



# The National Agricultural Law Center

[nationalaglawcenter.org](http://nationalaglawcenter.org) | [nataglaw@uark.edu](mailto:nataglaw@uark.edu) | [@nataglaw](https://twitter.com/nataglaw)

## States' Nutrient Management Plans Statutes & Regulations:

*New York*



This material is based upon work supported by the National Agricultural Library, Agricultural Research Service, U.S. Department of Agriculture

A National Agricultural Law Center Research Publication  
States' Nutrient Management Plans Statutes & Regulations:  
New York

NY Env Cons L § 17-0801  
NY Env Cons L § 17-0803  
NY Env Cons L § 17-0804  
NY Env Cons L § 70-0107(1)-(3)(e)  
6 NY Comp Codes Rules and Regs § 750-1.1  
6 NY Comp Codes Rules and Regs § 750-1.2 (a)(5), (23), (28), (67)  
6 NY Comp Codes Rules and Regs § 750-1.4  
State CAFO Permits

*The statutes and Constitution are current through the 2018 regular and special legislative sessions. The statutes are subject to changes by the New York Consolidated Laws Service.*

**NY Env Cons L § 17-0801. Purpose.**

To create a state pollutant discharge elimination system (SPDES) to insure that the State of New York shall possess adequate authority to issue permits regulating the discharge of pollutants from new or existing outlets or point sources into the waters of the state, upon condition that such discharges will conform to and meet all applicable requirements of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, et seq.) hereinafter referred to as the “Act”, and rules, regulations, guidelines, criteria, standards and limitations adopted pursuant thereto relating to effluent limitations, water quality related effluent limitations, new source performance standards, toxic and pretreatment effluent limitations, ocean discharge criteria, and monitoring, and to participate in the national pollutant discharge elimination system (NPDES) created by the Act.

**NY Env Cons L § 17-0803. SPDES Permits ; Application.**

Except as provided by subdivision five of section 17-0701 of this article, it shall be unlawful to discharge pollutants to the waters of the state from any outlet or point source without a SPDES permit issued pursuant hereto or in a manner other than as prescribed by such permit. The department shall, by rule and regulation, require that every applicant for a permit to discharge pollutants into the waters of the state shall file such information at such times and in such form as the department



may reasonably require to execute the provisions of this article. Rules and regulations adopted hereunder may provide that in lieu of issuance of such permit the department may accept as compliance herewith a permit duly issued by the federal government or an agency thereof pursuant to the provisions of the Act.

### **NY Env Cons L § 17-0804. Rules and Regulations.**

The rules and regulations adopted by the department to implement this title and the provisions of article 70 of this chapter and rules and regulations thereunder shall govern permit applications, renewals, modifications, suspensions and revocations under this title.

### **NY Env Cons L § 70-0107. Rules and Regulations; Applicability.**

1. The department, after public hearing, shall adopt rules and regulations to assure the efficient and expeditious administration of this article. Such rules and regulations shall include but not be limited to provisions regarding notice, review, public participation and public hearings.
2. Notwithstanding any inconsistent provisions of this chapter or any rule or regulation of the department, the procedures provided in this article and in rules and regulations adopted by the department pursuant to subdivision one of this section shall govern the review by the department of applications for permits for proposed projects and modifications, suspensions, revocations, renewals, reissuances and recertifications of permits under the regulatory programs of the department specified in subdivision three of this section. Such procedures shall also apply to any government entity to which the commissioner has delegated powers to administer such programs pursuant to section 3-0301 of this chapter, to the extent specified in such delegation.
3. The following regulatory programs of this chapter shall be subject to the procedures provided in this article:
  - (a) protection of waters (title five of article fifteen);
  - (b) water supply and water transport (title fifteen of article fifteen);
  - (c) wild, scenic and recreational rivers system (title twenty-seven of article fifteen), except for that part of article twenty-four administered by the Adirondack park agency, which shall be subject to the procedures provided in section eight hundred nine of the executive law;
  - (d) certifications under section 401 of the federal water pollution control act amendments of 1972 (public law 92-500) pursuant to article three of this chapter;



