

[First Reprint]

ASSEMBLY, No. 4569

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED FEBRUARY 13, 2017

Sponsored by:

Assemblyman TIM EUSTACE

District 38 (Bergen and Passaic)

Assemblyman ROBERT J. KARABINCHAK

District 18 (Middlesex)

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblywoman ELIZABETH MAHER MUOIO

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

**Assemblymen Holley, Wisniewski, Assemblywomen McKnight, Lampitt
and Mosquera**

SYNOPSIS

The “Water Quality Accountability Act”; imposes certain testing, reporting, management, and infrastructure investment requirements on water purveyors.

CURRENT VERSION OF TEXT

As reported by the Assembly Environment and Solid Waste Committee on March 20, 2017, with amendments.

(Sponsorship Updated As Of: 6/9/2017)

1 AN ACT concerning the operation and management of public water
2 systems, and supplementing Title 58 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the “Water
8 Quality Accountability Act.”

9

10 2. As used in this act:

11 “Board” means the Board of Public Utilities.

12 “Department” means the Department of Environmental
13 Protection.

14 “Public water system” means ¹[a system for the provision to the
15 public of water for human consumption through pipes or other
16 constructed conveyances, if such system has at least 15 service
17 connections or regularly serves an average of at least 25 individuals
18 daily at least 60 days out of the year. “Public water system”
19 includes: (1) any collection, treatment, storage and distribution
20 facilities under control of the operator of such system and used
21 primarily in connection with such system; and (2) any collection or
22 pre-treatment storage facilities not under such control which are
23 used primarily in connection with such system] the same as the
24 term is defined in section 3 of P.L.1977, c.224 (C.58:12A-3)¹.

25 “Water purveyor” means any person that owns a public water
26 system ¹with more than 500 service connections¹.

27

28 3. a. Each water purveyor shall inspect each valve in its public
29 water system in accordance with the provisions of subsection b. of
30 this section in order to determine (1) accessibility of the valve for
31 operational purposes, and (2) the valve's operating condition. ¹A
32 water purveyor shall repair or replace any valve found to be broken
33 or otherwise not operational.¹

34 b. Each water purveyor shall inspect each valve that is 12 or
35 more inches in diameter at least once every two years, and shall
36 inspect all other valves at least once every four years ¹, except that
37 the requirements of this subsection shall not apply to any service
38 connection valve or customer shut-off valve¹. At a minimum, each
39 valve inspection conducted pursuant to this subsection shall
40 include:

41 (1) clearing of the area around the valve to ensure full access to
42 the valve for operating purposes;

43 (2) cleaning out of the valve box; ¹[and]¹

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AEN amendments adopted March 20, 2017.

- 1 (3) dynamic testing of the valve, by opening and then closing the
2 valve for either of the following number of turns:
- 3 (a) the number of turns recommended by the valve manufacturer
4 to constitute a credible test; or
- 5 (b) the number of turns which constitutes 15 percent of the total
6 number of turns necessary to completely open or completely close
7 the valve ¹; and
- 8 (4) complying with any other criteria as may be required by the
9 department pursuant to rules and regulations adopted pursuant to
10 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
11 et seq.)¹.
- 12 c. (1) Each water purveyor shall, once a year, test every fire
13 hydrant in its system in order to determine the hydrant's working
14 condition.
- 15 (2) Each water purveyor shall formulate and implement a plan
16 for flushing every fire hydrant in the public water system, and every
17 dead end of a main in the public water system. This plan for
18 flushing may be combined with the periodic testing of fire hydrants
19 required pursuant to paragraph (1) of this subsection.
- 20 d. Each water purveyor shall keep a record of all inspections,
21 tests, and flushings conducted pursuant to this section for a period
22 of at least six years.
- 23 e. Each water purveyor that owns, solely or jointly, a fire
24 hydrant shall mark each hydrant with the initials of its name,
25 abbreviation of its name, corporate symbol, or other distinguishing
26 mark or code by which ownership may be readily and definitely
27 ascertained. Each ¹fire¹ hydrant shall be marked with a number or
28 symbol, or both, by which the location of the hydrant may be
29 determined on the water purveyor's office records. The markings
30 may be made with paint, brand, or with a soft metal plate, and shall
31 be of such size and so spaced and maintained as to be easily read.
- 32 ¹f. Each water purveyor shall identify, to the extent possible,
33 the geographic location of each valve and fire hydrant in its public
34 water system using a global positioning system based on satellite or
35 other location technology.¹
- 36
- 37 4. a. Within 120 days after the effective date of this act, each
38 water purveyor shall develop a cybersecurity program, in
39 accordance with requirements established by the board, that defines
40 and implements organization accountabilities and responsibilities
41 for cyber risk management activities, and establishes policies,
42 plans, processes, and procedures for identifying and mitigating
43 cyber risk to its public water system. As part of the program, a
44 water purveyor shall conduct risk assessments and implement
45 appropriate controls to mitigate identified risks to the public water
46 system, maintain situational awareness of cyber threats and

1 vulnerabilities to the public water system, and create and exercise
2 incident response and recovery plans.

3 A copy of the program developed pursuant to this subsection
4 shall be provided to the New Jersey Cybersecurity and
5 Communications Integration Cell, established pursuant to Executive
6 Order No. 178 (2015) in the New Jersey Office of Homeland
7 Security and Preparedness.

