



SMALL WATER SYSTEMS

Division B11

ENVIRONMENTAL HEALTH

CHAPTER I. GENERAL ENVIRONMENTAL HEALTH AND ENFORCEMENT

Sec. B11-1. Definitions.

- (a) Department means the Department of Environmental Health, Environmental Resources Agency, County of Santa Clara.
- (b) Director means the director of the Department of Environmental Health or designee or duly authorized representative of the county health officer pursuant to the authority contained in section 101280(b) or section 452 of the California Health and Safety Code.
- (c) Dwelling unit means a building or portion thereof used or intended for use as a residence.
- (d) Fees mean fees established by resolution of the board of supervisors.
- (e) Permit means environmental health permit to operate.
- (f) Permittee means any person to whom a permit is issued pursuant to this division; any authorized representative, agent or designee of such person; or any person who is required pursuant to this division to obtain a permit but fails to obtain such a permit.
- (g) Person means an individual, firm, association, partnership, corporation, and/or public entity.
- (h) Qualified registered engineer means an individual who is registered as a professional engineer with the state board of registration for professional engineers.
- (i) Registered environmental health specialist means a person who holds a valid certificate of registration as a registered environmental health specialist issued by the California Department of Health Services.

CHAPTER VI. CONSTRUCTION OF SMALL PRIVATE WATER SYSTEMS

ARTICLE 1. GENERAL

Sec. B11-110. Definitions.

In addition to the definitions in chapter I, the following terms are defined for purposes of this chapter:

- (a) Dwelling unit means a room or suite of two or more rooms, one of which is a kitchen.
- (b) Horizontal well means a well drilled approximately horizontally into a water-bearing stratum as contrasted with a common vertical well, and from which water issues without the aid of a pump.
- (c) Individual private water system means a system, regardless of type of ownership, for the provision of potable water to one dwelling unit. It includes any collection, treatment, storage, or distribution facilities under control of the owner(s) of that system used primarily in connection with the system.
- (d) Service connection means a connection between a water main and a dwelling unit.
- (e) Small private water system means a system, regardless of type of ownership, for the provision of potable water to two, three or four service connections. It includes any collection, treatment, storage, or distribution facilities under control of the owner(s) of the system, which are used primarily in connection with the system.
- (f) Source means a well, spring or horizontal well. It excludes water from a water storage facility.
- (g) Water main means any pipe or conduit that is part of a distribution system with the capacity to supply water to more than one service connection.

Sec. B11-111. Public water systems.

- (a) For those public water systems supplying fewer than two hundred service connections, the director will enforce the provisions of Health and Safety Code sections 116325 through 116750, and the regulations promulgated pursuant thereto (22 CCR section 64400 et seq.) relating to water and water systems.
- (b) Public water system means:
 - (1) A system, regardless of type of ownership, for the provision of piped water to the public for domestic use, if the system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least sixty days of the year. A public water system includes:
 - a. Any collection, treatment, storage and distribution facilities that are used primarily in connection with the system and which are under control of the water supplier.
 - b. Any collection or pretreatment storage facilities which are used primarily in connection with the system but are not under control of the water supplier.

- (2) Community water system means a public water system that serves at least fifteen service connections used by year-long residents or regularly serves at least twenty-five year-long residents.
- (3) Non-community water system means a public water system that meets one of the following criteria:
 - a. Serves at least twenty-five nonresident individuals daily at least sixty days of the year, but not more than twenty-four year-long residents.
 - b. Serves fifteen or more service connections and any number of nonresident individuals at least sixty days of the year, but no year-long residents.
- (b) State small water system means a water system that serves from five to fourteen service connections and does not regularly serve more than an average of twenty-five individuals daily for more than sixty days of the year.

Sec. B11-112. Well construction clearance.

The Santa Clara Valley Water District (District) issues all permits for the construction of domestic and agricultural wells. Prior to the issuance of the permit by the District, the applicant must first obtain clearance from the director.

Sec. B11-113. Application for well construction clearance.

An application for clearance to construct a domestic or agricultural water well must be filed with the director on a form as the director may prescribe, and be accompanied by a fee as established by resolution of the board of supervisors. No part of this fee will be refundable. This application must provide the information as the director may reasonably require and must be signed by the owner(s) of the property.

Applicants for clearance to construct a domestic or agricultural water well systems must:

- (a) Submit copies of the site plan showing the following information:
 - (1) The proposed well location
 - (2) The proposed sewage disposal system or location of any existing sewage disposal system on the property or within one hundred feet of the property
 - (3) The location of the proposed dwelling units, if applicable. The number of copies will be determined by the director.
- (b) Submit a Santa Clara Valley Water District well construction permit application to construct a water well form that has been properly filled out and signed by both the applicant and the well driller.

ARTICLE 2. INDIVIDUAL OR SMALL PRIVATE WATER SYSTEMS

Sec. B11-115. Individual or small private water system clearance.

No person may construct a small private water system or an individual private water system without first obtaining clearance from the director. This clearance may be in addition to any other license or permit required by this county or by any other public agency. The clearance is nontransferable, and it expires one year after the date of issuance; except that the director, upon a showing of good cause, may extend the clearance for up to one additional year. Any person who holds a valid clearance for the construction of a small private water system or an individual private water system issued by the director prior to the adoption of this chapter will be deemed to have been issued a clearance in compliance with this section.

