

CHAPTER 9B

SURFACE WATER QUALITY STANDARDS

Authority

N.J.S.A. 13:1D-1 et seq., 58:10A-1 et seq., and 58:11A-1 et seq.

Source and Effective Date

R.2009 d.372, effective November 16, 2009.
See: 41 N.J.R. 1565(a), 41 N.J.R. 4735(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 9B, Surface Water Quality Standards, expires on November 16, 2016. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 9B, Surface Water Quality Standards, was recodified from N.J.A.C. 7:9-4 by R.1993 d.610, effective December 6, 1993. See: 24 N.J.R. 3983(a), 24 N.J.R. 4471(a), 25 N.J.R. 404(a), 25 N.J.R. 5569(a).

Pursuant to Executive Order No. 66(1978), Chapter 9B, Surface Water Quality Standards, was readopted as R.1996 d.87, effective January 18, 1996. See: 27 N.J.R. 3521(a), 28 N.J.R. 1202(a). Notice of Determination to Not Adopt Proposed Amendments to Surface Water Quality Standards. See: 29 N.J.R. 1691(b).

Pursuant to Executive Order No. 66(1978), Chapter 9B, Surface Water Quality Standards, was readopted as R.1998 d.234, effective April 17, 1998. See: 29 N.J.R. 5128(a), 30 N.J.R. 1778(a).

Administrative correction. See: 30 N.J.R. 3267(a).

Petition for Rulemaking. See: 34 N.J.R. 3651(b), 3652(a).

The expiration date of Chapter 9B, Surface Water Quality Standards, was extended by gubernatorial directive from April 17, 2003 to April 17, 2005. See: 35 N.J.R. 2264(a).

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 9B, Surface Water Quality Standards, was extended by gubernatorial order from April 17, 2005 to August 17, 2005. See: 37 N.J.R. 1887(a).

In accordance with N.J.S.A. 52:14B-5.1c, the expiration date of Chapter 9B, Surface Water Quality Standards, was extended to February 13, 2006. See: 37 N.J.R. 3480(a).

Petition for Rulemaking: Division of Watershed Management: Surface Water Quality Standards. See: 38 N.J.R. 1586(a), 38 N.J.R. 2742(a), 38 N.J.R. 5415(a).

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 9B, Surface Water Quality Standards, was extended by gubernatorial directive from February 13, 2006 to September 19, 2006. See: 38 N.J.R. 1317(b).

Petition for Rulemaking: Surface Water Quality Standards. See: 39 N.J.R. 566(b), 800(b), 2155(a), 2156(a).

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 9B, Surface Water Quality Standards, was extended by gubernatorial directive from September 19, 2006 to March 19, 2008. See: 38 N.J.R. 4480(a).

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 9B, Surface Water Quality Standards, was extended by gubernatorial directive from March 19, 2008 to March 19, 2009. See: 40 N.J.R. 2109(b).

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 9B, Surface Water Quality Standards, was scheduled to expire on September 15, 2009. See: 41 N.J.R. 1565(a).

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 9B, Surface Water Quality Standards, was extended by gubernatorial directive from September 15, 2009 to November 16, 2009. See: 41 N.J.R. 3899(a).

Chapter 9B, Surface Water Quality Standards, was readopted as R.2009 d.372, effective November 16, 2009. See: Source and Effective Date. See, also, section annotations.

Petition for Rulemaking. See: 42 N.J.R. 1634(a), 2277(b).

Petition for Rulemaking. See: 45 N.J.R. 378(b), 953(b).

Petition for Rulemaking. See: 47 N.J.R. 2886(c).

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SUBCHAPTER 1. SURFACE WATER QUALITY STANDARDS

7:9B-1.1 Scope of subchapter

Unless otherwise provided by rule or statute, this subchapter shall constitute the rules of the Department of Environmental Protection governing matters of policy with respect to the protection and enhancement of surface water resources, class definitions and quality criteria, use designation and quality criteria for the mainstem of the Delaware River including the Delaware Bay, the classification of surface waters of the State, procedures for establishing water quality-based effluent limitations, modification of water quality-based effluent limitations, procedures for reclassifying specific segments for less restrictive uses and procedures for reclassifying specific segments for more restrictive uses pursuant to N.J.S.A. 13:1D-1 et seq., the New Jersey Water Pollution

Control Act, N.J.S.A. 58:10A-1 et seq., and the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq.

