>NM</u>	
<u>7:14A-22.3(a)1</u>	<u>Building, installing, modifying, or operating any treatment works including, but not limited to, sewer extensions, sewer interceptors, domestic and industrial wastewater treatment systems, holding tanks, equalization tanks and wastewater treatment and recycling systems, except in conformance with a valid treatment works approval from the Department.</u>	<u>NM</u>	
<u>7:14A-22.3(a)2</u>	<u>Building, installing, modifying or operating any sewer line, pumping station or force main that serves more than two buildings or will convey 8,000 gallons per day or more of flow to a treatment works, except in conformance with a valid treatment works approval from the Department.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<p><u>7:14A-22.3(a)3</u></p>	<p><u>Building, installing, operating or modifying any residuals treatment units, including, but not limited to, facilities for composting, heat drying, thickening, digestion, air drying, thermal reduction, dewatering and storage of sludge except in conformance with a valid treatment works approval from the Department.</u></p>	<p><u>NM</u></p>	
<p><u>7:14A-22.3(a)4</u></p>	<p><u>Building, installing, operating or modifying any domestic or industrial treatment works that discharges directly to the surface water or ground water of the State, with the exception of individual subsurface disposal systems exempted pursuant to N.J.A.C. 7:14A-22.4(a)3 except in conformance with a valid treatment works approval from the Department.</u></p>	<p><u>NM</u></p>	
<p><u>7:14A-22.3(a)5</u></p>	<p><u>Building, installing, operating or modifying any industrial treatment works located in any area of the State where the Department is the control authority (non-delegated area) for an industrial pre-treatment program pursuant to 40 CFR 403 and N.J.A.C. 7:14A-19, except in conformance with a valid treatment works approval from the Department.</u></p>	<p><u>NM</u></p>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-22.5(b)</u>	<u>Construction, installation, modification or operation of a treatment works in a manner inconsistent with the terms and conditions of the Department's approval.</u>	<u>NM</u>	
<u>7:14A-22.5(f)</u>	<u>Failure of an applicant and any owner or operator of a treatment works to provide notice of the terms and conditions of any existing treatment works approval to a prospective purchaser of the treatment works.</u>	<u>M</u>	<u>30 days</u>
<u>7:14A-22.5(j)</u>	<u>Failure to construct a treatment works in a manner consistent with the provisions of the appropriate wastewater management plan.</u>	<u>NM</u>	
<u>7:14A-22.5(k)</u>	<u>Failure to comply with emergency approval requirements.</u>	<u>NM</u>	
<u>7:14A-22.8</u>	<u>Failure to comply with the requirements for construction, installation, or modification of a treatment works- Stage II.</u>	<u>NM</u>	
<u>7:14A-22.9(c)</u>	<u>Failure to file a dry/construct only treatment works approval with the appropriate county clerk or failure to keep it filed with the deed of record until a treatment works approval for operation (Stage III) has been issued.</u>	<u>M</u>	<u>30 days</u>

