

CHAPTER 9C

GROUND 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.2005 d.368, effective October 4, 2005.
See: 36 N.J.R. 4374(b), 36 N.J.R. 5057(a),
36 N.J.R. 5636(a), and 37 N.J.R. 4226(b).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 9C, Ground Water Quality Standards, expires on April 4, 2014. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 9C, Ground Water Quality Standards, was recodified from N.J.A.C. 7:9 Subchapter 6 and readopted as R.2005 d.368, effective October 4, 2005. See: Source and Effective Date. See, also, section annotations.

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 9C, Ground Water Quality Standards, was extended by gubernatorial directive from October 4, 2010 to April 4, 2012. See: 42 N.J.R. 2619(a).

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APPENDIX

SUBCHAPTER 1. GROUND WATER QUALITY STANDARDS

7:9C-1.1 Scope of chapter

(a) Unless otherwise provided by statute, this chapter constitutes the rules of the Department of Environmental Protection concerning ground water classification, designated uses of ground water, and ground water quality criteria, and constituent standards, pursuant to the 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.).

(b) This chapter provides the basis for protection of ambient ground water quality, through the establishment of constituent standards for ground water pollutants. These constituent standards are applicable to the development of:

ground water protection standards pursuant to the New Jersey Pollutant Discharge Elimination System (NJPDDES; N.J.A.C. 7:14A); ground water remediation standards; and other requirements and regulatory actions applicable to discharges that cause or may cause pollutants to enter the ground waters of the State, including non-point and diffuse sources regulated by the Department. Other relevant laws through which the Ground Water Quality Standards may be applied include, but are not limited to, the Spill Compensation and Control Act (N.J.S.A. 58:10-23.11 et seq.), the Brownfield and Contaminated Site Remediation Act (N.J.S.A. 58:10B-1 et seq.), the Site Remediation Reform Act (N.J.S.A. 58:10C-1 et seq.), the Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.), the Industrial Site Recovery Act (N.J.S.A. 13:1K-6 et seq.), the Underground Storage of Hazardous Substances Act (N.J.S.A. 58:10A-21 et seq.), the Realty Improvement Sewerage and Facilities Act (N.J.S.A. 58:11-23 et seq.), and the Pesticide Control Act of 1971 (N.J.S.A. 13:1F-1 et seq.).

(c) This chapter constitutes the Department's primary basis for setting numerical criteria for limits on discharges to ground water and standards for ground water remediation.

Recodified from N.J.A.C. 7:9-6.1 by R.2005 d.368, effective November 7, 2005.

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

Rewrote the section.

Special amendment, R.2009 d.361, effective November 4, 2009 (to expire May 4, 2011).

See: 41 N.J.R. 4467(a).

In (b), inserted "the Site Remediation Reform Act (N.J.S.A. 58:10C-1 et seq.)."

Administrative correction.

See: 42 N.J.R. 1862(a).

Readoption of special amendment, R.2011 d.251, effective September 8, 2011.

See: 43 N.J.R. 1077(a), 43 N.J.R. 2581(b).

Provisions of R.2009 d.361 readopted with changes incorporated at 42 N.J.R. 1862(a).

Case Notes

Private home septic system installed in violation of regulation; violation does not give rise to private cause of action for damages. *Jalowicki v. Leuc*, 182 N.J.Super. 22, 440 A.2d 21 (App.Div.1981).

7:9C-1.2 Policies

(a) It is the policy of this State to restore, enhance and maintain the chemical, physical and biological integrity of its waters, to protect public health, to safeguard fish and aquatic life and scenic and ecological values, and to enhance the domestic, municipal, recreational, industrial and other uses of water.

(b) Discharges to ground water that subsequently discharge into surface waters shall not be permitted by the applicable regulatory program if such discharges would cause a contravention of surface water quality standards applicable to those surface waters. That is, those discharges must achieve compliance with both these standards and the surface water quality standards (N.J.A.C. 7:9B).

(c) When existing ground water quality does not meet the constituent standards determined pursuant to N.J.A.C. 7:9C-1.7, 1.8 and 1.9, due to human activities, the Department shall, after a review of relevant and available scientific and technical data, determine in the context of the applicable regulatory programs the management actions necessary (including, but not limited to, the requirement of remedial actions) to restore or enhance ground water quality pursuant to the policies of this chapter.

