

ASSEMBLY, No. 795

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblywoman FARRAGHER

1 **AN ACT** concerning sewer extensions and amending P.L.1977, c.74.

2

3 **BE IT ENACTED** by the Senate and General Assembly of the State
4 of New Jersey:

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6 1. Section 6 of P.L.1977, c.74 (C.58:10A-6) is amended to read as
7 follows:

8 6. a. It shall be unlawful for any person to discharge any pollutant,
9 except in conformity with a valid New Jersey Pollutant Discharge
10 Elimination System permit that has been issued by the commissioner
11 pursuant to this act or a valid National Pollutant Discharge Elimination
12 System permit issued by the administrator pursuant to the Federal Act,
13 as the case may be.

14 b. It shall be unlawful for any person to build, install, modify or
15 operate any facility for the collection, treatment or discharge of any
16 pollutant, except after approval by the department, or for sewer
17 extensions after approval by the designated entity, pursuant to
18 regulations adopted by the commissioner. For the purposes of this
19 subsection, a designated entity shall be the local entity where the sewer
20 extension is part of a government owned treatment works or shall be
21 the engineer of the municipality in which the sewer extension is to be
22 located where the sewer extension is part of a privately owned
23 treatment works. For the purposes of this subsection "sewer
24 extension" means any sewer, pipe, line, structure or appurtenance used
25 for the conveyance of domestic or industrial waste of a liquid nature,
26 whether forced or by gravity, which (1) will extend along an easement
27 through more than two properties, a roadway or public right-of-way;
28 (2) conveys flow from more than two buildings; or (3) conveys, or will
29 convey, 8,000 gallons per day or more of sewerage flow determined
30 in accordance with the criteria specified in regulations of the
31 department. A copy of any sewer extension permit approved by a
32 designated entity shall be forwarded to the department upon that

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 approval.

2 c. The commissioner is hereby authorized to grant, deny, modify,
3 suspend, revoke, and reissue NJPDES permits in accordance with this
4 act, and with regulations to be adopted by him. The commissioner
5 may reissue, with or without modifications, an NPDES permit duly
6 issued by the federal government as the NJPDES permit required by
7 this act.

8 d. The commissioner may, by regulation, exempt the following
9 categories of discharge, in whole or in part, from the requirement of
10 obtaining a permit under this act; provided, however, that an
11 exemption afforded under this section shall not limit the civil or
12 criminal liability of any discharger nor exempt any discharger from
13 approval or permit requirements under any other provision of law:

14 (1) Additions of sewage, industrial wastes or other materials into
15 a publicly owned sewage treatment works which is regulated by
16 pretreatment standards;

17 (2) Discharges of any pollutant from a marine vessel or other
18 discharges incidental to the normal operation of marine vessels;

19 (3) Discharges from septic tanks, or other individual waste disposal
20 systems, sanitary landfills, and other means of land disposal of wastes;

21 (4) Discharges of dredged or fill materials into waters for which
22 the State could not be authorized to administer the section 404
23 program under section 404(g) of the "Federal Water Pollution Control
24 Act Amendments of 1972," as amended by the "Clean Water Act of
25 1977" (33 U.S.C. §1344) and implementing regulations;

26 (5) Nonpoint source discharges;

27 (6) Uncontrolled nonpoint source discharges composed entirely of
28 storm water runoff when these discharges are uncontaminated by any
29 industrial or commercial activity unless these particular storm water
30 runoff discharges have been identified by the administrator or the
31 department as a significant contributor of pollution;

32 (7) Discharges conforming to a national contingency plan for
33 removal of oil and hazardous substances, published pursuant to section
34 311(c)(2) of the Federal Act.

35 e. The commissioner shall not issue any permit for:

36 (1) The discharge of any radiological, chemical or biological
37 warfare agent or high-level radioactive waste into the waters of this
38 State;

39 (2) Any discharge which the United States Secretary of the Army,
40 acting through the Chief of Engineers, finds would substantially impair
41 anchorage or navigation;

42 (3) Any discharge to which the administrator has objected in
43 writing pursuant to the Federal Act;

44 (4) Any discharge which conflicts with an areawide plan adopted
45 pursuant to law.

