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## States' Nutrient Management Plans Statutes & Regulations:

*New Jersey*



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

NJ Rev Stat § 4:9-38  
NJ Rev Stat § 4:27-19  
NJ Admin Code 2:91-1.1  
NJ Admin Code 2:91-2.1  
NJ Admin Code 2:91-3.1(c), 3.2-3.10  
NJ Admin Code 2:91-4.1  
NJ Rev Stat § 58:10A-2  
NJ Rev Stat § 58:10A-6(a)-(f), (k)-(m), (q)  
NJ Admin Code 7:14A-2.4(b)(7)-(8)  
NJ Admin Code 7:14A-2.5(a)(4)-(5)  
NJ Admin Code 7:14A-2.7  
NJ Admin Code 7:14A-2.13  
NJ Admin Code 7:14A-2.14  
Fact Sheet

*The statutes and Constitution are current through the 2018 regular and special legislative sessions.  
The statutes are subject to changes by the New Jersey Legislative Services Commission.*

**NJ Rev Stat § 4:9-38. Composting, handling, etc. of animal wastes.**

The Department of Agriculture shall, by rule or regulation and pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), establish criteria and standards for the composting, handling, storage, processing, utilization and disposal of animal wastes as provided in section 19 of P.L.1997, c.236 (C.4:27-19).

**NJ Rev Stat § 4:27-19. Comprehensive animal waste management program.**

The Department of Agriculture, in consultation with the Department of Environmental Protection, shall adopt, within one year of the effective date of this act and pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), a comprehensive animal waste management program that shall provide for the proper disposal of animal wastes, including wastes generated from aquaculture. The animal waste management program shall include, but need not be limited



to, criteria and standards for the composting, handling, storage, processing, utilization and disposal of animal wastes, the establishment of program compliance provisions including appropriate penalties for program noncompliance and violations, and may include provisions for the assessment of fees to cover reasonable administrative costs.

### **NJ Admin Code 2:91-1.1. Purpose and scope.**

(a) These rules set forth the requirements for the development and implementation of self-certified Animal Waste Management Plans (AWMPs), high-density AWMPs and Comprehensive Nutrient Management Plans (CNMPs) for farms that generate, handle or receive animal waste. The rules in this chapter require the use of best management practices to protect water quality and public health by:

1. Controlling animal access to the waters of the State;
2. Storing manure at least 100 linear feet from surface waters of the State;
3. Applying manure using proper nutrient management practices;
4. Minimizing odors from manure storage and application areas;
5. Controlling vectors and fomites; and
6. Optimizing the beneficial use of nutrients from manure and bedding materials.

(b) These rules only apply to farms with animals identified in the definition of "livestock" at N.J.A.C. 2:91-2.1 and to farms receiving or applying animal waste. These rules do not apply to facilities regulated by the New Jersey Department of Environmental Protection under N.J.A.C. 7:26 (solid waste management rules), 7:26A (solid waste recycling rules) and 7:14A (CAFO General Permit #NJ0138631).

(c) Aquatic farms that comply with the provisions of the Aquaculture Management Practices at N.J.A.C. 2:76-2A.11 and who possess an aquatic farmer license pursuant to N.J.A.C. 2:89 shall be deemed in compliance with the requirements of this chapter.

(d) Nothing in this chapter shall be construed to alter or compromise the goals, purposes, and provisions of, or lessen the protections afforded to farmers by, the Right to Farm Act, P.L. 1983, c. 31 (N.J.S.A. 4:1C-1 et seq.), and any rules adopted pursuant thereto.



(e) Farms having documented evidence of a direct discharge of animal waste into waters of the State, as determined by NJDA following an evidentiary hearing, shall comply with the requirements set forth at N.J.A.C. 2:91-3.6.

### **NJ Admin Code 2:91-2.1. Definitions.**

For the purpose of this chapter, the following words and terms shall have the meanings described below, unless the context clearly indicates otherwise.

"Agricultural management practices (AMP)" means practices which have been recommended by the State Agriculture Development Committee, and adopted pursuant to the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

"Animal density (AD)" means the number of animal units per acre of available farmland for pasturing animals and other land available for application of animal waste. For purposes of determining available farmland, only farmland actually used for pasturing or in which animal waste is actually applied can be counted, and specifically excludes land containing structures, woodlands and waters of the State.

"Animal unit (AU)" means 1,000 pounds of live body weight calculated on an annual average basis. In lieu of calculating the actual weight of each animal, the following conversion chart may be used for determining the animal units on farm:

#### **Animal Unit Equivalentents and Manure Production**

##### **All Values Calculated from Midwest Plan Service - MWPS-18, 2000 (by the American Society of Agricultural Engineers)**

Note: Animals not identified in the list shall be calculated based on species, production goals, breed or accepted species weights as determined by RCE.



