

CHAPTER 20A

AGRICULTURAL, AQUACULTURAL, AND HORTICULTURAL WATER USAGE CERTIFICATION

Authority

N.J.S.A. 58:1A-1 et seq.

Source and Effective Date

R.2007 d.6, effective December 5, 2006.
See: 38 N.J.R. 2947(a), 39 N.J.R. 39(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 20A, Agricultural, Aquacultural, and Horticultural Water Usage Certification, expires on December 5, 2013. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 20A, Standards and Procedures for Establishing Privileges to Divert Water and for Obtaining Water Usage Certifications for Agricultural or Horticultural Purposes, was adopted as R.1983 d.562, effective December 19, 1983. See: 14 N.J.R. 1249(a), 15 N.J.R. 2154(b).

Pursuant to Executive Order No. 66(1978), Chapter 20A was re-adopted as R.1989 d.36, effective December 16, 1988. See: 20 N.J.R. 2663(a), 21 N.J.R. 176(a).

Pursuant to Executive Order No. 66(1978), Chapter 20A, Standards and Procedures for Establishing Privileges to Divert Water and for Obtaining Water Usage Certifications for Agricultural or Horticultural Purposes, was readopted as R.1994 d.12, effective December 8, 1993, and Subchapter 3, Water Use Registration Procedure, was adopted as R.1994 d.12, effective January 3, 1994. See: 25 N.J.R. 3956(a), 26 N.J.R. 212(c).

Pursuant to Executive Order No. 66(1978), Chapter 20A, Standards and Procedures for Establishing Privileges to Divert Water and for Obtaining Water Usage Certifications for Agricultural or Horticultural Purposes, was readopted as R.1999 d.7, effective December 8, 1998. As a part of R.1999 d.7, Chapter 20A, Standards and Procedures for Establishing Privileges to Divert Water and for Obtaining Water Usage Certifications for Agricultural or Horticultural Purposes, was renamed Agricultural, Aquacultural and Horticultural Water Usage Certification, and Subchapter 4, Civil Administrative Penalties and Requests for Adjudicatory Hearings, was adopted by R.1999 d.7, effective January 4, 1999. See: 30 N.J.R. 3410(a), 31 N.J.R. 45(a).

In accordance with N.J.S.A. 52:14B-5.1d, Chapter 20A, Agricultural, Aquacultural and Horticultural Water Usage Certification, expiration date was extended by gubernatorial directive from December 8, 2003 to December 8, 2004. See: 36 N.J.R. 174(a).

In accordance with N.J.S.A. 52:14B-5.1d, Chapter 20A, Agricultural, Aquacultural and Horticultural Water Usage Certification, expiration date was extended by gubernatorial directive from December 8, 2004 to December 8, 2005. See: 37 N.J.R. 52(a).

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 20A, Agricultural, Aquacultural, and Horticultural Water Usage Certification, was extended by gubernatorial directive from December 8, 2005 to June 8, 2006. See: 38 N.J.R. 294(a).

Chapter 20A, Agricultural, Aquacultural, and Horticultural Water Usage Certification, was readopted as R.2007 d.6, effective December 5, 2006. As a part of R.2007 d.6, Subchapter 3, Water Use Registration Procedure, was renamed Agricultural Water Usage Registration Procedure, effective January 2, 2007. See: Source and Effective Date. See, also, section annotations.

Cross References

Flood control, irrigation head gates along watercourse banks, see N.J.A.C. 7:13-1.3.

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SUBCHAPTER 1. GENERAL PROVISIONS

7:20A-1.1 Scope and authority

This chapter shall constitute the rules governing water usage certifications for agricultural, aquacultural, and horticultural purposes, and agricultural water usage registrations pursuant to the Water Supply Management Act, N.J.S.A.

58:1A-1 et seq. This chapter establishes the schedule and reporting procedure that persons having the capability to divert 100,000 or more gallons of water per day for agricultural, aquacultural, or horticultural purposes shall follow to establish their privilege to divert water and prescribes the application, review, notification and hearing procedures for establishing privileges to divert water and to obtain, modify or renew water usage certifications and/or registrations.

Amended by R.1994 d.12, effective January 3, 1994.

