

58:10A-1 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA 58:10A-1 et al.

Laws of 1977 Chapter 74 ("Water Pollution Control Act")

Bill No. S1222

Sponsor(s) McGahn & others

Date Introduced February 23, 1976

Committee: Assembly Agriculture & Environment

Senate Energy & Environment; Revenue, Finance & Appropriation

Amended during passage Yes ~~XXX~~ Amendments during passage denoted by asterisks

Date of passage: Assembly Feb. 17, 1977

Senate Nov. 15, 1976

Date of approval April 25, 1977

Following statements are attached if available:

Sponsor statement	XXX	No
Committee Statement: Assembly	XXX	No
Senate	Yes	XXX 5/10/76 & 9/23/76

Fiscal Note ~~XXX~~ No

Veto message ~~XXX~~ No

Message on signing ~~XXX~~ No

Following were printed:

Reports ~~XXX~~ No

Hearings ~~XXX~~ No

For background see:

974.90 N.J. County and Municipal Government Study Commission
W329 Water supply management in NJ,
1975a summary of findings, conclusions
and recommendations.
Eleventh report. April, 1975

(over)

10/4/76

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974.90 N.J. County and Municipal Government Study Commission.
W329 Water quality management: N.J.'s vanishing options.
1973 A draft report. March, 1973

[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 1222

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 23, 1976

By Senators McGAHN, RUSSO, DWYER, MUSTO and PARKER

Referred to Committee on Energy and Environment

AN ACT concerning water pollution control; providing certain powers to the Department of Environmental Protection; creating a pollutant discharge elimination system; granting rule-making authority; providing penalties; and repealing parts of the Statutory Law.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. This act shall be known and may be cited as the "Water
2 Pollution Control Act."

1 2. The Legislature finds and declares that pollution of the
2 ground and surface waters of this State continues to endanger
3 public health; to threaten fish and aquatic life, scenic and ecological
4 values; and to limit the domestic, municipal, recreational, industrial,
5 agricultural and other uses of water, even though a significant
6 pollution abatement effort has been made in recent years. It is
7 the policy of this State to restore, enhance and maintain the
8 chemical, physical, and biological integrity of its waters, to protect
9 public health, to safeguard fish and aquatic life and scenic and
10 ecological values, and to enhance the domestic, municipal, recrea-
11 tional, industrial and other uses of water.

12 The Legislature further finds and declares that the Federal
13 Water Pollution Control Act Amendments of 1972 (P. L. 92-500;
14 33 U.S.C. 1251 et seq.) establishes a permit system to regulate
15 discharges of pollutants and provides that permits for this purpose
16 will be issued by the Federal Government or by states with
17 adequate authority and programs to implement the regulatory
18 provisions of that act. It is in the interest of the people of this
19 State to minimize direct regulation by the Federal Government
20 of wastewater dischargers by enacting legislation which will con-

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

21 tinue and extend the powers and responsibilities of the Department
22 of Environmental Protection for administering the State's water
23 pollution control program, so that the State may be enabled to
24 implement the permit system required by the Federal Act.

1 3. As used in this act, unless the context clearly requires a
2 different meaning, the following words and terms shall have the
3 following meanings:

4 a. "Administrator" means the Administrator of the United
5 States Environmental Protection Agency or his authorized
6 representative;

7 b. "Areawide plan" means any plan prepared pursuant to
8 section 208 of the Federal Act;

9 c. "Commissioner" means the Commissioner of Environmental
10 Protection or his authorized representative;

11 d. "Department" means the Department of Environmental
12 Protection;

13 e. "Discharge" means the releasing, spilling, leaking, pumping,
14 pouring, emitting, emptying, or dumping of a pollutant into the
15 waters of the State or onto land or into wells from which it might
16 flow or drain into said waters, and shall include the release of
17 any pollutant into a municipal treatment works;

18 f. "Effluent limitation" means any restriction on quantities,
19 quality, rates and concentration of chemical, physical, thermal,
20 biological, and other constituents of pollutants;

21 g. "Federal Act" means the "Federal Water Pollution Control
22 Act Amendments of 1972" (Public Law 92-500; 33 U. S. C. 1251
23 et seq.);

