(b) Surface water quality criteria for PL waters are as follows:

1. These waters shall be maintained as to quality in their existing state or that quality necessary to attain or protect the designated uses, whichever is more stringent.

i. For Nitrate-Nitrogen a level of 2 mg/L shall be maintained in the surface waters unless it is shown that a lower level must be maintained to protect the existing surface water quality.

ii. A pH level between 3.5 and 5.5 shall be maintained unless it is demonstrated that a pH level outside of that range is necessary to protect the existing/designated uses.

2. The water quality criteria for existing discharges are the water quality criteria contained in "Surface Water Quality Standards" as adopted in March 1981, except that:

i. The criteria for Nitrate-Nitrogen and pH promulgated in N.J.A.C. 7:9B-1.14(b)1 for PL waters apply instead of the 1981 criteria; and

ii. The criteria for phosphorous, bacterial quality, and toxic substances promulgated in N.J.A.C. 7:9B-1.14(c) through (g) apply instead of the 1981 criteria, as though the freshwater portions of the PL waters were classified as FW2 and the saline portions were classified as SE1.

(c) Unless site-specific criteria are established at (g) below, Statewide criteria apply for FW2, SE, and SC waters as listed in accordance with (d) through (f) below.

(d) Surface water quality criteria for FW2, SE, and SC Waters:

N.J.A.C. 7:9B-1.14(d) General Surface Water Quality Criteria for FW2, SE and SC Waters:
(Expressed as Maximum concentrations unless otherwise noted)

Substance	Criteria	Classifications
1. Bacterial quality (Counts/100 ml)	i. Shellfish Harvesting: Bacterial Indicators shall not exceed, in all shellfish waters, the standard for approved shellfish waters as established by the National Shellfish Sanitation Program as set forth in its current manual of operations.	Shellfish Waters
	ii. Primary Contact Recreation:	
	(1) Enterococci levels shall not exceed a geometric mean of 35/100 ml, or a single sample maximum of 104/100 ml.	SE1 and SC
	(2) E. Coli levels shall not exceed a geometric mean of 126/100 ml or a single sample maximum of 235/100 ml.	All FW2
	iii. Secondary Contact Recreation:	
	(1) Fecal coliform levels shall not exceed a geometric mean of 770/100 ml.	SE2
	(2) Fecal coliform levels shall not exceed a geometric mean of 1500/100ml.	SE3
2. Dissolved oxygen (mg/L)	i. Not less than 7.0 at any time;	FW2-TP
	ii. 24 hour average not less than 6.0. Not less than 5.0 at any time (see paragraph viii below);	FW2-TM
	iii. 24 hour average not less than 5.0, but not less than 4.0 at any time (see paragraph viii below);	FW2-NT (except as in iv below), FW2-NT (except as in iv below), SE1
	iv. Not less than 4.0 at any time;	Tidal portions of FW2-NT tributaries to the Delaware River, between Rancocas Creek and Big Timber Creek inclusive.
	v. Not less than 5.0 at any time;	SC
	vi. Not less than 4.0 at any time;	SE2
	vii. Not less than 3.0 at any time;	SE3
	viii. Supersaturated dissolved oxygen values shall be expressed as their corresponding 100 percent saturation values for purposes of calculating 24 hour averages.	FW2-TM, FW2-NT, SE1
3. Floating, colloidal, color and settleable solids; petroleum hydrocarbons and other oils and grease	i. None noticeable in the water or deposited along the shore or on the aquatic substrata in quantities detrimental to the natural biota. None which would render the waters unsuitable for the designated uses.	All Classifications

