

SENATE, No. 2834

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED DECEMBER 12, 2016

Sponsored by:

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SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/20/2016)

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 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.

24 “Water purveyor” means any person that owns a public water
25 system.

26

27 3. a. Each water purveyor shall inspect each valve in its public
28 water system in accordance with the provisions of subsection b. of
29 this section in order to determine (1) accessibility of the valve for
30 operational purposes, and (2) the valve's operating condition.

31 b. Each water purveyor shall inspect each valve that is 12 or
32 more inches in diameter at least once every two years, and shall
33 inspect all other valves at least once every four years. At a
34 minimum, each valve inspection conducted pursuant to this
35 subsection shall include:

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

38 (2) cleaning out of the valve box; and

39 (3) dynamic testing of the valve, by opening and then closing the
40 valve for either of the following number of turns:

41 (a) the number of turns recommended by the valve manufacturer
42 to constitute a credible test; or

43 (b) the number of turns which constitutes 15 percent of the total
44 number of turns necessary to completely open or completely close
45 the valve.

46 c. (1) Each water purveyor shall, once a year, test every fire
47 hydrant in its system in order to determine the hydrant's working
48 condition.

1 (2) Each water purveyor shall formulate and implement a plan
2 for flushing every fire hydrant in the public water system, and every
3 dead end of a main in the public water system. This plan for
4 flushing may be combined with the periodic testing of fire hydrants
5 required pursuant to paragraph (1) of this subsection.

6 d. Each water purveyor shall keep a record of all inspections,
7 tests, and flushings conducted pursuant to this section for a period
8 of at least six years.

9 e. Each water purveyor that owns, solely or jointly, a fire
10 hydrant shall mark each hydrant with the initials of its name,
11 abbreviation of its name, corporate symbol, or other distinguishing
12 mark or code by which ownership may be readily and definitely
13 ascertained. Each hydrant shall be marked with a number or
14 symbol, or both, by which the location of the hydrant may be
15 determined on the water purveyor's office records. The markings
16 may be made with paint, brand, or with a soft metal plate, and shall
17 be of such size and so spaced and maintained as to be easily read.

18

19 4. a. Within 120 days after the effective date of this act, each
20 water purveyor shall develop a cybersecurity program, in
21 accordance with requirements established by the board, that defines
22 and implements organization accountabilities and responsibilities
23 for cyber risk management activities, and establishes policies,
24 plans, processes, and procedures for identifying and mitigating
25 cyber risk to its public water system. As part of the program, a
26 water purveyor shall conduct risk assessments and implement
27 appropriate controls to mitigate identified risks to the public water
28 system, maintain situational awareness of cyber threats and
29 vulnerabilities to the public water system, and create and exercise
30 incident response and recovery plans.

31 A copy of the program developed pursuant to this subsection
32 shall be provided to the New Jersey Cybersecurity and
33 Communications Integration Cell, established pursuant to Executive
34 Order No. 178 (2015) in the New Jersey Office of Homeland
35 Security and Preparedness.

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

41

42 5. In addition to any other requirements in law, or rule or
43 regulation adopted pursuant thereto, whenever a water purveyor is
44 issued pursuant to section 10 of P.L.1977, c.224 (C.58:12A-10)
45 three notices of violation for any reason or two notices of violation
46 related to an exceedance of a maximum contaminant level within
47 any 12-month period, the water purveyor, within 60 days after
48 receipt of the third or second notice, as applicable, shall submit to

1 the department a mitigation plan specifying whether the notice of
2 violation will be addressed through operational changes or require a
3 capital expenditure and providing a schedule for implementation of
4 the mitigation plan. The mitigation plan shall include a report
5 prepared by a professional engineer licensed pursuant to P.L.1938,
6 c.342 (C.45:8-27 et seq.) that includes a technical analysis of the
7 notices of violation and an explanation of how the mitigation plan
8 submitted pursuant to this section is intended to prevent a
9 recurrence of the issue that resulted in the notice of violation. Any
10 capital expenditures required pursuant to this section shall be
11 incorporated into the asset management plan required pursuant to
12 section 7 of this act.

13

14 6. In addition to any other certifications required pursuant to
15 law, rule, or regulation, the responsible corporate officer of the
16 public water system, if privately held, executive director, if an
17 authority, or mayor or chief executive officer of the municipality, if
18 municipally owned, as applicable, shall be required to certify in
19 writing each year to the Department of Environmental Protection
20 and, if applicable, the Board of Public Utilities that the water
21 purveyor complies with: all federal and State regulations, including
22 water quality sampling, testing, and reporting requirements; the
23 hydrant and valve requirements set forth in section 3 of this act; the
24 notice of violation mitigation plan requirements set forth in section
25 5 of this act, if applicable; and the infrastructure improvement
26 investment required pursuant to section 7 of this act.

27

28 7. a. Beginning no later than one year after the effective date
29 of this act, every water purveyor shall implement an asset
30 management plan designed to inspect, maintain, repair, and renew
31 its infrastructure consistent with industry standard best practices.
32 The asset management plan shall include: a water main renewal
33 program designed to achieve a 150-year replacement cycle, or other
34 appropriate replacement cycle as determined by a detailed
35 engineering analysis of the asset condition and estimated service
36 lives of the water mains serving the public water system; and a
37 water supply and treatment program designed to inspect, maintain,
38 repair, renew, and upgrade wells, intakes, pumps, and treatment
39 facilities in accordance with all federal and State regulations,
40 industry standards, and any mitigation plan required pursuant to
41 section 5 of this act. Each water purveyor shall dedicate funds on
42 an annual basis to address and remediate the highest priority
43 projects as determined by its asset management plan.

