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SUBCHAPTER 2. GENERAL PROGRAM REQUIREMENTS

7:14A-2.1 PURPOSE AND SCOPE

- (a) This chapter establishes the regulatory framework under the authority of N.J.S.A. 58:10A- 1 et seq., 58:11A- 1 et seq., 58:11-49 et seq., 58:10-23.11 et seq., 58:11-18.10 et seq., 13:1D-1 et seq., 13:1E-1 et seq., 58:4A-5, 58:4A-4.1, 58:12A-1 et seq. 42 U.S.C. §§300F et seq., and 33 U.S.C. §§1251 et seq., within which the Department regulates the discharge of pollutants to the surface and ground waters of the State.
- (b) The intent of these rules is to:
 - 1. Restore, enhance, and maintain the chemical, physical, and biological integrity of the waters of the State;
 - 2. Protect public health and safety;
 - 3. Protect potable water supplies;
 - 4. Safeguard fish and aquatic life and scenic and ecological values;
 - 5. Enhance the domestic, municipal, recreational, industrial, agricultural and other uses of water; and
 - 6. Prevent, control, and abate water pollution.
- (c) This chapter sets forth the rules concerning implementation and operation of the New Jersey Pollutant Discharge Elimination System (NJPDES) permit program and the Treatment Works Approval (TWA) program. Each delegated local agency (DLA) shall issue and administer permits in accordance with an approved industrial pretreatment program, and the requirements of N.J.A.C. 7:14A-19 and applicable sections of N.J.A.C. 7:14A-21.
- (d) It shall be unlawful for any person to discharge any pollutant except in conformity with a valid NJPDES permit issued by the Department, unless specifically exempted by this chapter.
- (e) It shall be unlawful for any person to build, install, modify, or operate any facility for the collection, treatment, or discharge of any pollutant, except in conformance with the TWA requirements contained in N.J.A.C. 7:14A-22 and 23.

7:14A-2.2 LIBERAL CONSTRUCTION AND SEVERABILITY

- (a) This chapter shall be liberally construed to permit the Department to effectuate the purposes of the State and Federal Acts.

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- (b) If any subchapter, section, subsection, provision, clause, or portion of this chapter or the application thereof to any person is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the subchapter, section, subsection, clause, portion, or application directly involved in the controversy in which such judgment shall have been rendered and it shall not affect or impair the remainder of this chapter or the application thereof to other persons.

7:14A-2.3 INCORPORATION BY REFERENCE

- (a) The requirements applicable to the NJPDES program of the Federal Clean Water Act (33 U.S.C. §§1251 et seq.), the Federal Safe Drinking Water Act (42 U.S.C. §§300F et seq.), the State Act, and all Federal regulations cited in this chapter, including, but not limited to, 40 CFR Parts 110, 122, 123, 124, 125, 129, 133, 136, 144, 258, 264, 403, and National Pretreatment Standards in 40 CFR chapter I, subchapter N, and including all amendments and supplements thereto, are incorporated into this chapter by reference unless the context clearly indicates otherwise. A copy of the Federal Act, the State Act, or any Federal regulation cited in this chapter may be obtained at the State Library.
- (b) The Delaware River Basin Commission Water Quality Regulations, including all amendments and supplements thereto, and the Interstate Environmental Commission Water Quality Regulations, including, all amendments and supplements thereto, are incorporated into this chapter by reference unless the context clearly indicates otherwise.
- (c) Wherever the requirements of this chapter are more stringent than existing requirements of a Federal regulation, the requirements of this chapter shall apply.
- (d) For provisions of this chapter that incorporate Federal statutory requirements, amendments to the Federal statutes after the promulgation of these rules supersede these rules, as of the effective date of such amended Federal statute, to the extent that such Federal statutory amendments are not inconsistent with State statutory requirements. For provisions of this chapter that incorporate State statutory requirements, amendments to the State statute after the promulgation of these rules supersede these rules, as of the effective date of such amended State statute. The Department shall, subsequently, amend this chapter as necessary in accordance with the State Administrative Procedure Act.

