

**Additional procedural requirements for
an adjudicatory proceeding applicable to
State Pollutant Discharge Elimination System (SPDES) permits**

INSTRUCTIONS:

A permittee may use this form to submit the information required by 6 NYCRR 750-1.26 when the permittee seeks to contest new or changed conditions in a final renewed or modified SPDES permit (a “new SPDES permit”). The form should be submitted to the Director for the Division of Water simultaneously with the permittee's request for an adjudicatory proceeding. Please refer to 6 NYCRR 621.10(h), 621.11(g), or 621.13(d) for the relevant timeframes and further instructions for submission.

Please note that 6 NYCRR 750-1.26 does **not** apply to: new discharges; SPDES general permits; or where a permittee’s request for an adjudicatory proceeding includes other Department-administered permits, for the same facility, that were issued with the new SPDES permit. 6 NYCRR 750-1.26 also does **not** apply where the Department has proposed to suspend or revoke an existing SPDES permit, or where the Department has denied a SPDES renewal application.

For additional guidance regarding section 750-1.26 please refer to DOW #1.2.6: Interpretation and Implementation of 6 NYCRR 750-1.26.

If more space is needed, please use additional pages following the same format.

If a provision does not apply, please check “not applicable.”

Permittee Name: _____
Permittee Address: _____
Facility Name: _____
Facility Address: _____
SPDES Number: _____
Effective Date of original SPDES permit: _____
Modification Date(s) of original SPDES permit: _____
Expiration Date of the original SPDES permit: _____
Effective Date of new SPDES permit: _____
Expiration Date of the new SPDES permit: _____

6 NYCRR 750-1.26(c)(8) – Other permits

Indicate whether there are other Department-administered permits that were issued with the new SPDES permit, for the same facility, for which the permittee is simultaneously requesting an adjudicatory proceeding.

There are other Department-administered permits, for the same facility, for which the permittee is simultaneously requesting an adjudicatory proceeding.

YES or NO

If the response is NO, 6 NYCRR 750-1.26 applies and the permittee must complete the remainder of the form.

If the response is YES, 6 NYCRR 750-1.26 does **not** apply, and the permittee is **not** required to complete this form.

6 NYCRR 750-1.26(c)(1) - Contested condition(s)

Identify the conditions that the permittee seeks to contest by citing to the page number of the new SPDES permit, title of the section of the new SPDES permit, and condition or footnote number within that section **OR** copy or summarize the text of the contested condition from the new SPDES permit.

	Page number of the new SPDES permit	Title of the section of the new SPDES permit	Condition or footnote number within that section
1			
2			
3			
4			
5			

OR

	Copied or summarized text of the contested condition from the new SPDES permit
1	
2	
3	
4	
5	

6 NYCRR 750-1.26(c)(2) – Inseverable condition(s)

Identify conditions in the new SPDES permit that are inseverable from contested conditions of the new SPDES permit by citing to the title of the section of the new SPDES permit, condition or footnote number, and page number of the new SPDES permit where the inseverable condition is found. For each inseverable condition, also provide the number of the related contested condition identified above in the first column for 6 NYCRR 750-1.26(c)(1). Explain why a condition is inseverable from a contested condition in the new SPDES permit.

	Corresponding number of the contested condition identified for 6 NYCRR 750-1.26(c)(1)	Page number of the new SPDES permit for the inseverable condition	Title of the section of the new SPDES permit for the inseverable condition	Inseverable condition or footnote number within that section	Why the condition is inseverable from a contested condition
1					
2					
3					
4					
5					

_____ 6 NYCRR 750-1.26(c)(2) is not applicable

6 NYCRR 750-1.26(c)(3) and (4) – Issue(s) raised during public comment

Identify where the issue associated with each contested condition was raised during the public comment period or explain why the issue was not raised during the public comment period.

