

ASSEMBLY, No. 461

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman JOHN CATALANO

District 10 (Ocean)

Assemblyman GREGORY P. MCGUCKIN

District 10 (Ocean)

Co-Sponsored by:

Assemblywoman N.Munoz

SYNOPSIS

Requires water purveyors to notify municipalities they service regarding water supply and water quality issues.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning water allocation permits and amending and
2 supplementing P.L.1981, c.262.

3
4 BE IT ENACTED by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 3 of P.L.1981, c.262 (C.58:1A-3) is amended to read
8 as follows:

9 3. As used in the provisions of P.L.1981, c.262 (C.58:1A-1 et
10 [seq.] al.), P.L.1993, c.202 (C.58:1A-7.3 et al.) and P.L.2003,
11 c.251 (C.58:1A-13.1 et al.):

12 "Aquaculture" means the propagation, rearing and subsequent
13 harvesting of aquatic organisms in controlled or selected
14 environments, and the subsequent processing, packaging and
15 marketing, and shall include, but need not be limited to, activities to
16 intervene in the rearing process to increase production such as
17 stocking, feeding, transplanting, and providing for protection from
18 predators. "Aquaculture" shall not include the construction of
19 facilities and appurtenant structures that might otherwise be
20 regulated pursuant to any State or federal law or regulation.

21 "Aquatic organism" means and includes, but need not be limited
22 to, finfish, mollusks, crustaceans, and aquatic plants which are the
23 property of a person engaged in aquaculture.

24 [a.] "Commissioner" means the Commissioner of [the
25 Department of] Environmental Protection or the commissioner's
26 designated representative [;] .

27 [b.] "Consumptive use" means any use of water diverted from
28 surface or ground waters other than a nonconsumptive use as
29 defined in this section [;] .

30 [c.] "Department" means the Department of Environmental
31 Protection [;] .

32 [d.] "Diversion" means the taking or impoundment of water
33 from a river, stream, lake, pond, aquifer, well, other underground
34 source, or other water body, whether or not the water is returned
35 thereto, consumed, made to flow into another stream or basin, or
36 discharged elsewhere[;] .

37 [e.] "Nonconsumptive use" means the use of water diverted
38 from surface or ground waters in such a manner that it is returned to
39 the surface or ground water at or near the point from which it was
40 taken without substantial diminution in quantity or substantial
41 impairment of quality [;] .

42 [f.] "Person" means any individual, corporation, company,
43 partnership, firm, association, owner or operator of a [water supply
44 facility] public water system, political subdivision of the State and
45 any state, or interstate agency or Federal agency [;] .

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

Matter underlined thus is new matter.

1 "Public community water system" means a public water system
2 which serves at least 15 service connections used by year-round
3 residents or regularly serves at least 25 year-round residents.

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

14 **【g. "Waters" or "waters of the State" means all surface waters**
15 **and ground waters in the State;**

16 **h.】 "Safe or dependable yield" or "safe yield" means that**
17 **maintainable yield of water from a surface or ground water source**
18 **or sources which is available continuously during projected future**
19 **conditions, including a repetition of the most severe drought of**
20 **record, without creating undesirable effects, as determined by the**
21 **department 【;】 .**

22 **【i. "Aquaculture" means the propagation, rearing and**
23 **subsequent harvesting of aquatic species in controlled or selected**
24 **environments, and the subsequent processing, packaging and**
25 **marketing, and shall include, but need not be limited to, activities to**
26 **intervene in the rearing process to increase production such as**
27 **stocking, feeding, transplanting, and providing for protection from**
28 **predators. "Aquaculture" shall not include the construction of**
29 **facilities and appurtenant structures that might otherwise be**
30 **regulated pursuant to any State or federal law or regulation;**

31 **j. "Aquatic organism" means and includes, but need not be**
32 **limited to, finfish, mollusks, crustaceans, and aquatic plants which**
33 **are the property of a person engaged in aquaculture;**

34 **k.】 "Six Mile Run Reservoir Site" means the land acquired by**
35 **the State for development of the Six Mile Run Reservoir in Franklin**
36 **Township, Somerset County, as identified by the Eastern Raritan**
37 **Feasibility Study and the New Jersey Statewide Water Supply Plan**
38 **prepared and adopted by the department pursuant to section 13 of**
39 **P.L.1981, c.262 (C.58:1A-13).**

40 "Water purveyor" means any person that owns or operates a
41 public water system.