- (e) state pollutant discharge elimination system (title eight of article seventeen);
- (f) realty subdivisions: sewerage service (title fifteen of article seventeen);
- (g) air pollution control (article nineteen);
- (h) liquefied natural and petroleum gas (title seventeen of article twenty-three);
- (i) mined land reclamation (title twenty-seven of article twenty-three);
- (j) freshwater wetlands (article twenty-four), except for that part of article twenty-four administered by the Adirondack park agency, which shall be subject to the procedures provided in section eight hundred nine of the executive law;
- (k) tidal wetlands (article twenty-five);
- (l) collection, treatment and disposal of refuse and other solid waste (article twenty-seven); and
- (m) coastal erosion hazard areas (article thirty-four).

## **6 NY Comp Codes Rules and Regs § 750-1.1. Scope and purpose.**

(a) New York State has a state program that has been approved by the United States Environmental Protection Agency for the control of wastewater and stormwater discharges in accordance with the act. Under New York State law the program is known as the State Pollutant Discharge Elimination System (SPDES) and is broader in scope than that required by the act in that it controls point source discharges to groundwaters as well as surface waters.

(b) The regulations in this Part prescribe procedures and substantive rules concerning the SPDES Program as set forth in the statutory authority for this Part. The SPDES Program does not apply to:

- (1) Indian activities on Indian lands under the jurisdiction of the United States; or
- (2) those discharges that are deemed prohibited by section 17-0807 of the ECL or section 750-1.4 of this Subpart.

(c) Much of the procedures and administrative rules concerning SPDES permits in connection with departmental action on applications, emergency authorizations, modification, suspension and revocation provisions and other provisions, are set forth in Part 621 of this Title.



- (d) Permit hearing procedures are set forth in Part 624 of this Title.
- (e) Enforcement hearing procedures are set forth in Part 622 of this Title.
- (f) Provisions applicable to issued SPDES permits and POSS registrations are set forth in Subpart 750-2 of this Part.

## **6 NY Comp Codes Rules and Regs § 750-1.2. Definitions.**

(a) Whenever used in this Part, unless a different meaning is stated in a definition applicable to only a portion of this Part, the following terms will have the meanings set forth below:

- (1) Act means the Clean Water Act formerly referred to as the Federal Water Pollution Control Act, 33 USC 1251 et seq. (see section 750-1.25 of this Subpart).
- (2) Action level means, when used in a SPDES permit, a monitoring requirement characterized by a numerical value that, when exceeded, triggers additional permittee monitoring and department review to determine if numerical effluent limitations should be imposed.
- (3) Administrative renewal means renewal of a SPDES permit in accordance with Part 621 of this Title, based on an abbreviated review of changes at the permitted facility.
- (4) Administrator means the administrator of the EPA.
- (5) Animal feeding operation (AFO) means a lot or facility (other than an aquatic animal production facility) where animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and the animal confinement areas do not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season. Two or more animal feeding operations under common ownership are a single animal feeding operation if they physically adjoin each other, or if they use a common area or system for the disposal of wastes.
- (6) Animal unit. [Reserved]
- (7) Applicable water quality standards and effluent limitations means all State and Federal water quality standards and effluent limitations to which a discharge is subject under the act, or under State law, including but not limited to water quality standards, effluent limitations, best management practices, standards of performance, toxic effluent standards and prohibitions, pretreatment standards, and ocean discharge criteria.



(8) Approvable is defined as that which can be approved by the department, with only minimal revision. Minimal revision shall mean revised and resubmitted to the department within 60 days of notification by the department of the revisions that are necessary, unless otherwise defined by the applicable SPDES permit.

(9) Average means the arithmetic mean of pollutant parameter values for samples collected in a given period.

