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CHAPTER 10

SAFE DRINKING WATER ACT

Authority

N.J.S.A. 13:1D-1 et seq., 58:12A-1 et seq., 58:11-64 et seq., 58:11-23 et seq., 58:11-9.1 et seq., and 58:10A-1 et seq.

Source and Effective Date

R.1996 d.536, effective November 18, 1996.
See: 27 N.J.R. 4064(a), 28 N.J.R. 4900(a).

Executive Order No. 66(1978) Expiration Date

Chapter 10, Safe Drinking Water Act, expires on November 18, 2001.

Chapter Historical Note

Chapter 10, Safe Drinking Water Act, was originally filed and became effective prior to September 1, 1969.

1977 Revisions: Subchapter 5, Licensing of Superintendents or Operators, was amended by R.1977 d.477, effective December 16, 1977. See: 9 N.J.R. 461(a), 10 N.J.R. 10(c).

1978 Revisions: Subchapter 3, Standards for the Construction of Public Non-Community and Non-Public Water Systems, was amended by R.1978 d.21, effective January 3, 1978; R.1978 d.102, effective June 1, 1978; and R.1978 d.182, effective July 1, 1978. See: 9 N.J.R. 115(b), 10 N.J.R. 61(b), 10 N.J.R. 146(d), 10 N.J.R. 279(b).

1979 Revisions: Subchapters 1, 2 and 4 were repealed; Subchapter 3, Standards for the Construction of Public Non-Community and Non-Public Water Systems, was recodified to Subchapter 12; Subchapter 5, Licensing of Superintendents or Operators, was recodified to Subchapter 13; and Subchapters 1 through 11 were adopted as new rules by R.1979 d.271, effective July 13, 1979. See: 11 N.J.R. 170(a), 11 N.J.R. 374(b).

1981 Revisions: Subchapter 8 was repealed by R.1981 d.279, effective August 6, 1981. See: 13 N.J.R. 260(d), 13 N.J.R. 481(c). Rules concerning laboratory certification and standards of performance are now found at N.J.A.C. 7:18.

1983 Revisions: Pursuant to Executive Order No. 66(1978), Chapter 10 was readopted as R.1983 d.244, effective June 3, 1983. See: 15 N.J.R. 592(a), 15 N.J.R. 1019(c).

1984 Revisions: Subchapter 13 was repealed and a new Subchapter 13 was adopted by R.1984 d.284, effective July 2, 1984. See: 16 N.J.R. 959(a), 16 N.J.R. 1740(a). Subchapter 14, Interim Safe Drinking Water Act Testing Schedule for Hazardous Contaminants by Public Community Water Systems, was adopted by R.1984 d.400, effective September 4, 1984. See: 16 N.J.R. 1301(a), 16 N.J.R. 2362(a).

1989 Revisions: Subchapter 15, Fees, and Subchapter 16, Safe Drinking Water Act Maximum Contaminant Levels for Hazardous Contaminants, were adopted by R.1989 d.28 and d.12, respectively, effective January 3, 1989. See: 21 N.J.R. 43(a) and 21 N.J.R. 46(a). Pursuant to Executive Order No. 66(1978), Chapter 10 was readopted as R.1989 d.514, effective September 1, 1989. See: 21 N.J.R. 1945(a), 21 N.J.R. 3098(a).

1990 Revisions: Notice of a petition for rulemaking was filed with the Office of Administrative Law on March 19, 1990. See: 22 N.J.R. 1275(a).

1994 Revisions: Pursuant to Executive Order No. 66(1978), Chapter 10 was readopted as R.1994 d.482, effective August 25, 1994. See: 26 N.J.R. 2720(a), 26 N.J.R. 3833(a).

1995 Revisions: Pursuant to Executive Order No. 66(1978), Chapter 10 was readopted as R.1996 d.50, effective December 26, 1995. See: 27 N.J.R. 4060(a), 28 N.J.R. 850(a).

1996 Revisions: Chapter 10, Safe Drinking Water Act, with the exception of Subchapter 13, Water Supply and Waste Water Collection and Treatment Systems: Examining and Licensing of Operators, was repealed and a new Chapter 10, Safe Drinking Water Act, was adopted by R.1996 d.536, effective November 18, 1996. See: Source and Effective Date. Subchapter 13 was not readopted as part of R.1996 d.536, and expires on December 31, 1996.