Animal	Weight Pounds	Number of Animals / 1000 Pounds	Number of Animals to Equal			Manure	Pounds/ Year	Pounds/ Year/ Unit	Manure Tons/Year		
			8 AU	10 AU	12 AU				8 AU	10 AU	12 AU
<b>Dairy</b>											
Dairy	150	6.7	53.3	66.7	80.0						
	250	4.0	32.0	40.0	48.0						
Heifer	750	1.3	10.7	13.3	16.0	Solid	13000	17333.3	69.3	86.7	104.0
Lactating	1000	1.0	8.0	10.0	12.0	Solid	19992	19992.0	80.0	100.0	120.0
	1400	0.7	5.7	7.1	8.6	Solid	28000	20000.0	80.0	100.0	120.0
	1000	1.0	8.0	10.0	12.0	Liquid	38856	38856.0	155.4	194.3	233.1
	1400	0.7	5.7	7.1	8.6	Liquid	54000	38571.4	154.3	192.9	231.4
Dry Cow	1000	1.0	8.0	10.0	12.0						
	1400	0.7	5.7	7.1	8.6						
Veal	250	4.0	32.0	40.0	48.0	Solid	2200	8800.0	35.2	44.0	52.8
Veal	250	4.0	32.0	40.0	48.0	Liquid	3500	14000.0	56.0	70.0	84.0
<b>Beef</b>											
Calf	500	2.0	16.0	20.0	24	Solid	7000	14000.0	56.0	70.0	84.0
Finishing	750	1.3	10.7	13.3	16	Solid	11800	15733.3	62.9	78.7	94.4
Cow	1000	1.0	8.0	10.0	12	Solid	13400	13400.0	53.6	67.0	80.4
<b>Swine</b>											
Nursery	25	40.0	320.0	400.0	480.0	Solid	480	19200.0	76.8	96.0	115.2
Grow/ Finish	150	6.7	53.3	66.7	80.0	Solid	2100	14000.0	56.0	70.0	84.0
Gestation	275	3.6	29.1	36.4	43.6	Solid	2000	7272.7	29.1	36.4	43.6
Lactating	375	2.7	21.3	26.7	32.0	Solid	4540	12106.7	48.4	60.5	72.6
Boar	350	2.9	22.9	28.6	34.3						
<b>Sheep</b>											
	100	10.0	80.0	100.0	120	Solid	1460	14600.0	58.4	73.0	87.6
	200	5.0	40.0	50.0	60	Solid					
<b>Poultry</b>											
Layer	4	250.0	2000.0	2500.0	3000	Solid	39	9750.0	39.0	48.8	58.5
Broiler	2	500.0	4000.0	5000.0	6000	Solid	18	9000.0	36.0	45.0	54.0
Turkey	20	50.0	400.0	500.0	600	Solid	46	2300.0	9.2	11.5	13.8
Duck	6	166.7	1333.3	1666.7	2000	Solid	60	10000.0	40.0	50.0	60.0
<b>Horse</b>											
	1000	1.0	8.0	10.0	12.0	Solid	18250	18250.0	73.0	91.3	109.5

“Animal waste” means livestock manure and associated bedding materials and animal carcasses from normal mortalities of livestock on a farm. For the purpose of this chapter, animal waste shall be free of plastic, metal, glass, or other non-biodegradable materials with the exception of de minimis quantities that result from agricultural activities. This definition specifically excludes Waste Class 5: Regulated Medical Waste, as found in N.J.A.C. 7:26-3A.6, which includes contaminated animal carcasses, body parts, and associated animal bedding materials that were known to have been exposed to infectious agents during research, including research at veterinary hospitals, production of biologicals, or testing of pharmaceuticals.

“Appropriate agent” means a person outside of the U.S. Department of Agriculture (USDA) who is authorized by NRCS to provide technical assistance in the delivery of technical services to implement agricultural programs in the United States Department of Agriculture authorized by Federal farm legislation.

“Aquaculture” means a form of agriculture involving the propagation, rearing and subsequent harvesting of aquatic organisms in controlled or selected environments, and the subsequent processing, packaging and marketing,



and shall include, but is not limited to, activities to intervene in the rearing process to increase production such as stocking, feeding, transplanting and providing for protection from predators. Aquaculture is a water dependent activity but shall not include the construction of facilities and appurtenant structures that might otherwise be regulated pursuant to any State or Federal law or regulation.

“Aquatic farm” means any leased or privately owned water system and associated facilities and appurtenant structures capable of holding and/or producing cultured aquatic stock. It may also refer to more than one facility and may include both hatchery and grow-out components, multi-species farms, processing, packaging and marketing.

“Aquatic organism” means an animal or plant of any species or hybrid thereof and includes gametes, seeds, eggs, sperm, larvae, juvenile, and adult stages any of which is required to be in water during that stage of its life. This definition does not include birds and mammals.

“Best management practices (BMPs)” mean activities, procedures and practices prescribed in an AWMP or CNMP which incorporates criteria and standards of the NRCS NJ-FOTG, NJDA BMP Manual or any site specific recommendations made by NJAES.

“Certification” means a written authorization from the Department to implement a CNMP approved by the local district. The certification is valid for five years from the date of issuance.

“Composting” means the aerobic, biological decomposition of organic matter, including manure, leaves, bedding and crop residues. It is a natural process that can be enhanced and accelerated by selecting organic waste “recipes,” as set forth in the NJ-FOTG, with proper carbon/nitrogen balance; mixing to provide proper aeration; and monitoring to assure that ideal moisture levels and temperatures are maintained. These extra steps provide optimal conditions for the microbes that transform “raw” on-farm wastes into a relatively stable soil amendment/crop nutrient.

“Comprehensive Nutrient Management Plan (CNMP)” means a conservation plan that is a grouping of conservation practices and management activities which will help to ensure that both production and natural resource protection goals are achieved on the farm. The CNMP shall conform to the NRCS NJ-FOTG and be approved by the District in accordance with N.J.A.C. 2:91-3.6.

“Confined areas” means housed lots, feedlots, confinement houses, stall barns, milk rooms, milking centers, cowyards, barnyards, medication pens, dry lots, exercise yards and stables.



“Department” means the New Jersey Department of Agriculture.

“District” or “Soil Conservation District” means a soil conservation district established in accordance with the Soil Conservation Act, N.J.S.A. 4:24-1 et seq., which is the official soil conservation district for the county or region in which the farm is located. Contact information for each local soil conservation district can be found at <http://www.state.nj.us/dep/dwq/pdf/soilcondist.pdf>. For the purposes of these rules, the District is an agent of the Department.

“Farm” means parcels of land where livestock is housed, kept, stabled, confined, fed, or otherwise maintained or any parcel that receives or applies animal waste. A farm may include parcels owned, leased or otherwise available to a person.

“Fomite” means inanimate objects that serve to carry infections or toxins from one animal to another.

