

SERIOUSNESS OF THE VIOLATION

TYPE OF WATER SYSTEM	Minor	Moderate	Major
Very small	\$5,000	\$7,500	\$10,000
Small	\$6,000	\$9,000	\$12,000
Medium	\$7,000	\$11,000	\$15,000
Large	\$8,000	\$15,000	\$22,000

(g) The Department may adjust the amount of any penalty assessed pursuant to (f) above based upon any or all of the factors listed in (g)1 through 5 below. No such factor constitutes a defense to any violation. In no case shall the assessed penalty be more than \$5,000 for each first offense, less than \$5,000 or more than \$10,000 for the second offense, and less than \$5,000 or more than \$25,000 for the third and each subsequent offense.

1. The frequency with which any violation of the State Act, rules, permit or order occurred;
2. The timely implementation by the violator of measures leading to compliance;
3. The nature, timing and effectiveness of measures taken to mitigate the effects of the violation or prevent future similar violations, and the extent to which such measures are in addition to those required under an applicable statute or rule;
4. The deterrent effect of the penalty; and/or
5. Any other mitigating, extenuating, or aggravating circumstances.

Amended by R.2000 d.354, effective August 21, 2000.

See: 31 N.J.R. 2717(a), 32 N.J.R. 3106(a).

In (d)iv, inserted "primary" preceding "contaminant".

7:10-3.7 Civil administrative penalty for failure to pay a fee

(a) The Department may assess a civil administrative penalty pursuant to this section against any person who fails to pay a fee when due pursuant to the State Act, or any regulation, rule or permit adopted or issued pursuant thereto.

(b) The amount of the civil administrative penalty for a violation pursuant to this section shall be in an amount equal to the unpaid fee or \$250.00, whichever is greater, up to a maximum of \$5,000 for the first offense; two times the unpaid fee or \$500.00, whichever is greater, up to a maximum of \$10,000 for the second offense; and three times the unpaid fee or \$750.00, whichever is greater, up to a maximum of \$25,000 for the third and each subsequent offense.

7:10-3.8 Civil penalties for violations of the State Act

(a) Any person who violates the provisions of the State Act, any regulation, rule, permit, or order adopted or issued by the Department pursuant thereto, or an administrative order or a court order issued pursuant to the State Act, or who fails to pay a civil administrative penalty in full pursuant to N.J.A.C. 7:10-3.4(b), shall be subject, upon order of a

court, to a civil penalty of not more than \$10,000 for each violation, and each day during which a violation continues shall constitute an additional, separate, and distinct violation.

(b) Any penalty established pursuant to this section may be imposed and collected with costs in a summary proceeding pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58-1 et seq. The Superior Court shall have jurisdiction to enforce the provisions of the Penalty Enforcement Law in connection with the State Act.

7:10-3.9 Civil actions for violations of the State Act

The Department may institute an action or proceeding in a court of competent jurisdiction for injunctive and other relief for any violation of the State Act, or any regulation, rule, permit or order adopted or issued by the Department pursuant thereto, and the court may proceed in the action in a summary manner.

SUBCHAPTER 4. DISINFECTION

7:10-4.1 Disinfection

(a) Except in accordance with (b) below, every supplier of water from a public community water system shall disinfect all water in accordance with the method and equipment requirements of N.J.A.C. 7:10-11.16 in order to ensure delivered water is of microbiologically safe quality.

(b) Except for public community water systems that use surface water source(s), the supplier of water from a water system that serves 100 or fewer dwellings or properties may elect not to disinfect its water, provided it increases the number of microbiological samples taken from its distribution system to a minimum of two samples per month at biweekly intervals.

(c) Notwithstanding (a) and (b) above, any supplier of water from any public community water system or public noncommunity water system may be required to disinfect its water if the Department determines that said water is microbiologically unacceptable.

(d) Any supplier of water from a public community water system that purchases treated water from another public water system on a regular or continuous basis may be required to redisinfect said water if deemed necessary by the Department.