46 f. A permit issued by the department or a delegated local agency,

1 under this act shall require the permittee:

2 (1) To achieve effluent limitations based upon guidelines or
3 standards established pursuant to the Federal Act or this act, together
4 with such further discharge restrictions and safeguards against
5 unauthorized discharge as may be necessary to meet water quality
6 standards, areawide plans adopted pursuant to law, or other legally
7 applicable requirements;

8 (2) Where appropriate, to meet schedules for compliance with the
9 terms of the permit and interim deadlines for progress or reports of
10 progress towards compliance;

11 (3) To insure that all discharges are consistent at all times with the
12 terms and conditions of the permit and that no pollutant will be
13 discharged more frequently than authorized or at a level in excess of
14 that which is authorized by the permit;

15 (4) To submit application for a new permit in the event of any
16 contemplated facility expansion or process modification that would
17 result in new or increased discharges or, if these would not violate
18 effluent limitations or other restrictions specified in the permit, to
19 notify the commissioner, or delegated local agency, of such new or
20 increased discharges;

21 (5) To install, use and maintain such monitoring equipment and
22 methods, to sample in accordance with such methods, to maintain and
23 retain such records of information from monitoring activities, and to
24 submit to the commissioner, or to the delegated local agency, reports
25 of monitoring results for surface waters, as may be stipulated in the
26 permit, or required by the commissioner or delegated local agency
27 pursuant to paragraph (9) of this subsection, or as the commissioner
28 or the delegated local agency may prescribe for ground water.
29 Significant indirect users, major industrial dischargers, and local
30 agencies, other than those discharging only stormwater or noncontact
31 cooling water, shall, however, report their monitoring results for
32 discharges to surface waters monthly to the commissioner, or the
33 delegated local agency. Discharge monitoring reports for discharges
34 to surface waters shall be signed by the highest ranking official having
35 day-to-day managerial and operational responsibilities for the
36 discharging facility, who may, in his absence, authorize another
37 responsible high ranking official to sign a monthly monitoring report
38 if a report is required to be filed during that period of time. The
39 highest ranking official shall, however, be liable in all instances for the
40 accuracy of all the information provided in the monitoring report;
41 provided, however, that the highest ranking official may file, within
42 seven days of his return, amendments to the monitoring report to
43 which he was not a signatory. The highest ranking official having
44 day-to-day managerial and operational responsibilities for the
45 discharging facility of a local agency shall be the highest ranking
46 licensed operator of the municipal treatment works in those instances

1 where a licensed operator is required by law to operate the facility. In
2 those instances where a local agency has contracted with another
3 entity to operate a municipal treatment works, the highest ranking
4 official who signs the discharge monitoring report shall be an
5 employee of the contract operator and not of the local agency.
6 Notwithstanding that an employee of a contract operator is the official
7 who signs the discharge monitoring report, the local agency, as the
8 permittee, shall remain liable for compliance with all permit conditions.
9 In those instances where the highest ranking official having day-to-day
10 managerial and operational responsibilities for a discharging facility of
11 a local agency does not have the responsibility to authorize capital
12 expenditures and hire personnel, a person having that responsibility,
13 or a person designated by that person, shall submit to the department,
14 along with the discharge monitoring report, a certification that that
15 person has received and reviewed the discharge monitoring report.
16 The person submitting the certification to the department shall not be
17 liable for the accuracy of the information on the discharge monitoring
18 report due to the submittal of the certification. Whenever a local
19 agency has contracted with another entity to operate the municipal
20 treatment works, the person submitting the certification shall be an
21 employee of the permittee and not of the contract operator. The filing
22 of amendments to a monitoring report in accordance with this
23 paragraph shall not be considered a late filing of a report for purposes
24 of subsection d. of section 6 of P.L.1990, c.28 (C.58:10A-10.1), or for
25 purposes of determining a significant noncomplier;

26 (6) At all times, to maintain in good working order and operate as
27 effectively as possible, any facilities or systems of control installed to
28 achieve compliance with the terms and conditions of the permit;