44

45 All asset management plans and system condition reports shall
46 be certified to by the licensed operator or professional engineer of
47 the public water system and the responsible corporate officer of the
48 public water system, if privately held, executive director, if an
authority, or mayor or chief executive officer of the municipality, if

1 municipally owned, as applicable. The replacement cycle shall be
2 determined by dividing the miles of water main located in the
3 public water system by 150 or other appropriate demonstration set
4 forth in the certified asset management plan prepared pursuant to
5 this section.

6 b. At least annually, each water purveyor shall provide to the
7 department and the board, if applicable, a report based on its asset
8 management plan prepared pursuant to subsection a. of this section
9 identifying the infrastructure improvements to be undertaken in the
10 coming year and the cost of those improvements, as well as
11 identifying the infrastructure improvements completed in the past
12 year and the cost of those improvements. A municipal water
13 department or municipal water authority shall also submit the report
14 required pursuant to this subsection to the Division of Local
15 Government Services in the Department of Community Affairs.

16
17 8. This act shall take effect immediately.
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20 STATEMENT

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22 This bill, to be known as the “Water Quality Accountability
23 Act,” is intended to enhance the reliability and safety of the State’s
24 drinking water. The bill would apply to all water purveyors.

25 The bill would establish specific standards for the testing of fire
26 hydrants. The standards are modeled on requirements currently
27 established in regulations by the Board of Public Utilities (BPU)
28 applicable to those water purveyors regulated by the BPU. Under
29 this bill, the requirements would apply to all water purveyors.

30 The bill, within 120 days after its enactment into law, would
31 require each water purveyor to develop a cybersecurity program, in
32 accordance with requirements established by the BPU, that defines
33 and implements organization accountabilities and responsibilities
34 for cyber risk management activities, and establishes policies,
35 plans, processes, and procedures for identifying and mitigating
36 cyber risk to the public water system. In March 2016, the BPU
37 adopted cybersecurity requirements applicable to the electric,
38 natural gas, water, and wastewater utilities that it regulates. This
39 bill would apply those requirements to all water purveyors. As part
40 of the program, a water purveyor would be required to conduct risk
41 assessments and implement appropriate controls to mitigate
42 identified risks to the public water system, maintain situational
43 awareness of cyber threats and vulnerabilities to the public water
44 system, and create and exercise incident response and recovery
45 plans. In addition, within 60 days after developing the required
46 program, each water purveyor would be required to join the New
47 Jersey Cybersecurity and Communications Integration Cell
48 (NJCCIC), established pursuant to Executive Order No. 178 (2015),

1 and create a cybersecurity incident reporting process. The NJCCIC
2 serves as the State's Information Sharing and Analysis Organization
3 (ISAO), and serves governments, businesses, and citizens across
4 New Jersey by promoting better awareness of cyber threats and the
5 adoption of best practices. It is part of the Office of Homeland
6 Security and Preparedness.

7 In addition to any other requirements in law, or rule or regulation
8 adopted pursuant thereto, whenever a water purveyor is issued
9 pursuant to the "Safe Drinking Water Act," three notices of
10 violation for any reason or two notices of violation related to an
11 exceedance of a maximum contaminant level within any 12-month
12 period, the bill would require the water purveyor, within 60 days
13 after receipt of the third or second notice, as applicable, to submit to
14 the Department of Environmental Protection (DEP) a mitigation
15 plan specifying whether the notice of violation will be addressed
16 through operational changes or require a capital expenditure and
17 providing a schedule for implementation of the mitigation plan.
18 The mitigation plan would include a report prepared by a licensed
19 professional engineer that includes a technical analysis of the
20 notices of violation and an explanation of how the mitigation plan is
21 intended to prevent a recurrence of the issue that resulted in the
22 notice of violation.

23 The bill would also require, as applicable, the responsible
24 corporate officer of the public water system (if privately held),
25 executive director (if an authority), or mayor or chief executive
26 officer of the municipality (if municipally owned) to certify in
27 writing each year that certain requirements set forth in the bill are
28 met.

29 Lastly, this bill would require, beginning no later than one year
30 after the bill is enacted into law, every water purveyor to implement
31 an asset management plan designed to inspect, maintain, repair, and
32 renew its infrastructure consistent with industry standard best
33 practices, such as those used by the BPU and recommended by the
34 American Water Works Association. The asset management plan
35 would include: a water main renewal program designed to achieve
36 a 150-year replacement cycle, or other appropriate replacement
37 cycle as determined by a detailed engineering analysis of the asset
38 condition and estimated service lives of the water mains serving the
39 public water system; and a water supply and treatment program
40 designed to inspect, maintain, repair, renew, and upgrade wells,
41 intakes, pumps, and treatment facilities in accordance with all
42 federal and State regulations, industry standards, and any mitigation
43 plan that may be required pursuant to the bill. Each water purveyor
44 would be required to dedicate funds on an annual basis to address
45 and remediate the highest priority projects as determined by its
46 asset management plan. The asset management plans and system
47 condition reports would be certified to by the public water system's
48 licensed operator or professional engineer and the responsible

1 corporate officer of the public water system (if privately held),
2 executive director (if an authority), or mayor or chief executive
3 officer of the municipality (if municipally owned), as applicable.
4 Each water purveyor would be required to annually submit a report
5 to the DEP and the BPU, if applicable, identifying the infrastructure
6 improvements to be undertaken in the coming year and the cost of
7 those improvements, as well as identifying the infrastructure
8 improvements completed in the past year and the cost of those
9 improvements. A municipal water department or municipal water
10 authority would also be required to submit this report to the
11 Division of Local Government Services in the Department of
12 Community Affairs.

13 This bill would establish a proactive policy concerning certain
14 testing, reporting, management, and infrastructure investment
15 requirements for water purveyors in order to enhance the reliability
16 and safety of the State's drinking water systems.