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-22.10(b)</u>	<u>Operation of a “construct and operate” treatment works approval prior to completion of the project, inspection and approval of the facilities by the licensed professional engineer overseeing the construction, approval by the local municipality or sewerage authority, and submission to the Department of Form WQM005.</u>	<u>NM</u>	
<u>7:14A-22.10(c)</u>	<u>Operation of a stage II (construct only) treatment works prior to issuance of a stage III treatment works approval.</u>	<u>NM</u>	
<u>7:14A-22.15(e)</u>	<u>Failure of the owner of the affected collection system to submit an engineer’s report meeting the requirements of N.J.A.C. 7:14A-23.5.</u>	<u>M</u>	<u>60 days</u>
<u>7:14A-22.16(a)</u>	<u>Failure of the participating municipalities and/or sewerage authorities to submit a program containing the items specified in N.J.A.C. 7:14A-22.16(a) to be implemented in order to prevent an overloading of its facility or a violation of its NJPDES permit.</u>	<u>NM</u>	
<u>7:14A-22.16(a)</u>	<u>Failure to implement any requirements of a capacity assurance program.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-22.16(d)</u>	<u>Failure to give public notice of the capacity assurance program in a manner designed to inform local residents, developers, local planning board and other affected persons.</u>	<u>M</u>	<u>90 days</u>
<u>7:14A-22.17(a)</u>	<u>Failure to impose a sewer connection ban in accordance with this N.J.A.C. 7:14A-22, when any one of the events in N.J.A.C. 7:14A-22.17(a)1 through 4 occurs.</u>	<u>NM</u>	
<u>7:14A-22.18</u>	<u>Failure to comply with the procedure for the imposition of a sewer connection ban.</u>	<u>NM</u>	
<u>7:14A-22.19(a)</u>	<u>Failure to adopt exemption criteria at least as stringent as those included in N.J.A.C. 7:14A-22.</u>	<u>NM</u>	
<u>7:14A-22.19(b)</u>	<u>Granting an exemption to any person who subsequently proceeds with a proposed project, without first obtaining all necessary approvals, and thereby increases or creates a self-imposed hardship.</u>	<u>NM</u>	
<u>7:14A-22.21(a)</u>	<u>Failure of a sewerage authority or municipality imposing a sewer connection ban to provide an applicant for an exemption with the documents specified in N.J.A.C. 7:14A-22.21(a).</u>	<u>M</u>	<u>30 days</u>
<u>7:14A-22.22(a)</u>	<u>Granting of a sewer ban exemption for a project that does not meet the required criteria.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-22.23</u>	<u>Failure of a sewerage authority or municipality to comply with the delegation requirements for the sewer ban exemption program.</u>	<u>NM</u>	
<u>7:14A-23</u>	<u>Failure to comply with specific criteria and standards set forth in this section for the construction and operation of any treatment works for the collection, conveyance or treatment of domestic or industrial wastes.</u>	<u>NM</u>	
<u>7:14A-24.4(a)</u>	<u>Failure of an operating entity for a stormwater DSW or DGW identified under N.J.A.C. 7:14A-24.4(a)1 through 8 that does not have an effective NJPDES permit authorizing its stormwater discharges to submit a request for authorization for a general NJPDES permit, or an application for an individual NJPDES permit, in accordance with the deadlines in N.J.A.C. 7:14A-24.4(a)1 through 8.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<p><u>7:14A-24.7(a)</u></p>	<p><u>Failure of an operating entities for stormwater discharges associated with industrial activity or small construction activity (from point or nonpoint sources), and for industrial or commercial stormwater DSW (from point or nonpoint sources) identified under N.J.A.C.7:14A-24.2(a)1 or 7, to apply for an individual NJPDES DSW permit or request authorization under a final stormwater general NJPDES DSW permit in accordance with the deadlines in N.J.A.C. 7:14A-24.4.</u></p>	<p><u>NM</u></p>	
<p><u>7:14A-24.7(a)</u></p>	<p><u>Failure of an operating entity that is required or seeks to obtain an individual DSW permit to submit an individual permit application in accordance with the requirements of N.J.A.C.7:14A-4 as modified and supplemented by N.J.A.C. 7:14A-24.7 and N.J.A.C. 7:14A-24.8.</u></p>	<p><u>NM</u></p>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-24.7(c)</u>	<u>Failure of an operating entity for stormwater DSW (from point or nonpoint sources) that are identified under N.J.A.C. 7:14A-24.2(a)1 or (a)7, but that are not from industrial or commercial facilities or from small MS4s, to apply for an individual NJPDES DSW permit or request authorization under a final stormwater general NJPDES DSW permit in accordance with the deadlines in N.J.A.C. 7:14A-24.4(a)4.</u>	<u>NM</u>	
<u>7:14A-24.9(a)1</u>	<u>Failure of the permittee of a small municipal separate storm sewer systems subject to N.J.A.C. 7:14A-25.6 or 25.8 to comply with the requirements for evaluation, recordkeeping, and reporting in N.J.A.C. 7:14A-25.6(j) or 25.8(i).</u>	<u>NM</u>	
<u>7:14A-24.9(a)2i</u>	<u>Failure of a permittee for stormwater discharges associated with industrial activity or small construction activity to conduct an annual inspection of the facility.</u>	<u>NM</u>	
<u>7:14A-24.9(a)2ii</u>	<u>Failure of a permittee to prepare a report summarizing the result of the annual inspection conducted under N.J.A.C. 7:14A-24.9(a)2i.</u>	<u>M</u>	<u>30 days</u>