Substance		Criteria	Classifications
4. pH (Standard Units)	i.	6.5-8.5	FW2 waters listed at 1.15(d), (f), (g) and (i), All SE
	ii.	4.5 – 7.5	FW2 waters listed at 1.15(c), (e) and (h)
	iii.	Natural pH conditions shall prevail.	
5. Phosphorus, Total (mg/L)	i.	Lakes: Phosphorus as total P shall not exceed 0.05 in any lake, pond or reservoir, or in a tributary at the point where it enters such bodies of water, except where watershed or site-specific criteria are developed pursuant to N.J.A.C. 7:9B-1.5(g)3.	FW2
	ii.	Streams: Except as necessary to satisfy the more stringent criteria in paragraph i above or where watershed or site-specific criteria are developed pursuant to N.J.A.C. 7:9B-1.5(g)3, phosphorus as total P shall not exceed 0.1 in any stream, unless it can be demonstrated that total P is not a limiting nutrient and will not otherwise render the waters unsuitable for the designated uses.	FW2
6. Radioactivity	i.	Prevailing regulations including all amendments and future supplements thereto adopted by the U.S. Environmental Protection Agency pursuant to Sections 1412, 1445, and 1450 of the Public Health Services Act, as amended by the Safe Drinking Water Act (PL 93-523).	All Classifications
7. Solids, Suspended (mg/L) (Non-filterable residue)	i.	25.0	FW2-TP, FW2-TM
	ii.	40.0	FW2-NT
8. Solids, Total Dissolved (mg/L)(Filterable Residue)	i.	No increase in background which may adversely affect the survival, growth or propagation of the aquatic biota. Compliance with water quality-based WET limitations or $LC_{50} \geq 50$ percent, whichever is more stringent, shall be deemed to meet this requirement.	FW2
	ii.	No increase in background which would interfere with the designated or existing uses, or 500 mg/L, whichever is more stringent.	FW2
	iii.	None of which would render the water unsuitable for the designated uses.	All SE
9. Sulfate (mg/L)	i.	250	FW2
10. Taste and odor producing substances	i.	None offensive to humans or which would produce offensive taste or odors in water supplies and biota used for human consumption. None which would render the waters unsuitable for the designated uses.	All Classifications
11. Temperature	i.	Temperatures shall not exceed a daily maximum of 22 degrees Celsius or rolling seven-day average of the daily maximum of 19 degrees Celsius, unless due to natural conditions	FW2-TP
	ii.	Temperatures shall not exceed a daily maximum of 25 degrees Celsius or rolling seven-day average of the daily maximum of 23 degrees Celsius, unless due to natural conditions	FW2-TM
	iii.	Temperatures shall not exceed a daily maximum of 31 degrees Celsius or rolling seven-day average of the daily maximum of 28 degrees Celsius, unless due to natural conditions	FW2-NT
	iv.	No thermal alterations which would cause temperatures to exceed 29.4 degrees Celsius (85 degrees Fahrenheit) Summer seasonal average	SE
	v.	No thermal alterations which would cause temperatures to exceed 26.7 degrees Celsius (80 degrees Fahrenheit) Summer seasonal average	SC
12. Toxic Substances (general)	i.	None, either alone or in combination with other substances, in such concentrations as to affect humans or be detrimental to the natural aquatic biota, produce undesirable aquatic life, or which would render the waters unsuitable for the designated uses.	All Classifications

Amended by R.2006 d.372, effective October 16, 2006.
See: 37 N.J.R. 3480(a), 4121(a), 4368(a), 38 N.J.R. 4449(a).

In (b)2ii, inserted ", bacterial quality," and "through (g)"; added (c); recodified former (c) and (d) as (d) and (h); in (d), added colon at end of table title; rewrote (d)1 and (d)11; deleted (d)13; recodified former (d)14 as (d)13; deleted footnote following (d)13, and added (e) through (g).
Amended by R.2009 d.372, effective December 21, 2009.
See: 41 N.J.R. 1565(a), 41 N.J.R. 4735(a).

Rewrote (d), (f)7, and (g); and in (h), substituted "the DRBC Water Quality Regulations" for "'Delaware River Basin Commission, Administrative Manual—Part III, Water Quality Regulations,' Article 3, dated October 23, 1996, including all amendments and future supplements thereto" throughout.

Case Notes

Initial Decision (2008 N.J. AGEN LEXIS 74) adopted, which concluded that DEP did not engage in illegal rulemaking when it decided in 2002 to require N.J.A.C. 7:9B-1.14(d)(5)(ii), the phosphorus standard, to be enforced as written, rather than in the manner it previously had been enforced; DEP emphasized that technology to fully implement the rule did not exist when the rule was adopted in 1985. DEP did not attempt to impose new requirements that were not contained in or readily inferable from the regulation itself, and proper enforcement of the rule resulting in harsher restrictions on permittees did not mean the agency acted outside its authority. Sussex County Mun. Utilities Auth./Upper Wallkill v. N.J. Dep't of Envtl. Prot., OAL Dkt. No. EWR 11017-03, 2008 N.J. AGEN LEXIS 683, Final Decision (April 28, 2008).