“High-density Animal Waste Management Plan (High-density AWMP)” means the plan developed by the farm operator utilizing the NJDA BMP Manual, for the management of animal waste. The plan shall be reviewed by the local soil conservation district to ensure conformance with the NJ-FOTG in accordance with N.J.A.C. 2:91-3.5.

“Land application” means the application of animal waste on land for the purpose of soil improvement and utilization of nutrients by plants.

“Livestock” means all aquaculture organisms, cattle, horses, ponies and other domestic equidae (mules and similar members of the horse family), swine, sheep, goats, llama, poultry, fowl, ratites (big birds such as emus, ostriches), rabbits and small ruminants as defined in N.J.A.C. 2:8-1.2(a).

“Natural Resources Conservation Service (NRCS)” means the technical agency of the USDA, authorized by Public Law 46 of the 74th Congress (7 U.S.C. §6962) for the conservation of agricultural and related natural resources. Contact information for the New Jersey NRCS field offices can be found at <http://www.nj.nrcs.usda.gov/contact/>.

“New Jersey Agricultural Experiment Station (NJAES)” means an arm of Rutgers, the State University, conducting research in agriculture and related natural resources, as authorized by N.J.S.A. 4:16-1 and N.J.S.A. 18A:65-3.

“New Jersey Department of Agriculture Best Management Practices Manual (NJDA BMP Manual)” means the document entitled “On-Farm Strategies to Protect Water Quality,” which was published in 2003, utilized as a planning and assessment tool for agricultural best management practices, published by the New Jersey Association of Conservation Districts, in cooperation



with the Department, SSCC, and USDA-NRCS which is available by contacting New Jersey Department of Agriculture, P.O. Box 330, Trenton, New Jersey 08625.

“New Jersey Field Office Technical Guide (NJ-FOTG)” means the USDA-NRCS technical reference, as amended and supplemented, customized for the State of New Jersey, prescribing practices and standards for the conservation and management of soil, water and related natural resources which is available at [http://efotg.nrcs.usda.gov/efotg\\_locator.aspx?map=NJ](http://efotg.nrcs.usda.gov/efotg_locator.aspx?map=NJ).

“Pasture” means land where 70 percent or more of the area is in vegetative cover that is used as a source of nutrition and exercise for livestock.

“Person” means any natural individual, society, association, board, venture, partnership, corporation, limited liability company, cooperative, company, organization, institution and governmental instrumentality recognized by law for any purpose whatsoever.

“Rutgers Cooperative Extension (RCE)” means an arm of Rutgers, the State University, providing educational services in agriculture and related natural resources.

“Self-Certified Animal Waste Management Plan (self-certified AWMP)” means the plan developed by the farm operator utilizing the NJDA BMP Manual for the management of animal waste in accordance with N.J.A.C. 2:91-3.4. The plan shall be self-certified by the owner or operator and the declaration page filed with RCE.

“State Agriculture Development Committee (SADC)” means the committee established pursuant to N.J.S.A. 4:1C-4 et seq.

“State Soil Conservation Committee (SSCC)” means the committee established pursuant to the Soil Conservation Act, N.J.S.A. 4:24-1 et seq.

“Technical service provider (TSP)” means NRCS-certified professionals outside of the USDA that help agricultural producers apply conservation practices on the land pursuant to 16 U.S.C. §3842(b).

“USDA” means the United States Department of Agriculture.

“Vector” means a living organism that serves to carry infections or toxins from one animal to another.

“Waters of the State” means all surface and ground waters in New Jersey but does not include closed system aquatic farms.



“Woodland” means an area of land covered with a large and thick collection of growing trees.

### **NJ Admin Code 2:91-3.1. General requirements.**

(a) With the exception of aquatic farms, no farm shall allow livestock in confined areas to have access to waters of the State unless such access is controlled in accordance with part IV of the NJDA BMP Manual, incorporated herein by reference as the chapter Appendix.

1. Copies of the NJDA BMP Manual may be obtained by contacting the local District or one of the NRCS Field Offices or by contacting RCE at Rutgers Cooperative Extension, Rutgers, The State University of New Jersey, 88 Lipman Drive, New Brunswick, NJ 08901-8525.

2. A copy of this document is also on file in the NJDA office in the Division of Agricultural and Natural Resources, Health and Agriculture Building, Market and Warren Streets, Trenton, NJ 08625.

(b) Manure storage areas shall be located at least 100 linear feet from surface waters of the State, measured perpendicular to the watercourse from the top of bank outwards. Manure storage areas shall avoid slopes five percent or greater and be designed to eliminate direct point source discharges to waters of the State, except for stormwater discharges to surface water that occurs above a 25-year, 24-hour storm event.

(c) Land application of animal waste shall be performed in accordance with the principles of the New Jersey Department of Agriculture (NJDA), Best Management Practices (BMP) Manual Part IV.

(d) No livestock that have died from a reportable contagious disease listed in N.J.A.C. 2:2-1.1 or as a result of an act of bio-terrorism shall be disposed of, composted or made part of any land application without first contacting the State Veterinarian. In addition, no animal waste associated with livestock that have died from a reportable contagious disease listed in N.J.A.C. 2:2-1.1 or as a result of an act of bio-terrorism shall be disposed of, composted or made part of any land application without first contacting the State Veterinarian.

(e) Any person entering a farm to conduct official business related to these rules shall follow the bio-security protocol set forth below.

1. Vehicle: To avoid transporting infectious agents or toxins from one farm to another, vehicles shall be driven and parked in areas to avoid surfaces traveled by animals, farm equipment and farm vehicles. Car windows shall remain closed to prevent flying insects from getting inside vehicle.



2. Protective clothing: Clean cloth or disposable Tyvek coveralls shall be worn at each site. Cleaned and disinfected rubber boots or disposable boots are required. These items shall be changed or cleaned and disinfected between sites. If more than one species or group is housed on a site, each area shall be treated as a different site.