(10) Best available technology economically achievable (BAT) means effluent limits authorized under section 301(b)(2)(A) of the act, 40 CFR 122.44(a) and (e)(1) and (2), 40 CFR 125.3(2)(iii), 40 CFR 405 to 471 (see section 750-1.25 of this Subpart) and ECL 17-0801. BAT is technology-based effluent limitations guidelines established by the act as the most appropriate means available on a national basis for controlling the direct discharge of toxic and nonconventional pollutants to navigable waters. BAT effluent limitations guidelines, as established by EPA, represent the best existing performance of treatment technologies that are economically achievable within an industrial point source category or subcategory.

(11) Best conventional pollutant control technology (BCT) means effluent limits authorized under the act, section 301(b)(2)(E), 40 CFR 122.44(a), 40 CFR 125.3(2)(ii), 40 CFR 405 to 471 (see section 750-1.25 of this Subpart) and ECL 17-0811. BCT is technology based effluent limitations guidelines for the discharge of conventional pollutants from existing industrial point sources including BOD<sub>5</sub>, TSS, fecal coliform, pH, oil and grease. The BCT is established by EPA using a two-part cost reasonableness test that compares the cost for an industry to reduce its pollutant discharge with the cost to a POTW for similar levels of reduction of a pollutant loading. The second test examines the cost-effectiveness of additional industrial treatment beyond BPT. EPA must find limits that are reasonable under both tests before establishing them as BCT.

(12) Best management practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements (if determined necessary by the permittee), operating procedures, and practices to control plant site runoff, spillage and leaks, sludge or waste disposal, or drainage from raw material storage.



(13) Best practicable control technology currently available (BPT) means effluent limits authorized under the act, section 301(b)(2)(E), 40 CFR 122.44(a), 40 CFR 125.3(2)(ii), 40 CFR 405 to 471 (see section 750-1.25 of this Subpart) and ECL 17-0811. The initial level of technology-based standards established by the CWA to control pollutants discharged to navigable waters, BPT effluent limitations guidelines are generally based on the average of the best existing performance by plants within an industrial category or subcategory. Because BPT has been supplanted by BAT and BCT in all other instances, BPT is only applied by EPA when proposed BCT limits fail the cost comparison with secondary treatment regulations for POTWs.

(14) Best professional judgement (BPJ) means effluent limits authorized under the Act section 402(a)(1)(B), 40 CFR 122.44(e)(1) and (2), 40 CFR 125.3(a)(2)(I)(B)-(v), 40 CFR 414.11(h), 40 CFR 501.15(b) (see section 750-1.25 of this Subpart) and ECL 17-0811. BPJ is the method used by permit writers to develop BAT or BCT limits or requirements on a case-by-case basis for pollutants and wastewaters not addressed by 40 CFR 405 to 471.

(15) Biological monitoring means the determination of the effects of the discharge of pollutants on aquatic life, including accumulation of pollutants in tissue, in receiving waters due to the discharge of pollutants by scientifically sound techniques and procedures, including sampling of organisms representative of appropriate levels of the food chain appropriate to the volume and the physical, chemical and biological characteristics of the effluent, at appropriate frequencies and locations. Such monitoring includes, but is not limited to whole effluent toxicity testing as set forth in 40 CFR part 136 (see section 750-1.25 of this Subpart).

(16) Biosolids means dewatered treatment residuals that meet Federal regulations ( 40 CFR part 501 - see section 750-1.25 of this Subpart) and State regulations (Part 360 of this Title) and local rules for reuse concerning metals, pathogens, and vector attraction reduction.

(17) Bypass means the intentional or unintentional diversion of wastewater or stormwater around any portion of a treatment facility having the effect of reducing the degree of treatment designed for the bypassed portion of the treatment facility.

(18) Central office means the principal office of the department, located in the County of Albany, State of New York.



(19) Certified laboratory means a laboratory that is certified by the State Commissioner of Health pursuant to section 502 of the Public Health Law (see section 750-1.25 of this Subpart) for the analyte or analytes in question.

(20) Combined sewer overflow (CSO) means a discharge from a combined sewer system (CSS) at a point before the POTW wastewater treatment plant.

(21) Combined sewer system (CSS) means a sewer system which conveys sewage and storm water through a single pipe system to a POTW wastewater treatment plant.

(22) Commissioner means the commissioner of the New York State Department of Environmental Conservation as well as meaning the commissioner's designated agent.