29 (7) To limit concentrations of heavy metal, pesticides, organic
30 chemicals and other contaminants in the sludge in conformance with
31 the land-based sludge management criteria established by the
32 department in the Statewide Sludge Management Plan adopted
33 pursuant to the "Solid Waste Management Act," P.L.1970, c.39
34 (C.13:1E-1 et seq.) or established pursuant to the Federal Water
35 Pollution Control Act Amendments of 1972 (33 U.S.C. §1251 et seq.),
36 or any regulations adopted pursuant thereto;

37 (8) To report to the department or delegated local agency, as
38 appropriate, any exceedance of an effluent limitation that causes injury
39 to persons, or damage to the environment, or poses a threat to human
40 health or the environment, within two hours of its occurrence, or of
41 the permittee becoming aware of the occurrence. Within 24 hours
42 thereof, or of an exceedance, or of becoming aware of an exceedance,
43 of an effluent limitation for a toxic pollutant, a permittee shall provide
44 the department or delegated local agency with such additional
45 information on the discharge as may be required by the department or
46 delegated local agency, including an estimate of the danger posed by

1 the discharge to the environment, whether the discharge is continuing,
2 and the measures taken, or being taken, to remediate the problem and
3 any damage to the environment, and to avoid a repetition of the
4 problem;

5 (9) Notwithstanding the reporting requirements stipulated in a
6 permit for discharges to surface waters, a permittee shall be required
7 to file monthly reports with the commissioner or delegated local
8 agency if the permittee:

9 (a) in any month commits a serious violation or fails to submit a
10 completed discharge monitoring report and does not contest, or
11 unsuccessfully contests, the assessment of a civil administrative
12 penalty therefor; or

13 (b) exceeds an effluent limitation for the same pollutant at the same
14 discharge point source by any amount for four out of six consecutive
15 months.

16 The commissioner or delegated local agency may restore the
17 reporting requirements stipulated in the permit if the permittee has not
18 committed any of the violations identified in this paragraph for six
19 consecutive months;

20 (10) To report to the department or delegated local agency, as
21 appropriate, any serious violation within 30 days of the violation,
22 together with a statement indicating that the permittee understands the
23 civil administrative penalties required to be assessed for serious
24 violations, and explaining the nature of the serious violation and the
25 measures taken to remedy the cause or prevent a recurrence of the
26 serious violation.

27 g. The commissioner and a local agency shall have a right of entry
28 to all premises in which a discharge source is or might be located or
29 in which monitoring equipment or records required by a permit are
30 kept, for purposes of inspection, sampling, copying or photographing.

31 h. In addition, any permit issued for a discharge from a municipal
32 treatment works shall require the permittee:

33 (1) To notify the commissioner or local agency in advance of the
34 quality and quantity of all new introductions of pollutants into a
35 facility and of any substantial change in the pollutants introduced into
36 a facility by an existing user of the facility, except for such
37 introductions of nonindustrial pollutants as the commissioner or local
38 agency may exempt from this notification requirement when ample
39 capacity remains in the facility to accommodate new inflows. The
40 notification shall estimate the effects of the changes on the effluents to
41 be discharged into the facility.

42 (2) To establish an effective regulatory program, alone or in
43 conjunction with the operators of sewage collection systems, that will
44 assure compliance and monitor progress toward compliance by
45 industrial users of the facilities with user charge and cost recovery
46 requirements of the Federal Act or State law and toxicity standards

1 adopted pursuant to this act and pretreatment standards.

2 (3) As actual flows to the facility approach design flow or design
3 loading limits, to submit to the commissioner or local agency for
4 approval, a program which the permittee and the persons responsible
5 for building and maintaining the contributory collection system shall
6 pursue in order to prevent overload of the facilities.

