

CHAPTER 9E

PRIVATE WELL TESTING ACT RULES 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 be 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.

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. 7:105.1.

"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.

"Alternate direct water consumption sample location" means a sample location where there is access to potable water obtained from a part of the plumbing system other than a kitchen or bathroom tap or spigot.

"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. Examples 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 a MCL, action level, standard or recommended upper limit for that given contaminant.

"Global Positioning System (GPS) location" means the specific geographic location of a well head or front door of a building subject to this chapter as determined by satellite radio signals originating from a satellite system known as the Navigation Satellite Time and Ranging Global Positioning-System (commonly called NAVSTAR). All GPS data coordinate locations must be collected and reported in accordance with Department standards N.J.A.C. 7:1 D, for example, New Jersey State Plane Coordinate System (NJSPCS).

"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, N.J.S.A. 26:3A2-21 et seq. In those counties that do not have a certified local health agency, the local health authority 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 0 (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 the 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 exceedence 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. 7:91), 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. Fecal coliform or Escherichia coli;
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, Sussex, Union, and Warren 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 48hour 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).

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 certified as set forth in 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. Samples shall be collected from a primary cold water, non-aerated spigot or tap used for consumption from the potable water system of the subject property.

2. Where a point of delivery water treatment device or point of use water treatment device is located on the spigot or tap, the device shall be disconnected or otherwise disabled prior to the collection of the water sample.

3. Where a point of entry treatment device is used to treat the drinking water entering the subject property, the device shall be disconnected or otherwise disabled prior to the collection of the water sample, or the sample shall be collected at a location prior to the point of entry treatment device.

4. If there is no spigot or tap on the subject property, the water sample shall be collected from an appropriate alternate direct water consumption location, as defined at N.J.A.C. 7:9E-1.2.i. If the location of the sample is deemed inappropriate by the Department, an additional water sample shall be collected and analyzed in accordance with this chapter.

(1) Unacceptable water sample locations include outdoor spigots, locations before the storage tank, and outlets directly at the well head except as provided at (a)5 below.

5. 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. Raw water samples shall be analyzed for parameters set forth in this chapter, with the exception of coliform and lead. Coliform and lead water samples shall be collected as set forth in (a)6 below..

6. Water samples collected for coliform and lead analyses shall be collected from a cold water, non-aerated spigot or tap or an alternate direct water consumption sample location defined at N.J.A.C. 7:9E-1.2.i. Before a water sample for lead analysis under this chapter is collected, water shall be flushed through the plumbing system until a significant change in water temperature has occurred, in accordance with N.J.A.C. 7:18.

7. Water samples collected pursuant to this chapter as part of a well re-test shall be collected at the same location as the original water sample, unless collection at a different location is specifically authorized or directed by the Department.

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

(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 on the Department's "Private Well Water Test Reporting Form" available by logging on to the Department's website at www.state.nj.us/dep/water/ or contacting the Department's Bureau of Safe Drinking Water at 609-292-5550:

- i. The name 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:

(1) The Department's "Private Well Water Test Reporting Form" shall include the maximum contaminant level (MCL), applicable water quality standard, or action level for each parameter as set forth at N.J.A.C. 7:10-5.1, 5.2 and 7:10-7.2 The information required at (a)iv above, shall be inserted in the space provided on the Department's form next to the applicable standard for that parameter;

- v. A statement indicating that the testing was performed for the purpose of complying with the Private Well Testing Act and N.J.A.C. 7:9E;
- vi. The location of the real property, including, block and lot, street address, municipality, municipal code, and county;
- vii. The date and time of collection of the water sample(s);
- viii. The specific point at which the water sample was collected (for example, kitchen tap, bathroom tap, etc.);
- ix. If known, the type of installed water treatment device and condition of water treatment device;
- x. The date and time that the water sample(s) was analyzed by the certified environmental laboratory;
- xi. The global Position System (GPS) location, obtained in accordance with Department standards, N.J.A.C. 7:1 D, of the well head or front door of the property where the well exists and a notation of which location was utilized;
- xii. The State of New Jersey well permit or well record number (if known);
- xiii. The name and identification number of all New Jersey certified laboratories which conducted the analyses in accordance with N.J.A.C.7:18;
- xiv. The certified environmental laboratory sample identification number;
- xv. A statement of available remediation funding alternatives;
- xvi. A written certification signed by the laboratory manager and/or laboratory quality assurance officer stating that all sampling, analyses and reporting performed by that laboratory comply with all requirements as set forth in this chapter and in Regulations