(23)

(i) Concentrated animal feeding operation. (CAFO) means an AFO that meets the criteria of either a large, medium or small CAFO. A large CAFO means an AFO that stables or confines as many as or more than the numbers of animals in any of the following categories:

- (a) 700 mature dairy cows, whether milked or dry;
- (b) 1,000 veal calves;
- (c) 1,000 cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs;
- (d) 2,500 swine each weighing 55 pounds or more;
- (e) 10,000 swine each weighing less than 55 pounds;
- (f) 500 horses;
- (g) 10,000 sheep or lambs;
- (h) 55,000 turkeys;
- (i) 30,000 laying hens or broilers, if the AFO uses a liquid manure handling system;
- (j) 125,000 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;



(k) 82,000 laying hens, if the AFO uses other than a liquid manure handling system;

(l) 30,000 ducks (if the AFO uses other than a liquid manure handling system); or

(m) 5,000 ducks (if the AFO uses a liquid manure handling system).

(ii) A medium CAFO means an AFO that stables or confines as many as or more than the numbers of animals in any of the following categories:

(a) 200 to 699 mature dairy cows, whether milked or dry, except that an AFO that stables or confines 200-299 mature dairy cows, whether milked or dry that does not cause a discharge would not be considered a medium CAFO;

(b) 300 to 999 veal calves;

(c) 300 to 999 cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs;

(d) 750 to 2,499 swine each weighing 55 pounds or more;

(e) 3,000 to 9,999 swine each weighing less than 55 pounds;

(f) 150 to 499 horses;

(g) 3,000 to 9,999 sheep or lambs;

(h) 16,500 to 54,999 turkeys;

(i) 9,000 to 29,999 laying hens or broilers, if the AFO uses a liquid manure handling system;

(j) 37,500 to 124,999 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;

(k) 25,000 to 81,999 laying hens, if the AFO uses other than a liquid manure handling system;

(l) 10,000 to 29,999 ducks (if the AFO uses other than a liquid manure handling system); or

(m) 1,500 to 4,999 ducks (if the AFO uses a liquid manure handling system).



(iii) A small CAFO means an AFO that is designated by the department as a CAFO or requests CAFO SPDES permit coverage and is not a medium or large CAFO.

While not required, an AFO with 200–299 mature dairy cows may request CAFO SPDES permit coverage and, if permit coverage is granted, the AFO would be considered a small CAFO throughout permit coverage. Notwithstanding any provision of this subdivision, the department retains its existing authority to enter and inspect any property or premises and access records for the purpose of ascertaining compliance or noncompliance with provisions of the ECL article 17, or the actor any regulations adopted pursuant thereto.

(24) Contiguous zone means the entire zone established or to be established by the United States under article 24 of the Convention of the Territorial Sea for this zone.

(25) Daily discharge means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for the purposes of sampling. For pollutants expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement (concentration) of the pollutant over the day.

(26) Daily maximum means the highest allowable daily discharge for the reporting period.

(27) Department means the New York State Department of Environmental Conservation as well as meaning the department's designated agent.

(28) Discharge means any addition of any pollutant to waters of the State through an outlet or point source.

(29) Discharges authorized by a SPDES permit means discharges of wastewater or storm water from sources listed in the permit, that do not violate ECL section 17-0501, that are through out falls listed in the permit, and that are:

(i) discharges within permit limitations of pollutants limited in the SPDES permit;



(ii) discharges within permit limitations of pollutants limited by an indicator limit in the SPDES permit;

(iii) discharges of pollutants subject to action level requirements in the SPDES permit;

(iv) discharges of pollutants not explicitly listed in the SPDES permit, but reported in the SPDES permit application record as detected in the discharge or as something the permittee knows or has reason to believe to be present in the discharge, provided the special conditions section of the applicable SPDES permit does not otherwise forbid such a discharge and provided that such discharge does not exceed, by an amount in excess of normal effluent variability, the level of discharge that may reasonably be expected for that pollutant from information provided in the SPDES permit application record;

