

**58:12A-1. Short title**

This act shall be known and may be cited as the "Safe Drinking Water Act."

L.1977, c. 224, s. 1, eff. Sept. 17, 1977.

**58:12A-2. Legislative findings and declarations**

The Legislature finds and declares that it is a paramount policy of the State to protect the purity of the water we drink and that the Department of Environmental Protection shall be empowered to promulgate and enforce regulations to purify drinking water by filtration or such other treatment method as it may require, prior to the distribution of said drinking water to the public; that the maintenance of high-quality potable water is essential in order to safeguard the health and welfare of the people of the State; that the Federal Safe Drinking Water Act provides a comprehensive framework, at a minimum, for establishing standards, providing technical assistance, and for regulating the collection, treatment, monitoring, storage, and distribution of potable water, and for consolidating and improving existing State law regarding potable water; and that it is in the best interests of the people of the State for the State, through its Department of Environmental Protection, to assume primary enforcement responsibility under the Federal Safe Drinking Water Act.

L.1977, c. 224, s. 2, eff. Sept. 17, 1977. Amended by L.1983, c. 443, s. 12, eff. Jan. 9, 1984.

**58:12A-3 Definitions.**

3. As used in P.L.1977, c.224 (C.58:12A-1 et seq.):
  - a. "Administrator" means the Administrator of the United States Environmental Protection Agency or his authorized representative;
  - b. "Contaminant" means any physical, chemical, biological or radiological substance or matter in water;
  - c. "Commissioner" means the Commissioner of Environmental Protection or his designated representative;
  - d. "County" means any county or any agency or instrumentality of one or more thereof;
  - e. "Department" means the Department of Environmental Protection;
  - f. "Federal act" means the Safe Drinking Water Act, P.L.93-523, 42 U.S.C. s.300 et al.;
  - g. "Federal agency" means any department, agency, or instrumentality of the United States;
  - h. "Municipality" means any city, town, township, borough or village or any agency or instrumentality of one or more thereof;
  - i. "National primary drinking water regulations" means primary drinking water regulations promulgated by the administrator pursuant to the federal act;
  - j. "Person" means any individual, corporation, company, firm, association, partnership, municipality, county, State agency or federal agency;
  - k. "Primary drinking water regulation" means a regulation which:
    - (1) Applies at a minimum to public water systems;
    - (2) Specifies contaminants which, in the judgment of the commissioner, may have any adverse effect on the health of persons;

(3) Specifies for each such contaminant either: (a) a maximum contaminant level if, in the judgment of the commissioner, it is economically and technologically feasible to ascertain the level of such contaminant in water in public water systems, or (b) if, in the judgment of the commissioner, it is not economically or technologically feasible to ascertain the level of such contaminant, each treatment technique known to the commissioner which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 4 of P.L.1977, c.224 (C.58:12A-4);

(4) Contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels, including quality control, sampling frequencies, and testing procedures to insure compliance with such levels and to insure proper operation and maintenance of the system, and requirements as to: (a) the minimum quality of water which may be taken into the system, and (b) siting for new facilities for public water systems;

l. "Public water system" means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. Such term includes: (1) any collection, treatment, storage and distribution facilities under control of the operator of such system and used primarily in connection with such system, and (2) any collection or pre-treatment storage facilities not under such control which are used primarily in connection with such system. "Public community water system" means a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents;

m. "State agency" means any department, agency or instrumentality of this State or of this State and any other state or states;

n. "Supplier of water" means any person who owns or operates a public water system;

o. "Maximum contaminant level" means the maximum permissible level of a contaminant in water which is delivered to the free-flowing outlet of the ultimate user of a public water system or other water system to which State primary drinking water regulations apply, except in the case of turbidity, where the maximum permissible level is measured at the point of entry to the distribution system. Contaminants added to the water under circumstances controlled by the user, except those resulting from corrosion of piping and plumbing caused by water quality, are excluded from this definition;

p. "Nonpublic water system" means a water system that is not a public water system;

q. "Sanitary survey" means an on-site review of the water source, facilities, equipment, operation and maintenance of a public or nonpublic water system for the purpose of evaluating the adequacy of the source, facilities, equipment, operation and maintenance for producing and distributing safe drinking water with adequate pressure and volume;

r. "Secondary drinking water regulation" means a regulation applying to one or more water systems, and which specifies the maximum contaminant levels that are required to protect the public welfare; such regulations may apply to any contaminant in drinking water: (1) which may adversely affect the taste, odor, or appearance of such water and consequently may cause a substantial number of persons served by such water systems to discontinue their use, or (2) which may otherwise adversely affect the public welfare;

s. "Water system" means a system for providing potable water to any person.

L.1977, c.224, s.3; amended 1983, c.443, s.13; 1999, c.176, s.5.

#### **58:12A-4 Powers, duties of commissioner relative to drinking water regulations.**

4. a. The commissioner shall prepare, promulgate and enforce and may amend or repeal:

(1) State primary drinking water regulations that at any given time shall be no less stringent than national regulations in effect at that time;

(2) State secondary drinking water regulations; and

(3) other regulations to protect potable waters, regulate public and nonpublic water systems, and carry out the intent of the provisions of P.L.1977, c.224 (C.58:12A-1 et seq.) in any one or more areas of the State requiring a particular safe drinking water program.

b. Subject to section 5 of P.L.1977, c.224 (C.58:12A-5), State primary drinking water regulations shall apply to each public water system in the State, except that such regulations shall not apply to a public water system:

(1) Which consists only of distribution and storage facilities and which does not have any collection and treatment facilities;

(2) Which obtains all of its water from, but is not owned or operated by, a public water system to which such regulations apply;