3. Equipment: All equipment shall be thoroughly cleaned and disinfected upon arrival and prior to leaving a site, except that new equipment, if clean, need not be disinfected upon arrival.

4. Order of inspection: The owner or manager of the site shall be consulted to determine the order for the site visitation. The areas with the lowest risk of exposure to infectious agents shall be visited first.

5. Cleaning: All organic debris (urine, feces) shall be removed and surfaces that have been exposed to organic debris must be thoroughly washed preceding disinfection to be effective. Disinfectants shall be applied only after removal of contaminated organic matter. Detergents shall be used on non-disposable boots and equipment to facilitate the removal of organic debris from these objects. Tools used to clean these items must also be cleaned and then disinfected prior to additional use. Washed surfaces shall be allowed to dry before applying disinfectants. Efficient cleaning removes almost 99 percent of the agent from a contaminated object.

6. Disinfecting: Detergents shall be rinsed off thoroughly prior to the application of disinfectants to avoid any potentially hazardous chemical reactions. The use of disinfectants that have the broadest spectrum of activity, including efficacy on porous surfaces with organic debris, and contact safety is ideal. No single disinfectant will satisfy all considerations. Disinfectant properties should be evaluated with regard to the intended areas of use. Disinfectants shall be allowed to remain on treated surfaces for a minimum of seven minutes.

### **NJ Admin Code 2:91-3.2. Aquatic farms.**

(a) Aquatic farms which comply with the Aquaculture Management Practices Manual set forth at N.J.A.C. 2:76-2A.11 and who possess an aquatic farmer license pursuant to N.J.A.C. 2:89 shall be deemed in compliance with the requirements of this chapter.

1. An electronic copy of the Aquaculture Management Practices is available at <http://www.jerseyseafood.nj.gov/aquacultureamp.pdf>.



2. A copy of this document is on file in the NJDA office of the Director, Division of Agricultural and Natural Resources, Health and Agriculture Building, Market and Warren Streets, Trenton, NJ 08625.

### **NJ Admin Code 2:91-3.3. Farms with one to seven animal units (AUs).**

(a) Farms with one to seven AUs are required to implement the general requirements at N.J.A.C. 2:91-3.1 by March 16, 2010.

(b) Farms with one to seven AUs are encouraged, but not required, to develop and implement a self-certified AWMP in accordance with N.J.A.C. 2:91-3.5.

(c) New farms or farms meeting the one to seven AU threshold after March 16, 2009, shall implement the general requirements at N.J.A.C. 2:91-3.1 within 12 months of date when the farm meets the one to seven AU threshold.

### **NJ Admin Code 2:91-3.4. Farms with eight to 299 animal units (AUs) with animal densities (ADs) less than or equal to one AU per acre.**

(a) Farms with eight to 299 AUs and ADs less than or equal to one AU per acre shall:

1. Implement the general requirements at N.J.A.C. 2:91-3.1 by March 16, 2010;
2. Develop a self-certified AWMP consistent with the NJDA BMP Manual by September 16, 2010; and
3. Implement the plan completely by March 16, 2012.

(b) New farms or farms meeting the AU and AD thresholds after March 16, 2009, shall implement the general requirements at N.J.A.C. 2:91-3.1 within 12 months of date they meet the AU and AD thresholds in this section and shall implement the requirements of this section within 36 months from the date the farm reaches the thresholds set forth in this section.

(c) A self-certified AWMP shall include, but not be limited to, the following:

1. The name, physical address and phone number of the farm;
2. The owner or operator name, address, signature and date;
3. Records of action plan activities as set forth in worksheet E of the NJ-BMP Manual;
4. A list of BMPs proposed;
5. The size and location of manure storage area(s);



6. The size and location of composting area(s);
7. The Premises Identification Number as assigned by USDA (if available); and
8. Nutrient management records for each field. Records must include:
  - i. The field number, field name, physical address or other means of identification;
  - ii. The number of acres;
  - iii. The crop-yield;
  - iv. The type of manure applied, the date of application, and the weather conditions;
  - v. The total amount of manure applied;
  - vi. The date manure is incorporated into the field;
  - vii. The type of fertilizer applied, the date of application, and the weather conditions; and
  - viii. A declarations page meeting the requirements of (e) below.

(d) The self-certified AWMP shall be developed by the farm owner or operator or a person authorized to act on their behalf.

(e) A copy of the self-certified AWMP shall be signed by the owner or operator and the declaration page shall be filed with RCE. RCE will provide a copy of the declaration page to the NJDA.

1. The declaration page shall include the following statement:

"Certification: I hereby certify that I am the operator of the above identified farm, (as defined in N.J.A.C. 2:91). I further certify that I have developed and implemented a Self-Certified Animal Waste Management Plan for this farm in accordance with the requirements of N.J.A.C. 2:91.

I further certify that the foregoing statements made by me are true and the information provided in this document is true, accurate and complete. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment, including, but not limited to the penalties contained in N.J.A.C. 2:91-4.1."



2. Incidents involving false swearing or false reporting in the documents required by these rules may be referred by the Department for prosecution pursuant to N.J.S.A. 2C:28-3.

(f) A copy of the self-certified AWMP shall be retained on the farm.

(g) The owner or operator shall review and update the plan and make changes as necessary for continued conformance with the NJDA BMP manual.

(h) Should the AD increase to greater than one AU per acre, or the number of AUs exceed 299, the owner or operator shall be required to comply with the requirements set forth in N.J.A.C. 2:91-3.5 or 3.6, respectively.

