

DEPARTMENT OF
ENVIRONMENTAL CONSERVATION [Printer-friendly](#) || [A-Z Subject Index](#) ||  Enter search words[Search DEC](#)[Home](#) » [Regulations and Enforcement](#) » [Regulations](#) » [Chapter X - Division of Water](#) »
[Part 701: Classifications-Surface Waters and Groundwaters](#)

Part 701: Classifications-Surface Waters and Groundwaters

(Statutory authority: Environmental Conservation Law, §§ 1-0101, 3-0301 [2][m], 15-0313, 17-0101, 17-0301, 17-0303, 17-0809)

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Contents:

Sec.

- [701.1 General conditions applying to all water classifications](#)
- [701.2 Class N fresh surface waters](#)
- [701.3 Class AA-Special \(AA-S\) fresh surface waters](#)
- [701.4 Class A-Special \(A-S\) fresh surface waters](#)
- [701.5 Class AA fresh surface waters](#)
- [701.6 Class A fresh surface waters](#)
- [701.7 Class B fresh surface waters](#)
- [701.8 Class C fresh surface waters](#)
- [701.9 Class D fresh surface waters](#)
- [701.10 Class SA saline surface waters](#)
- [701.11 Class SB saline surface waters](#)
- [701.12 Class SC saline surface waters](#)
- [701.13 Class I saline surface waters](#)
- [701.14 Class SD saline surface waters](#)
- [701.15 Class GA fresh groundwaters](#)
- [701.16 Class GSA saline groundwaters](#)
- [701.17 Class GSB saline groundwaters](#)
- [701.18 Assignment of groundwater classifications](#)
- [701.19 Discharge restriction categories](#)
- [701.20 Purpose](#)
- [701.21 Criteria](#)
- [701.22 Allowable discharges](#)
- [701.23 No new discharge](#)
- [701.24 No new discharge of a specified substance](#)
- [701.25 Trout waters \(T or TS\)](#)
- [701.26 Severability](#)

Outdoor Activities
Animals, Plants, Aquatic Life
Chemical and Pollution Control
Energy and Climate
Lands and Waters
Education
Permits and Licenses
Public Involvement and News
Regulations and Enforcement
Regulations
Chapter X - Division of Water
Part 701: Classifications-Surface Waters and Groundwaters
Publications, Forms, Maps
About DEC

§701.1 General conditions applying to all water classifications

The discharge of sewage, industrial waste or other wastes shall not cause impairment of the best usages of the receiving water as specified by the water classifications at the location of discharge and at other locations that may be affected by such discharge.

Historical Note

Sec. repealed, new filed April 28, 1972; amds. filed: Nov. 5, 1984; July 3, 1985; repealed, new filed Aug. 2, 1991 eff. 30 days after filing.

§701.2 Class N fresh surface waters

(a) The best usages of Class N waters are the enjoyment of water in its natural condition and, where compatible, as a source of water for drinking or culinary purposes, bathing, fishing, fish propagation, and recreation. The waters shall be suitable for shellfish and wildlife propagation and survival and fish survival.

(b) There shall be no discharge of sewage, industrial wastes, or other wastes, waste effluents or any sewage effluents not having had filtration resulting from at least 200 feet of lateral travel through unconsolidated earth. A greater distance may be required if inspection shows that, due to peculiar geologic conditions, this distance is inadequate to protect the water from pollution.

(c) These waters shall contain no deleterious substances, hydrocarbons or substances that would contribute to eutrophication, nor shall they receive surface runoff containing any such substance.

(d) There shall be no alteration to flow that will impair the waters for their best usages.

Historical Note

Sec. repealed, new filed: April 28, 1972; Feb. 25, 1974; amd. filed July 3, 1985; repealed, new filed Aug. 2, 1991; amd. filed Jan. 17, 2008 eff. 30 days after filing. Amended (a), added (d).

§701.3 Class AA-Special (AA-S) fresh surface waters

(a) The best usages of Class AA-S waters are: a source of water supply for drinking, culinary or food processing purposes; primary and secondary contact recreation; and fishing. The waters shall be suitable for fish, shellfish, and wildlife propagation and survival.

(b) These waters shall contain no floating solids, settleable solids, oil, sludge deposits, toxic wastes, deleterious substances, colored or other wastes or heated liquids attributable to sewage, industrial wastes or other wastes.

(c) There shall be no discharge or disposal of sewage, industrial wastes or other wastes into these waters.

(d) These waters shall contain no phosphorus and nitrogen in amounts that will result in growths of algae, weeds and slimes that will impair the waters for their best usages.