SUBCHAPTER 5. STATE PRIMARY DRINKING WATER REGULATIONS

7:10-5.1 Applicability of National Regulations

Except as provided in this subchapter, the Department adopts and incorporates herein by reference the National

Primary Drinking Water Regulations, as amended and supplemented, including all siting requirements, filtration and disinfection requirements, maximum contaminant levels, monitoring and analytical requirements, reporting requirements, public notification requirements and recordkeeping requirements, as the New Jersey primary drinking water regulations, applicable to all public water systems. The maximum contaminant levels and action levels in this subchapter shall, in addition, apply to nonpublic water systems, and shall be subject to monitoring requirements established by the appropriate administrative authority. Copies of the National Regulations may be obtained from either the Drinking Water Section of the Water Programs Branch, U.S. Environmental Protection Agency, 290 Broadway, New York, New York 10007-1861, (212) 637-3880; or the Bureau of Safe Drinking Water, Water Supply Administration, Department of Environmental Protection, PO Box 426, Trenton, New Jersey 08625-0426, (609) 292-5550.

Amended by R.2000 d.354, effective August 21, 2000.
See: 31 N.J.R. 2717(a), 32 N.J.R. 3106(a).

Rewrote the last sentence.

Case Notes

Federal regulations on primary drinking water adopted by the State; construction permit application denied due to anticipated nitrate production. Andover Mobile Home Park v. Dept. of Environmental Protection, 4 N.J.A.R. 420 (1981).

7:10-5.2 Discretionary changes to National Regulations

(a) In accordance with the discretionary authority permitted by the National Regulations, for compliance with the State primary drinking water regulations, the following shall apply:

1. Surface water treatment requirements shall be those established under the National Regulations except as provided in N.J.A.C. 7:10-9.

2. Microbiological monitoring shall be undertaken as required under the National Regulations, except:

i. The Department will not reduce the microbiological sampling frequency to less than one sample per month for a public community water system serving 25 to 1000 persons; and

ii. The Department will not reduce the microbiological sampling frequency to less than one sample per quarter for a public noncommunity water system (transient or nontransient) using only ground water source(s) and serving 25 to 1000 persons.

3. Inorganics (IOCs) monitoring requirements and MCLs shall be those established under the National Regulations and at (a)7 below.

4. MCLs for volatile organic compounds (VOCs) shall be those established under the National Regulations and at N.J.A.C. 7:10-5.2(a)7 except as listed in Table 1, below, for State-regulated contaminants.

Table 1
MCLs FOR STATE-REGULATED CONTAMINANTS

State-regulated contaminant	MCL (in $\mu\text{g/l}$ or ppb)
Benzene	1
Carbon tetrachloride	2
Chlorobenzene	50
1,3-Dichlorobenzene	600
1,2-Dichloroethane	2
1,1-Dichloroethylene	2
Methylene chloride	3
Tetrachloroethylene	1
Trichlorobenzene(s)	9
1,1,1-Trichloroethane	30
Trichloroethylene	1
Xylene(s)	1000
1,1-Dichloroethane	50
1,1,2-Trichloroethane	3
1,1,2,2-Tetrachloroethane	1
Naphthalene	300
Methyl tertiary butyl ether (MTBE)	70

i. As of January 1, 1997, monitoring requirements for all VOCs, including State-regulated contaminants, shall be those established under the National Regulations.

5. For public noncommunity water systems, monitoring requirements and MCLs for VOCs shall be those established under the National Regulations, except that the MCLs for State-regulated contaminants shall be those listed in Table 1 at (a)4 above.

6. MCLs for synthetic organic compounds (SOCs) and pesticides shall be those established under the National Regulations except for the State-regulated contaminant chlordane, for which an MCL of 0.5 $\mu\text{g/l}$ shall apply.

7. As required pursuant to 40 CFR 142.16, the monitoring period for each contaminant group, specifically, inorganics (except asbestos, nitrate and nitrite), volatile organic compounds and synthetic organic compounds, shall be as follows:

Monitoring Period	Water System Type
Year one of the three year Federal compliance period (that is, 1996, 1999, 2002)	All public community water systems (PCWS) using a surface water source(s) or all PCWS serving a population greater than 10,000.
Year two of the three year Federal compliance period (that is, 1997, 2000, 2003)	All public community water systems using a ground water source(s) serving a population equal to or less than 10,000.
Year three of the three year Federal compliance period (that is, 1998, 2001, 2004)	Public nontransient noncommunity water systems.

8. MCLs and monitoring requirements for disinfectants and disinfection by-products shall be those established under the National Regulations.

9. Action levels and monitoring requirements for lead and copper shall be those established under the National Regulations.