**NJ Admin Code 2:91-3.5. Farms with eight to 299 animal units with animal densities greater than one AU per acre.**

(a) Farms with eight to 299 AUs and AD greater than one AU per acre shall:

1. Implement the general requirements at N.J.A.C. 2:91-3.1 by March 16, 2010;

2. By September 16, 2010, develop a high-density AWMP consistent with NJDA BMP Manual and the NJ-FOTG standards, incorporated herein by reference, and submit to the local district for review. If the high-density AWMP meets the NJ-FOTG standards, then the SCD will approve the plan.

i. Copies of the NJ-FOTG are available from the NRCS Field Offices and the State Office at 220 Davidson Ave, 4th Floor, Somerset, NJ 08873.

ii. An electronic copy of this document is available at <http://www.nrcs.usda.gov/technical/efotg/>.

iii. A copy of this document is also on file in the NJDA Office of the Director, Division of Agricultural and Natural Resources, New Jersey Department of Agriculture, Health and Agriculture Building, Market and Warren Streets, Trenton, New Jersey 08625;

3. File the original high-density AWMP with the local NRCS office once approved by the local district;

4. Retain a copy of the approved high-density AWMP on the farm; and

5. Implement the plan completely by March 16, 2012.

(b) A high-density AWMP shall include, but not be limited to, the following:



1. The name, physical address and phone number of the farm;
2. The owner or operator name, address, signature and date;
3. Records of action plan activities as set forth in worksheet E of the NJ - BMP Manual;
4. The list of BMPs proposed;
5. The size and location of manure storage area(s);
6. The size and location of composting area(s);
7. The Premises Identification Number as assigned by USDA (if available); and
8. The Nutrient management record for each field. Records must include:
  - i. The field number, field name, physical location or other means of identification;
  - ii. The number of acres;
  - iii. The crop-yield;
  - iv. The type of manure applied, the date of application, and the weather conditions;
  - v. The total amount of manure applied;
  - vi. The date manure is incorporated into the field; and
  - vii. The type of fertilizer applied, the date of application, and the weather conditions.

(c) The high-density AWMP may be developed by the farm owner or operator or a person authorized to act on their behalf.

(d) The owner or operator shall review and update the plan and make changes as necessary for continued conformance with the NJDA BMP manual and the NJ-FOTG.

(e) Should the number of AUs exceed 299, the owner or operator shall be required to comply with the requirements set forth in N.J.A.C. 2:91-3.6.

(f) New farms or farms meeting the AU and AD thresholds after March 16, 2009 shall implement the general requirements at N.J.A.C. 2:91-3.1 within 12 months of date they meet the AU and AD thresholds in this section and shall implement the requirements of this section within 36 months from the date the farm reaches the thresholds set forth in this section.



## **NJ Admin Code 2:91-3.6. Farms with 300 or more animal units (AUs).**

(a) Farms with 300 or more animal units shall:

1. Implement the general requirements at N.J.A.C. 2:91-3.1 by March 16, 2010; and
2. Develop a CNMP in consultation with the NRCS, TSP, or an appropriate agent, which conforms to the NJ-FOTG, and submit the CNMP to the local District for review and approval in accordance with (b) and (c) below.
  - i. Copies of the NJ-FOTG are available from the NRCS Field Offices and the State Office at 220 Davidson Ave, 4th Floor, Somerset, NJ 08873.
  - ii. An electronic copy of the NJ-FOTG is available at [http://efotg.nrcs.usda.gov/efotg\\_locator.aspx?map=NJ](http://efotg.nrcs.usda.gov/efotg_locator.aspx?map=NJ).
  - iii. A copy of this document is on file in the NJDA Office of the Director, Division of Agricultural and Natural Resources, New Jersey Department of Agriculture, Health and Agriculture Building, Market and Warren Streets, Trenton, New Jersey 08625.

(b) If a District approved CNMP was developed and implemented between October 1, 2001 and March 16, 2009, full implementation of such plan shall suffice to comply with these rules until modifications are needed to the plan in accordance with (g) below.

(c) The CNMP shall include the following:

1. The name, physical address and phone number of the farm;
2. The owner or operator name, address, signature and date;
3. The Premises Identification Number as assigned by USDA (if available);
4. Manure and wastewater handling and storage that addresses collection, storage, treatment and/or transfer practices;
5. Land treatment practices;
6. Nutrient management that identifies source, amount, timing and method of application of nutrients by field;
7. Recordkeeping that documents and demonstrates implementation activities associated with CNMPs;



8. Feed management activities that address nutrient reduction in manure; and

9. Other utilization activities.

(d) The District shall approve the CNMP when it is in conformance with the standards and criteria of the NJ-FOTG. Once approved by the District, the owner or operator shall provide a copy of the CNMP to the Department for certification along with a signed authorization releasing the plan to the Department on a form provided by the NRCS for this purpose.

(e) Upon receiving the approved CNMP, the Department shall issue a certification to the applicant. The Department shall retain a copy of the certification and CNMP and mail the original to the owner or operator. The owner or operator shall retain a copy of the certification and CNMP on the farm.

(f) The certification shall be valid for a period of five years. An application for certificate renewal shall be filed with the Department on forms developed by the Department for such purposes no later than 30 days prior to the expiration of the certification.

(g) The owner or operator shall review the CNMP annually to assure compliance with the rules. An updated CNMP shall be filed within 30 days of the occurrence an increase in the number of AUs by 25 percent. All revised CNMPs shall comply with the provisions of (c) through (f) above.

(h) By March 16, 2012, the CNMP shall be completely implemented.

(i) New farms and/or farms meeting the 300 AUs or more threshold after March 16, 2009 shall implement the general requirements at N.J.A.C. 2:91-3.1 within 12 months of date they meet the 300 or more AUs threshold and shall implement (a) through (h) above within 36 months from the date the farm reaches the 300 or more AUs threshold.

### **NJ Admin Code 2:91-3.7. Farms receiving or applying less than 142 tons of animal waste per year.**

(a) Farms receiving or applying less than 142 tons of animal waste per year are required to implement the general requirements at N.J.A.C. 2:91-3.1 by March 16, 2010.

(b) Farms receiving or applying less than 142 tons of animal waste per year are encouraged, but not required to develop and implement a self-certified Animal Waste Management Plan (AWMP) in accordance with N.J.A.C. 2:91-3.4.