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-24.9(a)2ii</u>	<u>Failure to submit an annual certification that the facility is in compliance with its stormwater pollution prevention plan and the permit.</u>	<u>M</u>	<u>30 days</u>
<u>7:14A-24.9(a)2ii</u>	<u>Failure to identify any incidents of non-compliance in the certification and identify, in the report, the steps being taken to remedy the non-compliance and to prevent such incidents from recurring.</u>	<u>NM</u>	
<u>7:14A-24.9(a)ii</u>	<u>Failure of the permittee to maintain the inspection report and certification for a period of at least five years from the date of the report.</u>	<u>NM</u>	
<u>7:14A-24.9(a)iii</u>	<u>Failure to submit an inspection report and certification signed by a person described in N.J.A.C. 7:14A-4.9.</u>	<u>M</u>	<u>30 days</u>
<u>7:14A-24.9(a)iv</u>	<u>Failure of a permittee that is not required to submit monitoring reports at least annually pursuant to this subsection to report to the Department at least annually all instances of non-compliance not reported under N.J.A.C. 7:14A-6.7, 6.8 and 6.10.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-24.9(b)</u>	<u>Failure of the operating entity for a large or medium municipal separate storm sewer system to include in its annual report a summary of data, including monitoring data, that is accumulated throughout the reporting year, in accordance with N.J.A.C. 7:14A-25.10(b) and 40 C.F.R. 122.42(c).</u>	<u>M</u>	<u>60 days</u>
<u>7:14A-25.2(a)1</u>	<u>Failure of the operator of a small MS4 in a Tier A municipality to obtain a NJPDES permit for stormwater discharges.</u>	<u>NM</u>	
<u>7:14A-25.2(a)2</u>	<u>Failure of the operating entity of an MS4 in a public complex located entirely or partially in a Tier A municipality, or in a municipality that receives a waiver under N.J.A.C. 7:14A-25.2(d), to obtain a NJPDES permit for stormwater discharges, if the owner or operator is a county, State interstate, or Federal agency.</u>	<u>NM</u>	
<u>7:14A-25.2(a)3</u>	<u>Failure of an operating entity of an MS4 at a highway or other thoroughfare to obtain a NJPDES permit for stormwater discharges, if the owner or operator is a county, State interstate, or Federal agency.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-25.2(a)4</u>	<u>Failure of an operating entity of a special designation under N.J.A.C. 7:14A-25.2(a)4 to obtain a NJPDES permit for stormwater discharges.</u>	<u>NM</u>	
<u>7:14A-25.2(b)</u>	<u>Failure of a municipality that is assigned to Tier B under N.J.A.C.7: 14A-25.3(a) 2, and that operates a small MS4 that discharges to surface water or groundwater, to apply for the Tier B Municipal Stormwater Permit under N.J.A.C. 7:14A-25.8.</u>	<u>NM</u>	
<u>7:14A-25.4(a)1</u>	<u>Failure to apply for a permit within 180 days after receipt of notice from the Department that a municipality has been reassigned from Tier B to Tier A, or that a special designation has been made under N.J.A.C. 7:14A-25.2(a)4, unless the Department approves a later date.</u>	<u>M</u>	<u>30 days</u>
<u>7:14A-25.4(a)3</u>	<u>Failure of an entity planning to continue discharging from a small MS4 after the expiration date of its NJPDES permit for that discharge to comply with N.J.A.C. 7:14A-4.2(e)3.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14A-25.5(a)</u>	<u>Failure of an operating entity that is required under N.J.A.C. 7:14A-25.2(a) to apply for a NJPDES permit for stormwater discharges from small MS4s to submit a request for authorization (RFA) under a general NJPDES permit in accordance with N.J.A.C. 7:14A-25.5(a)1, or an application for an individual NJPDES permit under N.J.A.C. 7:14A-25.9.</u>	<u>NM</u>	
-----------------------------	--	------------------	--