42 "Waters" or "waters of the State" means all surface waters and
43 ground waters in the State.

44 (cf: P.L.2003, c.251, s.1)

45
46 2. Section 9 of P.L.1981, c.262 (C.58:1A-9) is amended to read
47 as follows:

1 9. The Board of **【Regulatory Commissioners】** Public Utilities
2 shall fix just and reasonable rates for any public water **【supply】**
3 system subject to its jurisdiction, as may be necessary for that
4 system to comply with an order issued by the department or the
5 terms and conditions of a permit issued pursuant to P.L.1981, c.262
6 (C.58:1A-1 et al.) or P.L.1993, c.202 (C.58:1A-7.3 et al.).
7 (cf: P.L.1993, c.202, s.8)

8
9 3. Section 14 of P.L.1981, c.262 (C.58:1A-14) is amended to
10 read as follows:

11 14. a. **【When】** Whenever the department determines that the
12 developed water supply available to a water purveyor is inadequate
13 to service its users with an adequate supply of water under a variety
14 of conditions, the department may order the water purveyor to
15 develop or acquire, within a reasonable period of time, additional
16 water supplies sufficient to provide that service.

17 b. The Division of Local Government Services in the
18 Department of Community Affairs shall, when reviewing the annual
19 budget of any municipality, county, or agency thereof which
20 operates a public water **【supply】** system, certify that an amount
21 sufficient to cover the cost of any order issued to the **【municipality,**
22 **county or agency thereof】** water purveyor pursuant to subsection a.
23 of this section is included in that annual budget.

24 (cf: P.L.1981, c.262, s.14)

25
26 4. Section 15 of P.L.1981, c.262 (C.58:1A-15) is amended to
27 read as follows:

28 15. The department may:

29 a. Perform any and all acts and issue such orders as are
30 necessary to carry out the purposes and requirements of P.L.1981,
31 c.262 (C.58:1A-1 et al.) or P.L.1993, c.202 (C.58:1A-7.3 et al.);

32 b. Administer and enforce the provisions of P.L.1981, c.262
33 (C.58:1A-1 et al.) or P.L.1993, c.202 (C.58:1A-7.3 et al.) and rules,
34 regulations and orders adopted, issued or effective thereunder;

35 c. Present proper identification and then enter upon any land or
36 water for the purpose of making any investigation, examination or
37 survey contemplated by P.L.1981, c.262 (C.58:1A-1 et al.) or
38 P.L.1993, c.202 (C.58:1A-7.3 et al.);

39 d. **【Subpena】** Subpoena and require the attendance of
40 witnesses and the production by them of books and papers pertinent
41 to the investigations and inquiries the department is authorized to
42 make under P.L.1981, c.262 (C.58:1A-1 et al.) or P.L.1993, c.202
43 (C.58:1A-7.3 et al.), and examine them and those public records as
44 shall be required in relation thereto;

45 e. Order the interconnection of public water **【supply】** systems,
46 whether in public or private ownership, whenever the department
47 determines that the public interest requires that this interconnection

1 be made, and require the furnishing of water by means of that
2 public water system to another public water system, but no order
3 shall be issued before comments have been solicited at a public
4 hearing, notice of which has been published at least 30 days before
5 the hearing, in one newspaper circulating generally in the area
6 served by each involved public water **【supply】** system, called for
7 the purpose of soliciting comments on the proposed action.