(3) Which does not sell water to any person; and

(4) Which does not provide water for potable purposes to any carrier which conveys passengers in interstate commerce.

c. The commissioner shall adopt and implement adequate procedures, promulgate appropriate rules and regulations, and issue such orders as are necessary for the enforcement of State primary drinking water regulations and for the provision of potable water of adequate volume and pressure; such regulations and procedures to include but not be limited to:

(1) Monitoring and inspection procedures;

(2) Maintenance of an inventory of public water systems in the State;

(3) A systematic program for conducting sanitary surveys of public water systems throughout the State or in a part thereof, whenever the commissioner determines that such surveys are necessary or advisable;

(4) The establishment and maintenance of a program for the certification of laboratories conducting analytic measurements of drinking water contaminants specified in the State primary and secondary drinking water regulations; and the assurance of the availability to the department of laboratory facilities certified by the administrator and capable of performing analytic measurements of all contaminant specified in the State primary and secondary drinking water regulations;

(5) The establishment and maintenance of programs concerning plans and specifications for the design, construction and operation of water systems, which programs:

(a) require all such plans and specifications to be first approved by the department before any work thereunder shall be commenced;

(b) assure that all new public water systems have adequate technical, managerial and financial capacity to comply with the provisions of the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), and all regulations promulgated by the department pursuant to that act prior to approval of such systems to distribute water for potable purposes;

(c) assure that all water systems will comply with any rules and regulations of the department;

and

(d) assure and certify compliance with the State primary drinking water regulations or such requirements of the State secondary drinking water regulations as the commissioner deems applicable, and will deliver water with sufficient quality, volume and pressure to the users of such systems.

d. The commissioner shall keep such records and make such reports with respect to the duties, powers and responsibilities of the commissioner under subsections a. and c. of this section as may be required by regulations established by the administrator pursuant to the federal act.

e. The commissioner may require any public water system to install, use, and maintain such monitoring equipment and methods, to perform such sampling, to maintain and retain such records of information from monitoring and sampling activities, to submit such reports of monitoring and sampling results, and to provide such other information as he may require to assist in the establishment of regulations under the provisions of P.L.1977, c.224 (C.58:12A-1 et seq.), or to determine compliance or noncompliance with the provisions of P.L.1977, c.224 (C.58:12A-1 et seq.) or with regulations promulgated pursuant to the provisions of P.L.1977, c.224 (C.58:12A-1 et seq.).

f. The commissioner shall have the right to enter any premises upon presentation of appropriate credentials during regular business hours, in order to test, inspect or sample any feature of a public water system, and in order to inspect, copy or photograph any monitoring equipment or records required to be kept under provisions of P.L.1977, c.224 (C.58:12A-1 et seq.).

g. (Deleted by amendment, P.L.1999, c.176).

L.1977,c.224,s.4; amended 1979, c.313; 1983, c.443, s.14; 1999, c.176, s.6.

#### **58:12A-5. Regulations; variances or exemptions; duration**

The commissioner may authorize variances or exemptions from the regulations issued pursuant to section 4. of this act under conditions and in such manner as he deems necessary and desirable; provided, however, that such variances or exemptions shall be granted only under conditions and in a manner which are no less stringent than the conditions under, and the manner in which, variances and exemptions may be granted under the Federal act. Notwithstanding the foregoing variances may be granted for no longer than 5 years, subject to one or more renewals of no longer than 5 years each.

L.1977, c. 224, s. 5, eff. Sept. 17, 1977.

#### **58:12A-6. Knowledge of contaminant in or likely to enter water system; actions by commissioner**

The commissioner, upon receipt of information that a contaminant which is present in or is likely to enter a water system may present an imminent and substantial endangerment to the health of persons, may take such actions as he may deem necessary in order to protect the health of such persons. Such actions may include, but shall not be limited to: a. issuing such orders as may be necessary to protect the health of persons who are or may be users of such system, including travelers; and b. commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction.

L.1977, c. 224, s. 6, eff. Sept. 17, 1977. Amended by L.1983, c. 443, s. 15, eff. Jan. 9, 1984.

#### **58:12A-7. Emergency circumstances; provision of safe drinking water**

The commissioner shall promulgate an adequate plan for the provision of safe drinking water under emergency circumstances. When, in the judgment of the commissioner, emergency circumstances exist in the State with respect to a need for safe drinking water, he may take such actions, including the issuance of orders, as he may deem necessary in order to provide such water where it otherwise would not be available.

L.1977, c. 224, s. 7, eff. Sept. 17, 1977.

**58:12A-8. Failure of public water supply system to comply with regulations or requirements; notice requirements**

Whenever a public water supply system: a. is not in compliance with the State primary drinking water regulations; b. fails to perform monitoring required by regulations adopted by the commissioner; or, c. fails to comply with the requirements prescribed by a variance or exemption, the supplier of water shall as soon as practicable give notice of that fact and of the nature, and extent and possible health effects of such fact to the municipal and county health departments, the department, the administrator, and communications media serving the area served by the system of such fact. Such notice also shall be given by the supplier of water by publication in a newspaper of general circulation, as determined by the commissioner, within the area served by such public water system at least once every 3 months so long as the violation continues. If the water bills of a public water system are issued more often than once every 3 months, such notice shall also be included in at least one water bill of the public water system for each customer every 3 months; if the public water system issues its water bills less often than once every 3 months, such notice shall be included in each of the water bills issued by the system for each customer; provided, however, that the commissioner may prescribe by regulations alternative notice requirements.

L.1977, c. 224, s. 8, eff. Sept. 17, 1977.