(v) discharges of pollutants not required to be reported on the appropriate and current New York State SPDES permit application; provided the special conditions section of the permit does not otherwise forbid such a discharge. The department may, in accordance with law and regulation, modify the permit to include limits for any pollutant even if that pollutant is not required to be reported on the SPDES permit application; or

(vi) discharges from firefighting activities; fire hydrant flushings; testing of firefighting equipment, provided that such equipment is for water only fire suppression; potable water sources including waterline flushings; irrigation drainage; lawn watering; uncontaminated infiltration and inflow; leakage from raw water conveyance systems; routine external building wash down and vehicle washing which does not use detergents or other compounds; pavement wash waters where spills or leaks of toxic or hazardous materials, other than minor and routine releases from motor vehicles, have not occurred (unless such material has been removed) and where detergents are not used; air conditioning and steam condensate; springs; uncontaminated groundwater; and foundation or footing drains where flows are not contaminated with process materials such as solvents provided that the permittee has implemented an effective plan for minimizing the discharge of pollutants from all of the sources listed in this subparagraph.



(30) Discharge monitoring report (DMR) means a report submitted by a permittee to the department summarizing the effluent monitoring results obtained by the permittee over periods of time as specified in the SPDES permit.

(31) Disposal system means a system for disposing of sewage, storm water, industrial waste or other wastes, including sewer systems and treatment works.

(32) ECL means chapter 43-B of the Consolidated Laws of the State of New York, entitled the Environmental Conservation Law.

(33) Effluent limitation means any restriction on quantities, quality, rates and concentrations of chemical, physical, biological, and other constituents of effluents that are discharged into waters of the state.

(34) Effluent limitation guideline means toxic or pretreatment effluent limitations contained in 40 CFR parts 405 to 471 (see section 750-1.25 of this Subpart).

(35) ELAP identification number means the number assigned to a certified laboratory by the New York State Health Department.

(36) EPA means the United States Environmental Protection Agency.

(37) Facility expansion means when any of the following conditions occurs and is expected to continue or has occurred and has been existing for more than one year:

(i) increases in production or increases in the mass of any one pollutant in wastewater that may result in discharges that are not discharges authorized by the permit;

(ii) production in any one operation subject to regulation under 40 CFR 405 to 471 and/or 40 CFR part 125 (see section 750-1.25 of this Subpart) or discharges to groundwater described in the SPDES permit application record upon which the current permit is based increases by greater than 20 percent beyond what was reported in the SPDES permit application record for the sum of production from operations subject to the same regulation under 40 CFR 405 to 471 and/or 40 CFR part 125 and is permitted. For the purposes of this definition, production is defined as the activity that is the source of the discharge. For the purposes of this definition the 20 percent calculation is determined by comparing the flow and load resulting from the subject increase to the flow/load at the time the permit last underwent a



substantial renewal or modification related to the subject parameters;

(iii) the permittee commences a new operation, of which no operations in this category currently exist at the facility, subject to regulation under 40 CFR 405 to 471 and/or 40 CFR part 125 (see section 750-1.25 of this Subpart) which will result in pollutants which the permittee knows or has reason to believe will be discharged (except substances not required to be reported on the appropriate and current New York State SPDES permit application) and which is not described in the SPDES permit application record upon which the current permit is based;

(iv) the permittee commences use of a substance, discharge of which is not authorized by this permit, which will contact wastewater and, usage of which is required to be reported on the appropriate and current New York State SPDES permit application; or

(v) the permittee increases usage of a substance that will contact wastewater by 10 percent or more beyond the annual usage given in the permittee's most recent New York State industrial chemical survey submission.

(38) Forms means forms printed on paper, electronic files that set a format and electronic formats.

(39) Full technical review means the complete evaluation of all elements of a SPDES permit identified as priorities under the priority ranking system set forth in section 750-1.19 of this Subpart, together with substantive issues identified in comments submitted during the public comment period, and the verification of the accuracy and appropriateness of all information contained in the permit as well as compliance with current effluent limitations guidelines, requirements and water quality standards.