See: 25 N.J.R. 3956(a), 26 N.J.R. 212(c).

Amended by R.1999 d.7, effective January 4, 1999.

See: 30 N.J.R. 3410(a), 31 N.J.R. 45(a).

Inserted references to aquacultural purposes throughout, and inserted a reference to reporting procedure in the second sentence.

Amended by R.2007 d.6, effective January 2, 2007.

See: 38 N.J.R. 2947(a), 39 N.J.R. 39(a).

Substituted "constitute the" for "constitute" and inserted ", and agricultural water usage registrations" and ", modify or renew".

7:20A-1.2 Construction

(a) This chapter shall be liberally construed to implement the statutory functions pursuant to the Water Supply Management Act, N.J.S.A. 58:1A-1 et seq.

(b) This chapter may be amended, repealed, or rescinded from time to time in conformance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., as amended and supplemented, and the Office of Administrative Law's Rules for Agency Rulemaking, N.J.A.C. 1:30.

(c) Any agricultural, aquacultural, or horticultural uses of water in the State of New Jersey will be presumed to be in the public interest for the purpose of this chapter, provided the agricultural, aquacultural, or horticultural activity employs agricultural management practices for conserving water to the maximum extent possible, minimizes the amount of water utilized, and uses the lowest quality of water for the intended purpose considering the size of the farm management unit where water will be used, crop type, and the amount of impervious surface on the farm management unit.

Amended by R.1999 d.7, effective January 4, 1999.

See: 30 N.J.R. 3410(a), 31 N.J.R. 45(a).

In (c), inserted a reference to aquacultural uses.

Amended by R.2007 d.6, effective January 2, 2007.

See: 38 N.J.R. 2947(a), 39 N.J.R. 39(a).

Rewrote (c).

7:20A-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

"Act" means the Water Supply Management Act, N.J.S.A. 58:1A-1 et seq.

"Adverse impact upon wells" means an impaired pumping rate or a required change in the construction of a well affected by lowered water levels or any impairment of water quality.

"Agricultural, aquacultural, or horticultural purposes" means the commercial activity of producing principally for

sale aquatic organisms, crops, plants, animals or their products for the use or consumption by humans and/or animals including the growing, harvesting, storage and the on-farm preparation for use and marketing of aquatic organisms, crops, plants, animals or their products.

"Agricultural development plan" means a plan for identifying crop types anticipated to be planted, anticipated for the expansion of agricultural or horticultural activities into areas of the farm management unit currently not cultivated and/or irrigated, and/or the amount of impervious surface planned on the farm management unit during the effective period of the water usage certification.

"Agriculture management practices" means those methods, techniques and actions employed to conserve water and protect natural resources as described in various bulletins and guidance documents prepared and distributed by the Rutgers Cooperative Research and Extension, New Jersey Agricultural Experiment Station, Rutgers University, the United States Department of Agriculture and/or the agricultural management practices adopted by the State Agriculture Development Committee in accordance with N.J.A.C. 2:76-2.1.

"Agricultural water usage registration" or "water usage registration" means the document issued to persons having the capability to divert more than 100,000 gallons of water per day from a source or combination of sources, but whose actual usage is less than 100,000 gallons of water per day for agricultural, aquacultural, or horticultural purposes.

"Applicant" means any person filing or required to file an application to establish, modify or renew a water usage certification or water usage registration to divert water pursuant to this chapter or the Act. An applicant may be the owner, of the farm management unit or the authorized representative.

"Aquaculture" means 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 not be limited to, activities to intervene in the rearing process to increase production such as stocking, feeding, transplanting and providing for protection from predators.

"Aquatic organism" means and includes, but need not be limited to, finfish, mollusks, crustaceans, and aquatic plants which are the property of a person engaged in aquaculture.

"Aquifer" means any subsurface water-saturated zone which is significantly permeable so that it may yield sufficient quantities of water from wells or springs in order to serve as a practical source of water supply.

"Area of critical water supply concern" or "critical area" means a region of the State, as designated by the Commissioner under N.J.A.C. 7:19-8, where excessive water usage or diversion presents undue stress, or wherein conditions pose a significant threat to the long-term integrity of a water supply source, including a diminution of surface water due to excess groundwater diversion.