24 h. "Municipal treatment works" means the treatment works
25 of any municipal, county, or State agency or any agency or sub-
26 division created by one or more municipal, county or State gov-
27 ernments and the treatment works of any public utility as defined
28 in R. S. 48:2-13;

29 i. "National Pollutant Discharge Elimination System" or
30 "NPDES" means the national system for the issuance of permits
31 under the Federal Act;

32 j. "New Jersey Pollutant Discharge Elimination System"
33 or "NJPDES" means the New Jersey system for the issuance of
34 permits under this act;

35 k. "Permit" means an NJPDES permit issued pursuant to
36 section 6 of this act;

37 l. "Person" means any individual, corporation, company, part-
38 nership, firm, association, owner or operator of a treatment
39 works, political subdivision of this State and any state or interstate

40 agency. "Person" shall also mean any responsible corporate
41 official for the purpose of enforcement action under section 10 of
42 this act;

43 m. "Point source" means any discernable, confined and discrete
44 conveyance, including but not limited to, any pipe, ditch, channel,
45 tunnel, conduit, well, discrete fissure, container, rolling stock,
46 concentrated animal feeding operation, or vessel or other floating
47 craft, from which pollutants are or may be discharged;

48 n. "Pollutant" means any dredged spoil, solid waste, incinerator
49 residue, sewage, garbage, refuse, oil, grease, sewage sludge,
50 munitions, chemical wastes, biological materials, radioactive
51 substance, thermal waste, wrecked or discarded equipment, rock,
52 sand, cellar dirt, and industrial, municipal or agricultural waste
53 or other residue discharged into the waters of the State;

54 o. "Pretreatment standards" means any restriction on quantities,
55 quality, rates, or concentrations of pollutants discharged into
56 municipal or privately owned treatment works adopted pursuant to
57 P. L. 1972, c. 42 (C. 58:11-49 et seq.);

58 p. "Schedule of compliance" means a schedule of remedial
59 measures including an enforceable sequence of actions or opera-
60 tions leading to compliance with water quality standards, an
61 effluent limitation or other limitation, prohibition or standard;

62 q. "Substantial modification of a permit" means any significant
63 change in any effluent limitation, schedule of compliance, compli-
64 ance monitoring requirement, or any other provision in any permit
65 which permits, allows, or requires more or less stringent or more
66 or less timely compliance by the permittee;

67 r. "Toxic pollutant" means those pollutants, or combinations
68 of pollutants, including disease causing agents, which after dis-
69 charge and upon exposure, ingestion, inhalation or assimilation
70 into any organism, either directly or indirectly by ingestion through
71 food chains, will, on the basis of information available to the
72 commissioner, cause death, disease, behavioral abnormalities,
73 cancer, genetic mutations, physiological malfunctions, including
74 malfunctions in reproduction, or physical deformation, in such
75 organisms or their offspring;

76 s. "Treatment works" means any device or systems, whether
77 public or private, used in the storage, treatment, recycling, or
78 reclamation of municipal or industrial waste of a liquid nature in-
79 cluding intercepting sewers, outfall sewers, sewage collection
80 systems, cooling towers and ponds, pumping, power and other
81 equipment and their appurtenances; extensions, improvements,

82 remodeling, additions, and alterations thereof; elements essential
 83 to provide a reliable recycled supply such as standby treatment
 84 units and clear well facilities; and any other works including sites
 85 for the treatment process or for ultimate disposal of residues
 86 resulting from such treatment. Additionally, "treatment works"
 87 means any other method or system for preventing, abating, reduc-
 88 ing, storing, treating, separating, or disposing of pollutants, in-
 89 cluding storm water runoff, or industrial waste in combined or
 90 separate storm water and sanitary sewer systems;

91 t. "Waters of the State" means the ocean and its estuaries, all
 92 springs, streams and bodies of surface or ground water, whether
 93 natural or artificial, within the boundaries of this State or subject
 94 to its jurisdiction.