(c) Should the amount of manure received or applied increase to 142 tons or more of animal waste per year, the owner or operator shall be required to comply with the requirements set forth in N.J.A.C. 2:91-3.8.

(d) New farms or existing farms who begin receiving or applying animal waste after March 16, 2009 shall implement (a) above within 12 months from the date the farm begins receiving or applying animal waste.

### **NJ Admin Code 2:91-3.8. Farms receiving or applying 142 or more tons of animal waste per year.**

(a) Any farm that receives or applies 142 tons or more of animal waste per year shall:

1. Implement the general requirements at N.J.A.C. 2:91-3.1 by March 16, 2010;
2. Develop a self-certified AWMP by September 16, 2010, in accordance with N.J.A.C. 2:91-3.4;
3. Implement the plan completely by March 16, 2012; and
4. Maintain the following recordkeeping requirements for hauling:
  - i. Records of the dates of transfer and quantities of manure; and
  - ii. Records of the names and addresses of the sources of manure.

(b) New farms or farms that begin receiving or applying 142 tons or more animal waste annually after March 16, 2009, shall implement the general requirements at N.J.A.C. 2:91-3.1 within 12 months of the date they meet the thresholds in this section and shall implement the requirements of this section within 36 months from the date the farm reaches the thresholds set forth in this section.

### **NJ Admin Code 2:91-3.9. Exemptions.**

(a) The following are not subject to these rules:

1. An agricultural event or fair approved pursuant to N.J.A.C. 2:33-1.3 that is held within the State of New Jersey;
2. Any person that handles animal waste other than animal waste from livestock, including, but not limited to, dog kennels regulated pursuant to N.J.A.C. 8:23A and game farms regulated pursuant to N.J.A.C. 7:25-4;
3. Veterinarian hospitals or clinics operated by persons licensed pursuant to N.J.A.C. 13:44;



4. Temporary petting zoos;
5. Concentrated animal feeding operations and concentrated aquatic animal production facilities regulated by the New Jersey Department of Environmental Protection (NJDEP) pursuant to N.J.A.C. 7:14A-2.13 and 2.14;
6. Any person regulated by NJDEP under N.J.A.C. 7:26 (solid waste management rules); and
7. Any person regulated by NJDEP under N.J.A.C. 7:26A (solid waste recycling rules).

### **NJ Admin Code 2:91-3.10. Confidentiality.**

The New Jersey Department of Agriculture will hold confidential any information included in a self-certified AWMP, high-density AWMP and CNMP, which constitutes proprietary commercial or financial information, or is otherwise protected from disclosure under 7 CFR Part 205.501 and 205.504 or the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., subject to the limitations set forth therein.

### **NJ Admin Code 2:91-4.1. Penalty and enforcement provisions.**

(a) The Department shall investigate alleged violations of the rules and take appropriate action, which may include, but is not limited to, the following:

1. Any person who violates any provision of this chapter, or the requirements of a self-certified AWMP, high-density AWMP or CNMP developed pursuant to this chapter, shall be liable for a civil administrative penalty of up to \$ 1,000 per day for each violation as determined pursuant to the procedures set forth in this section.
2. Where non-compliance is found, the Department may allow the owner or operator up to 60 days to address or correct the non-compliance before imposing a civil administrative penalty. The length of time available to correct the non-compliance shall be based on the following factors:
  - i. Inability to perform the corrective action due to circumstances beyond the persons control, including but not limited to weather conditions, need for professional assistance and need for special machinery to complete the corrective action;
  - ii. Whether temporary corrective action can mitigate the non-compliance;



- iii. The severity of the non-compliance based upon the point system as set forth in (c) below;
- iv. The severity of the environmental impact caused by the non-compliance; and
- v. Any other mitigating factor.

(b) If a self-certified AWMP, high-density AWMP or CNMP has been developed but not fully implemented, the Department shall determine the status of compliance with this chapter. Where non-compliance is found, the Department shall issue a civil administrative penalty in accordance with (c) below.

(c) The Department shall use the factors described below to determine the amount of a civil administrative penalty under this section. The standards below assign each violation a point value. The total number of points is used to determine the penalty amount per day for each violation. The factors, and the point values assigned to them, are as follows:

1. The seriousness of the violation shall be classified as major, moderate or minor and assigned points as follows:

- i. Major conduct shall include an intentional, deliberate, purposeful, knowing or willful act or omission by the violator and is assigned three points;
- ii. Moderate conduct shall include any unintentional but foreseeable act or omission by the violator and is assigned two points; and
- iii. Minor conduct shall include any conduct not identified in (c)1i or ii above and is assigned one point.

2. The management plan type shall be assigned points as follows:

- i. A violation impacting a self-certified AWMP is assigned one point;
- ii. A violation impacting a high-density AWMP is assigned two points; and
- iii. A violation impacting a CNMP is assigned three points.

(d) The Department shall sum the total points assigned according to the factors in (c) above, and shall determine the penalty amount per day using the following table:



Penalty Points Table	Maximum Penalty Amount
Total Points	Per Day
2	\$250
3	\$500
4	\$750
5 or more	\$1,000

(e) If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate, and distinct offense.

(f) For a violation under this section, the Department may adjust up or down the daily civil administrative penalty amount based on the following factors:

1. The violator's compliance history;
2. The nature, timing and effectiveness of measures the violator takes to mitigate the effects of the violation;
3. The nature, timing and effectiveness of measures the violator takes to prevent future similar violations;
4. Any unusual or extraordinary costs or impacts directly or indirectly imposed on the public or the environment as a result of the violation; and/or
5. Other specific circumstances of the violator or violation.

(g) No assessment shall be levied until after the party has been notified by certified mail or personal service and has been provided an opportunity for a hearing as outlined in (j) below.