For issues that were raised, cite to the comment number and response in the Department’s responsiveness summary associated with the new SPDES permit **OR** provide a copy of the relevant comment letter and highlight the issue **OR** identify the date of the public hearing where the comment was made. For issues that were not raised, explain why timing, a good faith lack of knowledge, or other events prevented the permittee from identifying the issue until after the public comment period.

These numbers correspond to the contested conditions identified for 6 NYCRR 750-1.26(c)(1)	Set forth Comment number and response; indicate if a copy of the relevant comment letter is attached; provide the date of public hearing and name of commenter; or explain why the issue was not raised during the comment period
1	

2	
3	
4	
5	

_____ 6 NYCRR 750-1.26(c)(3) or _____ 6 NYCRR 750-1.26(c)(4) is not applicable

6 NYCRR 750-1.26(c)(5) – Responsiveness summary

Explain the basis for the permittee’s disagreement with the Department’s responsiveness summary by citing to the relevant comment number and response and identifying, in a few sentences, the legal and/or factual basis for the permittee’s disagreement with the response.

	Comment number and response in the responsiveness summary	The legal and/or factual basis for the permittee’s disagreement with the response
1		
2		
3		
4		
5		

_____ 6 NYCRR 750-1.26(c)(5) is not applicable

6 NYCRR 750-1.26(c)(6) – Legal and/or factual basis

Set forth the legal and/or factual basis for the permittee’s dispute of each contested condition in the new SPDES permit.

These numbers correspond to the contested conditions identified for 6 NYCRR 750-1.26(c)(1)	The legal and/or factual basis for the permittee’s disagreement with the contested condition in the new SPDES permit
1	
2	
3	
4	
5	

_____ 6 NYCRR 750-1.26(c)(6) is not applicable

6 NYCRR 750-1.26(c)(7) – Temporary structural or non-structural measures

For contested water quality-based effluent limitations in the new SPDES permit, identify temporary structural or non-structural measures, if any, that the permittee is willing to undertake in relation to the contested condition(s) in the new SPDES permit. Also, identify if the contested water quality-based effluent limitations in the new SPDES permit are or are not explicitly listed in the original SPDES permit.

	Contested water quality-based effluent limitations in the new SPDES permit that are in the original SPDES permit	Contested water quality-based effluent limitations in the new SPDES permit that are <u>not</u> explicitly listed in the original SPDES permit	Temporary structural or non-structural measures proposed by the permittee
1			
2			
3			
4			
5			

_____ 6 NYCRR 750-1.26(c)(7)(i) is not applicable. Permittee must maintain its existing level of treatment.

_____ 6 NYCRR 750-1.26(c)(7)(ii)(‘b’) is not applicable. Permittee must maintain its existing level of treatment.

6 NYCRR 750-1.26(c)(7)(ii)(‘a’) and (‘c’) –Discharge concentration and related monitoring

For contested water quality-based effluent limitations in the new SPDES permit but not explicitly listed in the original SPDES permit use the application for the original SPDES permit to identify the discharge concentrations for the pollutants: 1) “reported in the SPDES permit application record as detected in the discharge” or 2) if not detected, “as something the permittee knows or has reason to believe to be present in the discharge” (6 NYCRR 750-1.2(a)(29)(iv)). The permittee should also indicate if the presence of the pollutant was identified based on detection or the permittee’s knowledge or belief of the discharge. The permittee may propose a monitoring frequency for the discharge.

	Pollutant	Date of the permittee's original SPDES permit application	Discharge concentration as identified in the permittee's original SPDES application¹	Detected or permittee has knowledge or reason to believe present	Proposed monitoring frequency
1					
2					
3					
4					
5					

_____ 6 NYCRR 750-1.26(c)(7)(ii)('a') and ('c') is not applicable

REMINDER: Permittees seeking to contest conditions in a new SPDES permit must also submit a request for an adjudicatory proceeding. Please refer to 6 NYCRR 621.10(h), 621.11(g), or 621.13(d) for the relevant timeframes and further instructions for submission.

¹ Normal effluent variability is also authorized (6 NYCRR 750-1.2(a)(29)(iv)).