7:14A-2.4 ACTIVITIES THAT REQUIRE A NJPDES PERMIT.

- (a) The NJPDES permitting program shall regulate and issue permits for the discharge of pollutants to surface and ground waters of the State, pursuant to the State and Federal Acts, except for those activities specifically prohibited or

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exempted pursuant to N.J.A.C. 7:14A-2.4(d) and 2.5, respectively.

- (b) The Department shall, at a minimum, issue NJPDES permits for the following activities:
1. Discharge of pollutants to surface and ground waters;
 2. A discharge from an indirect user;
 3. The land application of municipal wastewaters and/or industrial wastewaters, including, but not limited to, spray irrigation, overland flow, and infiltration-percolation lagoons;
 4. The discharge from facilities under the jurisdiction of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.;
 5. The storage of any liquid or solid pollutant, in a manner designed to keep it from entering the waters of the State;
 6. The discharge of pollutants into wells;
 7. Discharges from concentrated animal feeding operations as specified in N.J.A.C. 7:14A-2.13;
 8. Discharges from concentrated aquatic animal production facilities as specified in N.J.A.C. 7:14A-2.14;
 9. Discharges from aquaculture projects;
 10. Discharges from silvicultural point sources;
 11. Discharges of stormwater to surface water and groundwater, including discharges through storm sewers, as set forth in N.J.A.C. 7:14A-24 and 25;
 12. Discharges from site remediation projects;
 13. The treatment, storage or disposal of hazardous waste which is not regulated by the Hazardous Waste Regulations, N.J.A.C. 7:26G; and
 14. Those treatment works treating domestic sewage, or residual use or disposal practices, pursuant to Section 405(d) of the Federal Act and Sections 4 and 6 of the State Act, including, but not limited to, the land application of residual.
- (c) The Department shall determine, on a case-by-case basis, that facilities which are otherwise eligible for general permits and which do not generally require individual permits may be required to obtain an individual permit because of

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their contributions to water pollution. Whenever the Department determines that an individual permit is required under this section, the Department shall notify the discharger in writing of the reasons for such a determination and shall include an application form with such notice. The discharger shall apply under N.J.A.C. 7:14A-4 for a permit within 60 days of receipt of such notice, except for a discharger of stormwater under N.J.A.C. 7:14A-24.2, who shall apply within 180 days unless the Department approves a later date. In such a case, comment regarding the appropriateness of the initial determination to require an individual permit may be submitted during the public comment period under N.J.A.C. 7:14A-15.11 and in any subsequent hearing.

- (d) The Department shall not issue a permit when prohibited by 40 CFR 122.4 or N.J.S.A. 58:10A-6(e).

7:14A-2.5 EXEMPTIONS

- (a) The following activities are exempt from the requirements to obtain a NJPDES permit from the Department:
1. Any direct discharge of sewage from vessels, effluent from properly functioning marine engines, laundry, shower, and galley sink wastes, or any other discharge incidental to the normal operation of a vessel. This exemption does not apply to the following:
 - i. Rubbish, trash, garbage, or other such materials discharged overboard; or
 - ii. Other discharges when the vessel is operating in a capacity other than as a means of transportation such as when used as an energy or mining facility, a storage facility or a seafood processing facility, a residence, or when secured to a storage facility or a seafood processing facility, or when secured to the bed of the ocean, contiguous zone, or waters of the United States for the purpose of mineral or oil exploration or development.
 2. Discharges of dredged or fill material into waters of the United States which are regulated under Section 404 of the Federal Act;
 3. Any discharge in compliance with the instructions of an On-Scene Coordinator pursuant to 40 CFR 300 (The National Oil and Hazardous Substances Pollution Plan) or 33 CFR 153.10(e) (Pollution by Oil and Hazardous Substances), and the State Spill Compensation and Control Act, N.J.S.A. 58:10-23.11.
 4. Any introduction of pollutants from nonpoint source agricultural and silvicultural activities, including runoff from orchards, cultivated crops, pastures, range lands, and forest lands. This paragraph does not exempt