(40) General SPDES permit means a SPDES permit issued pursuant to section 750-1.21 of this Subpart authorizing a category of discharges.

(41) Guidance value means such numerical measure of purity or quality for any waters in relation to their best use as may be established by the department pursuant to Part 702 of this Title, but which has not been adopted as an ambient water quality standard.



(42) Groundwaters means waters in the saturated zone. The saturated zone is a subsurface zone in which all the interstices are filled with water under pressure greater than that of the atmosphere. Although the zone may contain gas-filled interstices or interstices filled with fluids other than water, it is still considered saturated.

(43) Indicator limit means a limit on pollutants other than those meeting the criteria of 40 CFR Part 122.44(e)(1), which in the judgment of the permit writer, will assure treatment of the pollutants required by 40 CFR 122.44(e)(1) to the levels required by 40 CFR 125.3(c).

(44) Individual SPDES permit means a SPDES permit issued to a single facility in one location in accordance with this Part (as distinguished from a general SPDES permit).

(45) Industrial user means the term as defined in 40 CFR 403.3 (see section 750-1.25 of this Subpart).

(46) Industrial waste means any liquid, gaseous, solid or waste substance or a combination thereof resulting from any process of industry, manufacturing, trade, or business or from the development or recovery of any natural resources, which may cause or might reasonably be expected to cause pollution of the waters of the State in contravention of the standards adopted as provided herein. Industrial wastewater is any wastewater that is not sanitary waste or uncontaminated storm water.

(47) Infiltration means water other than wastewater that enters a sewerage system (including sewer service connections) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include and is distinguished from inflow.

(48) Inflow means water other than wastewater that enters a sewerage system (including sewer service connections) from sources such as roof leaders, cellar drains, yard drains, area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers, process and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from infiltration.

(49) Major facility means any SPDES permitted facility classified as such by the regional administrator in conjunction with the department.

(50) Method detection limit or MDL means the level at which the analytical procedure referenced is capable of determining with a



99 percent probability that the substance is present. The precision at this level is plus or minus 100 percent.

(51) Minor facility means any SPDES permitted facility that is not a major facility.

(52) Monthly average means the average of daily discharges (as defined in this subdivision) over a calendar month. This value is most frequently calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. The department may allow for alternative procedures for calculating monthly average values by written approval from the regional water engineer or as set forth by the SPDES permit.

(53) Municipality means any county, town, city, village, district corporation, special improvement district, sewer authority or agency thereof.

(54) Municipal sewage means wastewater composed primarily of discharges of sanitary sewage from residences, primarily from facilities not owned by a municipality, with or without the admixture of industrial wastewater.

(55) National pollutant discharge elimination system or NPDES means the national system for the issuance of wastewater and storm water permits under the act.

(56) Navigable waters means those waters under the jurisdiction of the act.

(57) New source means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

(i) after promulgation of standards of performance under section 306 of the act which are applicable to such source; or

(ii) after proposal of standards of performance in accordance with section 306 of the act which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within 120 days of their proposal.

(58) Ocean means any portion of the high seas beyond the contiguous zone.

(59) Other wastes means garbage, refuse, decayed wood, sawdust, shavings, bark, sand, lime, cinders, ashes, offal, oil, tar, dyestuffs,



acids, chemicals, ballast and all other discarded matter not sewage or industrial waste that may cause or might reasonably be expected to cause pollution of the waters of the State in contravention of the standards and guidance values adopted as provided in Parts 700, et seq. of this Title.

(60) Outfall means the terminus of a sewer system, or the point of emergence of any waterborne sewage, industrial waste or other wastes or the effluent therefrom, into the waters of the State.

(61) Outlet means out fall.

(62) Owner or operator means the owner or operator of any facility or activity subject to regulation under this Part.

(63) Partially treated sewage means sewage that is diverted around any portion of the treatment plant of a sewage treatment works after it enters the treatment plant.