TABLE 2

N.J.A.C. 7:14B UNDERGROUND STORAGE TANKS RULES

<u>Rule Citation</u>	<u>Description of Violation</u>	<u>Type of Violation</u>	<u>Grace Period</u>
<u>7:14B—1.8(a)</u>	<u>Introduction of a hazardous substance into an underground storage tank that is known or suspected to be leaking or discharging.</u>	<u>NM</u>	
<u>7:14B—1.8(b)</u>	<u>Introduction of a hazardous substance into an underground storage tank that is not properly registered.</u>	<u>NM</u>	
<u>7:14B-2.1(a)</u>	<u>Failure to register a regulated underground storage tank.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14B-2.1(c)</u>	<u>Using a regulated underground storage tank without a valid Registration Certificate.</u>	<u>NM</u>	
<u>7:14B-2.1(d)</u>	<u>Failure to register regulated underground storage tanks systems 30 days prior to use.</u>	<u>NM</u>	
<u>7:14B-2.1(e)</u>	<u>Failure to register a regulated underground storage tank removed on or after September 3, 1986 for the period between September 3, 1986 and the date of removal.</u>	<u>NM</u>	
<u>7:14B-2.1(f)</u>	<u>Failure to register a regulated underground storage tank system before closure activities are begun.</u>	<u>NM</u>	
<u>7:14B-2.2(a)</u>	<u>Failure to file the required registration and certification information on the New Jersey Underground Storage Tank Facility Certification Questionnaire.</u>	<u>NM</u>	
<u>7:14B-2.2(b)</u>	<u>Failure to complete and submit the required registration and certification forms to the Department.</u>	<u>NM</u>	
<u>7:14B-2.2(c)</u>	<u>Failure to complete the New Jersey Underground Storage Tank Facility Certification Questionnaire prior to expiration of the facility's Registration Certificate.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14B-2.2(d)</u>	<u>Failure to supply the information required in N.J.A.C. 7:14B-2.2(d) during initial registration.</u>	<u>NM</u>	
<u>7:14B-2.2(e)</u>	<u>Failure to supply registration information during the Certificate renewal.</u>	<u>NM</u>	
<u>7:14B-2.2(f)</u>	<u>Failure supply information in accordance with N.J.A.C. 7:14B-2.2(f) if any change in status to the underground storage tank system has been made since the initial registration</u>	<u>NM</u>	
<u>7:14B-2.4(a)</u>	<u>Failure to submit a Facility Certification Questionnaire reflecting changes to a facility or its ownership as per N.J.A.C. 7:14B-2.4(b), within 30 days after a modification.</u>	<u>M</u>	<u>30 days</u>
<u>7:14B-2.4(c)</u>	<u>Failure to submit a Facility Certification Questionnaire within seven calendar days following closure of a tank system.</u>	<u>M</u>	<u>30 days</u>
<u>7:14B-2.6(a)</u>	<u>Failure to display or make available during the inspection the UST Registration Certificate.</u>	<u>NM</u>	
<u>7:14B-2.7(e)</u>	<u>Failure to cease use of a regulated tank system upon receipt of a Notice from the Department denying or revoking a registration.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14B-4.1(a)1</u>	<u>Failure of a tank installed on or after September 4, 1990 to be properly designed and constructed and have corrosion protection.</u>	<u>NM</u>	
<u>7:14B-4.1(a)2</u>	<u>Failure to properly install, construct and/or operate the corrosion protection system for piping.</u>	<u>NM</u>	
<u>7:14B-4.1(a)3i</u>	<u>Failure to have spill prevention equipment when the transfer hose is detached from the fill pipe.</u>	<u>NM</u>	
<u>7:14B-4.1(a)3ii</u>	<u>Failure to have an overfill device on the tank.</u>	<u>NM</u>	
<u>7:14B-4.1(b)</u>	<u>Failure to provide secondary containment to new underground storage tank systems installed within a wellhead protection area.</u>	<u>NM</u>	
<u>7:14B-4.2(b)</u>	<u>Failure of a steel tank to have corrosion protection.</u>	<u>NM</u>	
<u>7:14B-4.2(c)</u>	<u>Failure of steel piping to have cathodic protection.</u>	<u>NM</u>	
<u>7:14B-4.2(d)</u>	<u>Failure to have spill prevention equipment on the tank system.</u>	<u>NM</u>	
<u>7:14B-4.2(d)</u>	<u>Failure to have an overfill device on the tank.</u>	<u>NM</u>	
<u>7:14B-5.1(a)</u>	<u>Failure to ensure no spillage or overflow occurs or failure to constantly monitor the transfer operation.</u>	<u>NM</u>	
<u>7:14B-5.1(b)</u>	<u>Failure to use the specified transfer procedures.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14B-5.1(c)</u>	<u>Failure of the owner and/or operator to report, investigate and remediate any spills and overfills in accordance with N.J.A.C. 7:14B-8.</u>	<u>NM</u>	
<u>7:14B-5.1(d)</u>	<u>Failure to ensure proper operation of spill containment equipment.</u>	<u>NM</u>	
<u>7:14B-5.2(a)1</u>	<u>Failure to have a cathodic protection system continuously operational.</u>	<u>NM</u>	
<u>7:14B-5.2(a)2</u>	<u>Failure to test the cathodic protection system within six months of installation and/or every three years thereafter.</u>	<u>NM</u>	
<u>7:14B-5.2(a)3</u>	<u>Failure to inspect the impressed current cathodic protection system every 60 days to ensure the system is on and operating properly.</u>	<u>NM</u>	
<u>7:14B-5.2(a)4</u>	<u>Failure to maintain records of the operation of the corrosion protection system, including all required inspections and tests.</u>	<u>NM</u>	
<u>7:14B-5.4</u>	<u>Failure to obtain a permit from the Department and/or make repairs in accordance with N.J.A.C. 7:14B-5.4.</u>	<u>NM</u>	
<u>7:14B-5.4(a)5</u>	<u>Failure to test a within six months following the repair of a cathodic protection system.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14B-5.5(a)</u>	<u>Failure to prepare a complete Release Response Plan.</u>	<u>M</u>	<u>30 days</u>
<u>7:14B-5.5(b)</u>	<u>Failure to make the Release Response Plan available for on site inspection.</u>	<u>M</u>	<u>30 days</u>
<u>7:14B-5.6(a) and 5.6(b)</u>	<u>Failure to maintain records of installation (installation checklist), site and remedial investigations, release detection results, tank system repairs, operation of corrosion protection and design of the corrosion protection.</u>	<u>NM</u>	
<u>7:14B-5.7(a)1</u>	<u>Failed to allow the Department to enter upon any property or place of business where an underground storage tank is or might be located or in which monitoring equipment or records required by N.J.A.C. 7:14B are kept, for purposes of inspection, sampling, copying or photographing.</u>	<u>NM</u>	
<u>7:14B-5.8</u>	<u>Failure of owner and/or operator to properly mark the fill ports.</u>	<u>M</u>	<u>30 days</u>
<u>7:14B-6.1(a)</u>	<u>Failure to provide release detection methods that are able to detect a release from any portion of the tank system (tank and piping).</u>	<u>NM</u>	
<u>7:14B-6.2(a)1</u>	<u>Failure to perform appropriate release detection monitoring of the tank.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14B-6.2(a)2</u>	<u>Failure to appropriately monitor the piping.</u>	<u>NM</u>	
<u>7:14B-6.2(b)1</u> <u>and 2</u>	<u>Failed to provide release detection for tanks and piping as required pursuant to N.J.A.C. 7:14B-16.2.</u>	<u>NM</u>	
<u>7:14B-6.3(a)</u>	<u>Failure to provide release detection that meets the requirements of N.J.A.C. 7:14B-6.3(a) 2 at new or existing non-petroleum hazardous substance tank systems.</u>	<u>NM</u>	
<u>7:14B-6.4</u>	<u>Failure to properly monitor a tank located within a well head protection area. (Existing tanks [installed before 9-4-90] must monitor monthly; new tanks [installed on or after 9-4-90] must be secondarily contained with interstitial monitoring).</u>	<u>NM</u>	
<u>7:14B-6.5(a)1ii</u>	<u>Failure to take and record daily inventory readings to the nearest 1/8th inch.</u>	<u>M</u>	<u>30 days</u>
<u>7:14B-6.5(a)1vi</u>	<u>Failure to conduct measurement of any water level in the bottom of the tank to the nearest 1/8th of an inch at least once per month.</u>	<u>M</u>	<u>30 days</u>
<u>7:14B-6.6(a)1</u>	<u>Failure to annually test line leak detectors.</u>	<u>M</u>	<u>30 days</u>
<u>7:14B-6.7(a)</u>	<u>Failure to maintain written monitoring instructions.</u>	<u>M</u>	<u>30 days</u>