(h) Any amount assessed shall take into account the seriousness and duration of the violation and whether the violation involves the failure to develop or to implement a self-certified AWMP, high-density AWMP or CNMP and shall also provide for an enhanced penalty of double the amount of the original penalty if the violation causes an impairment to water quality as determined by the Department using the criteria set forth in N.J.A.C. 7:9B-1.14 and 7:9C-1.7. Any civil administrative penalty assessed under this section may be compromised by the Secretary of Agriculture upon the posting of a performance bond by the violator, or upon such terms and conditions as the Secretary in consultation with the State Board of Agriculture may establish.

(i) Any person who fails to pay a civil administrative penalty in full shall be subject, upon order of a court, to a civil penalty of up to \$ 1,000 for each violation. Each day that the person fails to pay the penalty shall



constitute an additional, separate, and distinct offense. Any such civil penalty imposed may be collected with costs in a summary proceeding pursuant to the Penalty Enforcement Law of 1999, P.L. 1999, c. 274 (N.J.S.A. 2A:58-10 et seq.).

(j) Anyone who is aggrieved by a determination pursuant to this section shall, upon written request transmitted to the Department within 20 days of that determination, be afforded the opportunity for a hearing thereon in the manner provided for contested cases pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules N.J.A.C. 1:1.

1. Requests for hearings shall be sent to Director, Division of Agricultural and Natural Resources, N.J. Department of Agriculture, P.O. Box 330, Trenton, New Jersey 08625-0330.

### **NJ Rev Stat § 58:10A-2. Legislative findings and declarations.**

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

The Legislature further finds and declares that the Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500; 33 U.S.C. 1251 et seq.) establishes a permit system to regulate discharges of pollutants and provides that permits for this purpose will be issued by the Federal Government or by states with adequate authority and programs to implement the regulatory provisions of that act. It is in the interest of the people of this State to minimize direct regulation by the Federal Government of wastewater dischargers by enacting legislation which will continue and extend the powers and responsibilities of the Department of Environmental Protection for administering the State's water pollution control program, so that the State may be enabled to implement the permit system required by the Federal Act.

### **NJ Rev Stat § 58:10A-6. Permits; issuance; exemptions; prohibitions; requirements.**

a. It shall be unlawful for any person to discharge any pollutant, except as provided pursuant to subsections d. and p. of this section, or when the discharge conforms with a valid New Jersey Pollutant Discharge Elimination System permit that has been issued by the commissioner pursuant to P.L.1977, c.74 (C.58:10A-1 et seq.) or a valid National Pollutant Discharge



Elimination System permit issued by the administrator pursuant to the Federal Act, as the case may be.

b. 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 after approval by the department pursuant to regulations adopted by the commissioner.

c. The commissioner is hereby authorized to grant, deny, modify, suspend, revoke, and reissue NJPDES permits in accordance with P.L.1977, c.74, and with regulations to be adopted by him. The commissioner may reissue, with or without modifications, an NPDES permit duly issued by the federal government as the NJPDES permit required by P.L.1977, c.74.

d. The commissioner may, by regulation, exempt the following categories of discharge, in whole or in part, from the requirement of obtaining a permit under P.L.1977, c.74; provided, however, that an exemption afforded under this section shall not limit the civil or criminal liability of any discharger nor exempt any discharger from approval or permit requirements under any other provision of State or federal law:

- (1) Additions of sewage, industrial wastes or other materials into a publicly owned sewage treatment works which is regulated by pretreatment standards;
- (2) Discharges of any pollutant from a marine vessel or other discharges incidental to the normal operation of marine vessels;
- (3) Discharges from septic tanks, or other individual waste disposal systems, sanitary landfills, and other means of land disposal of wastes;
- (4) Discharges of dredged or fill materials into waters for which the State could not be authorized to administer the section 404 program under section 404(g) of the "Federal Water Pollution Control Act Amendments of 1972," as amended by the "Clean Water Act of 1977" (33 U.S.C. s.1344) and implementing regulations;
- (5) Nonpoint source discharges;
- (6) Uncontrolled nonpoint source discharges composed entirely of storm water runoff when these discharges are uncontaminated by any industrial or commercial activity unless these particular storm water runoff discharges have been identified by the administrator or the department as a significant contributor of pollution;



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

(8) Discharges resulting from agriculture, including aquaculture, activities.

e. The commissioner shall not issue any permit for:

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

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

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

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

f. A permit issued by the department or a delegated local agency pursuant to P.L.1977, c.74 shall require the permittee:

(1) To achieve effluent limitations based upon guidelines or standards established pursuant to the Federal Act or to P.L.1977, c.74, together with such further discharge restrictions and safeguards against unauthorized discharge as may be necessary to meet water quality standards, areawide plans adopted pursuant to law, or other legally applicable requirements;

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

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

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



(5) To install, use and maintain such monitoring equipment and methods, to sample in accordance with such methods, to maintain and retain such records of information from monitoring activities, and to submit to the commissioner, or to the delegated local agency, reports of monitoring results for surface waters, as may be stipulated in the permit, or required by the commissioner or delegated local agency pursuant to paragraph (9) of this subsection, or as the commissioner or the delegated local agency may prescribe for ground water. Significant indirect users, major industrial dischargers, and local agencies, other than those discharging only stormwater or noncontact cooling water, shall, however, report their monitoring results for discharges to surface waters monthly to the commissioner, or the delegated local agency. Discharge monitoring reports for discharges to surface waters shall be signed by the highest ranking official having day-to-day managerial and operational responsibilities for the discharging facility, who may, in his absence, authorize another responsible high ranking official to sign a monthly monitoring report if a report is required to be filed during that period of time. The highest ranking official shall, however, be liable in all instances for the accuracy of all the information provided in the monitoring report; provided, however, that the highest ranking official may file, within seven days of his return, amendments to the monitoring report to which he was not a signatory. The highest ranking official having day-to-day managerial and operational responsibilities for the discharging facility of a local agency shall be the highest ranking licensed operator of the municipal treatment works in those instances where a licensed operator is required by law to operate the facility. In those instances where a local agency has contracted with another entity to operate a municipal treatment works, the highest ranking official who signs the discharge monitoring report shall be an employee of the contract operator and not of the local agency. Notwithstanding that an employee of a contract operator is the official who signs the discharge monitoring report, the local agency, as the permittee, shall remain liable for compliance with all permit conditions. In those instances where the highest ranking official having day-to-day managerial and operational responsibilities for a discharging facility of a local agency does not have the responsibility to authorize capital expenditures and hire personnel, a person having that responsibility, or a person designated by that person, shall submit to the department, along with the discharge monitoring report, a certification that that person has received and reviewed the discharge monitoring report. The person submitting the certification to the department shall not be liable for the accuracy of the information on the discharge monitoring report due to the