(64) Permit application record, as applicable to a permitted discharge, means the most recently completed application as set forth in section 750-1.7 of this Subpart, of which the department performed a full technical review for that discharge, including all the materials submitted by the permittee upon which the current permit and any modifications thereto are based, all notifications pursuant to Subpart 750-2 of this Part, any additional materials made available for public review as part of the SPDES permit application process and any information that was part of the SPDES permit application process, but held confidential in accordance with this Part.

(65) Permittee means the holder of a SPDES permit.

(66) Person or persons means any individual, public or private corporation, political subdivision, government agency, municipality, partnership, association, firm, trust, estate or any other legal entity whatsoever.

(67) Point source means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel or other floating craft, or landfill leachate collection system from which pollutants are or may be discharged.

(68) Pollutant means dredged spoil, filter backwash, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions,



chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into water; which may cause or might reasonably be expected to cause pollution of the waters of the State in contravention of the standards or guidance values adopted as provided in Parts 700, et seq. of this Title.

(69) Priority pollutants means those pollutants listed in 40 CFR part 122, appendix D (see section 750-1.25 of this Subpart) as organic toxic pollutants (volatiles, acid compounds, base/neutral compounds and pesticides), metals, cyanide and total phenols.

(70) Publicly owned sewer system (POSS) means a sewer system owned by a municipality and which discharges to a POTW owned by another municipality.

(71) Publicly owned treatment works (POTW) means any device or system used in the treatment (including recycling and reclamation) of municipal sewage that is owned by a municipality. This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

(72) Regional administrator means the regional administrator for the EPA region overseeing EPA programs in New York State.

(73) Regional office means the office, that is not the central office, of the department administering the SPDES program in one of the department's nine geographical regions of the State. When used in this Part, it refers to the regional office for the region in which the permittee discharges.

(74) Regional permit administrator means an employee of the department, one for each of the department's nine regions, designated to act on the commissioner's behalf in carrying out the provisions of article 70 of the ECL and Part 621 of this Title, or the regional permit administrator's designated representative. When used in this Part, the regional permit administrator is the one designated for the region in which the permittee discharges.

(75) Regional water engineer means an employee of the department, one for each of the department's nine regions, designated to act on the commissioner's behalf in carrying out the provisions of article 17 and this Part, or the regional water engineer's designated representative. When used in this Part, the regional water engineer is the one designated for the region in which the permittee discharges.



(76) Report orally to the regional water engineer means report by telephone or in person during business hours to the regional water engineer, or after business hours by telephone to the telephone number designated by the regional water engineer to receive such reports.

(77) Schedule of compliance means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard.

(78) Service area means the area defined by a municipality and approved by the department serviced by a publicly owned treatment works.

(79) Severe property damage means damage to property, or treatment facilities, which causes such facilities to become inoperable or significantly damaged, and/or any substantial and permanent loss of natural resources, which would not reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(80) Sewage means the water-carried human or animal wastes from residences, buildings, industrial establishments or other places, together with such groundwater infiltration and surface water as may be present. The admixture with sewage as above defined of industrial wastes or other wastes as hereafter defined, shall also be considered sewage within the meaning of this Part.

(81) Sewage treatment works means a facility for the purpose of treating, neutralizing or stabilizing sewage, including treatment or disposal plants, the necessary collection, intercepting, out fall and outlet sewers, pumping stations integral to such plants or sewers, equipment and furnishings thereof and their appurtenances.

(82) Sewer connection means a point of connection between a building, residence, or other structure and a public sewer except that any connection designed or intended to convey 2,500 gallons per day or more of residential sewage alone or in combination with storm water shall be considered a sewer extension.

(83) Sewer extension means a newly constructed or proposed sewer designed to serve one or more sewer connections.

(84) Sewer system means pipe lines or conduits, pumping stations, force mains, and all other constructions, devices, and appliances appurtenant thereto, used for conducting storm water, sewage,



industrial waste or other wastes, alone or in combination to a disposal system.

(85) Significant facility means a minor facility that the regional water engineer has designated as significant.

(86) Sink means a body or storage device that acts as a storage device or disposal mechanism; the opposite of source.