10. Subject to (a)10i below, MCLs and monitoring requirements for radionuclides shall be those established under the National Regulations.

i. Compliance with the MCL shall be individually determined at each sampling location including points of entry to the water distribution system, when individually directed by the Department, based on a running annual average of all quarterly sampling results from each of the sampling location.

11. The Department may allow monitoring waivers for public water systems pursuant to 40 CFR 141.23(c) and 141.24(f) and (h) of the National Regulations.

12. Subject to (a)12i below, suppliers of water from a bulk purchase system are subject only to the microbiological monitoring and lead and copper monitoring requirements of this section.

i. Effective January 1, 2004, a supplier of water from a bulk purchase system that regularly derives its water from another water system using a surface water source(s) and provides water to more than 100 service connections shall at a minimum collect a quarterly disinfection by-products sample from a point within the water distribution system with maximum residence time to be tested for Total Trihalomethanes (THM4) and Total Trihaloacetic Acids (HAA5) disinfection by-products.

Amended by R.2000 d.354, effective August 21, 2000.
See: 31 N.J.R. 2717(a), 32 N.J.R. 3106(a).
In (a), rewrote 10 and 12.

7:10-5.3 Analytical requirements

(a) The monitoring and analytical requirements for determining compliance with the maximum contaminant levels shall be those established under the National Regulations.

(b) Any analysis required under this chapter shall be conducted at a certified laboratory, certified in accordance with N.J.A.C. 7:18, for the specific analytical method used.

(c) Each analysis shall be conducted using a method capable of achieving an MDL below the MCL for the contaminant being analyzed.

(d) A supplier of water from a public community water system, when submitting any sample analysis to the Department, shall provide the following:

1. The test result for all contaminants tested for as part of the analytical method;
2. Any test result that exceeds a specified MDL; and
3. A description of the quality control procedures followed applicable to the analysis submitted.

7:10-5.4 Reporting requirements

(a) Except where a shorter reporting period is required by the National Regulations, each supplier of water shall submit a compliance sampling report to the Department within the first 10 calendar days of the month following the month in which any test, measurement or analysis is made. The compliance sampling report, containing the sampling results for microbiological contaminants, inorganic compounds, volatile organic compounds, synthetic organic compounds, radionuclides and lead and copper analyses, shall be prepared in a format prescribed by and on forms available from and submitted to, the Department at the following address:

Bureau of Safe Drinking Water
Water Supply Administration
New Jersey Department of Environmental Protection
PO Box 426
Trenton, New Jersey 08625-0426

(b) Within 180 days of receipt of written notification from the Department, each supplier of water shall ensure that all compliance sampling reports are submitted to the Department electronically in a manner compatible with Department's computer system either by diskette or by direct electronic transmission. Public water systems serving fewer than 3,300 persons shall be exempt from the requirement to submit sampling reports electronically.

(c) Each supplier of water from a public community water system shall report by telephone within 48 hours or on the next business day, whichever is sooner, to the Bureau of Safe Drinking Water at (609) 292-5550, the supplier's failure to comply with any primary drinking water regulation, including any failure to comply with any monitoring requirement pursuant to this subchapter. A supplier of water shall report any acute violation by telephone to the Department as soon as the supplier becomes aware of such acute violation.

(d) A supplier of water is not required to submit a compliance sampling report to the Department if the Department conducts the sampling and if the State laboratory performs the sample analysis and reports the results directly to the Department.

(e) Each supplier of water from a public community water system shall submit a monthly report consisting of the daily records maintained pursuant to N.J.A.C. 7:10-5.6 by the 10th day of the month following the month for which the records contained in the report are compiled.

Amended by R.2000 d.354, effective August 21, 2000.
See: 31 N.J.R. 2717(a), 32 N.J.R. 3106(a).

In (b), substituted "Within 180 days of receipt of written notification from the Department" for "Beginning on January 1, 1999" at the beginning.

7:10-5.5 Public notification

(a) Each supplier of water shall provide public notification of any violation of any MCL or monitoring requirement in accordance with the National Regulations pursuant to 40 CFR 141.32.

(b) Any supplier of water from a public noncommunity water system which the administrative authority determines is not in compliance with any primary drinking water regulation, including any monitoring requirement, shall immediately post a notice of such failure in a place conspicuous to consumers in a format prescribed in the National Regulations pursuant to 40 CFR 141.32. The notice shall remain posted until the administrative authority determines that the system is restored to compliance.