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14B-6.7(b)</u>	<u>Failure to keep the written monitoring procedure at the underground storage tank facility and make it available for inspection.</u>	<u>M</u>	<u>30 days</u>
<u>7:14B-6.7(c)</u>	<u>Failure to maintain written documentation of the performance claims of the Release Detection Monitoring System.</u>	<u>M</u>	<u>30 days</u>
<u>7:14B-6.7(d)</u>	<u>Failure to maintain records of all calibration, maintenance and repair of all Release Detection equipment.</u>	<u>M</u>	<u>30 days</u>
<u>7:14B-6.7(e)</u>	<u>Failure to maintain a summary of the results of monitoring of the underground storage tank system and maintenance checks of the release detection equipment.</u>	<u>NM</u>	
<u>7:14B-6.7(f)</u>	<u>Failure to maintain records of all environmental sampling, tank system testing and monitoring, and monthly inventory reconciliations.</u>	<u>NM</u>	
<u>7:14B-6.7(i)</u>	<u>Failure to maintain on site a certification from a Subsurface Evaluator and/or required documentation from the manufacturer.</u>	<u>M</u>	<u>30 days</u>
<u>7:14B-15.1(b)</u>	<u>Failure to maintain financial assurance for federally regulated underground storage tank systems per 40 CFR Part H.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14B-15.1(c)</u>	<u>Failure to maintain financial assurance, per 40 CFR Part H with the exclusions noted at N.J.A.C. 7:14B-15.3(c), for underground storage tank systems not covered by N.J.A.C. 7:14B-15.1(b), in the amounts listed at N.J.A.C. 7:14B-15.2.</u>	<u>NM</u>	
<u>7:14B-15.1(h)</u>	<u>Failure to identify the financial assurance mechanism used on the Facility Certification Questionnaire; failure to maintain evidence of financial assurance on site and at the owner/operator's place of business; failure to submit evidence of financial assurance to the Department upon request.</u>	<u>M</u>	<u>30 days</u>
<u>7:14B-15.1(i)</u>	<u>Failure of the financial institution to notify the Department in writing within 30 days of the cancellation or expiration of any form of financial assurance.</u>	<u>NM</u>	
<u>7:14B-15.2(a)</u>	<u>Failure to maintain financial responsibility assurance in the required per-occurrence amounts.</u>	<u>NM</u>	
<u>7:14B-15.2(b)</u>	<u>Failure to maintain financial responsibility assurance in the required annual aggregate amounts.</u>	<u>NM</u>	

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<u>7:14B-15.2(c)</u>	<u>Failure to maintain financial responsibility assurance in the required annual aggregate or per-occurrence amounts when acquiring or installing additional underground storage tanks.</u>	<u>NM</u>	
<u>7:14B-15.2(d)</u>	<u>Failure to submit an amended Facility Certification Questionnaire to the Department to demonstrate any adjusted amount of financial responsibility assurance due to acquiring or installing additional underground storage tanks.</u>	<u>M</u>	<u>30 days</u>
<u>7:14B-15.3(b)</u>	<u>Failure to maintain financial assurance for federally regulated underground storage tank systems per 40 CFR Part H.</u>	<u>NM</u>	
<u>7:14B-15.3(c)</u>	<u>Failure to maintain financial assurance, per 40 CFR Part H with the exclusions of surety bond, State required mechanisms, State fund or local government guarantee, for State regulated underground storage tank systems not covered by N.J.A.C. 7:14B-15.3(b), in the amounts listed at N.J.A.C. 7:14B-15.2.</u>	<u>NM</u>	

7:14-8.[18]**19** Severability

(No change in text.)