**58:12A-9 General powers and duties of commissioner.**

9. The commissioner is authorized, in order to carry out the provisions and purposes of this act, to:
- a. Perform any and all acts necessary to carry out the purposes and requirements of this act relating to the adoption and enforcement of any regulations authorized pursuant to this act;
  - b. Administer and enforce the provisions of this act and all rules, regulations, and orders promulgated, issued, or effective hereunder;
  - c. Enter into agreements, contracts, or cooperative arrangements, under such terms and conditions as he deems appropriate, with the Department of Health and Senior Services and any other state agency, federal agencies, municipalities, counties, educational institutions, municipal or county health departments, or other organizations or individuals;
  - d. Receive financial and technical assistance from the federal government and other public or private agencies;
  - e. Participate in related programs of the federal government, other states, interstate agencies, or other public or private agencies or organizations;
  - f. Establish adequate fiscal controls and accounting procedures to assure proper disbursement of and accounting for funds appropriated or otherwise provided for the purpose of carrying out the provisions of this act;
  - g. Delegate those responsibilities and duties as deemed appropriate for the purpose of administering the requirements of this act;
  - h. Establish and collect fees, in accordance with a fee schedule adopted as a rule or regulation, for conducting inspections and laboratory analyses and certifications as may be necessary;
  - i. Prescribe such regulations and issue such orders as are necessary or appropriate to carry out his functions under this act;
  - j. Conduct research, investigations, experiments, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention, and control of contaminants in drinking water;
  - k. Provide for the education of the public as to the causes, effects, extent, prevention, and control

of contaminants in drinking water;

- l. Collect and make available, through publications, a data management system and other appropriate means, the results of and other information, including appropriate recommendations by the institute in connection therewith, pertaining to such research and other activities;
- m. Cooperate with and contract with other public and private agencies, institutions, and organizations and with any industries involved, in the preparation and conduct of such research and other activities;
- n. Review treatment methods used for removal of contaminants from drinking water;
- o. Provide for the education and training of departmental personnel in those areas relating to the causes, effects, extent, prevention and control of contaminants in drinking water;
- p. Establish and collect reasonable fees, in accordance with a fee schedule adopted as a rule or regulation, for the estimated costs of administering and enforcing the programs pursuant to this amendatory and supplementary act, to the extent that the costs are not available from the fund, including but not limited to conducting inspections, laboratory analyses and certifications as may be necessary;
- q. The authority to collect fees pursuant to this section may be delegated by the commissioner to the appropriate county agency consistent with a delegation, pursuant to the provisions of the "County Environmental Health Act," P.L.1977, c.443 (C.26:3A2-21 et seq.), of any authority to administer the provisions of this act;
- r. Administer State and federal grants and other forms of financial assistance to municipalities, counties and other political subdivisions, or any recipient approved by the commissioner according to the terms and conditions approved by him in order to meet the goals and objectives of this act. The commissioner shall establish, charge and collect reasonable loan origination and annual administrative fees, which shall be based upon, and shall not exceed the estimated cost of processing, monitoring and administering the financial assistance programs. Said fees shall be deposited in a separate fund, administered by the Department of Environmental Protection, and the funds used for the sole purpose of administering the financial assistance programs authorized and established by State law, including, but not limited to, the costs of administering the "Drinking Water - State Revolving Fund Accounts".

L.1977,c.224,s.9; amended 1983, c.443, s.16; 2002, c.34, s.45.

#### **58:12A-10. Violations; penalties**

10. a. If any person violates any of the provisions of this act or any rule, regulation or order promulgated or issued pursuant to the provisions of this act, the department may institute a civil action in a court of competent jurisdiction for injunctive or any other appropriate relief to prohibit and prevent such violation or violations, and the said court may proceed in the action in a summary manner.

b. Any person who violates the provisions of this act or any rule, regulation or order promulgated pursuant to this act shall be liable to a civil administrative penalty of not more than \$5,000.00 for the first offense, not less than \$5,000.00 nor more than \$10,000.00 for the second offense, and up to \$25,000.00 for the third and each subsequent offense, to be collected in a civil action by a summary proceeding under "the penalty enforcement law" (N.J.S.2A:58-1 et seq.), or in any case before a court of competent jurisdiction wherein injunctive relief had been requested. If the violation is of a continuing nature, each day during which it continues subsequent to receipt of an order to cease the violation shall constitute an additional, separate and distinct offense. No civil administrative penalty shall be levied, except subsequent to the notification of the violator by certified mail or personal service. The notice shall include a reference to the section of the statute, regulation, order or permit condition violated; a concise statement of the facts alleged to constitute the violation; a statement of the amount of the civil penalties to be imposed; and a statement of the violator's right to a hearing. The violator shall have 20 days from receipt of the notice within which to deliver to the commissioner a written request for a hearing. Subsequent to the hearing and upon a finding that a violation has occurred, the commissioner may issue a final order after assessing the amount of the

fine specified in the notice. If no hearing is requested, the notice shall become a final order upon the expiration of the 20-day period. Payment of the penalty is due when a final order is issued or when the notice becomes a final order. The authority to levy a civil administrative penalty is in addition to all other enforcement provisions in this act, and the payment of a civil administrative penalty shall not be deemed to affect the availability of any other enforcement provision in connection with the violation for which the penalty is levied.

c. The department is hereby authorized and empowered to compromise and settle any claim for a penalty under this section in such amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances, including the posting of a performance bond by the violator.

d. Any person who violates this act, or an administrative order issued pursuant to subsection b. of this section, or a court order issued pursuant to subsection a. of this section, or who fails to pay a civil administrative penalty in full pursuant to subsection b. of this section shall be subject, upon order of the court, to a civil penalty not to exceed \$10,000.00 per day of the violation, and each day's continuance of the violation shall constitute a separate and distinct violation. Any penalty imposed under this subsection may be recovered with costs in a summary proceeding pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court shall have jurisdiction to enforce "the penalty enforcement law."

