

CHAPTER 9E
PRIVATE WELL TESTING ACT RULES

Authority

N.J.S.A. 58:12A-26 et seq.

Source and Effective Date

R.2002 d.315, effective September 16, 2002.
See: 34 N.J.R. 1606(a), 34 N.J.R. 3236(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 9E, Private Well Testing Act Rules, expires on March 14, 2008. See: 39 N.J.R. 4021(a).

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SUBCHAPTER 1. GENERAL PROVISIONS

7:9E-1.1 Scope and authority

(a) This chapter governs activities conducted by laboratories certified under the Department's Regulations Governing the Certification of Laboratories and Environmental Measurements, N.J.A.C. 7:18, for compliance with the Private Well Testing Act. Specifically, the chapter establishes water test parameters and requirements for the collection, analysis, and submittal of test results and establishes procedures and requirements for maintaining the confidentiality of any information submitted to the Department or other government agencies pursuant to the Private Well Testing Act and this chapter.

(b) This chapter shall not be construed to limit or preempt the authority of a county, county health department, health agency, or a designated health officer from making or causing to made such inspection and testing of a water supply as may be necessary to ensure the health and safety of the residents of New Jersey.

Law Review And Journal Commentaries

Implementing the Private Well Testing Act. Lewis Goldshore and Marsha Wolf, 169 N.J.L.J. 85 (2002).

7:9E-1.2 Definitions

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

"48-hour rapid gross alpha test" or "short term 48-hour gross alpha test" means a test performed in accordance with N.J.A.C. 7:18, within 48 hours from sample collection, in order to measure the presence of alpha-emitting radionuclides in the sample, including the short-lived alpha emitters such as radium-224.

"Act" means the Private Well Testing Act, P.L. 2001, c.40, N.J.S.A. 58:12A-26 et seq., which applies to buyers, sellers and lessors of certain real property as follows:

1. All contracts of sale for any real property the potable water supply for which is a private well located on the property, or for any other real property the potable water supply for which is a well that has less than 15 service connections or that does not regularly serve an average of at least 25 individuals daily at least 60 days out of the year, shall include a provision requiring, as a condition of the sale, the testing of that water supply for certain parameters as set forth in this chapter.

2. The lessor of any real property the potable water supply for which is a private well for which testing of the water is not required pursuant to any other State law, shall test that water supply for certain parameters as set forth in this chapter at least once every five years and, within 30 days after receipt of the test results, provide a written copy of the results to each rental unit and each new lessee.

"Action level" means the concentration of lead in drinking water which determines, in some cases, the need for treatment or remedial action, in accordance with N.J.A.C. 7:10-5.1.

"Acute parameter" means a contaminant in drinking water that has significant potential to have serious adverse effects on human health as a result of short-term exposure. For purposes of this chapter, "acute parameter" means coliform and nitrate.

"Analyze-immediately parameter" means a parameter for which analysis must be performed within 15 minutes after the sample is collected, in accordance with N.J.A.C. 7:18. Ex-

amples of analyze-immediately parameters include chlorine dioxide, dissolved oxygen with probe, pH, ozone, residual chlorine, sulfite, and temperature.

“Authorized representative” means a person other than an employee of a New Jersey certified laboratory from which a New Jersey certified laboratory accepts a drinking water well sample(s) and also accepts responsibility for such a sample(s) in accordance with the requirements of N.J.A.C. 7:18-9.1(c).

“Certified laboratory” or a “certified environmental laboratory” means any laboratory, facility, consulting firm, government or private agency, business entity or other person that the Department has authorized pursuant to the Regulations Governing the Certification of Laboratories and Environmental Measurements, N.J.A.C. 7:18, to perform analysis in accordance with the procedures of a given analytical method using a particular technique as set forth in a certain methods reference document, and to report the results from the analysis of environmental samples in compliance with a Department regulatory program.

“Certified environmental laboratory sample identification number” means a unique reference number assigned to individual samples by the laboratory for identification purposes.

“Contaminant” means a specific analyte or group of analytes that are included in the general term “parameter” defined in this section.

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

“Dwelling unit” means any building or portion of a building, permanent or temporary in nature, used or proposed to be used as a residence either seasonally or throughout the year.

“Exceedance” means the concentration of a contaminant that is greater than an MCL, action level, standard or recommended upper limit for that given contaminant.

“Global Positioning System (GPS) location” means a specific geographic location as determined by satellite radio signals. All GPS data coordinate locations must be collected and reported in accordance with Department standards for GPS data, N.J.A.C. 7:1D, Appendix A.

“Gross alpha particle activity” means the total radioactivity due to alpha particle emission as inferred from measurements set forth in N.J.A.C. 7:18, on a processed sample.