(d) The Department shall not approve discharges or activities posing a significant risk of discharges, within the jurisdiction of and subject to regulation by the Pinelands Commission, that would contravene the rules of the Pinelands Commission with regard to the protection of ground water or surface water quality.

Recodified from N.J.A.C. 7:9-6.2 by R.2005 d.368, effective November 7, 2005.
See: 36 N.J.R. 4374(b), 37 N.J.R. 4226(b).

Case Notes

Standards for Total Suspended Solids set by Federal and State regulations; fine assessed appropriate for permit level violations. *Lentine Aggregates v. Dept. of Environmental Protection*, 4 N.J.A.R. 117 (1981), affirmed per curiam Dkt. No. A-3424-80 (App.Div.1982).

7:9C-1.3 Construction

This chapter shall be liberally construed to permit the Department to implement its statutory functions.

Recodified from N.J.A.C. 7:9-6.3 by R.2005 d.368, effective November 7, 2005.
See: 36 N.J.R. 4374(b), 37 N.J.R. 4226(b).

7:9C-1.4 Definitions

The following words and terms, when used in this chapter, have the following meanings:

“ACL” means alternative concentration limit.

“Agricultural water” means water used for crop production, livestock, horticulture and silviculture.

“Alternative concentration limit” or “ACL” means a constituent standard or narrative description of actions, discharge controls and water quality requirements that is less stringent than the ground water quality requirements of N.J.A.C. 7:9C-1.7, 1.8 and 1.9 due to a Departmental decision pursuant to NJPDES regulations (N.J.A.C. 7:14A-10.8(b)). In order to approve an ACL, the Department must find that the relevant constituent standard(s) cannot be achieved through technologically practicable means.

“Applicable regulatory program” means any of the Department’s programs which implement the regulations issued pursuant to the statutes cited in N.J.A.C. 7:9C-1.1(b) or in any other regulations that specifically cite this chapter.

“Aquifer” means a saturated geologic formation(s) or unit(s) which is sufficiently permeable to transmit water to a

pumping well in usable and economic quantities. The upper level of an unconfined aquifer may vary over time; “aquifer” applies to the full saturated zone at any time.

“Aquitard” means a hydrogeologic confining unit(s) that exhibits limited permeability, bounding one or more aquifers, that does not readily yield water to wells or springs, but may serve as a storage unit for ground water and may release this water to adjacent ground water units or surface waters. Such confining units are further defined and listed in N.J.A.C. 7:9C-1.5(f)1 or may be established through reclassification under N.J.A.C. 7:9C-1.10.

“Background water quality” means the concentration of constituents in ground water which is determined to exist directly upgradient of a discharge but not influenced by the discharge, or is otherwise representative of such concentration of constituents as determined using methods and analyses consistent with the requirements of N.J.A.C. 7:14A-10.11(g).

“Carcinogen” means a constituent 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. 33932, 1986, incorporated herein by reference, as amended or supplemented.

“Classification area” means the geographic extent (lateral and vertical) of a geologic formation(s) or unit(s) wherein ground water is classified for designated uses, as described in N.J.A.C. 7:9C-1.5.

“Classification exception area” means an area within which one or more constituent standards and designated uses are suspended in accordance with N.J.A.C. 7:9C-1.6.

“Conservation restriction” means the restricting of development on property as that term is defined under the New Jersey Conservation Restriction and Historic Preservation Restriction Act, N.J.S.A. 13:8B-1 et seq.

“Constituent” means a specific chemical substance (that is, element or compound) or water quality parameter (for example, temperature, odor, color).

“Constituent standard” means the required maximum level or concentration or the required range of levels or concentrations (as applicable) for a constituent in a classification area, as established in N.J.A.C. 7:9C-1.7, 1.8 and 1.9(a) and (b). The constituent standards shall be the basis for the Department’s regulation of ground water quality effects of past, present or future discharges to ground water or the land surface, pursuant to applicable authorities as defined in N.J.A.C. 7:9C-1.1.

“Conventional water supply treatment” means the chemical and physical treatment of ground water supplies for microbiological contaminants and undesirable naturally occurring substances resulting in treated water that meets all the

primary and secondary standards for those constituents stipulated by the New Jersey Safe Drinking Water Act regulations (N.J.A.C. 7:10-12).

“Criteria” means ground water quality criteria.

“Department” means the New Jersey Department of Environmental Protection.

“Designated use” means a present or potential use of ground water which is to be maintained, restored and enhanced within a ground water classification area, as determined by N.J.A.C. 7:9C-1.5. Designated uses may include