L.1977,c.224,s.10; amended 1983,c.443,s.17; 1991,c.91,s.531.

#### **58:12A-11. Severability; liberal construction; continuation of rules and regulations promulgated pursuant to repealed statutes**

If any provision of this act or the application thereof to any person or circumstance is held invalid, the remainder of the act and the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby. This act shall be liberally construed to effectuate the purpose and intent thereof. All rules and regulations promulgated pursuant to any statutes repealed by this act are continued in full force and effect until superseded and repealed by rules and regulations promulgated pursuant to this act.

L.1977, c. 224, s. 11, eff. Sept. 17, 1977.

#### **58:12A-12. Public community water system; periodic tests for hazardous contaminants**

The owner or operator of each public community water system shall undertake the periodic testing of the water provided to customers by the system in order to determine the presence of hazardous contaminants, as identified pursuant to section 2 of this amendatory and supplementary act. A schedule for the periodic testing shall be established by the commissioner within six months of the effective date of this amendatory and supplementary act and pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-1 et seq.). The tests shall be conducted during periods of representative demand by a laboratory certified by the department. The initial tests for the substances identified in subsection a. of section 2 of this amendatory and supplementary act shall be administered within 12 months of the effective date of this amendatory and supplementary act and semiannually thereafter, pursuant to the schedule established by the commissioner, unless the commissioner shall determine, on a case-by-case basis, that greater or lesser frequency of testing is necessary or sufficient to ensure the public health and safety. The tests for the substances for which maximum contaminant levels will be established pursuant to subsection b. of section 2 of this amendatory and supplementary act shall be conducted within one year of the effective date of this act and annually thereafter, unless the commissioner shall determine, on a case-by-case basis, that greater or lesser frequency of testing is necessary to ensure the public health and safety.

L.1983, c. 443, s. 1, eff. Jan. 9, 1984.

#### **58:12A-12.1 Additional information included in Consumer Confidence Report by public community water systems.**

1. a. The owner or operator of every public community water system required to prepare a Consumer Confidence Report pursuant to the "Safe Drinking Water Act Amendments of 1996," 42 U.S.C.s. 300f et

al., shall include in the Consumer Confidence Report such additional information as required by the Department of Environmental Protection pursuant to rules and regulations adopted, in consultation with the Drinking Water Quality Institute established pursuant to section 10 of P.L.1983, c.443 (C.58:12A-20), pursuant to section 2 of this act.

b. The provisions of subsection a. of this section shall apply to the first Consumer Confidence Report required to be prepared after the adoption of rules and regulations by the Department of Environmental Protection, in consultation with the Drinking Water Quality Institute, pursuant to section 2 of this act.

L.1999,c.362,s.1.

### **58:12A-12.2 Rules, regulations.**

2. The Department of Environmental Protection, in consultation with the Drinking Water Quality Institute, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations that shall provide that the Consumer Confidence Report, in addition to meeting the specific requirements of the "Safe Drinking Water Act Amendments of 1996," shall set forth the environmental and health information concerning the drinking water provided by the public community water system in a format designed to make this information easily accessible and understandable to all customers of the public community water system. These rules and regulations shall include, but need not be limited to, provisions requiring the Consumer Confidence Report to be formatted in such a way that the statement required pursuant to 40 CFR s.141.154(a) shall be included in bold print within the header of any chart displaying levels of detection and maximum contaminant levels for contaminants included in the Consumer Confidence Report.

L.1999,c.362,s.2.

### **58:12A-12.3 Certain notice exemption not exercised.**

9. The authority granted pursuant to the "Safe Drinking Water Act Amendments of 1996," 42 U.S.C.s.300f et al., to exempt public community water systems serving fewer than 10,000 persons from the requirement to mail a Consumer Confidence Report to each customer shall not be exercised.

L.1999,c.362,s.9.

### **58:12A-13. Maximum contaminant levels of certain organic compounds; list of contaminants; rules and regulations**

a. The commissioner, after considering the recommendations of the Drinking Water Quality Institute created pursuant to section 10 of this amendatory and supplementary act, shall, within 18 months of the effective date of this amendatory and supplementary act and pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), adopt rules and regulations which establish a maximum contaminant level for each of the following organic compounds:

Trichlorethylene Tetrachloroethylene Carbon tetrachloride 1,1,1-Trichloroethane 1,2-Dichloroethane Vinyl chloride Methylene chloride Benzene Chlorobenzene Dichlorobenzene (s) Trichlorobenzene (s) 1,1-Dichloroethylene Cis --1,2-dichloroethylene Trans--1,2-dichloroethylene Polychlorinated biphenyls (PCBs) Xylenes Ethylene glycol Chlordane Kerosene Formaldehyde n-Hexane Methyl ethyl ketone

b. The commissioner, after considering the recommendations of the Drinking Water Quality Institute, shall, within two years of the effective date of this amendatory and supplementary act and pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), adopt rules and regulations which develop, within the limits of medical, scientific, and technological feasibility, a list of those pesticides and related compounds, metals, and base/neutral extractable organic compounds and acid extractable organic compounds which he believes may be found in drinking water and the presence of which above maximum contaminant levels in drinking water, upon ingestion or assimilation, may, on the



basis of the best information available to the commissioner, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunction (including malfunctions in reproduction), or physical deformity; and establish, within the limits of medical scientific and technological feasibility, maximum contaminant levels for each chemical or chemical compound on the list which, with respect to carcinogens, permit cancer in no more than one in one million persons ingesting that chemical for a lifetime, and, with respect to other chemicals or chemical compounds on the list and those carcinogens resulting from compounds with public health benefits, eliminate within the limits of practicability and feasibility all adverse physiological effects which may result from ingestion; provided, however, that in no case shall the standard adopted by the commissioner for any chemical or chemical compound on the list be less stringent than that established for the same chemical or chemical compound by the United States Environmental Protection Agency, pursuant to the "Safe Drinking Water Act," Pub.L. 93-523 (42 U.S.C. s. 300f et seq.), or any other federal agency.