1 4. The commissioner shall have power to prepare, adopt, amend,
 2 repeal and enforce, pursuant to the "Administrative Procedures
 3 Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), reasonable codes,
 4 rules and regulations to prevent, control or abate water pollution
 5 and to carry out the intent of this act, either throughout the State
 6 or in certain areas of the State affected by a particular water
 7 pollution problem. Such codes, rules and regulations may include,
 8 but shall not be limited to, provisions concerning:

9 a. The storage of any liquid or solid pollutant in a manner de-
 10 signed to keep it from entering the waters of the State;

11 b. The prior submission and approval of plans and specifications
 12 for the construction or modification of any treatment work or part
 13 thereof;

14 c. The classification of the surface and ground waters of the
 15 State and the determination of water quality standards for each
 16 such classification;

17 d. The limitation of effluents, including toxic effluents as indi-
 18 cated herein;

19 e. The determination of pretreatment standards;

20 f. The establishment of user charges and cost recovery require-
 21 ments in conformance with the Federal Act.

1 5. The department is empowered to:

2 a. Exercise general supervision of the administration and en-
 3 forcement of this act and all rules, regulations and orders promul-
 4 gated hereunder;

5 b. Assess compliance of a discharger with applicable require-
 6 ments of State and Federal law pertaining to the control of pollu-
 7 tant discharges and the protection of the environment and, also, to
 8 issue certification with respect thereto as required by section 401
 9 of the Federal Act;

10 c. Advise, consult, and cooperate with other agencies of the
11 State, the Federal Government, other states and interstate agencies,
12 ***including the State Soil Conservation Committee,*** and with
13 affected groups, political subdivisions and industries in further-
13A ance of the purposes of this act;

14 d. Administer State and Federal grants to municipalities, coun-
15 ties and other political subdivisions, or any recipient approved by
16 the commissioner according to terms and conditions approved by
17 him in order to meet the goals and objectives of this act.

1 6. a. It shall be unlawful for any person to discharge any pollu-
2 tant, except in conformity with a valid New Jersey Pollutant Dis-
3 charge Elimination System permit that has been issued by the
4 commissioner pursuant to this act or a valid National Pollution
5 Discharge Elimination System permit issued by the administrator
6 pursuant to the Federal Act, as the case may be.

7 b. It shall be unlawful for any person to build, install, modify
8 or operate any facility for the collection, treatment or discharge
9 of any pollutant, except after approval by the department pursuant
10 to regulations adopted by the commissioner.

11 c. The commissioner is hereby authorized to grant, deny, modify,
12 suspend, revoke, and reissue NJPDES permits in accordance with
13 this act, and with regulations to be adopted by him. The commis-
14 sioner may reissue, with or without modifications, an ***[NJPDES]***
15 **NPDES** permit duly issued by the Federal Government as the
16 NJPDES permit required by this act.

17 d. The commissioner may, by regulation, exempt the following
18 categories of discharge, in whole or in part, from the requirement
19 of obtaining a permit under this act; provided, however, that an
20 exemption afforded under this section shall not limit the civil or
21 criminal liability of any discharger nor exempt any discharger
22 from approval or permit requirements under any other provision
23 of law:

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

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

29 (3) Discharges from septic tanks, or other individual waste dis-
30 posal systems, sanitary landfills, and other means of land disposal
31 of wastes;

32 (4) Discharges of dredged or fill materials;

33 (5) Nonpoint source discharges;

34 (6) Uncontrolled nonpoint source discharges composed entirely
35 of storm water runoff when these discharges are uncontaminated
36 by any industrial or commercial activity unless these particular
37 storm water runoff discharges have been identified by the adminis-
38 trator or the department as a significant contributor of pollution;

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

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

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

46 (2) Any discharge which the United States Secretary of the
47 Army, acting through the Chief of Engineers, finds would sub-
48 stantially impair anchorage or navigation;

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

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

53 f. A permit under this act shall require the permittee:

54 (1) To achieve effluent limitations based upon guidelines or
55 standards established pursuant to the Federal Act or this act, to-
56 gether with such further discharge restrictions and safeguards
57 against unauthorized discharge as may be necessary to meet water
58 quality standards, areawide plans adopted pursuant to law, or
59 other legally applicable requirements;

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

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

67 (4) To submit application for a new permit in the event of any
68 contemplated facility expansion or process modification that would
69 result in new or increased discharges or, if these would not violate
70 effluent limitations or other restrictions specified in the permit, to
71 notify the commissioner of such new or increased discharges;

72 (5) To install, use and maintain such monitoring equipment and
73 methods, to sample in accordance with such methods, to maintain
74 and retain such records of information from monitoring activities,

75 and to submit to the commissioner such reports of monitoring re-
76 sults as he may require;

77 (6) At all times, to maintain in good working order and operate
78 as effectively as possible, any facilities or systems of control in-
79 stalled to achieve compliance with the terms and conditions of the
80 permit.