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the point source discharges from concentrated animal feeding operations as defined at N.J.A.C. 7:14A-1.2, from concentrated aquatic animal production facilities as defined at N.J.A.C. 7:14A-1.2, from silvicultural point sources as defined at N.J.A.C. 7:14A-1.2, or to aquaculture projects as defined at N.J.A.C. 7:14A-1.2;

5. Return flows from irrigated agriculture;
 6. Indirect users which do not meet the SIU definition in N.J.A.C. 7:14A-1.2;
 7. Indirect users which meet the SIU definition in N.J.A.C. 7:14A-1.2 and discharge to a delegated local agency. IPP permits issued by delegated local agencies to indirect users under this chapter are NJPDES permits. An exemption under this section does not limit the authority of a delegated local agency to require a IPP permit;
 8. Discharges into a privately owned treatment works, except as the Department may otherwise require on a case-by-case basis. In such a case, the Department shall specify in the statement of basis or fact sheet prepared in accordance with N.J.A.C. 7:14A-15.7 and 15.8 the reason for requiring the user to apply for a permit. Such dischargers shall comply with N.J.A.C. 7:14A-4;
 9. Discharges to ground water at a facility for which a Hazardous Waste Facility permit is issued under the Department's Hazardous Waste Rules at N.J.A.C. 7:26G-12, where that permit includes ground water monitoring and remediation conditions as applicable; and
 10. Discharges to ground water at a hazardous waste facility, as defined by N.J.A.C. 7:26G-8 and 9, that is undergoing closure and/or post-closure care under the terms of an enforceable document. For the purposes of this paragraph, the terms "closure" and "post-closure" have the meanings set forth at 40 C.F.R. 264 and 265, as incorporated by reference at N.J.A.C. 7:26G-8.1 and 9.1, respectively, and the term "enforceable document" has the meaning set forth at 40 C.F.R. 270.1(c)7, as incorporated by reference at N.J.A.C. 7:26G-12.1.
- (b) (Reserved)
- (c) An exemption afforded under (a) above shall not:
1. Limit the administrative, civil, or criminal liability of any discharger; or
 2. Exempt any discharger from approval or permit requirements under any other provision of law.
- (d) The Department may require a NJPDES permit for the activities otherwise

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exempt under (a)4 and/or 5 above, in order to impose appropriate management measures for sources of nonpoint pollution necessary to achieve and maintain applicable water quality standards. Whenever the Department determines that a NJPDES permit is required under this section, the Department shall notify the discharger in writing of the reasons for such a determination and shall include an application form with such notice. The discharger shall apply under N.J.A.C. 7:14A-4 for a permit within 60 days of receipt of such notice. In such a case, comment regarding the appropriateness of the initial determination may be received during the public comment period under N.J.A.C. 7:14A-15.11 and in any subsequent hearing.

7:14A-2.6 CONFLICT OF INTEREST

- (a) Any board or body which approves all or portion of a permit shall not include as a member any person who receives, or has during the previous two years received, a significant portion of direct or indirect income from permit holders or applicants for a permit.
- (b) For the purposes of this section, "direct or indirect income from permit holders or applicants for a permit" is not received when it is derived from mutual fund payments, or from other diversified investments for which the recipient does not know the primary sources of income.
- (c) For the purposes of this section, "permit holders or applicants for a permit" does not include any department or agency of the State government, such as the Division of Fish, Game, and Wildlife within the Natural and Historic Resources Program of the New Jersey Department of Environmental Protection, or the New Jersey Department of Transportation.

7:14A-2.7 PERMIT DURATION AND RENEWAL

- (a) All NJPDES permits shall be issued for fixed terms not to exceed five years. The Department shall issue any permit for a duration that is less than the full allowable term under this section when:
 - 1. A shorter permit duration will facilitate issuance of a discharge permit in accordance with a watershed management plan;
 - 2. The permittee requests a shorter permit duration; or
 - 3. The discharge is anticipated to cease in less than five years.
- (b) Any permittee who wishes to continue the regulated activity after the expiration date of the permit shall file a timely and complete application or request for renewal as provided in N.J.A.C. 7:14A-4.2(e)(3).
- (c) A NJPDES permit may be modified, revoked and reissued, renewed,

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suspended, or revoked in accordance with N.J.A.C. 7:14A-16.3. The filing of a request for a permit modification, revocation and reissuance, renewal, suspension, or revocation, or a notification of planned changes or anticipated noncompliance, in and of itself, shall not stay any permit condition. A permit condition may be administratively stayed by the Department in accordance with N.J.A.C. 7:14A-17.6.