No maximum contaminant level need be established for any substance identified pursuant to subsection a. or b. of this section until the presence of the substance in drinking water is established by any test required by this act.

L.1983, c. 443, s. 2, eff. Jan. 9, 1984.

**58:12A-14. Test results; submission to department; spot checks**

The water purveyor whose water was submitted for a potability test required by this amendatory and supplementary act shall forward to the department a copy of all test results. The certified laboratory conducting the potability test may, upon written approval by the department, submit the test results on behalf of the water purveyor. The department is authorized to conduct spot checks to assure compliance with this amendatory and supplementary act and the accuracy and integrity of the reported results.

L.1983, c. 443, s. 3, eff. Jan. 9, 1984.

**58:12A-15. Excessive contaminant in system; compliance within one year or earlier; extension; failure to comply; remedies**

a. The owner or operator of each public community water system which has been determined to contain a chemical or chemical compound identified pursuant to section 2 of this amendatory and supplementary act at a level exceeding the maximum contaminant level shall, within a year after receipt of the test results, take any action required to bring the water into compliance with the standard; provided, however, that the commissioner may require compliance as promptly as necessary to abate an immediate public health threat, or extend the period of compliance if new construction is required therefor; provided further, however, that the extension shall be granted only upon a determination by the commissioner, after a public hearing, that the extension will not pose an imminent threat to public health.

b. In the event that the owner or operator of a public water system fails to bring the water supplied to consumers into compliance pursuant to subsection a. of this section, the commissioner may enjoin the water purveyor from continuing to supply water to the public, and establish, in conjunction with the local board of health or county health department, or other appropriate agency, a program to bring the water supply into compliance or provide an alternate potable water supply for the customers of the system.

L.1983, c. 443, s. 4, eff. Jan. 9, 1984.

**58:12A-16. Voluntary procedures for testing for homeowners with well**

Local health departments, in cooperation with the department, shall develop voluntary procedures for the testing of water for homeowners whose principal source of potable water is a well, to be paid by the homeowner, or who are served by a nonpublic water system or a public water system which is not a public community water system, to be paid for by the owner or operator thereof.

L.1983, c. 443, s. 5, eff. Jan. 9, 1984.

**58:12A-17. Tariffs; increase by order to equal service costs of tests**

Within 90 days of the effective date of this amendatory and supplementary act, the Board of Public Utilities shall issue appropriate orders increasing current tariffs established pursuant to law for the supplying of water service by an amount equal to the total increase in the relevant water supply service costs resulting from the testing of water required by the provisions of this amendatory and supplementary act and the tax levied pursuant to section 11 of this amendatory and supplementary act. In issuing this order, the board shall not be bound to find a rate base under the provisions of section 31 of P.L.1962, c. 198 (C. 48:2-21.2).

L.1983, c. 443, s. 6, eff. Jan. 9, 1984.

**58:12A-18. Budget certification; cost of treatment technique**

When the department orders a municipality, county, or agency thereof which operates a public water supply system to install treatment techniques or other apparatus or equipment for the purpose of achieving a maximum contaminant level established by the department, the Division of Local Government Services in the Department of Community Affairs shall, when reviewing the annual budget of the municipality, county, or agency thereof, certify that an amount sufficient to cover the cost of the treatment technique specified in the order issued to the municipality, county, or agency thereof is included in the annual budget.

L.1983, c. 443, s. 8, eff. Jan. 9, 1984.

**58:12A-19. Annual report**

The commissioner shall make an annual report to the Legislature and the Governor and to the Chairmen of the Senate Energy and Environment Committee and General Assembly Agriculture and Environment Committee, or their successors, which shall summarize and analyze the results and effects of the testing program mandated by this amendatory and supplementary act, and make any recommendations concerning the "Safe Drinking Water Act" deemed appropriate. This report shall be due on October 1, 1984 and annually thereafter.

L.1983, c. 443, s. 9, eff. Jan. 9, 1984.

**58:12A-20. Drinking water quality institute**

a. There is established in the department the Drinking Water Quality Institute. The institute shall comprise 15 members as follows: the Commissioner of Environmental Protection, the Commissioner of Health, and the Chairman of the Water Supply Advisory Council, the Director of the Division of Water Resources in the department, the Director of the Office of Science and Research in the department and the Director of the Office of Occupational and Environmental Health in the Department of Health, all of whom shall serve ex officio; and nine appointed members, three of whom shall represent the water purveyors, at least one of which has as its primary water source an underground source; three of whom shall represent the academic scientific community and three of whom, having backgrounds in environmental health issues, shall represent the public, with one of each group of three set forth hereinbefore to be appointed by the Governor, the President of the Senate and the Speaker of the General Assembly. Of the members first appointed, three shall serve for terms of three years, three for terms of two years and three for terms of one year. Thereafter, all terms shall be for three years. Each member shall serve for the term of his appointment and until his successor shall have been appointed and qualified. Any vacancy shall be filled in the same manner as the original appointment for the unexpired term only. Any member of the institute may be removed by the appointing authority, for cause, after public hearing.

b. Members of the institute shall serve without compensation, but the institute may, within the limits of funds appropriated or otherwise made available to it for such purposes, reimburse its members for necessary expenses incurred in the discharge of their official duties.

c. The institute shall meet at such times and places as may be determined by its chairman, who shall be designated by the Governor. A majority of the membership of the institute shall constitute a quorum for the transaction of business. Action may be taken and motions and resolutions adopted by the institute at any meeting by the affirmative vote of a majority of the full membership of the institute.

d. The institute shall make recommendations for the implementation of the Drinking Water Quality Program by the department. These recommendations shall consist of:

- (1) The development of a list of contaminants for which testing shall be required;
- (2) The development of maximum contaminant levels;
- (3) The development of appropriate testing techniques to measure maximum contaminant levels;
- (4) The development of testing frequencies;
- (5) The review of all activities undertaken pursuant to the "Safe Drinking Water Act" and any amendments or supplements thereto.

e. The Drinking Water Quality Institute shall have the authority to call to its assistance and avail itself of the services of the employees of any State, county or municipal department, board, commission or agency that may be required and made available for such purposes.