81 g. The commissioner shall have a right of entry to all premises
82 in which a discharge source is or might be located or in which
83 monitoring equipment or records required by a permit are kept,
84 for purposes of inspection, sampling, copying or photographing.

85 *h.* In addition, any permit issued for a discharge from a mu-
86 nicipal treatment works shall require the permittee:

87 (1) To notify the commissioner in advance of the quality and
88 quantity of all new introductions of pollutants into a facility and
89 of any substantial change in the pollutants introduced into a facility
90 by an existing user of the facility, except for such introductions of
91 nonindustrial pollutants as the commissioner may exempt from this
92 notification requirement when ample capacity remains in the facility
93 to accommodate new inflows. Such notifications shall estimate the
94 effects of such changes on the effluents to be discharged into the
95 facility.

96 (2) To establish an effective regulatory program, alone or in
97 conjunction with the operators of sewage collection systems, that
98 will assure compliance and monitor progress toward compliance
99 by industrial users of the facilities with user charge and cost re-
100 covery requirements of the Federal Act or State law and toxicity
101 standards adopted pursuant to this act and pretreatment standards;

102 (3) As actual flows to the facility approach design flow or design
103 loading limits, to submit to the commissioner for his approval, a
104 program which the permittee and the persons responsible for build-
105 ing and maintaining the contributory collection system shall pursue
106 in order to prevent overload of the facilities.

107 *h.* All owners of municipal treatment works are hereby
108 authorized to prescribe terms and conditions, consistent with
109 applicable State and Federal law, upon which pollutants may be
110 introduced into such works, and to exercise the same right of entry,
111 inspection, sampling and copying with respect to users of such
112 works as are vested in the commissioner by this act or by any other
113 provision of State law.

114 *j. In reviewing permits submitted in compliance with this act
115 and in determining conditions under which such permits may be

116 *approved, the commissioner shall encourage the development of*
 117 *comprehensive regional sewerage facilities which serve the needs*
 118 *of the regional community and which conform to the adopted area-*
 119 *wide water quality management plan for that region.**

1 7. a. All permits issued under this act shall be for fixed terms
 2 not to exceed 5 years. Any permittee who wishes to continue dis-
 3 charging after the expiration date of his permit must file for a
 4 new permit at least 180 days prior to that date.

5 b. The commissioner may modify, suspend, or revoke a permit
 6 in whole or in part during its term for cause, including but not
 7 limited to the following:

8 (1) Violation of any term or condition of the permit;

9 (2) Obtaining a permit by misrepresentation or failure to dis-
 10 close fully all relevant facts;

11 (3) If a toxic effluent limitation or prohibition, including any
 12 schedule of compliance specified in such effluent limitation or
 13 prohibition, is established under section 307 (a) of the Federal
 14 Act for a toxic pollutant which is more stringent than any limita-
 15 tions upon such pollutant in an existing permit, the commissioner
 16 shall revise or modify the permit in accordance with the toxic
 17 effluent limitation or prohibition and so notify the permittee.

18 c. Notice of every proposed suspension, revocation or renewal,
 19 or substantial modification of a permit and opportunity for public
 20 hearing thereupon, shall be afforded in the same manner as with
 21 respect to original permit applications as provided for in this act.
 22 In any event notice of all modifications to a discharge permit shall
 23 be published in the New Jersey Register.

24 d. Every final determination of the commissioner to grant, deny,
 25 modify, suspend, or revoke a permit shall constitute an admini-
 26 strative adjudication under the "Administrative Procedures Act"
 27 P. L. 1968, c. 410 (C. 52:14B-1 et seq.), which provides the per-
 28 mittee the opportunity to contest the final determination in a
 29 hearing.