submittal of the certification. Whenever a local agency has contracted with another entity to operate the municipal treatment works, the person submitting the certification shall be an employee of the permittee and not of the contract operator. The filing of amendments to a monitoring report in accordance with this paragraph shall not be considered a late filing of a report for purposes of subsection d. of section 6 of P.L.1990, c.28 (C.58:10A-10.1), or for purposes of determining a significant noncomplier;

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

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

(8) To report to the department or delegated local agency, as appropriate, any exceedance of an effluent limitation that causes injury to persons, or damage to the environment, or poses a threat to human health or the environment, within two hours of its occurrence, or of the permittee becoming aware of the occurrence. Within 24 hours thereof, or of an exceedance, or of becoming aware of an exceedance, of an effluent limitation for a toxic pollutant, a permittee shall provide the department or delegated local agency with such additional information on the discharge as may be required by the department or delegated local agency, including an estimate of the danger posed by the discharge to the environment, whether the discharge is continuing, and the measures taken, or being taken, to remediate the problem and any damage to the environment, and to avoid a repetition of the problem;

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

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



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

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

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

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

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

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

(2) To establish an effective regulatory program, alone or in conjunction with the operators of sewage collection systems, that will assure compliance and monitor progress toward compliance by industrial users of the facilities with user charge and cost recovery requirements of the Federal Act or State law and toxicity standards adopted pursuant to P.L.1977, c.74 and pretreatment standards.

(3) As actual flows to the facility approach design flow or design loading limits, to submit to the commissioner or local agency for approval, a program which the permittee and the persons responsible for



building and maintaining the contributory collection system shall pursue in order to prevent overload of the facilities.

i.

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

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

j. In reviewing permits submitted in compliance with P.L.1977, c.74 and in determining conditions under which such permits may be approved, the commissioner shall encourage the development of comprehensive regional sewerage planning or facilities, which serve the needs of the regional community, conform to the adopted area-wide water quality



management plan for that region, and protect the needs of the regional community for water quality, aquifer storage, aquifer recharge, and dry weather based stream flows.

k. No permit may be issued, renewed, or modified by the department or a delegated local agency so as to relax any water quality standard or effluent limitation until the applicant, or permit holder, as the case may be, has paid all fees, penalties or fines due and owing pursuant to P.L.1977, c.74, or has entered into an agreement with the department establishing a payment schedule therefor; except that if a penalty or fine is contested, the applicant or permit holder shall satisfy the provisions of this section by posting financial security as required pursuant to paragraph (5) of subsection d. of section 10 of P.L.1977, c.74 (C.58:10A-10). The provisions of this subsection with respect to penalties or fines shall not apply to a local agency contesting a penalty or fine.

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

- (1) A representative sampling of the effluent for each permitted facility or municipal treatment works, except that in the case of facilities or works that are not major facilities or significant indirect users,



sampling pursuant to this paragraph shall be conducted at least once every three years;

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

(3) An evaluation of the maintenance record of the permittee's treatment equipment;

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

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

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

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

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



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

o. Except as otherwise provided in section 3 of P.L.1963, c.73 (C.47:1A-3), any records, reports or other information obtained by the commissioner or a local agency pursuant to this section or section 5 of P.L.1972, c.42 (C.58:11-53), including any correspondence relating thereto, shall be available to the public; however, upon a showing satisfactory to the commissioner by any person that the making public of any record, report or information, or a part thereof, other than effluent data, would divulge methods or processes entitled to protection as trade secrets, the commissioner or local agency shall consider such record, report, or information, or part thereof, to be confidential, and access thereto shall be limited to authorized officers or employees of the department, the local agency, and the federal government.

p. The provisions of this section shall not apply to a discharge of petroleum to the surface waters of the State that occurs as a result of the process of recovering, containing, cleaning up or removing a discharge of petroleum in the surface waters of the State and that is undertaken in compliance with the instructions of a federal on-scene coordinator or of the commissioner or the commissioner's designee.

q. The commissioner shall, in consultation with the Department of Agriculture and the Aquaculture Advisory Council, provide for the issuance of general permits for the discharge of pollutants from concentrated aquatic animal production facilities and aquacultural projects. In establishing general permits the commissioner shall take into consideration the source and receiving water quality and the type of aquaculture activity being conducted. The general permits issued pursuant to this subsection shall give priority to meeting best management practices rather than attaining numeric pollutant discharge parameter levels. If the commissioner determines that a permittee cannot perform the best management practices in order to obtain a general permit or that the performance of best management practices will not be protective of water quality as required by P.L.1977, c.74, the commissioner may



require the permittee to obtain an individual permit which may contain numeric pollutant parameter discharge limits.

#### **NJ Admin Code 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 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 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).

### **NJ Admin Code 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 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 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.

### **NJ Admin Code 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, 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.

### **NJ Admin Code 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);
- viii. 30,000 laying hens or broilers (if the facility has a liquid manure handling system);
- ix. 5,000 ducks; or
- x. 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.

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:

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.

**NJ Admin Code 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 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;

iii. The quantity and nature of the pollutants reaching waters of the State; and

iv. Other relevant factors.

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