(e) There shall be no alteration to flow that will impair the waters for their best usages.

(f) There shall be no increase in turbidity that will cause a substantial visible contrast to natural conditions.

Historical Note

Sec. amd. filed May 26, 1967; repealed, new filed: April 28, 1972; Feb. 25, 1974; renum. 701.18, new filed July 3 1985; repealed, new filed Aug. 2, 1991; amd. filed Jan. 17, 2008 eff. 30 days after filing. Amended (a), added (e)-(f).

§701.4 Class A-Special (A-S) fresh surface waters

(a) The best usages of Class A-S waters are: a source of water supply for drinking, culinary or food processing purposes; primary and secondary contact recreation; and fishing. The waters shall be suitable for fish, shellfish, and wildlife propagation and survival.

(b) This classification may be given to those international boundary waters that, if subjected to approved treatment, equal to coagulation, sedimentation, filtration and disinfection with additional treatment, if necessary, to reduce naturally present impurities, meet or will meet New York State Department of Health drinking water standards and are or will be considered safe and satisfactory for drinking water purposes.

Historical Note

Sec. repealed, new filed: April 28, 1972; Feb. 25, 1974; amd. filed Sept 20, 1974; renum. 701.19, new filed July 3, 1985; repealed, new filed Aug 2, 1991; amd. filed Jan. 17, 2008 eff. 30 days after filing. Amended (a).

§701.5 Class AA fresh surface waters

(a) The best usages of Class AA waters are: a source of water supply for drinking, culinary or food processing purposes; primary and secondary contact recreation; and fishing. The waters shall be suitable for fish, shellfish, and wildlife propagation and survival.

(b) This classification may be given to those waters that, if subjected to approved disinfection treatment, with additional treatment if necessary to remove naturally present impurities, meet or will meet New York State Department of Health drinking water standards and are or will be considered safe and satisfactory for drinking water purposes.

Historical Note

Sec. repealed, filed March 20, 1967; new filed Feb. 25, 1974; amd. filed Sept 20, 1974; renum. 701.20, new filed July 3, 1985; repealed, new filed Aug 2, 1991; amd. filed Jan. 17, 2008 eff. 30 days after filing. Amended (a).

§701.6 Class A fresh surface waters

(a) The best usages of Class A waters are: a source of water supply for drinking, culinary or food processing purposes; primary and secondary contact recreation; and fishing. The waters shall be suitable for fish, shellfish, and wildlife propagation and survival.

(b) This classification may be given to those waters that, if subjected to approved treatment equal to coagulation, sedimentation, filtration and disinfection, with additional treatment if necessary to reduce naturally present impurities, meet or will meet New York State Department of Health drinking water standards and are or will be considered safe and satisfactory for drinking water purposes.

Historical Note

Sec. filed July 3, 1985; repealed, new filed Aug 2,1991; amd. filed Jan. 17, 2008 eff. 30 days after filing. Amended (a).

§701.7 Class B fresh surface waters

The best usages of Class B waters are primary and secondary contact recreation and fishing. These waters shall be suitable for fish, shellfish, and wildlife propagation and survival.

Historical Note

Sec. filed July 3, 1985; repealed, new filed Aug. 2,1991; amd. filed Jan. 17, 2008 eff. 30 days after filing.

§701.8 Class C fresh surface waters

The best usage of Class C waters is fishing. These waters shall be suitable for fish, shellfish, and wildlife propagation and survival. The water quality shall be suitable for primary and secondary contact recreation, although other factors may limit the use for these purposes.

Historical Note

Sec. filed July 3, 1985; repealed, new filed Aug 2,1991; amd. filed Jan. 17, 2008 eff. 30 days after filing.

§701.9 Class D fresh surface waters

The best usage of Class D waters is fishing. Due to such natural conditions as intermittency of flow, water conditions not conducive to propagation of game fishery, or stream bed conditions, the waters will not support fish propagation. These waters shall be suitable for fish, shellfish, and wildlife survival. The water quality shall be suitable for primary and secondary contact recreation, although other factors may limit the use for these purposes.

Historical Note

Sec. filed July 3, 1985; repealed, new filed Aug. 2, 1991; amd. filed Jan. 17, 2008 eff. 30 days after filing.

§701.10 Class SA saline surface waters

The best usages of Class SA waters are shellfishing for market purposes, primary and secondary contact recreation and fishing. These waters shall be suitable for fish, shellfish, and wildlife propagation and survival.