Amended by R.1993 d.610, effective December 6, 1993.
See: 24 N.J.R. 3983(a), 25 N.J.R. 5569(a).
Amended by R.1998 d.234, effective May 18, 1998.
See: 29 N.J.R. 5128(a), 30 N.J.R. 1778(a).

7:9B-1.2 Construction

This subchapter shall be liberally construed to permit the Department and its various divisions to discharge their statutory functions.

Amended by R.1993 d.610, effective December 6, 1993.
See: 24 N.J.R. 3983(a), 25 N.J.R. 5569(a).

7:9B-1.3 Severability

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

New Rule, R.1993 d.610, effective December 6, 1993.
See: 24 N.J.R. 3983(a), 25 N.J.R. 5569(a).

7:9B-1.4 Definitions

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

“Acute toxicity” means a lethal or severe adverse sublethal effect (for example, immobilization of daphnids) to an organism exposed to a toxic substance for a relatively short period of time. Acute toxicity is measured by short-term bioassays, generally of 48 or 96 hour duration.

“Agricultural water supply” means water used for field crops, livestock, horticulture, and silviculture.

“Aquatic substrata” means soil material and associated biota underlying the water.

“Best management practices” or “BMPs” means the methods, measures or practices to prevent or reduce the amount of pollution from point or nonpoint sources, including structural and nonstructural controls and operation and maintenance procedures.

“Bioaccumulation” means the increase of the concentration of a substance within the tissues of an organism, to levels in excess of that substance’s ambient environmental concentration, directly from the water or through the ingestion of food (usually other organisms).

“Bioassay” means a toxicity test using aquatic organisms to determine the concentration or amount of a toxic substance

causing a specified response in the test organisms under stated test conditions.

“Biota” means the animal and plant life of an ecosystem; flora and fauna collectively.

“C1” means Category One waters.

“C2” means Category Two waters.

“Calculable changes” means changes to water quality characteristics as demonstrated by any acceptable mathematical, predictive method.

“Carcinogen” means a toxic substance capable of inducing a cancer response, including Group A (human carcinogen), Group B (probable human carcinogen) or Group C (possible human carcinogen) categorized in accordance with the USEPA Guidelines for Carcinogen Risk Assessment, 51 Fed. Reg. 33992, 1986 incorporated herein by reference, as amended or supplemented.

“Category One waters” means those waters designated in the tables in N.J.A.C. 7:9B-1.15(c) through (i), for purposes of implementing the antidegradation policies set forth at N.J.A.C. 7:9B-1.5(d), for protection from measurable changes in water quality based on exceptional ecological significance, exceptional recreational significance, exceptional water supply significance or exceptional fisheries resource(s) to protect their aesthetic value (color, clarity, scenic setting) and ecological integrity (habitat, water quality and biological functions).

“Category two waters” means those waters not designated as Outstanding National Resource Waters or Category One at N.J.A.C. 7:9B-1.15 for purposes of implementing the antidegradation policies set forth at N.J.A.C. 7:9B-1.5(d).

“Chlorine produced oxidants” means the sum of free and combined chlorine and bromine as measured by the methods approved under N.J.A.C. 7:18. In fresh waters the oxidants measured are comprised predominantly of hypochlorous acid (HOCl), hypochlorite ion (OCl⁻), monochloramine and dichloramine. In saline waters the oxidants measured are comprised predominantly of the oxidants listed for fresh waters plus hypobromous acid (HOBr), hypobromite ion (OBr⁻) and bromamines.

“Chronic toxicity” means death or other adverse impacts that affect the growth, survival, or reproductive success of an organism or its progeny after a relatively long exposure period to toxic substances. Chronic toxicity is measured using intermediate-term or long-term bioassays.

“Complete mix” means a 25 percent or less variation in concentration across the transect of the water body.

“Criteria” means those elements of the Surface Water Quality Standards, expressed as constituent concentrations, levels, or narrative statements, representing a quality of water that supports a particular use. When the criteria are met, water quality will generally protect the designated use.