- (d) A NJPDES permit shall be administratively expired if the regulated activity is not continued beyond the expiration date, or for continuing discharges where the conditions of N.J.A.C. 7:14A-2.8(a) have not been met. A permittee may request that a permit be revoked prior to the scheduled expiration date of the permit. A formal notification shall be made to the permittee if a permit has been administratively expired, suspended, or revoked.

7:14A-2.8 ADMINISTRATIVE CONTINUATION OF PERMITS

- (a) The conditions of an expired NJPDES permit are continued in force pursuant to the "Administrative Procedure Act," N.J.S.A. 52:14B-11, until the effective date of a new permit or of authorization under a general permit, or until the effective date of denial of a permit application, if:
 - 1. The permittee submits a timely and complete application, request for renewal, or request for authorization under a general permit, if required, as provided in N.J.A.C. 7:14A-4.2(e)(3); and
 - 2. The Department, without fault on the part of the permittee, fails to issue a new permit with an effective date on or before the expiration date of the previous permit (for example, when issuance is delayed due to constraints of time or resources).
- (b) Permits continued under this section remain fully effective and enforceable.
- (c) When the permittee is not in compliance with the conditions of the administratively continued permit, the Department will take one or more of the following actions:
 - 1. Initiate enforcement action;
 - 2. Suspend or revoke the permit in accordance with N.J.A.C. 7:14A-16.6. If the permit is suspended or revoked, the permittee shall cease the activities that were previously authorized by the suspended or revoked permit. Otherwise, the permittee shall be considered to be operating without a permit, and be subject to appropriate enforcement action;
 - 3. Issue a notice of intent to deny a permit application for a new permit or permit renewal, in accordance with N.J.A.C. 7:14A-15.6(a)(2) and 15.10;

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4. Deny a request for authorization for a general permit, in accordance with N.J.A.C. 7:14A-6.13;
 5. Issue a new permit under N.J.A.C. 7:14A-15 with appropriate conditions, or issue authorization under an appropriate general permit under N.J.A.C. 7:14A-6.13; or
 6. Take other appropriate actions authorized by this chapter or the State Act.
- (d) In the event that the permittee fails to submit a timely and complete application for renewal or request for authorization under a general permit if required under N.J.A.C. 7:14A-4.2(e)3, or fails to comply with (f) below, all discharges of pollutants from the permittee's facility shall cease and the permit shall be administratively expired in accordance with N.J.A.C. 7:14A-2.7(d), unless the Department determines that termination of the discharge will have widespread social or economic impact.
- (e) A permittee with an administratively expired permit that continues discharging pollutants after the expiration date is operating without a permit from the time of expiration of the old permit to the effective date of any new permit or approval and is subject to enforcement action in accordance with N.J.A.C. 7:14-8. In any new permit or approval, the Department may require the submittal of any additional information, specifying a date for its submittal.
- (f) In the event that the Department denies a timely and complete request for authorization under a general permit submitted under (a)1 above, the Department's written notice of denial under N.J.A.C. 7:14A-6.13(m) may require that permittee to apply for an individual permit or seek authorization under another general permit. A notice that contains such a requirement shall include:
1. A brief statement of the reasons for this decision;
 2. An application form or, if applicable, the request for authorization form; and
 3. A statement setting a timeframe within which the permittee must file the application or, if applicable, the request for authorization. The Department may grant additional time for filing, upon request by the permittee. If a permittee fails to submit in a timely manner an application form or request for authorization form required by the Department under this subsection, then such permittee is subject to the provisions of (d) above.