8 b. Within 60 days after developing the program required
9 pursuant to subsection a. of this section, each water purveyor shall
10 join the New Jersey Cybersecurity and Communications Integration
11 Cell, established pursuant to Executive Order No. 178 (2015), and
12 create a cybersecurity incident reporting process.

13 ¹c. A water purveyor that does not have an internet-connected
14 control system shall be exempt from the requirements of this
15 section.¹
16

17 5. In addition to any other requirements in law, or ¹any¹ rule or
18 regulation adopted pursuant thereto, whenever a water purveyor is
19 issued ¹₁ pursuant to section 10 of P.L.1977, c.224 (C.58:12A-
20 10)¹₁ three notices of violation for any reason or two notices of
21 violation related to an exceedance of a maximum contaminant level
22 within any 12-month period, the water purveyor, within 60 days
23 after receipt of the third or second notice, as applicable, shall
24 submit to the department a mitigation plan specifying whether the
25 notice of violation will be addressed through operational changes or
26 require a capital expenditure and providing a schedule for
27 implementation of the mitigation plan. The mitigation plan shall
28 include a report prepared by ¹the licensed operator of the public
29 water system and¹ a professional engineer licensed pursuant to
30 P.L.1938, c.342 (C.45:8-27 et seq.) that includes a technical
31 analysis of the notices of violation and an explanation of how the
32 mitigation plan submitted pursuant to this section is intended to
33 prevent a recurrence of the issue that resulted in the notice of
34 violation. Any capital expenditures required pursuant to this
35 section shall be incorporated into the asset management plan
36 required pursuant to section 7 of this act.
37

38 6. In addition to any other certifications required pursuant to
39 law, rule, or regulation, the responsible corporate officer of the
40 public water system, if privately held, executive director, if an
41 authority, or mayor or chief executive officer of the municipality, if
42 municipally owned, as applicable, shall be required to certify in
43 writing each year to the Department of Environmental Protection
44 and, if applicable, the Board of Public Utilities that the water
45 purveyor complies with: all federal and State ¹drinking water¹
46 regulations, including water quality sampling, testing, and reporting
47 requirements; the hydrant and valve requirements set forth in

1 section 3 of this act; the notice of violation mitigation plan
2 requirements set forth in section 5 of this act, if applicable; and the
3 infrastructure improvement investment required pursuant to section
4 7 of this act.

5
6 7. a. Beginning no later than ¹~~one year~~ 18 months¹ after the
7 effective date of this act, every water purveyor shall implement an
8 asset management plan designed to inspect, maintain, repair, and
9 renew its infrastructure consistent with ¹~~industry standard best~~
10 ~~practices~~ standards established by the American Water Works
11 Association¹. The asset management plan shall include:

12 ¹(1)¹ a water main renewal program designed to achieve a 150-
13 year replacement cycle, or other appropriate replacement cycle as
14 determined by a detailed engineering analysis of the asset condition
15 and estimated service lives of the water mains serving the public
16 water system; ¹~~and~~

17 ¹(2)¹ a water supply and treatment program designed to inspect,
18 maintain, repair, renew, and upgrade wells, intakes, pumps, and
19 treatment facilities in accordance with all federal and State
20 regulations, ¹~~industry~~¹ standards ¹established by the American
21 Water Works Association¹, and any mitigation plan required
22 pursuant to section 5 of this act ¹; and

23 ¹(3)¹ any other programs, plans, or provisions as may be required
24 by the department pursuant to rules and regulations adopted
25 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410
26 (C.52:14B-1 et seq.)¹.

27 Each water purveyor shall dedicate funds on an annual basis to
28 address and remediate the highest priority projects as determined by
29 its asset management plan.

30 All asset management plans and system condition reports shall
31 be certified to by the licensed operator or professional engineer of
32 the public water system and the responsible corporate officer of the
33 public water system, if privately held, executive director, if an
34 authority, or mayor or chief executive officer of the municipality, if
35 municipally owned, as applicable. The replacement cycle shall be
36 determined by dividing the miles of water main located in the
37 public water system by 150 or other appropriate demonstration set
38 forth in the certified asset management plan prepared pursuant to
39 this section.

40 b. At least ¹~~annually~~ once every three years¹, each water
41 purveyor shall provide to the department and the board, if
42 applicable, a report based on its asset management plan prepared
43 pursuant to subsection a. of this section identifying the
44 infrastructure improvements to be undertaken in the coming year
45 and the cost of those improvements, as well as identifying the
46 infrastructure improvements completed in the past year and the cost
47 of those improvements. A municipal water department or

1 municipal water authority shall also submit the report required
2 pursuant to this subsection to the Division of Local Government
3 Services in the Department of Community Affairs.

4 ¹c. The department, the board, and the Department of
5 Community Affairs shall create a centralized portal allowing for
6 electronic submittal of the report required pursuant to subsection b.
7 of this section. The lack of a centralized portal pursuant to this
8 subsection shall not negate the requirement for a water purveyor to
9 submit a report pursuant to subsection b. of this section.¹

10

11 8. This act shall take effect ¹**[immediately]** on the 90th day
12 after the date of enactment¹ .