1 8. Whenever the commissioner finds that discharges from a point
 2 source or a group of point sources with the application of the
 3 effluent limitations authorized in this act, which effluent limita-
 4 tions are as stringent as the best available technology economically
 5 achievable as provided for in the Federal Act or State law, would
 6 interfere with the attainment and maintenance of applicable water
 7 quality standards, the commissioner ~~*[shall]*~~ **may** establish
 8 more stringent effluent limitations for each such point source or
 9 group of point sources, which effluent limitations can reasonably be

10 expected to contribute to the attainment and maintenance of the
 11 applicable water quality standards. Prior to the establishment of
 12 any more stringent effluent limitations under this section, the com-
 13 missioner shall publish a notice of his intent to establish such
 14 limitations and, upon request of a person affected by any such
 15 limitations, the commissioner shall hold a public hearing to deter-
 16 mine if there is a reasonable relationship between the economic and
 17 social costs of achieving such limitations, including any economic
 18 or social dislocation in the affected community or communities, and
 19 the social and environmental benefits to be obtained, including the
 20 objective of restoring and maintaining the water quality of the
 21 State, and to determine whether such effluent limitations can be
 22 implemented with available technology or with other control strate-
 23 gies. If a person affected by any such limitations demonstrates at
 24 the hearing that there is no reasonable relationship between the
 25 economic and social costs of compliance and the benefits to be
 26 obtained, the commissioner shall modify any such limitations as
 27 they may apply to that person.

1 9. Applications for permits shall be submitted within such times,
 2 on such forms, and with such signatures as may be prescribed by
 3 the commissioner and shall contain such information as he may
 4 require. ***[**The commisisoner shall, in accordance with a fee schedule
 5 adopted by regulation, establish and charge reasonable annual ad-
 6 ministrative fees, which fees shall be based upon, and shall not
 7 exceed, the estimated cost of processing, monitoring and adminis-
 8 tering the NJPDES permits. Said fees shall be deposited in the
 9 "Environmental Services Fund" created by section 5, P. L. 1975,
 10 c. 232 (C. 13:1D-33) and used exclusively for the purposes of
 11 this act.**]*** ***The commissioner shall, in accordance with a fee
 11A schedule adopted by regulation, establish and charge reasonable
 11B annual administrative fees, which fees shall be based upon, and
 11C shall not exceed, the estimated cost of processing, monitoring and
 11D administering the NJPDES permits. Said fees shall be deposited
 11E to the credit of the State and be deemed as part of the General State
 11F Fund. The Legislature shall annually appropriate an amount
 11G equivalent to the amount anticipated to be collected as fees charged
 11H under this section in support of NJPDES program.***

12 b. The commissioner shall give public notice of every complete
 13 application for a permit in a manner designed to inform interested
 14 and potentially interested persons, affected states and appropriate
 15 governmental agencies of his proposed determination to issue or
 16 deny a permit. The notice shall announce a period of at least

17 30 days during which the interested persons may request additional
18 facts, submit written views, and request a public hearing on the
19 proposed discharge or determination. All written comments so
20 submitted shall be retained and considered by the commissioner
21 in formulating his final determination with respect to the permit
22 application. The commissioner may give combined notice of two
23 or more permit applications and proposed determinations pro-
24 vided that the requirements of this section are observed for each
25 application.

26-36 c. All permit applications, documented information concerning
37 actual and proposed discharges, comments received from the public,
38 and draft and issued permits shall be made available to the public
39 for inspection and for duplication. At his discretion, the commis-
40 sioner may also make available any other records, reports, plans
41 or information pertaining to permit applicants or permittees, but
42 he shall protect from disclosure any information, other than effluent
43 data, upon a showing by any person that such information, if
44 made public, would divulge methods or processes entitled to pro-
45 tection as trade secrets of such person. The commissioner may pre-
46 scribe reasonable fees to reimburse the department for duplication
47 expenses under this section.

48 d. The commissioner shall hold a public hearing on a permit
49 application before a final determination, if a significant showing
50 of interest on the part of the public appears in favor of holding
51 such a hearing. At his discretion, the commissioner may also hold
52 such a hearing on his own motion or if requested to so do by any
53 other interested person. Public notices of every public hearing under
54 this subsection, including a concise statement of the issues to be
55 considered therein, shall be given at least 30 days in advance, and
56 shall be circulated at least as widely as was the notice of the permit
57 application. The commissioner may hold a single hearing on two
58 or more applications. To the extent feasible, he shall afford all
59 persons or representatives of all points of view an opportunity
60 to appear, but may so allocate hearing time as to exclude repetitious,
61 redundant, or irrelevant matter. All testimony and documentary
62 material submitted at the hearing shall be considered by the com-
63 missioner in formulating his final determination.