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

APPENDIX A

WORDING OF FINANCIAL ASSURANCE DOCUMENTS

LETTER OF CREDIT

A letter of credit required by N.J.A.C. 7:14-8.[4(a)]3(h) shall be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

...

Irrevocable Letter of Credit

New Jersey Department of Environmental Protection

PO Box [029]422

Trenton, New Jersey 08625-[0029]0422

ATTN:[Assistant Director, Enforcement] Administrator, Water Compliance and Enforcement

.....
This Letter of Credit is effective as of [insert month, day, and year] and shall expire on [date at least 1 year later], but such expiration date shall be automatically extended for period of at least one (1) year on [date] and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify both NJDEP's [Assistant Director for Enforcement, Division of Water Resources, PO Box 029, Trenton, New Jersey, 08625-0029]Administrator, Water Compliance and Enforcement, PO Box 422, Trenton, New Jersey 08625-0422, and [name and address of violator] by certified mail that we have decided not to extend this Letter of Credit beyond the current expiration date. In the event you are so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both NJDEP and [name and address of violator], as shown on the signed return

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN. receipts.

SURETY BOND

A surety bond guaranteeing payment into a trust fund required by N.J.A.C. 7:14-8.[4(a)]3(h) shall be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

...

WHEREAS, the Principal is required to provide financial assurance in [an amount equal to the amount of the civil administrative penalty in the Notice of Civil Administrative Penalty Assessment dated [date] as a precondition to requesting an adjudicatory on the Notice of Civil Administrative Penalty Assessment pursuant to N.J.A.C. 7:14-8.4(a)] **the full amount of the cost of fully complying with all of the terms and conditions required by the administrative consent order dated [date] pursuant to N.J.A.C. 7:14-8.3(h), and**

WHEREAS, the Principal shall establish a standby trust fund as required by N.J.A.C. 7:14-[8(a)]3(h). when a surety bond is used to provide a mechanism for access by NJDEP to assure [payment of the civil administrative penalty in the Notice of Civil Administrative Penalty Assessment dated [date]] **in the amount of the cost of fully complying with all of the terms and conditions required by the administrative consent order dated [date] pursuant to N.J.A.C. 7:14-8.3(h).**

NOW, THEREFORE, the conditions of this obligation are such that if the Principal pays the [full amount of the civil administrative penalty that is due and owing pursuant to the Notice

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN. of Civil Administrative Penalty Assessment] **the full amount of the cost of fully complying with all of the terms and conditions required by the administrative consent order dated [date]**, then this obligation shall be null and void, otherwise, it is to remain in full force and effect.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the NJDEP [Assistant Director for Enforcement, Division of Water Resources, CN-029] **Administrator, Water Compliance and Enforcement, PO Box 422**, Trenton, N.J. 08625; provided, however, the cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by both the Principal and the NJDEP, as evidenced by the return receipts.

.....
...

STANDBY TRUST AGREEMENT

A Standby Trust Agreement required by N.J.A.C. 7:14-8.[4(a)]**3(h)** shall be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

Standby Trust Agreement

RE: [ADJUDICATORY HEARING REQUEST]

ADMINISTRATIVE CONSENT ORDER

[NOTICE OF CIVIL ADMINISTRATIVE PENALTY ASSESSMENT

DATED _____]

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.
NAME OF VIOLATOR_____

ADDRESS OF FACILITY AT WHICH THE VIOLATION
OCCURRED_____

WHEREAS, the Grantor is required to provide financial assurance in [an amount equal to the amount of the civil administrative penalty in the Notice of Civil Administrative Penalty Assessment dated [date] as a precondition to requesting an adjudicatory on the Notice of Civil Administrative Penalty Assessment pursuant to N.J.A.C. 7:14-8.4(a)] **the full amount of the cost of fully complying with all of the terms and conditions required by the administrative consent order dated [date] pursuant to N.J.A.C. 7:14-8.3(h), and**

NOW, THEREFORE, the Grantor and the Trustee agree as follow:

Section 1 Definitions

As used in this Agreement:

(a) The term Grantor means the violator who is [requesting an adjudicatory hearing on the Notice of Civil Administrative Penalty Assessment] **entering into the administrative consent order with the NJDEP as** referenced above, and any successors or assigns of the Grantor.

(b) (No change.)

Section 2. Identification of Site or Facility at which the Violation(s) referenced in the [Notice of Civil Administrative Penalty Assessment Occurred] **Administrative Consent Order** and Amount of Financial Assurance

This Agreement pertains to the site or facility at which the violation(s) referenced in the [Notice

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

of Civil Administrative Penalty Assessment occurred and the full amount of the civil administrative penalty in the Notice of Civil Administrative Penalty Assessment]

Administrative Consent Order and in the full amount of the cost of fully complying with all of the terms and conditions required by the administrative consent order dated [date] which is included herein as Attachment A.

Section 3. (No change.)