Governing the Certification of Laboratories and Environmental Measurements, N.J.A.C. 7:18, and certifying that the laboratory is in compliance with all laboratory certification and quality control procedures and requirements as set forth in N.J.A.C. 7:18;

(1) The certification requirement in (a)lxvi above shall also apply to certified laboratories that are subcontracted to perform analytical testing pursuant to this chapter. Subcontracted laboratories shall provide the certification in writing to the reporting laboratory at the time that the results are submitted;

xvii. A statement providing that additional information may be obtained by logging onto the NJDEP-Private Well Testing Act website at www.state.nj.us/dep/watersgpl2ly/pwta contacting the Department's Bureau of Safe Drinking Water at 609-292-5550;

xviii. A statement at the top of the form prior to listing the individual results as follows:

(1) If all analytical results meet applicable standards the statement shall say: "Analytical results meet recommended standards for drinking water.";

(2) If one or more of the analytical results fail to meet applicable standards, the statement shall say: "One or more of the analytical results do not meet recommended standards for drinking water."; and

xix. Any other information set forth in the Regulations Governing the Certification of Laboratories and Environmental Measurements at N.J.A.C. 7:18-9.4(b)9; and

2. Provide the following information to the Department electronically in accordance with N.J.A.C.7:9E-3.2:

- i. The name and address of the reporting laboratory;
- ii. All data being submitted to the person(s) who requested the test pursuant to (a)1 i through xiv above;
- iii. The data package submission number;
- iv. The unique laboratory submission identification number;
- v. The CAS number of each parameter analyzed, if applicable;
- vi. A detection flag for each parameter;
- vii. The method detection limit(s), and dilution factor(s) if applicable;
- viii. The method detection concentration (for gross alpha particle activity);
- ix. The first count of gross alpha particle activity (if applicable);
- x. The second count of gross alpha particle activity, if warranted and if applicable;
- xi. The uncertainty value (of gross alpha analysis);
- xii. The units of measure for each parameter;
- xiii. The completion date of analyses;
- xiv. The well driller name, if known;

xv. The well installation date, if known; and

xvi. A description of lead sample collection technique, for example, flushed, standing, etc.

(b) If more than one certified laboratory analyzes water samples subject to this chapter, one certified laboratory shall act as the reporting laboratory and shall provide a complete set of required information to the Department as described in (a)2 above.

(c) Analysis shall be deemed complete once all the required analytical tests have been submitted by the laboratories to the reporting laboratory.

7:9E-3.2 Electronic data submittal

(a) The reporting laboratory shall electronically submit a complete set of required information, pursuant to N.J.A. C. 7:9E-3.1(a)2, to the Department at one time, and in the formats prescribed by the Department in accordance with (b) and (c) below.

(b) Prior to submitting data electronically to the Department, the laboratory manager and/or quality assurance officer shall register with the Department by accessing the Department's website at www.njdgponline.com to obtain a Department issued personal identification number (PIN) and printing, completing and signing the authorization form found at the website, and mailing it to the Department at the following address:

New Jersey Department of Environmental Protection Office of Quality Assurance
P.O. Box 424
Trenton, New Jersey 08625-0424

(c) When electronically submitting a complete set of required information to the Department, the reporting laboratory shall:

1. Use the PIN as an electronic signature to certify that all sampling, analyses and quality control procedures were conducted in accordance with this chapter and N.J.A.C. 7:18; and
2. Use only the electronic data formats supplied by the Department.

