

i. In areas where the criteria for the constituent are exceeded within the area due to natural quality, the constituent standards shall be established as the background water quality.

ii. In other areas, the constituent standards shall be established such that the volume and concentration of ground water exceeding the criteria are not increased by discharges.

(b) The Department may define Classification Exception Areas as provided for in N.J.A.C. 7:9C-1.6 within which the provisions of N.J.A.C. 7:9C-1.7, 1.8, and (a) above do not apply regarding specified constituents.

(c) Where a constituent standard (the criterion as adjusted by the antidegradation policy and applicable criteria exceptions) is of a lower concentration than the relevant PQL (in Appendix Table 1), the Department shall not (in the context of an applicable regulatory program) consider the discharge to be causing a contravention of that constituent standard so long as the concentration of the constituent in the affected ground water is less than the relevant PQL.

1. Where interim specific criteria are derived by the Department, interim PQLs shall also be derived for those constituents as appropriate.

2. Specific PQLs are not provided for interim generic ground water criteria. The numeric interim generic ground water criteria shall be used as the constituent standard unless a PQL applicable for an interim generic criteria is approved by the Department and published with the interim generic criteria in accordance with (c)3 below.

3. Selection and derivation of PQLs shall be as follows:

i. PQLs shall be rounded to one significant figure using standard methods.

ii. PQLs listed in Appendix Table 1 were, and additional PQLs shall be, derived or selected for each constituent using the most sensitive analytical method providing positive constituent identification from (c)3ii(1) and (2) below, in that order of preference:

(1) PQLs derived from Method Detection Limit (MDL) data from the New Jersey Department of Health and Senior Services Laboratory (DHSS) multiplied by 5;

(2) PQLs derived from laboratory performance data that has been evaluated by the Department using the method of Sanders, Lippincott and Eaton (See Sanders, P. et al., "Determining Quantitation Levels for Regulatory Purposes." J. Amer. Water Works Assoc., 1996, March pp. 104-114).

iii. The Department may approve an alternative PQL. An alternative PQL shall be approved when the evidence (in the context of an applicable regulatory program) establishes that:

(1) Based upon site-specific ground water matrix considerations, a PQL listed in Appendix Table 1 for a constituent is not valid;

(2) An alternative PQL is more appropriate for that constituent with regard to compliance with this chapter;

(3) The alternative PQL has been determined through rigorous laboratory analysis using methods appropriate to the site-specific ground water matrix and constituent(s), including, without limitation, the derivation of an MDL using the methodology specified by Appendix B of 40 CFR Part 136; and

(4) The alternative PQL does not result in non-detection of any target constituent due to masking effects of other target constituents, non-target constituents, or natural substances.

iv. The approval of an alternative PQL shall be applicable to the regulation of ground water quality affected by the discharge for which it is derived, and its approval and utilization shall be subject to the same procedural requirements as any other aspect of the regulatory decision.

4. Where ground water pollutants affect surface water quality within the meaning of N.J.A.C. 7:9C-1.7(g), more sensitive analytical techniques such as bioassays or bioaccumulation assays may be required by the Department.

Recodified from N.J.A.C. 7:9-6.9 by R.2005 d.368, effective November 7, 2005.

See: 36 N.J.R. 4374(b), 37 N.J.R. 4226(b).

Rewrote (c).

7:9C-1.10 Procedures for reclassification of ground water

(a) Reclassification of ground water areas shall be accomplished through rulemaking in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

(b) Any interested person may seek to have any ground water area reclassified by filing a petition with the Department. For the purposes of this subsection, interested persons shall include, but not be limited to:

1. Any State, county or municipal governmental entity with jurisdiction over the area that is proposed for reclassification; and

2. Any person residing or discharging in the area that is proposed for reclassification.

(c) Petitions shall comply with and shall be reviewed in compliance with N.J.S.A. 52:14B-4 and N.J.A.C. 7:1D-1.1.

(d) For purposes of this subsection, ground water areas subject to petition for reclassification shall constitute at least a significant portion of one or more geologic units or formations. In no event shall a reclassification area consist only of

an area underlying property owned by a single person (except in the case of reclassification to and from Class I-A), an area affected only by one discharge, or an area affected only by a set of discharges owned or controlled by a single person.

(e) In setting forth the reasons for its petition, the petitioner shall describe the proposed reclassification area (both lateral and vertical), and shall include appropriate ground water quality and hydrogeologic analyses, as well as statements regarding the environmental, economic and social impacts of the proposed reclassification.

(f) In order to grant a petition to propose a rule amendment to apply a more stringent classification to a ground water area, the Department must find that the petitioner has established that the subject area has the characteristics of the more stringent classification.

(g) In order to grant a petition to propose a rule amendment to apply a less stringent classification to a ground water area, the Department must find that the petitioner has established that:

1. The designated use cannot be maintained in the subject area;

2. Based upon an analysis of background water quality of constituent standards in downgradient areas and of ground water flow vectors and gradients, contaminant attenuation, flow barriers and potential for induced movement, the reclassification will not result in significant risk of the following:

i. Impairment to existing uses of ground water or significant potential for pollutant migration to downgradient classification areas;

ii. Degradation of downgradient surface water quality in violation of the surface water quality standards;

iii. Degradation of the quality of source water for public water supply wells in violation of the provisions of N.J.A.C. 7:9C-1.7, 1.8 and 1.9; or

iv. Significant threats to public health, safety and welfare; and

3. The subject area has the characteristics of the less stringent classification.

(h) The petitioner shall provide public notice of the petition by mailing a copy of a summary of the petition, including all subsequent amendments, to:

1. All owners of residences or facilities identified by local health officials or by the petitioner during the preparation of the petition as operators of wells in the subject area;

2. The mayor or governing body, and the planning board and environmental commission of all municipalities in which any part of the subject area is located;

3. All public water systems utilizing ground or surface water from the subject area;

4. All local or county health agencies with jurisdiction over any part of the subject area; and

5. Any other interested party who requests a copy of the petition summary in writing to either the Department or the petitioner.

(i) The petitioner shall cause public newspaper notice of the petition to be published, in two daily, and one weekly, newspapers (if available) that are distributed in the municipalities of the subject area, which notice shall include a brief summary of the petition.

Administrative change.

See: 32 N.J.R. 1796(a).

Recodified from N.J.A.C. 7:9-6.10 by R.2005 d.368, effective November 7, 2005.

See: 36 N.J.R. 4374(b), 37 N.J.R. 4226(b).

Petition for Rulemaking.

See: 44 N.J.R. 3009(a).

7:9C-1.11 Severability

If any provision of this chapter or any application of any such provision is held to be invalid, such invalidity shall not affect any other provision or application, and to this end, the provisions of this chapter are declared to be severable.

Recodified from N.J.A.C. 7:9-6.11 by R.2005 d.368, effective November 7, 2005.

See: 36 N.J.R. 4374(b), 37 N.J.R. 4226(b).

APPENDIX

Table 1

Specific Ground Water Quality Criteria—Class II-A and Practical Quantitation Levels

<u>Constituent</u>	<u>CASRN</u>	<u>Ground Water Quality Criterion*</u>	<u>Practical Quantitation Level (PQL)*</u>	<u>Higher of PQL and Ground Water Quality Criterion (µg/L)*</u>
Acenaphthene	83-32-9	400	10	400
Acetone	67-64-1	6,000	10	6,000
Acetophenone	98-86-2	700	10	700
Acrolein	107-02-8	4	5	5
Acrylamide	79-06-1	0.008	0.2	0.2