64 **e. The commissioner may appoint and employ such persons as*
65 *he deems necessary to enforce and administer the provisions of*
66 *this act, and determine their qualifications, term of office, duties and*
67 *compensation, all without regard to the provisions of Title 11, Civil*
68 *Service, of the Revised Statutes.**

1 10. a. Whenever, on the basis of any information available to
2 him, the commissioner finds that any person is in violation of any
3 provision of this act, or any rule, regulation, water quality stan-
4 dard, effluent limitation, or permit issued pursuant to this act
5 he shall:

6 (1) Issue an order requiring any such person to comply in ac-
7 cordance with subsection b. of this section; or

8 (2) Bring a civil action in accordance with subsection c. of this
9 section; or

10 (3) Levy a civil administrative penalty in accordance with sub-
11 section d. of this section; or

12 (4) Bring an action for a civil penalty in accordance with sub-
13 section e. of this section; or

14-15 (5) Petition the Attorney General to bring a criminal action in
16 accordance with subsection f. of this section.

17 Use of any of the remedies specified under this section shall
18 not preclude use of any other remedy specified.

19 b. Whenever, on the basis of any information available to him,
20 the commissioner finds that any person is in violation of any pro-
21 vision of this act, or of any rule, regulation, water quality standard,
22 effluent limitation or permit issued pursuant to this act, he may
23 issue an order (1) specifying the provision or provisions of this
24 act, or the rule, regulation, water quality standard, effluent limi-
25 tation, or permit of which he is in violation, (2) citing the action
26 which caused such violation, (3) requiring compliance with such
27 provision or provisions, and (4) giving notice to the person of his
28 right to a hearing on the matters contained in the order.

29 c. The commissioner is authorized to commence a civil action in
30 Superior Court for appropriate relief from any violation of this act
31 or of a permit issued hereunder. Such relief may include, singly
32 or in combination:

33 (1) A temporary or permanent injunction;

34 (2) Assessment of the violator for the costs of any investigation,
35 inspection, or monitoring survey which led to the establishment of
36 the violation, and for the reasonable costs of preparing and litigat-
37 ing the case under this subsection;

38 (3) Assessment of the violator for any cost incurred by the
39 State in removing, correcting or terminating the adverse effects
40 upon water quality resulting from any unauthorized discharge of
41 pollutants for which the action under this subsection may have
42 been brought;

43 (4) Assessment against the violator of compensatory damages
44 for any loss or destruction of wildlife, fish or aquatic life, and for

45 any other actual damages caused by an unauthorized discharge.
46 Assessments under this subsection shall be paid to the State
47 Treasurer, except that compensatory damages shall be paid by
48 specific order of the court to any persons who have been aggrieved
49 by the unauthorized discharge;

50 d. The commissioner is authorized to assess a civil penalty of
51 not more than \$5,000.00 for each violation and additional penalties
52 of not more than \$500.00 for each day during which such violation
53 continues after receipt of an order from the department. Any
54 amount assessed under this subsection shall fall within a range
55 established by regulation by the commissioner for violations of
56 similar type, seriousness, and duration. No assessment shall be
57 levied pursuant to this section until after the discharger has been
58 notified by certified mail or personal service. The notice shall
59 include a reference to the section of the statute, regulation, order or
60 permit condition violated; a concise statement of the facts alleged
61 to constitute a violation; a statement of the amount of the civil
62 penalties to be imposed; and a statement of the party's right to a
63 hearing. The ordered party shall have 20 days from receipt of the
64 notice within which to deliver to the commissioner a written
65 request for a hearing. After the hearing and upon finding that a
66 violation has occurred, the commissioner may issue a final order
67 after assessing the amount of the fine specified in the notice. If no
68 hearing is requested, then the notice shall become a final order
69 after the expiration of the 20-day period. Payment of the assess-
70 ment is due when a final order is issued or the notice becomes a
71 final order. The authority to levy an administrative order is in
72 addition to all other enforcement provisions in this act, and the
73 payment of any assessment shall not be deemed to affect the
74 availability of any other enforcement provisions in connection with
75 the violation for which the assessment is levied. Any civil penalty
76 assessed under this section may be compromised by the commis-
77 sioner upon the posting of a performance bond by the violator, or
78 upon such terms and conditions as the commissioner may establish
79 by regulation.

