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State NPDES Authority Statutes:

Maryland



This material is based upon work supported by the National Agricultural Library, Agricultural Research Service, U.S. Department of Agriculture

A National Agricultural Law Center Research Publication
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Current through the 2022 legislative session.

§ 9-313. Rules and Regulations; In General.

Power of Department to adopt

(a) The Department may adopt rules and regulations to carry out the provisions of this subtitle.

Required considerations

(b) In adopting any rule or regulation under this subtitle, the Department shall consider:

- (1) Existing physical conditions;
- (2) The character of the area involved, including surrounding land uses;
- (3) Priority ranking of waters as to effluent limits;
- (4) Zoning;
- (5) The nature of the existing receiving body of water;
- (6) The technical feasibility of measuring or reducing the particular type of water pollution;



- (7) The economic reasonableness of measuring or reducing the particular type of water pollution; and
- (8) The purposes of this subtitle.

Permitted scope

(c) Except as this subtitle otherwise provides for a particular type of rule or regulation, a rule or regulation adopted under this subtitle may:

- (1) Impose, as circumstances require, different requirements for different pollutant sources and for different geographical areas;
- (2) Apply to sources located outside this State that cause, contribute to, or threaten environmental damage in this State; and
- (3) Make special provisions for alert and abatement standards and procedures for occurrences or emergencies of pollution or on other short term conditions that are an acute danger to health or to the environment.

§ 9-314. Water Quality Standards and Effluent Standards.

Power of Department

(a) The Department may adopt rules and regulations that set, for the waters of this State, water quality standards and effluent standards. These standards shall be designed to protect:

- (1) The public health, safety, and welfare;
- (2) Present and future use of the waters of this State for public water supply;
- (3) The propagation of aquatic life and wildlife;
- (4) Recreational use of the waters of this State; and
- (5) Agricultural, industrial, and other legitimate uses of the waters of this State.

Minimum content of rules and regulations

(b) The rules and regulations adopted under this section shall include at least the following:

- (1) Water quality standards that specify the maximum permissible short term and long term concentrations of pollutants in the water, the minimum permissible concentrations of dissolved oxygen and other desirable matter in the water, and the temperature range for the water.
- (2) Effluent standards that specify the maximum loading or concentrations and the physical, thermal, chemical, biological, and radioactive properties of wastes that may be discharged into the waters of this State.



(3) Definition of technique for filling and sealing abandoned water wells and holes, for disposal wells, for deep mines and surface mines, and for landfills to prevent groundwater contamination, seepage, and drainage into the waters of this State.

(4) Requirements for the sale, offer, use, or storage of pesticides and other substances that the Department finds to constitute water pollution hazards.

(5) Procedures for water pollution incidents or emergencies that constitute an acute danger to health or the environment.

(6) Provisions for equipment and procedures for monitoring pollutants, collecting samples, and logging and reporting of monitoring.

Stringency of effluent standards

(c) Effluent standards set under this section shall be at least as stringent as those specified by the National Pollutant Discharge Elimination System.

§ 9-315. Procedural Rules and Regulations.

Except as provided in § 4-405 of this article, the Department may adopt procedural rules and regulations as necessary to carry out the provisions of this subtitle.

§ 9-316. Procedures for Adoption.

Compliance with Administrative Procedure Act

(a) The Department may not adopt any rule or regulation under this subtitle unless the requirements of this section and the Administrative Procedure Act¹ are met.

Public hearing

(b) Before adopting any rule or regulation under this subtitle, the Department shall announce and hold a public hearing on the subject.

Notice

- (c)
- (1) Before the public hearing, the Department shall publish notice of the hearing.
 - (2) The notice shall state:
 - (i) The date, time, and place of the hearing;
 - (ii) The general subject of the rules and regulations that are to be considered at the hearing; and
 - (iii) If appropriate, the specific waters for which standards are sought to be adopted, amended, or repealed.



Procedures

(d) At the public hearing, any interested person may submit information or views, orally or in writing.

§ 9-320. Maryland Clean Water Fund.

In general

(a) There is a Maryland Clean Water Fund.

Payments to Maryland Clean Water Fund

(b) The following payments shall be made into the Maryland Clean Water Fund:

- (1) All application fees, permit fees, renewal fees, and funds collected by the Department under this subtitle, including any civil or administrative penalty or any fine imposed by a court under the provisions of this subtitle;
- (2) Any civil penalty or any fine imposed by a court under the provisions of Title 5, Subtitle 5 of this article relating to water appropriation and use;
- (3) Any civil or administrative penalty or any fine imposed by a court under the provisions of Title 4, Subtitle 1 of this article; and
- (4) Any fees or funds that the Department collects under Subtitle 2, Part III of this title and §§ 9-269 and 9-270 of this title and any civil or administrative penalty or fine imposed by a court under the provisions of Subtitle 2 of this title.