(d) The Department shall reject any submittal which it has determined to be incomplete or deficient in accordance with this chapter and shall so notify the reporting laboratory.

1. Any reporting laboratory whose submittal has been rejected by the Department because of a failure to submit all information as set forth in N.J.A.C. 7:9E-3.1(a)2 shall resubmit a complete set of required information as set forth at N.J.A.C. 7:9E

3.1 (a) to the Department and to the person(s) who requested the test within two business days of receipt of notification.

i. Any re-submittal made to the Department and to the person(s) who requested the test shall include all information originally submitted plus the additional missing information.

2. If the submittal made by the reporting laboratory is incomplete or deficient to the extent that re-sampling is required, the deficient submittal shall not be valid for purposes of complying with the Private Well Testing Act.

i. The reporting laboratory shall notify the person(s) who requested the test that the submittal has been rejected by the Department within two business days of receipt of notification by the Department that the submittal has been rejected.

7:9E-3.3 Data validity for sale of subject property

- (a) Analytical results except for coliform (total and fecal) shall remain valid for purposes of complying with Section 2 of the Act (N.J.S.A 58:12A-27) for a period of **one year** from the date of sample collection.
- (b) Coliform (total and fecal) analytical results shall remain valid for purposes of complying with Section 2 of the Act (N.J.S.A 58:12A-27) for a period of **six months** from the date of sample collection.
- (c) A buyer and seller may mutually agree to re-test for one or more parameters even though the maximum time period for test validity established pursuant to (a) or (b) above has not expired.
- (d) If the subject property is resold within the period of test validity established by (a) or (b) above, the original water test results may be used during the subsequent real estate transaction provided that:
 - 1. A new source of water has not been installed; or
 - 2. A change in the water treatment system has not occurred.

SUBCHAPTER 4. NOTIFICATION PROCESS

7:913-4.1 Notification requirements

- (a) If analysis shows an acute parameter, as defined at N.J.A.C 7:913-1.2, at a level above the MCL, the certified laboratory responsible for analyzing the water sample shall, within 24 hours of obtaining the test results, notify the person(s) who requested the water test, and the appropriate local health authority in accordance with N.J.A.C. 7:18-4.6 and 5.6.
- (b) The Department shall, within five business days after receiving notice of any parameter at a level above a MCL, water quality standard, or action level, provide notice of such water test failure to the appropriate local health authority in which the subject property is located.
- (c) The appropriate local health authority, upon the Department's notification that the reported presence of one or more parameters exceed MCLs, water quality standards, or action levels, is, in accordance with N.J.S.A. 58:12A-31, authorized to issue a public notice to owners of property in the vicinity of the subject property, and recommend that property owners have nearby wells sampled for the failed parameter(s).

7:913-4.2 Criteria for public notification

- (a) Public-notification under N.J.A.C. 7:9E-4.1 is provided at the sole discretion of the appropriate local health authority, and may be in any form deemed suitable by the appropriate local health authority.
- (b) If the appropriate local health authority provides public notification, such notification shall, at a minimum, be distributed to all property owners within 200 feet from each boundary of the subject property.
 - 1. Recommended situations which may warrant notification and suggested forms of notification are available from the Department for advice purposes only.
- (c) If the appropriate local health authority chooses to provide notice pursuant to this section, it shall comply with the confidentiality requirements set forth at N.J.A.C. 7:9E-5.

SUBCHAPTER 5. CONFIDENTIALITY OF INFORMATION SUBMITTED PURSUANT TO THIS CHAPTER

7:9E-5.1 General requirements

(a) An appropriate local health authority, or any other local or State entity, shall keep confidential all information submitted or received pursuant to this chapter and the Act and shall not make any such information available for public examination, inspection or copying.

(b) General compilations of test results organized according to municipality and county and/or geographic regions which do not provide the names of specific property owners, their addresses or locations, may be made available to the public.