80 e. Any person who violates this act or an administrative order
81 issued pursuant to subsection b. or a court order issued pursuant
82 to subsection c., or who fails to pay an administrative assessment
83 in full pursuant to subsection d. shall be subject upon order of a
84 court to a civil penalty not to exceed \$10,000.00 per day of such
85 violation, and each day's continuance of the violation shall con-
86 stitute a separate violation. Any penalty incurred under this sub-

87 section may be recovered with costs in a summary proceeding pur-
88 suant to the "Penalty Enforcement Law" (N. J. S. 2A:58-1
89 et seq.). The Superior Court, County Court and county district
90 court shall have jurisdiction to enforce said Penalty Enforcement
91 Law in conjunction with this act.

92 f. Any person who willfully or negligently violates this act shall,
93 upon conviction, shall be guilty of a misdemeanor and shall be
94 punished by fine of not less than \$2,500.00 nor more than \$25,000.00
95 per day of violation, or by imprisonment for not more than 1 year
96 or by both. Punishment for a second offense under this subsection
97 shall be a fine of not less than \$5,000.00 nor more than \$50,000.00
98 per day of violation, or by imprisonment for not more than 2 years,
99 or both. Any person who knowingly makes a false statement,
100 representation, or certification in any application, record, or other
101 document filed or required to be maintained under this act or who
102 falsifies, tampers with or knowingly renders inaccurate, any
103 monitoring device or method required to be maintained pursuant to
104 this act, shall upon conviction, be subject to a fine of not more than
105 \$10,000.00 or by imprisonment for not more than 6 months, or
106 by both.

1 11. Notwithstanding any contrary provision of State law, no per-
2 son to whom the commissioner has delegated responsibility to
3 approve permits or portions thereof may accept this responsibility
4 if such person receives, or has received during the previous two
5 years, a significant portion of his income directly or indirectly from
6 permit holders or applicants for a permit.

1 12. This act shall be construed liberally. If any provision of this
2 act or the application thereof to any person or circumstance is held
3 invalid, such invalidity shall not affect other provisions or applica-
4 tions which can be given effect without the invalid provisions or
5 applications, and to this end the provisions of this act are declared
6 to be severable.

1 13. This act shall not affect, impair or invalidate any action or
2 proceeding, civil or criminal, brought by or against the department,
3 pending on the effective date of this act: all such actions or pro-
4 ceedings may and shall be continued to final judgment, decree or
5 decision, as if the foregoing provisions had not taken effect; nor
6 shall this act affect orders, rules and regulations heretofore made,
7 promulgated or issued by the department or other matters or pro-
8 ceedings pending before the department on the effective date of
9 this act. Such orders, rules, regulations, matters or proceedings
10 shall continue in full force and effect until amended or repealed
11 pursuant to law.

1 14. The following sections, acts and parts of acts are hereby
2 repealed:

3 ***[N. J. S. 2A:133-12,]***

4 N. J. S. 2A:134-2 to N. J. S. 134-4 both inclusive,

5 N. J. S. 2A:170-22 to N. J. S. 2A:170-24 both inclusive,

6 R. S. 23:5-27,

7 R. S. 23:8-5,

8 R. S. 23:9-18,

9 R. S. 23:9-36,

10 R. S. 23:9-52,

11 R. S. 58:10-5 to R. S. 58:10-23 both inclusive,

12 R. S. 58:10-36 to R. S. 58:10-45 both inclusive,

13 R. S. 58:12-1 to R. S. 58:12-6 both inclusive,

14 P. L. 1970, c. 91, s. 2 (C. 58:12-4.1).

1 *15. *The Senate Committee on Energy and Environment and the*
2 *Assembly Committee on Agriculture and Environment are hereby*
3 *designated as the Legislative Oversight Committees for the Water*
4 *Pollution Control Act. The Department of Environmental Protec-*
5 *tion is directed to submit any proposed rules or regulations to the*
6 *Legislative Oversight Committees, prior to the holding of public*
7 *hearings on such proposed rules or regulations and to promptly*
8 *submit to either committee any information concerning the*
9 *administration of said act which either Legislative Oversight Com-*
10 *mittee may request. The Legislative Oversight Committees shall*
11 *review, evaluate and recommend alterations to any such proposed*
12 *rules or regulations and shall recommend whatever administrative*
13 *alterations it may choose in order to effectuate the Legislative*
14 *intent of this act.*