7:10-5.6 Recordkeeping

A supplier of water shall keep and maintain all records required under the National Regulations and also maintain daily records of water pumpage, quantities of chemicals used for water treatment and routine test results.

7:10-5.7 Remediation requirements and procedures

(a) Except as provided pursuant to (b) below, the supplier of water that analyzes and reports pursuant to this subchapter any violation of a newly promulgated MCL for any of the contaminants regulated pursuant to this subchapter shall, within one year of receipt of the results of the tests conducted pursuant to the National Regulations and N.J.A.C. 7:10-5.2 that demonstrate such exceedance, take any action necessary to bring the water into compliance with the applicable MCL.

(b) The Department may require by administrative order that the supplier of water take prompt action to bring the water into compliance with the applicable MCL upon a determination that such action is necessary to abate an immediate public health threat.

(c) The Department may extend the deadline by which the supplier of water must achieve compliance with the applicable MCL after a public hearing and its determination that the extension shall not pose an imminent threat to public health, if new construction of a treatment plant is required.

(d) If the supplier of water fails to take action to bring the water into compliance with the applicable MCL pursuant to (a) above, the Department may take one or more of the following actions:

1. Seek to enjoin the supplier of water from continuing to supply water to the public;
2. Establish a program to bring the public water system into compliance;
3. Provide the customers of the public water system with an alternate potable water supply; and/or

4. Seek penalties in accordance with N.J.A.C. 7:10-3.

SUBCHAPTER 6. VARIANCES AND EXEMPTIONS

7:10-6.1 Variances

(a) The Department may grant to any public water system one or more variances from maximum contaminant levels upon a finding that:

1. Because of characteristics of the raw water sources, the system cannot meet a maximum contaminant level despite application of the best technology, treatment techniques, or other means, which the Department finds are generally available (taking costs into consideration); and
2. The granting of a variance will not result in an unreasonable risk to the health of persons served by the system.

(b) The Department may grant to any public water system one or more variances from any requirement of a specified treatment technique of an applicable national primary drinking water regulation upon a finding that such treatment technique is not necessary to protect the health of persons because of the nature of the raw water source of such system, and that the granting of the variance or variances will not result in an unreasonable risk to the health of the persons served by the system. A variance issued pursuant to this subsection shall be conditioned on such monitoring and compliance schedule as the Department may prescribe.

(c) A variance pursuant to this subchapter shall be granted only under conditions and in a manner which are no less stringent than those under which a variance may be granted under the Federal Act.

(d) A supplier of water seeking a variance pursuant to this subchapter shall submit a request in writing to the Department that includes the following information:

1. The nature and duration of the variance requested;
2. Relevant analytical results of water quality sampling of the system, including results of relevant tests conducted pursuant to the requirements of this chapter;
3. A full explanation and evidence of the best available treatment technology and techniques;
4. Economic and legal factors relevant to ability to comply;
5. Analytical results of raw water quality relevant to the variance request;
6. A proposed compliance schedule, including the date each step toward compliance will be achieved;

7. A plan for the provision of safe drinking water in the case of an excessive rise in the contaminant level for which the variance is requested;

8. A plan for additional interim control measures during the effective period of variance; and

9. A statement that the supplier of water will conduct monitoring and meet other requirements prescribed by the Department as a condition of the variance.

(e) The Department shall act on any variance request within 90 days of receipt of a request with complete information required pursuant to (d) above. In determining whether to grant a variance the Department will consider the following factors:

1. For a variance pursuant to (a) above from maximum contaminant levels due to the raw water source:

i. The availability and effectiveness of treatment methods for the contaminant for which the variance is requested; and

ii. Cost and other economic considerations such as implementing treatment, improving the quality of the raw water source, or using an alternate source.

2. For a variance pursuant to (b) above from treatment techniques deemed to be unnecessary to protect health:

i. Quality of the raw water source including water quality data and pertinent sources of pollution; and

ii. Source protection measures employed by the public water system.

7:10-6.2 Exemptions

(a) The Department may grant to any public water system one or more exemptions from maximum contaminant levels or treatment technique requirements, or both, upon a finding that:

1. Due to compelling factors (which may include economic factors), the public water system is unable to comply with such maximum contaminant level or treatment technique;

2. The public water system was in operation on the effective date of such maximum contaminant level or treatment technique; and