7 i. (1) All local agencies shall prescribe terms and conditions,
8 consistent with applicable State and federal law, or requirements
9 adopted pursuant thereto by the department, upon which pollutants
10 may be introduced into treatment works, and shall have the authority
11 to exercise the same right of entry, inspection, sampling, and copying,
12 and to impose the same remedies, fines and penalties, and to recover
13 costs and compensatory damages as authorized pursuant to subsection
14 a. of section 10 of P.L.1977, c.74 (C.58:10A-10) and section 6 of
15 P.L.1990, c.28 (C.58:10A-10.1), with respect to users of such works,
16 as are vested in the commissioner by this act, or by any other provision
17 of State law, except that a local agency, except as provided in
18 P.L.1991, c.8 (C.58:10-10.4 et seq.), may not impose civil
19 administrative penalties, and shall petition the county prosecutor or the
20 Attorney General for a criminal prosecution under that section. Terms
21 and conditions shall include limits for heavy metals, pesticides, organic
22 chemicals and other contaminants in industrial wastewater discharges
23 based upon the attainment of land-based sludge management criteria
24 established by the department in the Statewide Sludge Management
25 Plan adopted pursuant to the "Solid Waste Management Act,"
26 P.L.1970, c.39 (C.13:1E-1 et seq.) or established pursuant to the
27 Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C.
28 §1251 et seq.), or any regulations adopted pursuant thereto.

29 (2) Of the amount of any penalty assessed and collected pursuant
30 to an action brought by a local agency in accordance with section 10
31 of P.L.1977, c.74 or section 6 of P.L.1990, c.28 (C.58:10A-10.1),
32 10% shall be deposited in the "Wastewater Treatment Operators'
33 Training Account," established in accordance with section 13 of
34 P.L.1990, c.28 (C.58:10A-14.5), and used to finance the cost of
35 training operators of municipal treatment works. The remainder shall
36 be used by the local agency solely for enforcement purposes, and for
37 upgrading municipal treatment works.

38 j. In reviewing permits submitted in compliance with this act and
39 in determining conditions under which such permits may be approved,
40 the commissioner shall encourage the development of comprehensive
41 regional sewerage planning or facilities, which serve the needs of the
42 regional community, conform to the adopted area-wide water quality
43 management plan for that region, and protect the needs of the regional
44 community for water quality, aquifer storage, aquifer recharge, and
45 dry weather based stream flows.

46 k. No permit may be issued, renewed, or modified by the

1 department or a delegated local agency so as to relax any water quality
2 standard or effluent limitation until the applicant, or permit holder, as
3 the case may be, has paid all fees, penalties or fines due and owing
4 pursuant to P.L.1977, c.74, or has entered into an agreement with the
5 department establishing a payment schedule therefor; except that if a
6 penalty or fine is contested, the applicant or permit holder shall satisfy
7 the provisions of this section by posting financial security as required
8 pursuant to paragraph (5) of subsection d. of section 10 of P.L.1977,
9 c.74 (C.58:10A-10). The provisions of this subsection with respect to
10 penalties or fines shall not apply to a local agency contesting a penalty
11 or fine.

12 1. Each permitted facility or municipal treatment works, other than
13 one discharging only stormwater or non-contact cooling water, shall
14 be inspected by the department at least once a year; except that each
15 permitted facility discharging into the municipal treatment works of a
16 delegated local agency, other than a facility discharging only
17 stormwater or non-contact cooling water, shall be inspected by the
18 delegated local agency at least once a year. Except as hereinafter
19 provided, an inspection required under this subsection shall be
20 conducted within six months following a permittee's submission of an
21 application for a permit, permit renewal, or, in the case of a new
22 facility or municipal treatment works, issuance of a permit therefor,
23 except that if for any reason, a scheduled inspection cannot be made
24 the inspection shall be rescheduled to be performed within 30 days of
25 the originally scheduled inspection or, in the case of a temporary
26 shutdown, of resumed operation. Exemption of stormwater facilities
27 from the provisions of this subsection shall not apply to any permitted
28 facility or municipal treatment works discharging or receiving
29 stormwater runoff having come into contact with a hazardous
30 discharge site on the federal National Priorities List adopted by the
31 United States Environmental Protection Agency pursuant to the
32 "Comprehensive Environmental Response, Compensation, and
33 Liability Act," Pub.L.96-510 (42 U.S.C.A. §9601 et seq.), or any other
34 hazardous discharge site included by the department on the master list
35 for hazardous discharge site cleanups adopted pursuant to section 2 of
36 P.L.1982, c.202 (C.58:10-23.16). Inspections shall include:

37 (1) A representative sampling of the effluent for each permitted
38 facility or municipal treatment works, except that in the case of
39 facilities or works that are not major facilities or significant indirect
40 users, sampling pursuant to this paragraph shall be conducted at least
41 once every three years;