L.1983, c. 443, s. 10, eff. Jan. 9, 1984.

**58:12A-21. Water tax**

a. There is levied upon the owner or operator of every public community water system a water tax of \$0.01 per 1,000 gallons of water delivered to a consumer, not including water purchased for resale, on or after first day of the first full fiscal quarter following enactment of P.L. 1983, c. 443 (C. 58:12A-12 et al.), and quarterly thereafter.

b. (1) The owner or operator of every public community water system shall, on or before the 20th day of the month following the close of each tax period, render a return under oath to the Director of the Division of Taxation, on such form as may be prescribed by the director, indicating the number of gallons of water delivered to a consumer, and at said time owner or operator shall pay the full amount of tax due.

(2) The owner or operator of every public community water system shall, within 20 days, register with the director on forms prescribed by him.

c. If a return required by this act is not filed, or if a return when filed is incorrect or insufficient in the opinion of the director, the amount of tax due shall be determined by the director from such information as may be available. Notice of such determination shall be given to the taxpayer liable for the payment of the tax. Such determination shall finally and irrevocably fix the tax, unless the person against whom it is assessed, within 30 days after receiving notice of such determination, shall apply to the director for a hearing, or unless the director on his own motion shall redetermine the same. After such hearing the director shall give notice of his determination to the person to whom the tax is assessed.

d. Any taxpayer who shall fail to file his return when due or to pay any tax when the same becomes due, as herein provided, shall be subject to such penalties and interest as provided in the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq. If the Division of Taxation determines that the failure to comply with any provision of this section was excusable under the circumstances, it may remit such part or all of the penalty as shall be appropriate under such circumstances.

e. (1) (Deleted by amendment, P.L. 1987, c. 76)

(2) (Deleted by amendment, P.L. 1987, c. 76)

f. In addition to the other powers granted to the director in this section, he is authorized:

(1) To delegate to any officer or employee of his division such of his powers and duties as he may deem

necessary to carry out efficiently the provisions of this section, and the person to whom such power has been delegated shall possess and may exercise all of said powers and perform all of the duties delegated by the director;

(2) To prescribe and distribute all necessary forms for the implementation of this section.

g. The tax imposed by this section shall be governed in all respects by the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., except only to the extent that a specific provision of this section may be in conflict therewith.

h. The "Safe Drinking Water Fund" (hereinafter referred to as the "fund") is established as a nonlapsing, revolving fund. The fund shall be administered by the department, and shall be credited with all tax revenue collected by the division pursuant to this section. Interest received on moneys in the fund shall be credited to the fund. Moneys in the fund shall be appropriated to the department for all costs associated with the department's administration of all aspects of the programs set forth in the "Safe Drinking Water Act," P.L. 1977, c. 224 (C. 58:12A-1 et seq.), in the annual budget request of the department.

L. 1983, c. 443, s. 11; amended by L. 1987, c. 76, s. 44.

#### **58:12A-22 Water Supply Replacement Trust Fund.**

1. a. There is established in the Department of Environmental Protection a non-lapsing revolving fund to be known as the "Water Supply Replacement Trust Fund," hereinafter referred to as the fund. The department shall administer the fund, and monies in the fund shall be used to (1) provide loans to individuals, municipalities or municipally-owned or privately-owned public water systems as defined in section 3 of P.L.1977, c.224 (C.58:12A-3) for the purposes of providing interim or permanent alternate water supplies to persons whose principal source of potable water is contaminated or is threatened with contamination by hazardous substances as identified by the department, or fails to meet the State primary drinking water standards contained in regulations developed pursuant to this act, or fails to meet a standard for sodium, chloride, lead, mercury, iron, or manganese established by the department pursuant to section 4 of P.L.1991, c.456 (C.58:12A-22.4), and (2) provide funds to the department to conduct feasibility studies to determine appropriate remedies for contaminated potable water supplies, including the evaluation of water treatment systems, to conduct confirmatory tests to determine the presence of hazardous substances in potable water supplies, to study the extent to which water supplies are contaminated or are threatened by contamination with hazardous substances, to develop recommendations for remediating contaminated or threatened water supplies, and to defray administrative costs incurred by the department in implementing the provisions of this act. Payments of principal and interest on loans issued under the authority of this act shall be deposited in the fund, and shall remain available for further disbursements as new loans to be awarded pursuant to this act. Any monies deposited in the "Water Supply Replacement Trust Fund" are hereby appropriated to the Department of Environmental Protection to carry out the purposes of this act.

b. Loans made to local government units pursuant to this act shall bear interest at a rate fixed by the State Treasurer, which rate shall not exceed two percent per year for a term of not more than 20 years.

c. As used in this act, "hazardous substance" means any substance defined as a hazardous substance by the Department of Environmental Protection pursuant to rules and regulations adopted pursuant to section 3 of P.L.1976, c.141 (C.58:10-23.11b).

L.1988,c.106,s.1; amended 1989, c.311, s.1; 1991, c.456, s.1; 1999, c.266, s.1.

