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## **ENVIRONMENTAL PROTECTION**

### **WATER RESOURCE MANAGEMENT**

#### **DIVISION OF WATER SUPPLY AND GEOSCIENCE**

##### **Well Construction and Maintenance; Sealing of Abandoned Wells**

**Adopted Amendments: N.J.A.C. 7:9D-1.8, 1.9, 1.10, 2.2, and 2.4**

Proposed: October 19, 2020, at 52 N.J.R. 1886(a).

Adopted: August 9, 2021, by Shawn M. LaTourette, Commissioner, Department of Environmental Protection.

Filed: August 18, 2021, as R.2021 d.100, **without change**.

Authority: N.J.S.A. 13:1D-1 et seq., 58:4A-4.1 et seq., 58:12A-1 et seq., and 58:10A-1 et seq.

DEP Docket Number: 05-20-09.

Effective Date: September 7, 2021.

Expiration Date: December 21, 2027.

The New Jersey Department of Environmental Protection (Department) is adopting amendments to the Well Construction and Maintenance; Sealing of Abandoned Wells rules (the rules) at N.J.A.C. 7:9D, which establish standards and requirements for all aspects of well construction and decommissioning, such that groundwater is protected, and provide a set of

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licensing standards to ensure that all who engage in well drilling and pump installing activities have the education, training, and experience necessary to conduct well drilling and pump installation activities in a manner that does not compromise the quality of the State's water resources or adversely impact public health. The adopted amendments include revisions to the Well Driller and Pump Installer licensing requirements, changes in the timing of reporting of continuing education points (CEPs) by CEP providers, and clarification of the procedures for how a license can be renewed if certain requirements have not been achieved by the existing regulatory deadlines. Additional adopted amendments include relocation of the well labeling provisions to effectuate the requirement of labeling for Category 1, 2, and 3 wells, but not Category 4 wells, and administrative corrections to amend cross-referencing errors within the rules.

This notice of adoption can be viewed or downloaded from the Department's website at <http://www.nj.gov/dep/rules>.

**Summary** of Public Comments and Agency Responses:

The Department received written comments on the proposed amendments in the form of a joint letter from Andrew Gold, Legal Director, Pinelands Preservation Alliance, and Daniel Greenhouse, Eastern Environmental Law Center, Attorneys for the Sierra Club

A summary of the comments timely submitted, and the agency's responses follow.

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1. COMMENT: Horizontal Directional Drilling (HDD) presents new and unforeseen threats to public health and welfare, which the Department did not previously anticipate. The Department needs to address the threat posed by HDD in its amendments to the well drilling regulations. The Department has identified several reasons for requiring the labeling of certain wells with their permit information, including “responding to environmental problems such as spills or groundwater contamination” and allowing the Department “to gather the correct construction specifications of a well quickly.” Given past events and the risk of environmental impact that HDD entails, these requirements must apply to HDD operations as well. The applicability of the well drilling regulations and these proposed amendments to HDD must be made explicit in the final rule.

RESPONSE: The comment is outside the scope of the proposed rulemaking. The proposed amendments do not relate to HDD or any related issues. Therefore, the issue raised by the commenters cannot be addressed as part of this proposed rulemaking. However, the Department does recognize the concern raised in the comment and the New Jersey Well Drillers and Pump Installers Licensing Board (Board) is supportive of establishing standards for the installation and abandonment of failed HDD boreholes. The issue is currently under review by the Department’s Science Advisory Board (SAB). Although the proposed amendments do not relate to HDD, the Department is engaged in a separate process to evaluate issues related to HDD and its potential impact on groundwater and structures/infrastructure in proximity to HDD activities. The Department has shared the comments with the Board and SAB.

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### **Federal Standards Statement**

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq., require State agencies that adopt, readopt, or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. N.J.A.C. 7:9D is not promulgated under the authority of, or in order to directly implement, comply with, or participate in any regulatory effort or program established under Federal law or under a State statute that incorporates or refers to Federal law, Federal standards, or Federal requirements. Additionally, there are no Federal laws, regulations, or standards comparable to any of the standards and requirements set forth at N.J.A.C. 7:9D. Accordingly, no Federal standards analysis is required.

**Full text** of the adoption follows:

TEXT