“Local health authority” means a county, regional or municipal health agency that serves as the lead point of contact with the Department on environmental issues. This agency

would ordinarily be the local health agency certified pursuant to the County Environmental Health Act, (CEHA), N.J.S.A. 26:3A2-21 et seq. In those counties that do not have a certified CEHA health agency, the local health authority is the agency that serves as the lead for administering the Local Information Networks and Communication System (LINCS) as designated by the Department of Health and Senior Services.

“Maximum contaminant level” or “MCL” means the maximum permissible level of a contaminant in drinking water. Maximum contaminant levels shall apply to non-public water systems, in accordance with the New Jersey Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq. and implementing rules at N.J.A.C. 7:10.

“Municipal code” means the four-digit numerical reference which identifies the location of a property within a given municipality.

“Parameter” means a general term that includes, but is not limited to, terms such as contaminant, constituent, substance, metal, organic chemical, and characteristics that are used to designate an analyte, group of analytes, attribute, or physical property for which a certified environmental laboratory may be approved to perform analysis of regulatory samples and report results.

“pH” means a numerical expression of the hydrogen ion concentration (acidity) of aqueous matrices. The range of pH values are from zero (high acidity-low alkalinity) to 7 (neutral), to 14 (low acidity-high alkalinity). pH is also known as a secondary parameter.

“Point-of-entry treatment device” means a water treatment device applied to the drinking water entering a house or building for the purpose of reducing contaminants in the drinking water distributed to the entire house or building.

“Point-of-use treatment device” or “point-of-delivery treatment device” means a water treatment device applied to a single tap for the purpose of reducing contaminants in drinking water at that one tap.

“Potable water” means any water used, or intended to be used, for drinking and/or culinary purposes which is free from impurities in amounts sufficient to cause disease or harmful physiological effects, and complies with the bacteriological and chemical quality conforming to applicable standards the New Jersey Safe Drinking Water Act rules, N.J.A.C. 7:10.

“Private well” means a potable water well that serves a dwelling unit and is located on the same real property as the dwelling unit.

“Private Well Water Test Reporting Form” means the standardized form prescribed by the Department to be used by a certified laboratory to disseminate well test results to its client in order to determine compliance with this chapter.

“Public notification” means general notice by the appropriate local health authority of well test failures to surrounding and/or neighboring owners of real property served by wells subject to this chapter, with recommendations to test for the parameters of concern to the owners of surrounding or neighboring properties served by wells.

“Recommended limit” means the optimum range of lower or upper limit for iron, manganese, and pH, in accordance with the New Jersey Safe Drinking Water Act rules at N.J.A.C. 7:10-7.

“Reporting laboratory” means the certified laboratory responsible for reporting the complete set of required information related to this chapter to the Department.

“Secondary parameter” means a drinking water contaminant regulated under this chapter for aesthetic purposes rather than health effects. Secondary parameter refers to pH, iron and manganese. Treatment for the removal or adjustment for these contaminants may be recommended when their reported levels exceed the recommended limits.

“Standard” means a water quality standard as defined in this section.

“Surface water” means water at or above the land’s surface, which is neither groundwater nor contained within the unsaturated zone, including, but not limited to, the ocean and its tributaries, all springs, streams, rivers, lakes, ponds, wetlands, and artificial water bodies, in accordance with the New Jersey Safe Drinking Water Act rules, N.J.A.C. 7:10.

“Water quality standard” or “drinking water quality standard” means a standard that applies to a contaminant that is required to be tested pursuant to the New Jersey Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq. and implementing rules at N.J.A.C. 7:10, that include maximum contaminant level, recommended limits, or an action level for lead analysis.

“Water test failure” means an exceedance of an applicable drinking water quality standard of a required test parameter under the Private Well Testing Act. This term includes all applicable maximum contaminant levels, recommended limits, or an action level for lead analysis.

“Water treatment system” means a device applied to the drinking water at a house or building for the purpose of reducing contaminants in the drinking water distributed in the house or building. Examples include point-of-entry devices and point-of-use devices, as defined in this section.

“Well” means a hole or excavation larger than four inches in diameter or a hole or excavation deeper than 10 feet in

depth that is drilled, bored, cored, driven, jetted, dug, or otherwise constructed for the purpose of removal or emplacement of, or investigation of, or exploration for, fluids, water, oil, gas, minerals, soil, or rock, or for the installation of an elevator shaft, in accordance with rules governing well construction and maintenance at N.J.A.C. 7:9D.

“Well permit” means a written approval issued by the Department, pursuant to the well construction and maintenance rules, at N.J.A.C. 7:9D, to a licensed well driller which authorizes a licensed well driller of the proper class to construct a well or wells. A designated numeric reference is assigned by the Department to individual State well permits.

“Well record” means the form provided by the Department that depicts the construction details of a well, which is completed by the well driller subsequent to well permit issuance and well installation.