#### **58:12A-22.1. Radium-contaminated water supply sub-account; indication of radium; confirmatory test; loans**

a. There is established in the "Water Supply Replacement Trust Fund" established pursuant to section 1 of P.L.1988, c.106 (C.58:12A-22) a Radium-Contaminated Water Supply sub-account. Monies in the Radium-Contaminated Water Supply sub-account shall be used by the Department of Environmental

Protection for the purpose of testing and mapping those aquifers identified by the department to determine the extent of radium contamination of the aquifer, and by the department or a municipal or regional health agency certified by the department pursuant to section 15 of P.L.1977, c.443 (C.26:3A2-33) for the purpose of financing confirmatory tests to determine the presence of radium in potable water supplies.

b. Any owner of a single family residence who has conducted a gross alpha or a gross beta screen test of the potable water supply relied upon by the occupants of the single family residence, the results of which indicate the presence of radium in the potable water supply in excess of a safety level established by the department, may petition the department to conduct a confirmatory test, which may be based on representative sampling, to determine the accuracy of the initial test. Upon receipt of such a request, the department shall conduct the confirmatory test. No request for a confirmatory test may be made by a person pursuant to this subsection until the department has completed the testing and mapping of aquifers required pursuant to subsection a. of this section.

c. Of the amount appropriated to the Radium-Contaminated Water Supply sub-account, the sum of \$1,000,000 is allocated to the New Jersey Housing and Mortgage Finance Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.) and dedicated for the purposes of providing low interest loans to owners of single family residences whose source of potable water is contaminated or threatened by contamination with radium to provide a permanent alternative potable water supply or adequate treatment technology.

The agency shall establish a program to provide the loans authorized pursuant to this subsection. The loans issued pursuant to this subsection shall bear an interest of not more than 2 percent per year, and shall be for a term of not more than five years. The maximum amount for any single loan shall be \$10,000. Loan applicants shall provide certification from the Department of Environmental Protection or from a municipal or regional health agency certified pursuant to section 15 of P.L.1977, c.443 (C.26:3A2-33) of the contamination or the threat of this contamination when applying for loans on forms prescribed by the agency.

d. There is appropriated to the Radium-Contaminated Water Supply sub-account the sum of \$3,500,000 from the "Clean Waters Fund" established pursuant to P.L.1976, c.92 from amounts in the fund received as repayments of emergency water supply loans made pursuant to P.L.1981, c.28.

L.1989, c.311, s.4.

#### **58:12A-22.2 Water Supply Remediation sub-account.**

2. a. There is established in the "Water Supply Replacement Trust Fund" established pursuant to section 1 of P.L.1988, c.106 (C.58:12A-22) a Water Supply Remediation sub-account.

b. Of the monies appropriated to the Water Supply Remediation sub-account pursuant to section 6 of P.L.1991, c.456, \$500,000 shall be used by the Department of Environmental Protection for the evaluation of water treatment systems, and the Department of Community Affairs to administer the loan program established pursuant to section 3 of P.L.1991, c.456 (C.58:12A-22.3).

c. Any owner of a single family residence who has conducted a test of the potable water supply used by the occupants of the single family residence, the results of which indicate a violation of a primary drinking water standard or a violation of a standard for sodium, chloride, lead, mercury, iron, or manganese, established by the department pursuant to section 4 of P.L.1991, c.456 (C.58:12A-22.4) , may apply for a loan pursuant to section 3 of P.L.1991, c.456 (C.58:12A-22.3).

L.1991,c.456,s.2; amended 1999, c.266, s.2.

#### **58:12A-22.3 NJHMFA loans to homeowners.**

3. a. Of the amount appropriated to the Water Supply Remediation sub-account pursuant to section 6

of P.L.1991, c.456, \$3,500,000 is allocated to the New Jersey Housing and Mortgage Finance Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.) and dedicated for the purposes of providing zero interest loans to owners of single family residences, whose source of potable water violates primary drinking water standards, or violates a standard for sodium, chloride, lead, mercury, iron, or manganese established by the department pursuant to section 4 of P.L.1991, c.456 (C.58:12A-22.4), to provide an interim or permanent alternative potable water supply or adequate and appropriate treatment technology. The purposes for which a loan may be issued pursuant to this section include, but are not necessarily limited to: (1) replacing the contaminated well with a new well or an interim or permanent alternative potable water supply, and sealing the contaminated well, (2) deepening, encasing, or otherwise modifying the contaminated well to prevent contamination, or (3) purchasing adequate and appropriate water treatment technology or equipment to render the water drawn from the contaminated well potable. For the purposes of qualifying for a loan pursuant to this section, the cause or source of contamination of the potable water shall not be relevant.

b. The New Jersey Housing and Mortgage Finance Agency shall establish, within 120 days of the date of enactment of P.L.1999, c.266, a program to provide the loans authorized pursuant to this section, which shall include, but need not be limited to, funding priorities based on the priority system developed by the Department of Environmental Protection pursuant to section 4 of P.L.1991, c.456 (C.58:12A-22.4). The loans issued pursuant to this section shall bear zero interest and shall be for a term of not more than 10 years. The maximum amount for any single loan shall be \$10,000. Loan applicants shall provide certification from the Department of Environmental Protection or from a municipal or regional health agency certified pursuant to section 15 of P.L.1977, c.443 (C.26:3A2-33) of the contamination or the threat of contamination when applying for loans on forms prescribed by the agency. Any loan issued pursuant to this section shall be secured and the New Jersey Housing and Mortgage Finance Agency may assess a loan servicing fee on each loan not to exceed one percent per year on the balance of the loan.