Historical Note

Sec. filed July 3, 1985; repealed, new filed Aug. 2, 1991; amd. filed Jan. 17, 2008 eff. 30 days after filing.

§701.11 Class SB saline surface waters

The best usages of Class SB waters are primary and secondary contact recreation and fishing. These waters shall be suitable for fish, shellfish, and wildlife propagation and survival.

Historical Note

Sec. filed July 3, 1985; repealed, new filed Aug. 2, 1991; amd. filed Jan. 17, 2008 eff. 30 days after filing.

§701.12 Class SC saline surface waters

The best usage of Class SC waters is fishing. These waters shall be suitable for fish, shellfish, and wildlife propagation and survival. The water quality shall be suitable for primary and secondary contact recreation, although other factors may limit the use for these purposes.

Historical Note

Sec. filed July 3, 1985; repealed, new filed Aug. 2, 1991; amd. filed Jan. 17, 2008 eff. 30 days after filing.

§701.13 Class I saline surface waters

The best usages of Class I waters are secondary contact recreation and fishing. These waters shall be suitable for fish, shellfish, and wildlife propagation and survival.

Historical Note

Sec. filed July 3, 1985; repealed, new filed Aug. 2, 1991; amd. filed Jan. 17, 2008 eff. 30 days after filing.

§701.14 Class SD saline surface waters

The best usage of Class SD waters is fishing. These waters shall be suitable for fish, shellfish, and wildlife survival. This classification may be given to those waters that, because of natural or man-made conditions, cannot meet the requirements for primary and secondary contact recreation and fish propagation.

Historical Note

Sec. filed July 3, 1985; repealed, new filed Aug. 2, 1991; amd. filed Jan. 17, 2008 eff. 30 days after filing.

§701.15 Class GA fresh groundwaters

The best usage of Class GA waters is as a source of potable water supply. Class GA waters are fresh groundwaters.

Historical Note

Sec. filed July 3, 1985; repealed, new filed Aug. 2, 1991 eff. 30 days after filing.

§701.16 Class GSA saline groundwaters

The best usages of Class GSA waters are as a source of potable mineral waters, or conversion to fresh potable waters, or as raw material for the manufacture of sodium chloride or its derivatives or similar products. Class GSA waters are saline groundwaters.

Historical Note

Sec. filed July 3, 1985; repealed, new filed Aug. 2, 1991 eff. 30 days after filing.

§701.17 Class GSB saline groundwaters

The best usage of Class GSB waters is as a receiving water for disposal of wastes. Class GSB waters are saline groundwaters that have a chloride concentration in excess of 1,000 milligrams per liter or a total dissolved solids concentration in excess of 2,000 milligrams per liter.

Historical Note

Sec. filed July 3, 1985; repealed, new filed Aug. 2, 1991 eff. 30 days after filing.

§701.18 Assignment of groundwater classifications

(a) The groundwater classifications defined in sections 701.15 and 701.16 of this Part are assigned to all the groundwaters of New York State.

(b) The Class GSB shall not be assigned to any groundwaters of the State, unless the commissioner finds that adjacent and tributary groundwaters and the best usages thereof will not be impaired by such classification.

Historical Note

Sec. added by renum. 701.3, filed July 3, 1985; repealed, new filed Aug. 2, 1991; amd. filed Feb. 10, 1998 eff. 30 days after filing. Amended (a).

§701.19 Discharge restriction categories

Discharge restriction categories may be assigned to surface waters or groundwaters by the department. When used, the discharge restriction category will be applied to such classified waters along with the applicable best usage and other existing standards.

Historical Note

Sec. added by renum. and amd. 701.4, filed July 3, 1985; amd. filed Sept. 20, 1985; repealed, new filed Aug. 2, 1991; renum. 701.25, new filed Sept, 7, 1993 eff. 30 days after filing.

§701.20 Purpose

(a) The discharge restriction categories may be assigned to:

- (1) waters of particular public health concern;
- (2) significant recreational or ecological waters where the quality of the water is critical to maintaining the value for which the waters are distinguished; and

(3) other sensitive waters where the department has determined that existing standards are not adequate to maintain water quality.

(b) Waters of particular public health concern may include:

(1) waters within a 60-day water time-of-travel of unfiltered public water supply intake points;

(2) public water supply watersheds with reservoirs experiencing accelerated eutrophication;

(3) groundwaters requiring such protection as specified in watershed rules and regulations or wellhead protection programs; and

(4) marine waters certified by the department for taking of shellfish.