7:9E-1.3 Severability

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

SUBCHAPTER 2. SAMPLING AND TESTING REQUIREMENTS

7:9E-2.1 Parameters for which testing is required

(a) Each water sample shall be analyzed for the following parameters:

1. Total coliform bacteria;
2. If the sample tests positive for total coliform bacteria, the sample shall be analyzed for either fecal coliform or *Escherichia coli*, in accordance with N.J.A.C. 7:18-4.6;
3. Nitrate;
4. Iron;
5. Manganese;
6. pH;
7. All volatile organic compounds for which maximum contaminant levels (MCLs) have been established under the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., and implementing rules, N.J.A.C. 7:10; and
8. Lead.

(b) In addition to the parameters listed at (a) above, water samples collected from Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Monmouth, Ocean, and Salem County locations shall be analyzed for mercury.

(c) In addition to the parameters listed at (a) above, water samples collected from Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Morris, Passaic, Somerset, and Union County locations shall be analyzed for arsenic.

(d) In addition to the parameters listed at (a) above, water samples collected from Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Hunterdon, Mercer, Middlesex, Monmouth, Ocean, and Salem County locations shall be tested for gross alpha particle activity.

1. For Cumberland and Gloucester counties, testing for this parameter shall be required as of (a date that is 180 days after the effective date of the rule establishing a 48-hour rapid gross alpha test at N.J.A.C. 7:18).

2. For Atlantic, Burlington, Camden, and Salem counties, testing for this parameter shall be required as of (a date that is one year after the effective date of the rule establishing a 48-hour rapid gross alpha test, N.J.A.C. 7:18).

3. For Cape May, Hunterdon, Mercer, Middlesex, Monmouth, and Ocean counties, testing for this parameter shall be required as of (a date that is 18 months after the effective date of the rule establishing a 48-hour rapid gross alpha test, N.J.A.C. 7:18).

Public Notice: Sufficient number of laboratories certified to perform short-term 48-hour Rapid Gross Alpha Test.

See: 35 N.J.R. 3720(b).

Public Notice: Sufficient number of laboratories certified to perform short-term 48-hour Rapid Gross Alpha Test.

See: 39 N.J.R. 3789(a).

7:9E-2.2 Collection requirements

(a) Water samples subject to this chapter shall be collected by either a New Jersey certified laboratory or the laboratory's authorized representative, as defined at N.J.A.C. 7:9E-1.2. The sample collector who analyzes for pH shall be an employee of a certified environmental laboratory, as defined at N.J.A.C. 7:18-1.7, which is certified to analyze for pH in accordance with the Regulations Governing the Certification of Laboratories and Environmental Measurements, N.J.A.C. 7:18.

(b) Water samples shall be collected and preserved in accordance with the Regulations Governing the Certification of Laboratories and Environmental Measurements, N.J.A.C. 7:18, and in accordance with the additional requirements set forth at N.J.A.C. 7:9E-2.3.

7:9E-2.3 Sample location

(a) Water sampling locations for compliance with this chapter shall be as follows:

1. If there is no water treatment system, as defined at N.J.A.C. 7:9E-1.2, in use on the subject property, samples shall be collected from a primary cold water, non-aerated spigot or tap that draws from, or feeds water to, the potable water system of the subject property.

2. Where a water treatment system is in use on the subject property, the sample shall be collected as follows:

i. The water treatment system shall be disconnected or otherwise disabled prior to the collection of the water sample; or

ii. The sample shall be collected at a location prior to the water treatment system.

(b) In the case of new well construction and installation where there is no spigot or tap on the subject property, the sample may be collected directly at the well head (raw water sample) as set forth in the Safe Drinking Water Act rules at N.J.A.C. 7:10-12.30.

(c) In addition to the requirements set forth at (a) and (b) above, before a water sample for lead analysis under this chapter is collected, water shall be flushed through the plumbing system for at least two minutes (until the water changes temperature), in accordance with N.J.A.C. 7:18.

7:9E-2.4 Testing requirements

All water samples collected under this chapter shall be analyzed by a laboratory certified for those parameters subject to this chapter, using Safe Drinking Water Methods as set forth in the Regulations Governing the Certification of Laboratories and Environmental Measurements, N.J.A.C. 7:18, and in accordance with this chapter.

SUBCHAPTER 3. REPORTING AND DATA VALIDITY

7:9E-3.1 Reporting requirements for laboratories

(a) The reporting laboratory shall, subject to (c) below, within five business days after completion of analyses of water samples:

1. Provide the following information to the person(s) who requested the test. The information shall be provided on the Department's "Private Well Water Test Reporting Form", which is available by logging on to the Department's website at www.state.nj.us/dep/pwta; or by contacting the Department's Hotline for Private Well Testing Act Program Hotline. The form shall include the following information:

i. The name, telephone number and mailing address of person(s) who requested the test;

ii. The name of the laboratory employee or name of authorized representative(s) of the laboratory who collected the water sample;

iii. The analytical method used for each parameter tested pursuant to this chapter;

iv. The analytical results for each parameter tested pursuant to this chapter;