Notwithstanding any provision of P.L.1991, c.456 (C.58:12A-22.2 et al.) to the contrary, the New Jersey Housing and Mortgage Finance Agency may issue up to \$1,000,000 in loans pursuant to this section prior to the Department of Environmental Protection developing the priority system required pursuant to section 4 of P.L.1991, c.456 (C.58:12A-22.4).

L.1991,c.456,s.3; amended 1999, c.266, s.3.

#### **58:12A-22.4 DEP water standards; priority system for NJHMFA loans.**

4. The Department of Environmental Protection shall establish, within 90 days of the date of enactment of P.L.1999, c.266, standards for sodium, chloride, lead, mercury, iron, and manganese for the purpose of awarding loans to owners of single family residences whose source of potable water violates those standards. The department shall develop, within 90 days of the date of enactment of P.L.1999, c.266, a priority system, based on the nature and extent of the human health or environmental danger posed by a violation of a primary drinking water standard or a standard adopted pursuant to this section, for use by the New Jersey Housing and Mortgage Finance Agency in making zero interest rate loans in accordance with section 3 of P.L.1991, c.456 (C.58:12A-22.3).

L.1991,c.456,s.4; amended 1999, c.266, s.4.

#### **58:12A-22.5. Homeowner loans repaid by spill compensation claims**

5. An owner of a single family residence eligible for financial assistance pursuant to the "Spill Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.), who receives a loan from the Water Supply Remediation sub-account pursuant to P.L.1991, c.456 (C.58:12A-22.2 et al.) shall submit a claim against the "New Jersey Spill Compensation Fund," created pursuant to section 10 of P.L.1976, c.141 (C.58:10-23.11i), in the amount of the loan. Any amount paid by the "New Jersey Spill Compensation Fund" to a person submitting a claim pursuant to this section shall be utilized to repay the loan within 7 days of receipt of the payment.

L.1991,c.456,s.5.

**58:12A-23. Funding of study to determine extent water supplies contaminated with hazardous substances; allocation for loans to municipalities to provide alternate water supply for persons with contaminated water supply**

a. Of the monies made available for the cleanup of hazardous discharge sites pursuant to P.L.1986, c.144 (C.54:10A-5.1 et seq.) and transferred to the "Water Supply Replacement Trust Fund" pursuant to section 3 of this act, the sum of \$1,000,000 is allocated for the purpose of funding a study to be conducted by the department to determine the extent to which water supplies are contaminated or are threatened by contamination with hazardous substances and to develop recommendations for dealing with such contaminated or threatened water supplies, and \$2,000,000.00 is allocated for conducting site specific feasibility studies authorized pursuant to section 1 of this act.

b. Of the monies made available for the cleanup of hazardous discharge sites pursuant to P.L.1986, c.144 (C.54:10A-5.1 et seq.) and transferred to the "Water Supply Replacement Trust Fund" pursuant to section 3 of this act, the sum of \$57,000,000 is allocated for the purpose of providing loans to municipalities or municipally-owned or privately-owned public water systems as defined in section 3 of P.L.1977, c.224 (C.58:12A-3) for the purpose of providing a permanent alternate water supply to persons whose principal source of potable water is contaminated or is threatened with contamination by hazardous substances as identified by the department.

L.1988, c.106, s.2; amended 1989,c.311,s.2.

**58:12A-24. 5% limit on administration costs**

a. Of the \$40,000,000.00 appropriated pursuant to P.L. 1987, c. 154 to the Department of Environmental Protection for hazardous site mitigation Statewide, the sum of \$30,000,000.00 is transferred to the "Water Supply Replacement Trust Fund" to carry out the purposes of this act. Of this amount, the Department is authorized to utilize not more than 5% of the total appropriated per year to cover costs incurred in the administration of sections 2a. and 2b. of this act.

b. Of the \$45,000,000.00 appropriated pursuant to P.L. 1988, c. 47 to the Department of Environmental Protection for hazardous site mitigation Statewide, \$30,000,000.00 is transferred to the "Water Supply Replacement Trust Fund" to carry out the purposes of this act. Of this amount, the Department is authorized to utilize not more than 5% of the total appropriated per year to cover costs incurred in the administration of sections 2a. and 2b. of this act.

L. 1988, c. 106, s. 3.

**58:12A-25. Loans to qualifying municipality or municipally-owned or privately-owned public water supply system for extension of public water supply system to residential area**

The Department of Environmental Protection shall utilize \$8,000,000.00 of the monies deposited in the "Water Supply Replacement Trust Fund" to provide loans to a qualifying municipality for the extension of a public water supply system to a residential area or to a municipally-owned or privately-owned public water supply system for the extension of a public water supply system to a residential area in a qualifying municipality. A qualifying municipality is one with a residential area of more than 1,500 residential units that has been found by the local department of health, or board of health, and the county board of health, or department of health, to have at least 25% of the wells supplying potable water to the area with contaminants at the Class II, Class III or Class IV interim action levels for hazardous contaminants in drinking water of the Department of Environmental Protection, or in excess of the maximum contaminant levels adopted by the department pursuant to P.L.1983, c.443 (C.58:12A-12 et seq.), as may be applicable, and:

a. (1) The potable water supply for the residential area is deemed by the county board of health or department of health to be unfit for human consumption, and (2) the governing body of the municipality has adopted a resolution banning new construction in the area pending connection of the area to a public water supply system; or

b. The Department of Environmental Protection determines all or a portion of the ground water serving the residential area to be a well-restriction area.

A municipality applying for a loan under this section shall certify to the department the estimated costs for extending a public water supply system to an eligible residential area that satisfies the criteria of this section. Monies from a loan made hereunder are to be expended solely for the purpose of expanding the public water supply system to residences with contaminated wells.

L.1988, c.106, s.4; amended 1989,c.311,s.3.