(87) Standard of performance means a standard set forth in 40 CFR 405 to 471 or as set by the department accordance with 40 CFR 125.3 (see section 750-1.25 of this Subpart) for the control of the discharge of pollutants.

(88) State means the State of New York.

(89) State pollutant discharge elimination system or SPDES means the system established pursuant to article 17 of the ECL and this Part for issuance of permits authorizing discharges to the waters of the State.

(90) Storm water means that portion of precipitation that, once having fallen to the ground, is in excess of the evaporative or infiltrative capacity of soils, or the retentive capacity of surface features, which flows or will flow off the land by surface runoff to waters of the State.

(91) Territorial seas means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

(92) Toxic and pretreatment effluent standard means standards adopted in 40 CFR 405 to 471 (see section 750-1.25 of this Subpart).

(93) Toxic pollutant means those pollutants, or combination of pollutants, including disease causing agents that after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly through food chains, will, on the basis of information available to the department, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformations, in such organisms or their offspring. Toxic pollutants include those listed under sections 307(a) and 405(d) of the act. Toxic pollutants shall be listed in the permit application form applicable to the source of discharge. Changes to the list of toxic pollutants in permit application forms shall be made only after



appropriate notice to the regulated community and interested parties.

(94) Treatment facility means disposal system as defined herein.

(95) Twelve-month rolling average means the average of the most recent 12 month's monthly averages.

(96) Untreated sewage means sewage that has not entered the treatment plant of a sewage treatment works.

(97) USEPA means the United States Environmental Protection Agency.

(98) Upset means an exceptional incident in which there is unintentional and temporary noncompliance with permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, failure to properly monitor the system or careless or improper operation.

(99) Wastewater means water that is not storm water, is contaminated with pollutants and is or will be discarded.

(100) Water treatment chemical means biocides, coagulants, conditioners, corrosion inhibitors, defoamers, flocculants, scale inhibitors, sequestrants, and settling aids that are or may be used by the permittee, which contain ingredients that may be toxic, which are or may be present in the discharge, which have not been or would not otherwise be reported on the permit application as present or potentially present in the discharge.

(101) Waters or waters of the State shall be construed to include lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of New York and all other bodies of surface or underground water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the State or within its jurisdiction. Waters of the State are further defined in Parts 800 to 941 of this Title. Storm sewers are not waters of the State unless they are classified in Parts 800 to 941 of this Title. Nonetheless, a discharge to a storm sewer shall be regulated as a discharge at the point where the storm sewer discharges to waters of the State. Waste treatment systems, including treatment ponds or lagoons



designed to meet the requirements of the Act and Environmental Conservation Law (other than cooling ponds as defined in 40 CFR 423.11 [m]) (see section 750-1.25 of this Subpart) which also meet the criteria of this definition are not waters of the State. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the State (such as a disposal area in wetlands) nor resulted from impoundment of waters of the State.

(102) Water quality standard means such measures of purity or quality for any waters in relation to their reasonable and necessary use as promulgated in Part 700, et seq. of this Title.

(103) Whole effluent toxicity means the aggregate toxic effect of an effluent measured directly by a toxicity test.

(b) Terms not defined herein shall be as defined by the context in which they are used.

## **6 NY Comp Codes Rules and Regs § 750-1.4. Requirement to obtain a permit.**

(a) Except as provided in subdivision (a) of section 750-1.5 of this Part, no person shall discharge or cause a discharge of any pollutant without a SPDES permit having been issued to such person pursuant to this Part and ECL Article 17, titles 7 or 8, with respect to such discharge; and no person shall discharge or cause a discharge of any pollutant in a manner other than as prescribed by such permit.

(b) For discharges of stormwater that are not to groundwater, permits shall be required in accordance with 40 CFR 122.26 except as provided in Section 1069 of the federal intermodal transportation efficiency Act of 1991.

(c) All permits for discharges into navigable waters issued by the federal government pursuant to the Act shall be deemed to be permits issued under this Article, and shall continue in force and effect for their term unless revoked, modified or suspended in accordance with the provisions of this Title.

## **Concentrated Animal Feeding Operations**

[State CAFO Permits](#)