8 f. Order any person diverting water to improve or repair its
9 water supply facilities so that water loss is eliminated so far as
10 practicable, safe yield is maintained and the drinking water quality
11 standards adopted pursuant to the "Safe Drinking Water Act,"
12 P.L.1977, c.224 (C.58:12A-1 et al.) are met;

13 g. Enter into agreements, contracts, or cooperative
14 arrangements under such terms and conditions as the department
15 deems appropriate with other states, other State agencies, federal
16 agencies, municipalities, counties, educational institutions,
17 **【investor-owned water companies, municipal utilities authorities,】**
18 water purveyors , or other organizations or persons;

19 h. Receive financial and technical assistance from the federal
20 government and other public or private agencies;

21 i. Participate in related programs of the federal government,
22 other states, interstate agencies, or other public or private agencies
23 or organizations;

24 j. Establish adequate fiscal controls and accounting procedures
25 to assure proper disbursement of and accounting for funds
26 appropriated or otherwise provided for the purpose of carrying out
27 the provisions of P.L.1981, c.262 (C.58:1A-1 et al.) or P.L.1993,
28 c.202 (C.58:1A-7.3 et al.);

29 k. Delegate those responsibilities and duties to personnel of the
30 department as deemed appropriate for the purpose of administering
31 the requirements of P.L.1981, c.262 (C.58:1A-1 et al.) or P.L.1993,
32 c.202 (C.58:1A-7.3 et al.);

33 l. Combine permits issued pursuant to P.L.1981, c.262
34 (C.58:1A-1 et al.) or P.L.1993, c.202 (C.58:1A-7.3 et al.) with
35 permits issued pursuant to any other act whatsoever whenever that
36 action would improve the administration of those acts;

37 m. Evaluate and determine the adequacy of ground and surface
38 water supplies and develop methods to protect aquifer recharge
39 areas.

40 (cf: P.L.1993, c.202, s.9)

41
42 5. (New section) The department shall require every water
43 purveyor that owns or operates a public community water system to
44 submit quarterly and annual reports to the governing body of each
45 municipality within its service area to ensure that these governing
46 bodies are provided with adequate and accurate reports regarding
47 the adequacy and water quality of the developed water supply

1 available for its users. The reports shall be prepared in a format
2 prescribed by the department by rule or regulation.

3 a. Every water purveyor shall file quarterly reports with the
4 municipalities it services regarding permitted water allocations.
5 These reports shall include the following information:

6 (1) The term of the allocation permit; (2) The maximum
7 allowable diversion, expressed in terms of a daily, monthly, or
8 annual diversion;

9 (3) The permitted allocation and the specific water sources
10 utilized therefor;

11 (4) Whether the water purveyor has exceeded the permitted
12 allocation during any particular time period; and

13 (5) Whether the water purveyor is seeking an increase in its
14 water allocation due to planned development projects, and updates
15 of the status of any such projects or applications before the
16 department.

17 The reports shall include an annual assessment by the water
18 purveyor, based on service area planning, regarding the timeframe
19 for the anticipated utilization of the entire water allotment in the
20 allocation permit and the need for acquiring an additional water
21 allotment by contract or application to the department therefor.

22 b. Whenever a water purveyor exceeds the permitted allocation
23 during any particular time period as determined by the department
24 by rule or regulation, the water purveyor shall publish a notice of
25 this water usage in at least one newspaper circulating generally in
26 the area served by the water purveyor, which shall also include an
27 explanation of conservation methods necessary to ensure the
28 continued viability of the public water system and anticipated
29 alternatives for the permittee to acquire an additional water
30 allotment by contract or application to the department therefor.

31 c. Every water purveyor shall file quarterly compliance
32 sampling reports with the municipalities serviced by the water
33 purveyor regarding water quality. The compliance sampling reports
34 shall contain the sampling results for inorganic compounds, volatile
35 organic compounds, synthetic organic compounds, and
36 radionuclides analyses, which shall be prepared in a format
37 prescribed by and on forms available from the department.