7:14A-2.9 ENFORCEMENT ACTION

- (a) Any permit noncompliance constitutes a violation of the State and Federal

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Acts or other authority of this chapter and is grounds for enforcement action, permit suspension, revocation, revocation and reissuance, modification, or for denial of a permit renewal application.

- (b) The need to halt or reduce activity is not a defense for permit noncompliance in accordance with the following:
 - 1. It shall not be a defense in an enforcement action for a permittee that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.
 - 2. Upon the reduced capacity, loss, or failure of the treatment facility, a permittee shall, to the extent necessary to maintain compliance with its permit, control production or all discharges or both until the facility is restored or an alternative method of treatment is provided.
- (c) For all discharges to surface water, except toxic effluent standards and prohibitions imposed under Section 307 of the Federal Act or Section 4 or 7 of the State Act and "standards for sewage sludge use or disposal" under Section 405(d) of the Federal Act, compliance with a permit during its term constitutes compliance, for purposes of enforcement, with Subtitle C of RCRA, with Sections 301, 302, 306, 307, 318, 403, and 405 of the CWA.
- (d) Compliance with a permit condition which implements a particular "standard for sewage sludge use or disposal" shall be an affirmative defense in any enforcement action brought for a violation of that "standard for sewage sludge use or disposal" pursuant to Sections 309 and 405 of the CWA.

7:14A-2.10 SUBPOENAS

The Department may issue subpoenas requiring attendance and testimony under oath of witnesses before, or the production of documents or information, in whatever form stored or recorded, to him or her or to a representative designated by the Commissioner. Service of a subpoena shall be by certified mail or personal service. A person receiving a request for information pursuant to a subpoena shall comply with the provisions in N.J.A.C. 7:14A-2.11(d).

7:14A-2.11 DUTY TO PROVIDE INFORMATION

- (a) When the Department has reason to believe that a person has, or may have, information relevant to a discharge or potential discharge of a pollutant, that person shall, upon receipt of written notice from the Department, provide information regarding the discharge or potential discharge to the Department. Such persons include, but are not limited to, any persons having generated, treated, transported, stored, or disposed of the pollutant, or any persons having arranged for the transportation, storage, treatment or disposal of such pollutant.

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The following information shall be provided to the Department:

1. The nature, extent, source, and location of the discharge, or potential discharge;
 2. Identification of the nature, type, quantity, source, and location of the pollutant or pollutants;
 3. The identity of, and other relevant information concerning, the generator or transporter of the pollutant, or any other person subject to liability for the discharge or potential discharge; and
 4. The ability of any person liable, or potentially liable, for the discharge, or potential discharge, to pay for, or perform, the cleanup and removal, including the availability of appropriate insurance coverage.
- (b) An application for a permit or treatment works approval, a request for authorization, a report required by a permit (including, but not limited to a monitoring report form), and other information requested by the Department may be submitted electronically via the Department's web portal at www.nj.gov/dep/online.
1. Prior to submitting an application for a permit or treatment works approval, a request for authorization, a report required by a permit (excluding a monitoring report form), or other information, the applicant must comply with the Department's web portal instructions, which require:
 - i. Obtaining a valid Department online business portal account; and
 - ii. Receiving from the Department, an online business portal authorization code.
 2. Prior to submitting a monitoring report electronically, the permittee must execute and submit to the Department the NJPDES EDI Agreement, which requires:
 - i. Contact information for the facility and the facility administrator;
 - ii. The signature of the responsible official, certified in accordance with N.J.A.C. 7:14A-4.9; and
 - iii. The permittee's agreement to comply with the NJPDES rules, including timely submission of a paper monitoring report form if submission electronically is not possible.
 3. The Department may require an applicant or a permittee to submit an application for a permit, treatment works approval, request for

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authorization, or a report required by a permit, and other information on paper, rather than electronically, if the Department determines:

- i. The data that the permittee or applicant submits to the Department electronically are not correct, as a result of input or transmission errors, or otherwise; or
 - ii. The data submitted electronically have compromised, or have the potential to compromise the Department's database system (for example, a virus is transmitted).
- (c) Information requested by the Department shall be provided in the form and manner prescribed by the Department, which may include documents or information in whatever form stored or recorded. Any failure to submit information requested by the Department listed in (a) above shall constitute a violation of this chapter.
- (d) A person receiving a request for information made pursuant to (a) above, or pursuant to a subpoena issued pursuant to N.J.A.C. 7:14A-2.10, shall:
1. Be required to conduct a diligent search of all documents in his or her possession, custody, or control, and to make reasonable inquiries of present and past employees who may have knowledge or documents relevant thereto;
 2. Have a continuing obligation to supplement the information if additional relevant information is discovered, or if it is determined that the information previously provided was false, inaccurate, or misleading; and
 3. Grant the Department access, at reasonable times, to any vessel, facility, property, or location to inspect and copy all relevant documents or, at the Department's request, copy and furnish to the Department all such documents.
- (e) A person shall allow an authorized representative of the Department, upon the presentation of credentials, to:
1. Enter upon a person's premises, for purposes of inspection, sampling, copying or photographing where:
 - i. A discharge source or regulated facility or activity is or might be located; or
 - ii. In which monitoring equipment or records required by a permit are kept;
 2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of a NJPDES permit;

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3. Inspect, at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under a NJPDES permit; and
 4. Sample or monitor, at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Federal or State Acts, any substances or parameters at any location.
- (f) Where a permittee becomes aware that any relevant facts have not been submitted in a permit application, or request for authorization, or that incorrect information has been submitted in a permit application, request for authorization, or in any report to the Department, the permittee shall promptly submit such facts or information within 10 days of the time the permittee becomes aware of the correct information.
- (g) A person providing information pursuant to this section or N.J.A.C. 7:14A-2.10, may assert a claim of confidentiality pursuant to N.J.A.C. 7:14A-18.3.

7:14A-2.12 STUDIES

- (a) Ambient water quality studies may be required to develop TMDLs in accordance with N.J.A.C. 7:15-7. Where such studies are necessary, the ambient water quality sampling and data analysis and interpretation may be performed by the Department, affected cities or municipalities, permittees, or other interested parties.
- (b) Ambient studies consist of water quality and/or biological studies and shall be used to supplement the Department's ongoing sampling programs. Where the data necessary to make a determination of effluent limitations have already been collected and analyzed by the Department, or are anticipated to be collected and analyzed prior to the determination of effluent limitations, duplicative studies shall not be required. Where the data do not exist and/or are incomplete, the Department may require the permittee or the applicant to undertake any and all studies that it determines necessary to determine permit limits and conditions. Such studies may include but are not limited to dilution analysis/mixing zone studies (including stream design flows), dissolved oxygen studies, effluent characterizations, studies to demonstrate compliance with the ocean discharge criteria, antidegradation analysis, in-stream water quality studies to develop water quality based effluent limitations, and biological, nutrient, and toxics impact analysis.
- (c) All studies conducted for the purposes of implementing the requirements of this chapter shall be performed in accordance with a Department approved Work/Quality Assurance Project Plan. At a minimum, the Work/Quality Assurance Project Plan shall define the data quality objectives and specify the field sampling protocols, field survey, and laboratory analytical methods and

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procedures to be implemented in the project. The Work/Quality Assurance Project Plan shall be consistent with guidance from the following documents:

1. The Department's Field Sampling Procedures Manual, dated August 2005, as supplemented or amended (available at <http://www.nj.gov/dep/srp/>), incorporated by reference; and
 2. USEPA Region II "Guidance for the Development of Quality Assurance Project Plans for Environmental Monitoring Projects," dated April 2004, as supplemented or amended (available at <http://www.epa.gov/region02>) incorporated by reference, or the USEPA "Guidance for Preparation of Combined Work/Quality Assurance Project Plans For Environmental Monitoring" (OWRS QA-1), Office of Water Regulations and Standards, Washington, D.C., dated May 1984, as supplemented or amended and incorporated by reference.
- (d) Reuse feasibility studies performed under N.J.A.C. 7:14A-2.15 are exempt from the requirements of (c) above.