Operator of sewage treatment facility did not rebut the presumption in N.J.A.C. 7:9B-1.14(d)(5)(ii) for applying the 0.1 mg/L standard for phosphorus, as the operator failed to obtain pre-approval for its stream impairment assessments as required by the Technical Manual; thus, DEP properly declined to consider them. Sussex County Mun. Utilities Auth./ Upper Wallkill v. N.J. Dep't of Envtl. Prot., OAL Dkt. No. EWR 11017-03, 2008 N.J. AGEN LEXIS 683, Final Decision (April 28, 2008).

7:9B-1.15 Surface water classifications for the waters of the State of New Jersey

(a) This section contains the surface water classifications for the waters of the State of New Jersey. Surface water classifications are presented in tabular form. Subsections (c) through (i) contain surface water classifications by major drainage basin. Subsection (j) lists FW1 waters by tract within basins and subsection (k) identifies the Outstanding National Resource Waters of the State. Interstate waters of the mainstem Delaware River are under the jurisdiction of the DRBC and designations are contained in the DRBC Water Quality Regulations.

(b) The following are instructions for the use of N.J.A.C. 7:9B-1.15(c) through (j) below, respectively:

1. The surface water classification subsections give the surface water classifications and antidegradation designations for waters of the State.

2. Within each basin the waters are listed alphabetically and segment descriptions begin at the headwaters and proceed downstream.

3. To find a stream:

i. Determine which major drainage basin the stream is in;

ii. Look for the name of the stream in the appropriate table and find the classification;

iii. For unnamed or unlisted streams, find the stream or other waterbody that the stream of interest flows into and look for the classification of that stream or waterbody. The classification of the stream of interest may then be determined by referring to (b)5 below. If the second stream or waterbody is also unlisted, repeat the process until a listed stream or waterbody is found. Use (b)5iv below to classify streams entering unlisted lakes.

4. To find a lake or other non-stream waterbody:

i. Determine which major drainage basin the waterbody is in;

ii. Look for the waterbody name in the appropriate table;

iii. If the waterbody is not listed, use (b)5ii, 5iii, 5vi, and 5vii below to determine the appropriate classification.

5. To find waterways or waterbodies not listed at N.J.A.C. 7:9B-1.15(c) through (i), use the following instructions:

i. Unnamed or unlisted freshwater streams that flow into streams classified as FW2-TP, FW2-TM, or FW2-NT take the classification of the classified stream they enter, unless the unlisted stream is a PL water which is covered in (b)5vii below. If the stream could be a C1 water, see (b)5vi below.

ii. All freshwater lakes, ponds and reservoirs that are five or more acres in surface area, that are not located entirely within the Pinelands Area boundaries (see (b)5vii below) and that are not specifically listed as FW2-TP or FW2-TM are classified as FW2-NT. This includes lakes, ponds and reservoirs on segments of streams which are classified as FW2-TM or FW2-TP such as Saxton Lake on the Musconetcong River. If the waterbody could be a C1 water, also check (b)5vi below.

iii. All freshwater lakes, ponds and reservoirs, that are less than five acres in surface area, upstream of and contiguous with FW2-TP or FW2-TM streams, and which are not located entirely within the Pinelands Area boundaries (see(b)5vii below) are classified as FW2-TM. All other freshwater lakes, ponds and reservoirs that are not otherwise classified in this subsection or the following tables are classified as FW2-NT. If the waterbody could be a C1 water, also check (b)5vi below.

iv. Unnamed or unlisted streams that enter FW2 lakes, ponds and reservoirs take the classification of either the listed tributary stream flowing into the lake with the highest classification or the listed tributary stream leaving the lake with the highest classification, whichever has the highest classification, or, if there are no listed tributary or outlet streams to the lake, the first

listed stream downstream of the lake. If the stream is located within the boundaries of the Pinelands Area, see (b)5vii below; if it could be a C1 water, also see (b)5vi below.

v. Unlisted saline waterways and waterbodies are classified as SE1 in the Atlantic Coastal Basin. Unlisted saline waterways, which enter SE2 or SE3 waters in the Passaic, Hackensack and New York Harbor Complex basin are classified as SE2 unless otherwise classified in (f) below. Freshwater portions of unlisted streams entering SE1, SE2 or SE3 waters are classified as FW2-NT. This only applies to waters that are not PL waters (see (b)5vii below). If the waterbody or waterway could be a C1 water, also see (b)5vi below.

vi. All waterbodies that have been designated by the Department as Category One are specifically listed in (c) through (i).

vii. All waterways or waterbodies, or portions of waterways or waterbodies, that are located within the boundaries of the Pinelands Area established at N.J.S.A. 13:18A-11a are classified as PL unless they are listed as FW1 waters in (j) below. A tributary entering a PL stream is classified as PL only for those portions of the tributary that are within the Pinelands Area. Lakes are classified as PL only if they are located entirely within the Pinelands Area.