Authorized uses of the Maryland Clean Water Fund

(c) The Department shall use the Maryland Clean Water Fund for activities that are related to:

- (1) The identification, monitoring, and regulation of the proper discharge of effluent into the waters of the State including program development of these activities as provided by the State budget;
- (2) The management, conservation, protection, and preservation of the State's groundwater and surface water including program development of these activities as provided by the State budget;
- (3) Correcting to the extent possible the failure to implement or maintain erosion and sediment controls;
- (4) Administration of the sediment control program;
- (5) Emergency removal of sewage sludge or mitigation of the effect of any utilization of sewage sludge that the Department finds:
 - (i) Endangers public health, safety, or welfare; or



(ii) Endangers or damages natural resources;

(6) Activities that are:

(i) Conducted by the Department, by a local health official, or by the local health official's designee under § 9-243(e) of this title; and

(ii) Related to identifying, monitoring, or regulating the utilization of sewage sludge, including program development; and

(7) Providing supplemental inspections and monitoring of sewage sludge utilization sites by:

(i) Contracting with a county on request of that county to provide supplemental inspections and monitoring; and

(ii) Limiting the value of services provided under the contract to no more than 45% of the generator fees for sludge utilized in that county that is generated outside of that county or service area.

Reimbursement of expenditures under § 9-320(c)(5)

(d) An expenditure that the Department makes under subsection (c)(5) of this section shall be reimbursed to the Department by the sewage sludge utilizer whose sewage utilization brought about the expenditure by:

(1) Endangering public health, safety, or welfare; or

(2) Endangering or damaging natural resources.

Role of Attorney General

(e) In addition to any other legal action authorized by this subtitle, the Attorney General may bring an action against any person who fails to reimburse the Department under subsection (d) of this section to recover any expenditure that the Department makes under subsection (c)(5) of this section.

Priority for activities relating to water quality of the Chesapeake Bay

(f) In determining the use of the Maryland Clean Water Fund, priority shall be given to activities relating to the water quality of the Chesapeake Bay and its tributaries.

Funds credited and interest accrued shall remain available in Fund

(g) Notwithstanding any law to the contrary, funds credited and any interest accrued to the Fund:

(1) Shall remain available until expended; and

(2) May not be reverted to the General Fund under any other provision of law.



Annual report on the status of the Maryland Clean Water Fund

(h) On or before January 15 of each year, the Department shall report to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee, in accordance with § 2-1257 of the State Government Article, on the status of the Maryland Clean Water Fund, including a detailed description of all revenues and expenditures of the Fund for the previous year.

§ 9-325. Rules and Regulations Relating to Discharge Permits.

In general

(a)

(1) The Department may adopt rules and regulations that relate to application for, issuance of, revocation of, or modification of discharge permits.

(2) The rules and regulations may require submission of plans, specifications, and other information.

Application fee

(b) Subject to subsection (c)(2) of this section, the rules and regulations adopted under this section shall set a reasonable application fee in an amount designed to cover the cost of the permit procedure.

Establishment of permit fee schedule for industrial users

(c)

(1) Subject to paragraph (2) of this subsection, the rules and regulations adopted under this section shall set a reasonable permit fee schedule for industrial users based on:

- (i) The anticipated cost of monitoring and regulating the permitted facility;
- (ii) The flow of effluent discharge from the permitted facility; and
- (iii) The anticipated needs for program development activities that relate to management of the discharge of pollutants into the waters of this State.

(2)

(i) The Department shall charge a one-time permit application fee of at least \$2,000 on receipt of a notice of intent to seek coverage under a CAFO Discharge permit for:

1. A proposed new CAFO that will have a house capacity of 350,000 square feet or more; or



2. Modification of an existing CAFO to expand the house capacity to 350,000 square feet or more.

(ii) The Department shall charge an annual fee of at least \$1,200 for the continued coverage under a CAFO Discharge permit of a CAFO with a house capacity of 350,000 square feet or more.

(3) In adopting the rules and regulations under this subsection, the Department shall consult with industry and provide that the permit fee not exceed a certain dollar amount.

(4) The Department may not waive the fee for a CAFO Discharge permit.

§ 9-327. Refusal of Permit.

The Department may refuse to issue a discharge permit if:

(1) The applicant fails or refuses to allow any representative of the Department to inspect the proposed permit site;

(2) The Department finds that issuance of the permit would violate any State or federal law or any rule or regulation adopted under any State or federal law; or

(3) The applicant fails or refuses to pay the permit fee assessed under § 9-325(c) of this subtitle.

§ 9-328. Term and Renewal of Discharge Permits.

Term of permit

(a)

(1) Unless it is renewed for another term, a discharge permit expires on the expiration date the Department sets at issuance or renewal.

(2) The Department may not issue a discharge permit for a term longer than 5 years.

Renewal

(b) Before a discharge permit expires, the Department may renew the discharge permit for another term:

(1) After administrative review in accordance with the rules and regulations that the Department adopts;

(2) After notice and opportunity for public hearing on the subject;

(3) On the condition that the discharge meets or will meet:



(i) Any applicable State or federal water quality standards or effluent limitations; and

(ii) Any applicable requirement of this subtitle; and

(4) If the permit holder pays all application and permit fees assessed by the Department under this subtitle.

Administrative review proceedings

(c) Administrative review proceedings under this section shall be completed at least 60 days before the expiration date of the permit.

