

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.1998 d.234, effective April 17, 1998.
See: 29 N.J.R. 5128(a), 30 N.J.R. 1778(a).

Chapter Expiration Date

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).

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: Source and Effective Date. See, also, section annotations.

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).

Cross References

Flood control, storm water systems, degradation of water quality, see N.J.A.C. 7:13-2.8.

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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.

“Ambient temperature” means the temperature of a waterbody beyond the portion of the waterbody that is affected by the localized heated waste discharge or discharge complex; or the temperature of a waterbody that would exist without the addition of heated discharges.

“Anadromous fish” means fish that spend most of their life in saline waters and migrate to fresh waters to spawn.

“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 non-point 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.

“Bioconcentration” means the net accumulation of a substance by an aquatic organism, as a result of uptake directly from the ambient water, through the gill membrane or other external body surfaces.

“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 (h), 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 characteristics because of their clarity, color, scenic setting, other characteristics of aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, or exceptional fisheries resource(s). These waters may include, but are not limited to:

1. Waters originating wholly within Federal, interstate, State, county, or municipal parks, forests, fish and wildlife lands, and other special holdings that have not been designated as FW1 at N.J.A.C. 7:9B-1.15(h) Table 6;
2. Waters classified at N.J.A.C. 7:9B-1.15(c) through (g) as FW2 trout production waters and their tributaries;
3. Surface waters classified in this subchapter as FW2 trout maintenance or FW2 nontrout that are upstream of waters classified in this subchapter as FW2 trout production;
4. Shellfish waters of exceptional resource value; or
5. Other waters and their tributaries that flow through, or border, Federal, State, county, or municipal parks, forests, fish and wildlife lands, and other special holdings.

“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