6. The following 10 classifications are used for the sole purpose of identifying the water quality classification of the waters listed in the tables in (c) through (j) below:

i. "FW1" means those fresh waters, as designated in (j) below, and as defined at N.J.A.C. 7:9B-1.4.

ii. "FW2-TP" means FW2 trout production.

iii. "FW2-TM" means FW2 trout maintenance.

iv. "FW2-NT" means FW2 nontrout.

v. "PL" means Pinelands Waters.

vi. "SE1" means saline estuarine waters whose designated uses are listed in N.J.A.C. 7:9B-1.12(d).

vii. "SE2" means saline estuarine waters whose designated uses are listed in N.J.A.C. 7:9B-1.12(e).

viii. "SE3" means saline estuarine waters whose designated uses are listed in N.J.A.C. 7:9B-1.12(f).

ix. "SC" means the general surface water classification applied to saline coastal waters.

x. FW2-NT/SE1 (or a similar designation that combines two classifications) means a waterway in which there may be a salt water/fresh water interface. The exact point of demarcation between the fresh and saline waters must be determined by salinity measurements and is that point where the salinity reaches 3.5 parts per thousand at mean high tide. The stream is classified as FW2-NT in the fresh portions (salinity less than or equal to 3.5 parts per thousand at mean high tide) and SE1 in the saline portions.

7. The following water quality designations are used in (c) through (i), respectively, below:

i. "(C1)" means Category One waters;

ii. "(tp)" indicates trout production in waters which are classified as FW1. This is for information only and does not affect the water quality criteria for those waters;

iii. "(tm)" indicates trout maintenance in waters which are classified as PL or FW1. For FW1 waters this is for information only and does not affect the water quality criteria for those waters.

(c) The following surface water classifications are for waters of the Atlantic Coastal Basin:

Waterbody	Classification
ABRAMS CREEK	
(Marmora)—Entire length, except portion outside the boundaries of the MacNamara Wildlife Management Area	FW2-NT/SE1(C1)
(Griscom)—Portions of the Creek and tributaries outside of the MacNamara Wildlife Management Area	FW2-NT/SE1
ABSECON BAY (Absecon)—All waters within Absecon Wildlife Management Area	SE1(C1)
ABSECON CREEK	
(Egg Harbor)—North and South Branches from their origins downstream to the boundary of the Pinelands Protection and Preservation Area	PL
(Absecon)—Boundary of the Pinelands Protection and Preservation Area to Mill Road Dam	FW2-NT
(Absecon)—Mill Road Dam to Absecon Bay, except portions within Absecon Wildlife Management Area	SE1
ARNOLD POND (Barnegat)	FW2-NT/SE1(C1)
ATLANTIC OCEAN	
(Offshore)—Waters from the shoreline out to the three mile limit, except areas described below	SC
(Beach Haven)—Waters of the Atlantic Ocean out to the State's three mile limit from Beach Haven Inlet to Cape May Point, excluding the following waters:	SC(C1)
1. (Atlantic City)—All of the Ocean waters inshore of a line that begins at the center of Convention Hall, Atlantic City bearing approximately 153 degrees T (True North) and extends 2.0 nautical miles to a point with coordinates of latitude 39 degrees 19.4 minutes N., longitude 74 degrees 25.1 minutes W., from this point, approximately 2 nautical miles offshore, the line runs parallel to the shoreline in a southwesterly direction for approximately 2.1 nautical miles to a point with coordinates of latitude 39 degrees 18.4 minutes N., longitude 74 degrees 27.5 minutes W., then bearing approximately 333 degrees T (reciprocal 153 degrees T) for approximately 1.9 nautical miles to the outermost tip of the Ventnor City Fishing Pier located at the Boardwalk and South Cambridge Ave., City of Ventnor, then along that pier to the shore and terminating.	
2. (Ocean City)—All of the ocean waters inshore of a line which begins at the City of Ocean City's Beach Patrol, First Aid and Rest Room	