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SUBCHAPTER 1. GENERAL PROVISIONS

7:10-1.1 Authority

These rules are promulgated pursuant to the New Jersey Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., as amended; the Subsurface and Percolating Waters Act, N.J.S.A. 58:4A-4.1 et seq.; the Realty Improvement Sewerage and Facilities Act, N.J.S.A. 58:11-23 et seq.; the Water Supply Management Act, N.J.S.A. 58:1A-1 et seq.; and N.J.S.A. 58:11-9.1 et seq.

7:10-1.2 Scope, applicability and purpose

These rules implement New Jersey's Safe Drinking Water Program for the purpose of ensuring the provision of safe drinking water to consumers, and enabling the Department to assume primary enforcement responsibility under the Federal Safe Drinking Water Act, P.L. 93-523, 42 U.S.C. §§ 300f et seq. The Safe Drinking Water Program also ensures the provision of safe water of adequate pressure and volume by implementing portions of the Water Supply Management Act addressing storage, emergency plans and reducing unaccounted for water (water lost in the distribution system); and by issuing physical connection permits under the N.J.S.A. 58:11-9.1 et seq.; and by establishing standards for construction and procedures for certifications, under the Realty Improvement, Sewerage and Facilities Act, N.J.S.A. 58:11-23 et seq.

7:10-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise. Additional definitions specifically applicable to N.J.A.C. 7:10-11 and 12 are set forth at N.J.A.C. 7:10-11.1 and 12.4, respectively.

"Action level" means the concentration of lead or copper in water specified in the National Regulations at 40 CFR

141.80 (c) which determines, in some cases, the treatment requirements set forth at 40 CFR 141.81, 141.82 and 141.83 that a water system is required to complete.

"Acute violation" means an exceedance of an MCL for a contaminant, for example, fecal coliform or nitrates, that is likely to have immediate health effects.

"Additive" means any substance specifically formulated to be added to a water system during the water treatment process to achieve applicable drinking water standards.

"Administrator" means the Administrator of the United States Environmental Protection Agency or his or her authorized representative.

"Administrative authority" means the County Environmental Health Act (CEHA) certified agency or the local board of health having jurisdiction. When water systems serve county, State, and/or Federal facilities, the administrative authority shall mean the Bureau of Safe Drinking Water in the Department.

"Annual operation fee" means the annual fee assessed to each public community water system including each holder of a permit to construct a public community water system issued pursuant to N.J.A.C. 7:10-11 and each recipient of an approval to construct a public noncommunity water system or a public nontransient noncommunity water system issued pursuant to N.J.A.C. 7:10-12.

"Annual physical connection renewal fee" means the fee assessed for the annual renewal of a physical connection permit pursuant to N.J.A.C. 7:10-10.

"ANSI" means the American National Standards Institute.

"Approved physical connection installation" means a double check valve assembly or a reduced pressure zone backflow preventer assembly which is designed, installed and tested in accordance with N.J.A.C. 7:10-10.

"Backflow prevention device" means either a double check valve assembly or a reduced pressure zone assembly used for the purpose of preventing water flow in the opposite direction of normal flow pattern.

"Bulk distribution system" means a water system that sells water wholesale in bulk quantities to public community water systems for resale to consumers.

"Bulk purchase system" means a water system that buys all of its treated water from another water system(s) and has no water source(s) of its own.

"Bypass" means a secondary pipe or conduit connected to the main pipe or conduit for the purpose of conducting water around a valve, fixture, device, pump station or treatment process.

"Certified laboratory" means a laboratory certified by the Department pursuant to the Regulations Governing Laboratory Certification and Standards of Performance, N.J.A.C. 7:18, to conduct testing for contaminants regulated under the State Act.

"Cistern" means a tank for the collection of rain water draining from a roof or roofs, which water is intended to be used for potable purposes.

"Commissioner" means the Commissioner of the Department of Environmental Protection or his or her designated representative.

"Confined aquifer" means an aquifer which contains ground water under pressure between or below relatively impermeable or significantly less permeable material so that the water surface rises above the top of the aquifer in a well which derives its water from that aquifer.

"Consolidated aquifer" means an aquifer contained within a rock formation.

"Construction material" means any building material typically used in the construction of water system facilities, including but not limited to concrete, mortar, grout, steel, ductile iron, copper, brass or zinc.