38 d. The department shall adopt, pursuant to the "Administrative
39 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
40 regulations as the department deems appropriate to effectuate the
41 purposes of this section. The rules and regulations shall specify the
42 responsibilities of water purveyors, whether public or private, with
43 respect to the reporting and notification requirements of this
44 section.

45

46 6. (New section) Any water purveyor who knowingly:

47 a. makes any false or misleading statement on any report or
48 notice required to be submitted pursuant to section 5 of

1 P.L. , c. (C.) (pending before the Legislature as this bill);
2 or

3 b. fails to submit any report or publish a notice required
4 pursuant to section 5 of P.L. , c. (C.) (pending before the
5 Legislature as this bill), shall, upon conviction, be guilty of a crime
6 of the fourth degree and, notwithstanding the provisions of
7 N.J.S.2C:43-3, shall be subject to a fine of not more than \$50,000
8 for the first offense and not more than \$100,000 for the second and
9 each subsequent offense.

10

11 7. This act shall take effect immediately.

12

13

14

STATEMENT

15

16 This bill requires every water purveyor to file quarterly and
17 annual reports with the municipalities they service regarding the
18 adequacy and water quality of the water furnished to its users.

19 Specifically, the Department of Environmental Protection (DEP)
20 would require every water purveyor that owns or operates a public
21 community water system to submit quarterly and annual reports to
22 the governing body of each municipality within its service area to
23 ensure that these governing bodies are provided with adequate and
24 accurate reports regarding the developed water supply available for
25 local water users. These quarterly reports are to include the
26 following information:

27 (1) the term of the allocation permit;

28 (2) the maximum allowable diversion, expressed in terms of a
29 daily, monthly or annual diversion;

30 (3) the permitted allocation and the specific water sources
31 utilized therefor;

32 (4) whether the water purveyor has exceeded the permitted
33 allocation during any particular time period; and

34 (5) whether the water purveyor is seeking an increase in the
35 water allocation due to planned development projects, and updates
36 of the status of any such projects or applications before the DEP.

37 The reports would also include an annual assessment by the
38 water purveyor, based on service area planning, regarding the
39 timeframe for the anticipated utilization of the entire water
40 allotment in the allocation permit and the need for acquiring an
41 additional water allotment by contract or application to the DEP
42 therefor.

43 Whenever a water purveyor exceeds its permitted allocation, the
44 bill requires the water purveyor to publish a notice of this water
45 usage in at least one newspaper circulating within the affected
46 service area, including an explanation of conservation methods
47 necessary to ensure the continued viability of the public water
48 system and anticipated alternatives for the water purveyor to

1 acquire an additional water allotment by contract or application to
2 the department therefor.

3 The bill also requires every water purveyor to file quarterly
4 sampling reports with the municipalities they service regarding the
5 water quality of the developed water supply available for its users.
6 The compliance sampling reports are required to contain the
7 sampling results for inorganic compounds, volatile organic
8 compounds, synthetic organic compounds, and radionuclides, and
9 be prepared in a format prescribed by and on forms available from
10 the DEP.

11 The bill directs the DEP to adopt rules and regulations to
12 implement the requirements imposed by the bill. These rules and
13 regulations are to specify the responsibilities of water purveyors,
14 whether public or private, with respect to the reporting and
15 notification requirements of the bill.

16 In addition, the bill imposes penalties on water purveyors for
17 violations of the provisions of the bill. A water purveyor who
18 knowingly (1) makes any false or misleading statement on any
19 report or notice required to be submitted under the bill, or (2) fails
20 to submit any report or publish a notice required under the bill,
21 would, upon conviction, be guilty of a crime of the fourth degree
22 and would be subject to a fine of not more than \$50,000 for the first
23 offense and not more than \$100,000 for the second and each
24 subsequent offense.

25 Lastly, the bill updates the definition section of the law and
26 makes other technical amendments to the "Water Supply
27 Management Act."