Section 4. Payment for the [Notice of Civil Administrative Penalty Assessment] **Administrative Consent Order dated** [date]

The Trustee shall make payment from the Fund as the NJDEP Commissioner, or his designee, shall direct, in writing, to provide for the payment of the [civil administrative penalty in the Notice of Civil Administrative Penalty Assessment] **cost of fully complying with all of the terms and conditions required by the administrative consent order** dated [date]. In addition, the Trustee shall refund the Grantor such amounts the NJDEP specifies in writing. Upon refund such funds shall no longer constitute part of the Fund as defined herein.

Sections 7. - 20. (No change.)

FULLY FUNDED TRUST

A fully funded trust required by N.J.A.C. 7:14-8.[4(a)]**3(h)** shall be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

Trust Agreement

RE: [ADJUDICATORY HEARING REQUEST]

ADMINISTRATIVE CONSENT ORDER

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.
[NOTICE OF CIVIL ADMINISTRATIVE PENALTY ASSESSMENT

DATED _____]

NAME OF VIOLATOR _____

ADDRESS OF FACILITY AT WHICH THE VIOLATION
OCCURRED _____

...

.....
WHEREAS, the Grantor is required to provide financial assurance in [an amount equal to the amount of the civil administrative penalty in the Notice of Civil Administrative Penalty Assessment dated [date] as a precondition to requesting an adjudicatory on the Notice of Civil Administrative Penalty Assessment pursuant to N.J.A.C. 7:14-8.4(a)] **the full amount of the cost of fully complying with all of the terms and conditions required by the administrative consent order dated [date] pursuant to N.J.A.C. 7:14-8.3(h), and**

.....
...

Section 1 Definitions

As used in this Agreement:

- (a) The term "Grantor" means the violator who is [requesting an adjudicatory hearing on the Notice of Civil Administrative Penalty Assessment] **entering into the administrative consent order with the NJDEP as** referenced above, and any successors or assigns of the Grantor.
- (a) (No change.)

Section 2. Identification of Site or Facility at which the Violation(s) referenced in the[Notice

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

of Civil Administrative Penalty Assessment] **Administrative Consent Order** Occurred
and Amount of Financial Assurance

This Agreement pertains to the site or facility at which the violation(s) referenced in the [Notice of Civil Administrative Penalty Assessment occurred and the full amount of the civil administrative penalty in the Notice of Civil Administrative Penalty Assessment] **Administrative Consent Order occurred and in the full amount of the cost of fully complying with all of the terms and conditions required by the administrative consent order** dated [date] which is included herein as Attachment A.

Section 3. (No change.)

Section 4. Payment for the [Notice of Civil Administrative Penalty Assessment] **Administrative Consent Order dated** [date]

The Trustee shall make payment from the Fund as the NJDEP Commissioner, or his designee, shall direct, in writing, to provide for the payment of the [civil administrative penalty in the Notice of Civil Administrative Penalty Assessment] **cost of fully complying with all of the terms and conditions required by the administrative consent order** dated [date]. In addition, the Trustee shall refund the Grantor such amounts the NJDEP specifies in writing. Upon refund such funds shall no longer constitute part of the Fund as defined herein.

Sections 7 - 20. (No change.)

CERTIFICATION OF ACKNOWLEDGEMENT

A certification of acknowledgement required by N.J.A.C. 7:14-8.[4(a)]**3(h)** shall be worded as follows, except that instructions in brackets are to be replaced with the relevant information and

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN. the brackets deleted.

CERTIFICATION OF ACKNOWLEDGEMENT

(Grantor & Trustee)

[ADJUDICATORY HEARING REQUEST

NOTICE OF CIVIL ADMINISTRATIVE ASSESSMENT] **ADMINISTRATIVE CONSENT**

ORDER

DATED [date]]

NAME OF VIOLATOR _____

ADDRESS OF VIOLATOR _____

ADDRESS OF SITE OR FACILITY AT

WHICH VIOLATION OCCURRED _____

Amount of Financial Guarantee \$ _____

Type of Financial Assurance Posted _____

State of _____

County of _____

On this [date], before me personally came [name of the violator] to me known, who, being by me duly sworn, did depose and say that she/he resides at [address], that she/he is [title] of [corporation], the corporation described in and which executed the above instrument; that she/he knows the seal of the corporation; that the seal affixed to such instruments is such corporate seal; that is so affixed by order of the Board of Directors of the corporation, and that she/he signed her/his name thereto by like other.

[Signature of Notary Public]

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

CHAPTER 14A

POLLUTANT DISCHARGE ELIMINATION SYSTEM

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

(a) - (c) (No change)

(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.

7:14-19.4 Enforcement response plan

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

(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) - (g) (No change.)

7:14-19.6 Additional requirements for delegated local agencies

(a)-(f) (No change.)