42 (2) An analysis of all collected samples by a State owned and
43 operated laboratory, or a certified laboratory other than one that has
44 been or is being used by the permittee, or that is directly or indirectly
45 owned, operated or managed by the permittee;

46 (3) An evaluation of the maintenance record of the permittee's

1 treatment equipment;

2 (4) An evaluation of the permittee's sampling techniques;

3 (5) A random check of written summaries of test results, prepared
4 by the certified laboratory providing the test results, for the
5 immediately preceding 12-month period, signed by a responsible
6 official of the certified laboratory, certifying the accuracy of the test
7 results; and

8 (6) An inspection of the permittee's sample storage facilities and
9 techniques if the sampling is normally performed by the permittee.

10 The department may inspect a facility required to be inspected by
11 a delegated local agency pursuant to this subsection. Nothing in this
12 subsection shall require the department to conduct more than one
13 inspection per year.

14 m. The facility or municipal treatment works of a permittee
15 identified as a significant noncomplier shall be subject to an inspection
16 by the department, or the delegated local agency, as the case may be,
17 which inspection shall be in addition to the requirements of subsection
18 l. of this section. The inspection shall be conducted within 60 days of
19 receipt of the discharge monitoring report that initially results in the
20 permittee being identified as a significant noncomplier. The inspection
21 shall include a random check of written summaries of test results,
22 prepared by the certified laboratory providing the test results, for the
23 immediately preceding 12-month period, signed by a responsible
24 official of the certified laboratory, certifying the accuracy of the test
25 results. A copy of each summary shall be maintained by the permittee.
26 The inspection shall be for the purpose of determining compliance.
27 The department or delegated local agency is required to conduct only
28 one inspection per year pursuant to this subsection, and is not required
29 to make an inspection hereunder if an inspection has been made
30 pursuant to subsection l. of this section within six months of the period
31 within which an inspection is required to be conducted under this
32 subsection.

33 n. To assist the commissioner in assessing a municipal treatment
34 works' NJPDES permit in accordance with paragraph (3) of subsection
35 b. of section 7 of P.L.1977, c.74 (C.58:10A-7), a delegated local
36 agency shall perform a complete analysis that includes a complete
37 priority pollutant analysis of the discharge from, and inflow to, the
38 municipal treatment works. The analysis shall be performed by a
39 delegated local agency as often as the priority pollutant scan is
40 required under the permit, but not less than once a year, and shall be
41 based upon data acquired in the priority pollutant scan and from
42 applicable sludge quality analysis reports. The results of the analysis
43 shall be included in a report to be attached to the annual report
44 required to be submitted to the commissioner by the delegated local
45 agency.

46 o. Except as otherwise provided in section 3 of P.L.1963, c.73

1 (C.47:1A-3), any records, reports or other information obtained by the
2 commissioner or a local agency pursuant to this section or section 5
3 of P.L.1972, c.42 (C.58:11-53), including any correspondence relating
4 thereto, shall be available to the public; however, upon a showing
5 satisfactory to the commissioner by any person that the making public
6 of any record, report or information, or a part thereof, other than
7 effluent data, would divulge methods or processes entitled to
8 protection as trade secrets, the commissioner or local agency shall
9 consider such record, report, or information, or part thereof, to be
10 confidential, and access thereto shall be limited to authorized officers
11 or employees of the department, the local agency, and the federal
12 government.

13 (cf: P.L.1993,c.23,s.1)

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15 2. This act shall take effect immediately but shall remain
16 inoperative for 180 days following enactment.

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19 STATEMENT

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21 This bill would provide that sewer extension permits would no
22 longer be issued by the Department of Environmental Protection but
23 rather by local entities or municipal engineers. In the case where a
24 sewer extension is being proposed for a publicly owned treatment
25 works, the approval for the sewer extension will be given by the local
26 agency that owns the treatment works. Where the sewer extension is
27 being proposed for a privately owned treatment works, the approval
28 for the sewer extension will be given by the engineer for the
29 municipality in which the sewer extension will be located.

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34 Provides for sewer extension permits to be issued by local agencies or
35 municipal engineers.