1 16. *There is hereby appropriated to the Department of Environ-*
2 *mental Protection the sum of \$888,000.00 for the administration of*
3 *this act.**

1 ***[15.]*** *17.* *This act shall take effect on the ninetieth day after*
2 *enactment.*

SENATE ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE, No. 1222

STATE OF NEW JERSEY

DATED: MAY 10, 1976

The "Water Pollution Control Act" prohibits the discharge of any pollutant in a manner which might reach the waters of the State, except in conformity with a valid Pollutant Discharge Elimination System permit (a permit to pollute). It provides for the adoption of reasonable rules and regulations to prevent, control or abate water pollution and it repeals a whole series of overlapping, confusing and redundant water pollution statutes which span the time period from 1882 to 1970.

The "Water Pollution Control Act" authorizes the Department of Environmental Protection to take over the National Pollutant Discharge Elimination System (NPDES) or the national system for the issuance of permits to point sources of water pollution. The Federal Water Pollution Control Act which mandated NPDES encourages those states with adequate authority and programs to take over NPDES. Twenty-eight states have taken over NPDES and integrated it with their ongoing water pollution control programs. Other states are, like New Jersey, taking steps to enable them to take over NPDES.

Each permit will require the permittee (1) to achieve effluent limitations and such further discharge restrictions and safeguards as may be necessary to meet water quality standards, areawide water quality plans, and other applicable requirements; (2) to meet schedules for compliance; (3) to insure that all discharges are consistent at all times with the terms of the permit; (4) to apply for a new permit whenever any modification to the facility or the process would increase the discharges; (5) to monitor discharges and to submit to the Commissioner of Environmental Protection such monitoring reports as he may require.

The act authorizes the commissioner to exempt certain categories of dischargers and prohibits him from granting permits to certain other dischargers. The commissioner may modify, suspend or revoke a permit in whole or part during its term for certain specific causes. The permits shall be for fixed terms not exceeding 5 years. The commis-

sioner shall have a right of entry to all relevant premises. The commissioner shall give public notice of every complete application for a permit and shall hold a public hearing on the permit under certain conditions.

Whenever the commissioner finds that any person is in violation of any provisions of this act or any standard issued pursuant to this act he shall utilize one or more of the five following remedies: (1) issue a compliance order, (2) bring a civil action, (3) levy a civil administrative penalty, (4) bring an action for a civil penalty, or (5) petition the Attorney General to bring a criminal action.

The administration, the County and Municipal Government Study Commission, various environmental groups, various business groups, and the New Jersey Water Pollution Control Association support this bill.

SENATE COMMITTEE AMENDMENTS

The amendments substitute an appropriation of \$888,000.00 for the power to establish annual fees which was removed from the act. The amendments authorize the commissioner to appoint employees to administer the act without regard to the provisions of Title 11, Civil Service, of the Revised Statutes.

The amendments also designate the Senate Energy and Environment Committee and the Assembly Agriculture and Environment Committee as the Legislative Oversight Committees for the review of any proposed rules or regulations to be adopted pursuant to the Water Pollution Control Act.

REFERENCE USE ONLY

SENATE REVENUE, FINANCE AND
APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 1222

[OFFICIAL COPY REPRINT]

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 23, 1976

The Senate Revenue, Finance and Appropriations Committee concurs in the statement on Senate Bill No. 1222 [Official Copy Reprint] by the Senate Energy and Environmental Committee, as a reasonable program statement but has amended the bill with regard to a fee structure.

The Senate Energy and Environment Committee deleted by amendment the direction to the commissioner to establish by regulation a reasonable administrative fee to be assessed against applicants for N.J.P.D.E.S. permits and provided a direct appropriation of \$888,000.00.

The Senate Revenue, Finance and Appropriation Committee left in tact the \$888,000.00 appropriation but by amendment restored the direction to the commissioner to establish a fee structure, with such fees to be deposited to the credit of the General State Fund.