"Contaminant" means any physical, chemical, biological or radiological substance in water.

"County" means any county or agency or instrumentality of one or more thereof.

"Cross-connection" means any actual or potential connection between a public water system and a source of contamination, such as industrial process water or an irrigation system.

"Department" means the Department of Environmental Protection.

"Dependable yield" means that maintainable yield of water from a surface or ground water source(s) which is available continuously during projected future conditions, including a repetition of the most severe drought of record, without creating undesirable effects, as determined by the Department.

"Detectable disinfectant residual" means a chlorine residual of at least 0.05 mg/l (total chlorine, combined chlorine or chlorine dioxide), or a heterotrophic plate count of 500/ml or less, at the point of collection.

"Distribution system" means all pipes and conveyances from a well or water treatment plant, including storage facilities.

"Double check valve assembly" means a backflow prevention device consisting of two independently acting soft-seated check valves, internally force loaded to a normally closed position between two tightly closing shut-off valves, and with means of testing for tightness. A double check valve assembly includes a double check valve detector assembly for the purposes of this chapter.

"Dug well" means a water table well that is excavated by means of picks, shovels, or similar hand-tools.

"Entry point" means a point in the distribution system where treated water from a treatment plant enters into the distribution system.

"Facility with cross-connection hazards" means a facility that is served by a public community water system and that contains a chemical substance or solution, uses a chemical, physical or biological process, or uses water in a manner that might contaminate the public community water system by way of a cross-connection. Examples of such facilities are listed in Appendix A and incorporated herein by reference.

"Federal Act" means the Safe Drinking Water Act, P.L. 93-523, 42 U.S.C. §§ 300f et seq., as amended.

"Federal agency" means any department, agency or instrumentality of the United States.

"Filtration avoidance criteria" means criteria specified in the National Primary Drinking Water Regulations, 40 CFR 141.71, establishing specific requirements for source water quality conditions and site-specific conditions for a public water system to avoid filtering its surface water source or its ground water source under the direct influence of surface water.

"First offense" means a violation for which there is no prior similar violation.

"Ground water" means the portion of water beneath the land surface that is within the saturated zone, in which all the subsurface voids in the rock or soil are filled with water.

"Initial physical connection permit fee" means the fee assessed for an initial physical connection permit pursuant to N.J.A.C. 7:10-10.

"Interconnection" means a water supply connection with another water system or systems.

"Low risk formation" means:

1. An aquifer which the Department determines to be confined by an overlying layer or bed of distinctly lower permeability, based upon an acceptable pump test report, or on published reports and/or technical memoranda of the New Jersey Geological Survey or published reports of the U.S. Geological Survey; or

3. An inventory of potential major and minor pollutant sources within the subdivision and of major pollutant sources within 500 feet of the property line of the subdivision and 2,500 feet upgradient of ground water flow.

4. Tentative schedule for construction of the realty improvements and estimated date of availability of and connection to a public community water system if expected.

(f) Such additional information as the Department may request in order to fulfill the requirements of this section.

(g) Depending on the type of proposed water system, the Department will review the application for certification in accordance with the standards for construction set forth at:

1. For public community water systems, N.J.A.C. 7:10-11.

2. For individual wells, N.J.A.C. 7:10-12.

7:10-12.43 Requests for adjudicatory hearings

(a) An applicant for a certification or any person, subject to the limitation on third party appeal rights set forth in P.L. 1993, c.359 (N.J.S.A. 52:4B-3.1 through 3.3), who believes himself or herself to be aggrieved with respect to decisions made by the Department pursuant to this subchapter may contest the decision and request an adjudicatory hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the New Jersey Uniform Administrative Procedure Rules, N.J.A.C. 1:1, in accordance with the appeal procedures set forth at N.J.A.C. 7:10-11.14.

(b) Any person who believes himself or herself to be aggrieved with respect to decisions made by the administrative authority may appeal pursuant to the local administrative authority appeal procedure as appropriate.

SUBCHAPTER 13. WATER SUPPLY AND WASTE-WATER COLLECTION AND TREATMENT SYSTEMS: EXAMINING AND LICENSING OF OPERATORS

7:10-13.1 Scope and construction of rules

(a) This subchapter shall constitute the rules governing the eligibility, examining, and licensing of persons for licenses as operators of Industrial Wastewater Treatment Systems, Public Wastewater Collection Systems, Public Wastewater Treatment Systems, Public Water Treatment Systems and Public Water Distribution Systems.