7:14A-2.13: SPECIFIC CRITERIA FOR CONCENTRATED ANIMAL FEEDING OPERATIONS

- (a) Except for indirect discharges, a permit shall be obtained for any discharge from an animal feeding operation if the animal feeding operation meets the criteria for a concentrated animal feeding operation under (b) or (d) below.
- (b) An animal feeding operation shall be considered concentrated if either (b)1 or 2 are met:
 1. More than the numbers of animals specified in any of the following categories are confined:
 - i. 1,000 slaughter and feeder cattle;
 - ii. 700 mature dairy cattle (whether milked or dry cows);
 - iii. 2,500 swine each weighing over 25 kilograms (approximately 55 pounds);
 - iv. 500 horses;
 - v. 10,000 sheep or lambs;
 - vi. 55,000 turkeys;
 - vii. 100,000 laying hens or broilers (if the facility has continuous overflow watering);

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- ix. 30,000 laying hens or broilers (if the facility has a liquid manure handling system);
 - x. 5,000 ducks; or
 - xi. 1,000 animal units; or
 2. More than the number and types of animal set forth in (b)2i through x below are confined, and pollutants are discharged into waters of the State, or directly into waters of the State which originate outside of and pass over, across, or through the facility or otherwise come in contact with the animals confined in the operation.
 - i. 300 slaughter or feeder cattle;
 - ii. 200 mature dairy cattle (either milked or dry cows);
 - iii. 750 swine each weighing over 25 kilograms (approximately 55 pounds);
 - iv. 150 horses;
 - v. 3,000 sheep or lambs
 - vi. 16,500 turkeys;
 - vii. 30,000 laying hens or broilers (if the facility has continuous overflow watering);
 - viii. 9,000 laying hens or broilers (if the facility has a liquid manure handling system),;
 - ix. 1,500 ducks; or
 - x. 300 animal units; and either
 - xi. Pollutants are discharged into waters of the State; or
 - xii. Pollutants are discharged directly into waters of the State which originate outside of and pass over, across, or through the facility or otherwise come in contact with the animals confined in the operation.
 3. An animal feeding operation shall not be considered a concentrated animal feeding operation as defined above if such animal feeding operation discharges only in the event of a 25 year, 24-hour storm event.
- (c) Any animal feeding operation shall, upon the Department's written request, submit the following information:

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1. The number and type of animals confined;
 2. A description of the means of discharge; and
 3. The name and address of the owner or operator.
- (d) On a case-by-case basis and after conducting an on-site inspection, the Department shall designate, as a concentrated animal feeding operation, any animal feeding operation which does not meet the criteria in (b) above if (d)1 and 2 below are met:
1. The Department determines that the operation is a significant contributor of pollution to the waters of the State. In making this determination the Department shall consider the following factors:
 - i. The size of the animal feeding operation and the amount of wastes reaching waters of the State;
 - ii. The location of the animal feeding operation relative to waters of the State;
 - iii. The means of conveyance of animal wastes and process waste waters into waters of the State;
 - iv. The slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal wastes and process wastewaters into waters of the State; and
 - v. Other relevant factors; and
 2. The Department determines that:
 - i. Pollutants are discharged into waters of the State through a manmade ditch, flushing system, or other similar manmade device; or
 - ii. Pollutants are discharged directly into waters of the State which originate outside of the facility and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

7:14A-2.14: SPECIFIC CRITERIA FOR CONCENTRATED AQUATIC ANIMAL PRODUCTION FACILITIES

- (a) Except for indirect discharges, a permit shall be obtained for any discharge from an animal production facility if the animal production facility meets the criteria in (b) below or is required to obtain a permit under (d) below.
- (b) An animal production facility shall be considered a concentrated aquatic

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animal production facility if it is a hatchery, fish farm, or other facility that contains, grows, or holds aquatic animals in either of the following categories:

1. Cold water fish species, including but not limited to, the Salmonidae family of fish (for example, trout and salmon), or other cold water aquatic animals in ponds, raceways, or other similar structures which discharge at least 30 days per year, but does not include:
 - i. Facilities which produce less than 9,090 harvest weight kilograms (approximately 20,000 pounds) of aquatic animals per year; and
 - ii. Facilities which feed less than 2,272 kilograms (approximately 5,000 pounds) of food during the calendar month of maximum feeding.
 2. Warm water fish species, including, but not limited to, the Ameiuride, Centrarchidae and Cyprinidae families of fish (for example, respectively, catfish, sunfish, and minnows), or other warm water aquatic animals in ponds, raceways, or other similar structures which discharge at least 30 days per year, but does not include:
 - i. Closed ponds which discharge only during periods of excess runoff;
or
 - ii. Facilities which produce less than 45,454 harvest weight kilograms (approximately 100,000 pounds) of aquatic animals per year.
- (c) Any aquatic animal production facility which does not meet the criteria in (b) above, shall submit the following information to the Department to determine if a permit is required:
1. The number and type of animals confined;
 2. A description of the means of discharge; and
 3. The name and address of the owner or operator.
- (d) The Department shall require on a case-by-case basis any aquatic animal production facility to obtain a permit upon determining that:
1. It is a significant contributor of pollution to the waters of the State. In making this determination the Department shall consider the following factors:
 - i. The location and quality of the receiving waters of the State;
 - ii. The holding, feeding, and production capacities of the facility;

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- iii. The quantity and nature of the pollutants reaching waters of the State;
and
- iv. Other relevant factors.

7:14A-2.15: RECLAIMED WATER FOR BENEFICIAL REUSE

- (a) Any person producing or proposing to produce RWBR shall refer to the guidance for restricted access RWBR or public access RWBR specified in the Department's "Technical Manual for Reclaimed Water for Beneficial Reuse," dated January 2005, as supplemented or amended, and shall comply with all RWBR limitations and conditions in the applicable NJPDES permit. The implementation of a RWBR program at a facility will not be a basis for the Department to allow that facility to expand its sewer service area or capacity to accept additional wastewater. The Technical Manual for Reclaimed Water for Beneficial Reuse is available from the Department's Division of Water Quality at PO Box 029, Trenton, New Jersey 08625 or from the Division's website (<http://www.nj.gov/dep/dwq>).
 - 1. Restricted access RWBR is the classification of reclaimed water for which the possibility of exposure of the general population to the water is minimal and/or exposure of workers to the water is controlled. Restricted access RWBR shall require at least secondary treatment and/or compliance with effluent limitations established in a NJPDES permit.
 - 2. Public access RWBR is the classification of reclaimed water for which there is a high possibility that the general population will be exposed to the water, thereby requiring better than secondary treatment effluent requirements listed in N.J.A.C. 7:14A-12.2.
- (b) If a permittee elects to conduct and submit a Reuse Feasibility Study, it shall be conducted in accordance with the Department's Technical Manual for Reclaimed Water for Beneficial Reuse, dated January 2005, as supplemented or amended, and shall be signed and sealed by a professional engineer licensed in the State of New Jersey.
- (c) Each applicant that produces or proposes to produce RWBR shall include the following in the NJPDES permit application or request for authorization under the general RWBR permit (NJ0142581), as applicable:
 - 1. A list of users currently receiving RWBR including amounts reused;
 - 2. A list of proposed users to receive RWBR during the next permit cycle, as well as potential amounts of RWBR for each type of reuse;
 - 3. Identification of whether RWBR will be taken from the main wastewater treatment plant or a satellite plant in the sewer service area;

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4. A description of all public education and outreach efforts for any new or expanded public access RWBR activities;
5. An engineering report, operating protocol and reuse supplier agreement or any other additional information that the Department may require in accordance with N.J.A.C. 7:14A-4.3(e) and the guidance provided in the Department's Technical Manual for Reclaimed Water for Beneficial Reuse; dated January 2005, as supplemented or amended, and
6. The method of disposal (for example, DSW) of RWBR water if not all RWBR treatment requirements as specified in the NJPDES permit are met.

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