(c) Significant recreational and ecological waters may include:

(1) wild and scenic rivers designated as per ECL 15-2701 and Part 666 of this Title;

(2) critical aquatic habitat for fishes, amphibians, or aquatic invertebrates listed as endangered, threatened, or of special concern in Part 182 of this Title;

(3) State park waters;

(4) State and Federal wildlife management area waters;

(5) groundwaters and surface waters tributary to and within freshwater wetlands designated class I pursuant to Part 664 of this Title;

(6) classified waters within intertidal marsh and coastal fresh marsh tidal wetlands designated as per Part 661 of this Title;

(7) waters protected under the *Constitution* of the State; and

(8) pristine, minimally impacted waters with a diversity of naturally reproducing aquatic species.

(d) Other sensitive waters may include:

(1) recreational waters where accelerated eutrophication threatens current and future use of the waters;

(2) waters where physical accumulation or bioaccumulation of contaminants produce water use impairments;

(3) small trout spawning streams; and

(4) waters with little assimilative capacity due to natural background conditions or human activities.

Historical Note

Sec. added by renum. 701.5, filed July 3, 1985; amd. filed Sept. 20, 1985; repealed, filed Aug 2, 1991; new filed Sept. 7, 1993 eff. 30 days after filing.

§701.21 Criteria

(a) In assigning discharge restriction categories, the department will consider factors including the size of the waterbody, the nature of the surrounding district including the watershed, and the uses and quality of the waters. The department will also weigh the need for the additional water quality protection of the discharge restriction categories as compared with the assigned standards and best uses and the likelihood that the discharge restriction category will contribute to achieving the protection goals.

(b) As appropriate, additional consideration may be given to:

(1) the potential effects of additional discharges from new, expanded, or changed facilities or activities on the water quality value of resource;

(2) the risk to the waters or the use of the waters from unintended or incidental discharges from new facilities; and

(3) the potential effects of physical accumulation or bioaccumulation of substances not addressed by ambient standards.

(c) Substantial weight will be given to obtaining consistency with provisions of existing watershed management or protection plans adopted or certified by the State or an entity of local government.

Historical Note

Sec. filed Sept 7, 1993 eff. 30 days after filing.

§701.22 Allowable discharges

New discharges may be permitted for waters where discharge restriction categories are assigned when such discharges result from environmental remediation projects, from projects correcting environmental or public health emergencies, or when such discharges result in a reduction of pollutants for the designated waters. In all cases, best usages and standards will be maintained.

Historical Note

Sec. filed Sept 7, 1993 eff. 30 days after filing.

§701.23 No new discharge

For waters designated "no new discharge," no new discharges shall be permitted, and no increase in any existing discharges shall be permitted. Storm water discharges are excepted from these restrictions. Storm water discharges and nonpoint sources of pollution shall be controlled by use of management practices to minimize the impact on the designated waters and shall comply with other applicable requirements of this Title.

Historical Note

Sec. filed Sept. 7, 1993 eff. 30 days after filing.

§701.24 No new discharge of a specified substance

For waters designated "no new discharge of a specified substance," the specified substance shall not be permitted in new discharges. No increase in the release of the specified substance shall be permitted for any existing discharges. Storm water

discharges are excepted from these restrictions. Storm water discharges and nonpoint sources of pollution shall be controlled by use of management practices to minimize the release of the specified substance to the designated waters and shall comply with other applicable requirements of this Title. The substance will be specified at the time the waters are designated.

Historical Note

Sec. filed Sept. 7, 1993 eff. 30 days after filing.

§701.25 Trout waters (T or TS)

(a) The symbol (T), appearing in an entry in the "standards" column in the classification tables of Parts 800 through 941 of this Title, means that the classified waters in that specific item are trout waters. Any water quality standard, guidance value, or thermal criterion that specifically refers to trout or trout waters applies.

(b) The symbol (TS), appearing in an entry in the "standards" column in the classification tables of Parts 800 through 941 of this Title, means that the classified waters in that specific item are trout spawning waters. Any water quality standard, guidance value, or thermal criterion that specifically refers to trout, trout spawning, trout waters, or trout spawning waters applies.

Historical Note

Sec. added by renum. 701.19, filed Sept. 7, 1993; renum. 701.26, new filed Jan. 17, 2008 eff. 30 days after filing.

§701.26 Severability

If any provision of this Part or its application to any person or circumstance is held to be invalid, the remainder of this Part and the application of that provision to other persons or circumstances will not be affected.

Historical Note

Sec. added by renum. 701.19, filed Sept. 7, 1993 eff. 30 days after filing.