(b) This subchapter shall be liberally construed to permit the Department to discharge its statutory functions.

(c) If any section, subsection, provision, clause, or portion of this subchapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of these regulations shall not be affected thereby.

7:10-13.2 Definitions

The following words and terms when used in this subchapter shall have the following meaning unless the context clearly indicates otherwise.

“Act” means the Water Supply and Wastewater Operators Licensing Act, N.J.S.A. 58:11-64 et seq.

“Board” means the Board of Examiners established by N.J.A.C. 7:10-13.3.

“Bureau” means the Bureau of Collections and Licensing, CN 402, Trenton, New Jersey 08625.

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

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

“Licensed operator” means the licensee approved by the Department holding any local title, designation, or job description who is on-site at a system a significant amount of time, although not necessarily full time, and who has active involvement in and is responsible for the operation, and maintenance, and effectiveness of the system and who holds a license equal or superior to that required for the system.

“Licensee” means a person who possesses a valid license issued by the Department pursuant to the Act.

“Industrial Wastewater Treatment System” means any structure or structures by means of which industrial liquid waste or sludges are subjected to any treatment process requiring the issuance of an individual NJPDES permit regulated by the Department pursuant to the New Jersey Pollutant Discharge Elimination System Permit Program, N.J.A.C. 7:14A, under the authority of the Water Pollution Control Act N.J.S.A. 58:10A-1 et seq.

“Oil water separator” means an industrial wastewater treatment system designed for the removal of insoluble oils or floating grease by gravity means.

“Operating requirements” means provisions of permits or approvals, administrative orders, directives, or rules and regulations which the Department may issue or adopt to ensure the safe and efficient operation of systems, consistent with statutory authority.

"Owner" means any municipality, institution, authority, commission, corporation, person or other similar body who owns or controls a system.

"Public Wastewater Collection System" means a system which serves more than 250 people or conveys more than 25,000 gallons of wastewater (Pollution Control Act, N.J.S.A. 58:10A-1 et seq.) and which system consists of structures which, operating alone or with other structures, result in the collection and conveyance of wastewater from private, commercial, institutional or industrial sources, to public wastewater treatment plants for subsequent treatment, or a system which solely transmits treated effluent from a public wastewater treatment system for disposal.

"Public Wastewater Treatment System" means any structure or structures by means of which domestic, or combined domestic and industrial liquid wastes or sewage are subjected to any process in order to remove or so alter constituents as to render the wastes less offensive or dangerous to public health, safety, welfare, comfort, property or environment of the State or any inhabitants of the State before discharge of the resulting effluent either directly or indirectly into any waters of the State, and which is regulated by the Department pursuant to the authority of the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.

"Public Water Distribution System" means a system comprising structures which is a public community water system identified by a specific ID number pursuant to the Safe Drinking Water Act Regulations, N.J.A.C. 7:10, and which operating alone or with other structures, results in the derivation, conveyance (or transmission) or distribution of piped water for human consumption and domestic purposes.

"Public Water Treatment System" means any structure or structures delivering water into a public water distribution system as identified by a specific ID Number pursuant to the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., and which subjects water, prior to use for potable purposes, to the addition or subtraction of a substance or substances in order to enhance the safeness, palatability, public health, purity, or aesthetic qualities; or reduce the corrosive or hazardous properties of the water use.

"Sedimentation unit" means any industrial wastewater treatment system at which wastewater is only physically, not chemically, treated to reduce suspended solids including a clarifier, settling tank, lagoon, basin or pond, detention basin or pond, or sedimentation basin or pond.

"System" means any Industrial Wastewater Treatment System, Public Wastewater Collection System, Public Wastewater Treatment System, Public Water Distribution System or Public Water Treatment System.

"Waters of the State" means the ocean and its estuaries, all springs, groundwater, streams or bodies of surface waters, whether natural or artificial, within the boundaries of this State or subject to its jurisdiction.

Amended by R.1989 d.170 effective March 20, 1989.

See: 20 N.J.R. 1141(b), 21 N.J.R. 750(c).

Definitions for "oil water separator" and "sedimentation unit" added.

7:10-13.3 Examining board

(a) A Board of Examiners is hereby established to advise and assist the Department in the preparation and administration of examinations conducted under the authority of the Act.