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

(g) **Each delegated local agency shall, by (180 days from the operative date of this rule) 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 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.**

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

- (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.**

APPENDIX A

ENFORCEMENT RESPONSE PLAN

UNAUTHORIZED DISCHARGES					
NONCOMPLIANCE	NATURE OF THE VIOLATION	ENFORCEMENT RESPONSES	TIME FRAME	PERSONNEL	<u>TYPE OF VIOL. & GRACE PERIOD (IF ANY)</u>
1. Discharge without a permit (Permit required)	No harm to POTW environment	NOV with application form, if needed	60 days		<u>NM</u>
	Harm to POTW/environment (IU meets SNC criteria under 40 CFR Part 403.8(f)(2)(vii))	Take action to halt activity	2 days		<u>NM</u>
	Noncompliance with order to submit application	Seek penalty	6 months		<u>NM</u>
2. Failure to renew	Failure to submit application prior to 180 days of expiration of current permit	NOV	60 days		<u>NM</u>
	Failure to apply continues after notice by the POTW	Seek penalty	6 months		<u>NM</u>
3. 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		<u>NM</u>
DISCHARGE LIMIT VIOLATION					
NONCOMPLIANCE	NATURE OF THE VIOLATION	ENFORCEMENT RESPONSES	TIME FRAME	PERSONNEL	<u>TYPE OF VIOL. & GRACE PERIOD (IF ANY)</u>

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

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	<u>NM</u>	
	Serious violation (individual or monthly)	Seek at least a mandatory minimum penalty in accordance with N.J.A.C. 7:14-8.16	6 months	<u>NM</u>	
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.	<u>NM</u>	
	Significant noncompliance (IU meets SNC criteria in NJWPCA, under N.J.S.A. 58:10A-3.w.)	Seek at least a mandatory minimum penalty in accordance with N.J.A.C. 7:14-8.16	6 months	<u>NM</u>	
MONITORING AND REPORTING VIOLATIONS					
NONCOMPLIANCE	NATURE OF THE VIOLATION	ENFORCEMENT RESPONSES	TIME FRAME	PERSONNEL	<u>TYPE OF VIOL. & GRACE PERIOD (IF ANY)</u>
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 (note: Penalty waived if complete report is received within 10 days of receipt of the NOV)	6 months		<u>NM</u>

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

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 (note: Penalty waived if complete report is received within 10 days of receipt of the NOV)	Public notice in accordance with approved program Penalty within 6 months	<u>NM</u>
Incomplete for effluent parameter omission	Seek at least a mandatory minimum penalty in accordance with N.J.A.C. 7:14-8.9	6 months	<u>NM</u>

MONITORING AND REPORTING VIOLATIONS (CONTINUED)

NONCOMPLIANCE	NATURE OF THE VIOLATION	ENFORCEMENT RESPONSES	TIME FRAME	PERSONNEL	<u>TYPE OF VIOL. & GRACE PERIOD (IF ANY)</u>
	Incomplete for data omission (IU meets SNC criteria under 40 CFR Part 403)	Public notice	Annually		<u>NM</u>
	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		<u>NM</u>
	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		<u>NM</u>
	Incomplete for other omissions	NOV	60 days		<u>M - 10 days</u>
	Falsification	Seek penalty or refer to county prosecutor	60 days		<u>NM</u>

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

2. 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)	6 months		<u>NM</u>
	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)	6 months		<u>NM</u>
	Failure to meet final compliance date	NOV, seek penalty	6 months		<u>NM</u>
NONCOMPLIANCE	NATURE OF THE VIOLATION	ENFORCEMENT RESPONSES	TIME FRAME	PERSONNEL	<u>TYPE OF VIOL. & GRACE PERIOD (IF ANY)</u>
3. Failure to notify	Failure to report spill or changed discharge	NOV; seek penalty where necessary	NOV w/in 60 days of discovery; penalty no later than 6 months of discovery		<u>NM</u>
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		<u>NM</u>
5. Failure to report additional monitoring	POTW inspection finds additional files	NOV with request to submit additional monitoring data	60 days		<u>NM</u>
OTHER PERMIT VIOLATIONS					
NONCOMPLIANCE	NATURE OF THE VIOLATION	ENFORCEMENT RESPONSES	TIME FRAME	PERSONNEL	<u>TYPE OF VIOL. & GRACE PERIOD (IF ANY)</u>
1. Wastestreams are diluted to achieve discharge limits	Dilution	NOV, seek penalty	NOV-60 days; penalty-6 months		<u>NM</u>

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

<p>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)</p>	<p>Refusal to discontinue activity upon notification</p>	<p>Take physical (effective) action or seek court order to halt discharge</p>	<p>2 days max.</p>	<p><u>NM</u></p>
<p>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</p>	<p>Violation of operating requirements</p>	<p>NOV</p>	<p>60 days</p>	<p><u>NM</u></p>
<p>4. Entry denial</p>	<p>Entry denied or consent withdrawn. Copies of records denied</p>	<p>NOV, seek penalty</p>	<p>6 months</p>	<p><u>NM</u></p>
<p>5. Inadequate record keeping</p>	<p>POTW inspector finds files incomplete or missing</p>	<p>NOV</p>	<p>60 days</p>	<p><u>NM</u></p>

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 17, 2006 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.