Sec. B11-116. Application for clearance.

An application for a clearance to construct a small private water system or an individual private water system must be filed with the director on a form as the director may prescribe, and be accompanied by a fee as established by resolution of the board of supervisors. No part of this fee is refundable. This application must provide the information as the director may reasonably require and must be signed by the owner(s) of the property. Applications for clearance to construct small private water systems must be prepared by a qualified registered engineer.

Applicants for clearance to construct small private water systems must:

- (a) Submit a true copy of any agreement, or proposed agreement, by and between the applicant and any other persons who are, or may become, associated in the use and maintenance of the facilities of the small private water system. The agreement will specify the manner in which the expense and the responsibility for the maintenance and repair of the small private water system will be apportioned.
- (b) Submit a copy of a recorded deed showing that the owner of any parcel to be served by the small private water system will have not less than a one-fourth undivided interest in the water source and distribution facilities and sufficient legal interest to guarantee access thereto and right to use thereof.

Sec. B11-117. Issuance of clearance.

- (a) The director, upon receipt of a complete clearance application, will conduct an investigation to determine if the plans as submitted comply with the provisions of this chapter.
- (b) If, upon completion of the investigation, the director determines that any of the following conditions exist, the director will not approve the clearance application until the applicant makes the changes in the

proposed system as the director deems necessary.

- (1) The quantity of water available from the proposed source is less than the minimum amount required by section B11-119 as set forth below.
 - (2) The system as proposed will produce water that will not comply with the California Domestic Water Quality and Monitoring Regulations described in chapter 15 of Title 22 of the California Code of Regulations.
 - (3) The proposed source of water is a well, other than a horizontal well that does not comply with the construction standards of the Santa Clara Valley Water District.
 - (4) The proposed system is not suited to the production and delivery of potable water.
- (c) If the director determines that none of the conditions specified in subdivision (b) above exist, the director must issue a clearance to construct the proposed water system. The director may condition a clearance in a manner as is deemed necessary to secure the purposes of this chapter.

Sec. B11-118. Standards for water quality.

- (a) In order to determine that the quality of the water to be supplied will comply with the requirements of this chapter, the director may require that water quality analyses be carried out. These analyses must be carried out in a laboratory, which is certified by the state department of health services, within one year of the application date. Water samples to be tested must be collected from the water source by qualified staff personnel from the certified laboratory in which the analyses are to be completed. The testing will be carried out at the expense of the applicant, and reports of the tests must be submitted to the director.
- (b) The director may require that the laboratory include in its analysis and report total coliform organisms as prescribed by the latest edition of Standard Methods for the Examination of Water and Wastewater, American Public Health Association. The report must also include the concentrations of aluminum, arsenic, barium, cadmium, chromium, fluoride, iron, lead, manganese, mercury, nitrate (as NO₃), selenium, and silver present in the source water.
- (c) The director may require additional water quality tests where deemed necessary, based on factors including, but not limited to, contaminant sources, local hydrogeology, and site use.

Sec. B11-119. Quantity of water supply.

- (a) No clearance will be issued for the construction of an individual private

water system or a small private water system unless and until the following water source requirements are established:

- (1) For each connection to an individual private water system or small private water system where the proposed source of water is a well, a source capacity of two and one-half gallons per minute must be sustained during a twenty-four-hour period of continuous pumping, or until thirty-six hundred gallons per proposed service connection have been achieved during a time period of twenty-four hours or less of continuous pumping.
 - (2) For each connection to an individual private water system or small private water system where the proposed source of water is a spring or horizontal well, a source capacity of two and one-half gallons per minute continuous yield must be demonstrated during the dry season (August through October).
 - (3) Tests carried out to determine source capacity must be performed by either a person holding a C-57 or C-61 state contractors license or a person who is registered by the State of California as an engineer, a registered environmental health specialist, engineering geologist, or certified hydrogeologist.
 - (4) The applicant must notify the director at least twenty-four hours before the beginning of any pump test that is intended to establish source capacity.
- (b) No clearance will be issued for the construction of a small private water system unless the system design includes storage facilities for domestic water of at least one thousand gallons per proposed service connection. This storage requirement does not apply to any water system that has a proven source capacity that exceeds ten gallons per minute for each proposed service connection. This storage requirement does not and is not intended to satisfy the Santa Clara County Fire Marshal's storage requirements for interim fire protection.

Sec. B11-120. Reserved.

Sec. B11-121. Denial or revocation of clearance; hearing.

- (a) The director may deny or revoke any permit or clearance issued under this chapter whenever the director determines that the permit or clearance holder fails to meet the requirements of the permit or clearance, local ordinances, or applicable state law and regulations.
- (b) The director will serve notice on the applicant or permit or clearance holder, by United States mail addressed to the business address shown on the application or permit or clearance, of the intention to deny or revoke the permit or clearance on the grounds stated therein. The notice must also state that the applicant or permit or clearance holder has fifteen days

within which to request a hearing, or the permit or clearance will be denied or revoked.

- (c) The hearing will be conducted by the director within fifteen calendar days of receipt of the request for a hearing, and the decision of the director will be final.

ARTICLE 3. STATE SMALL WATER SYSTEMS

Sec. B11-130. State small water systems.

- (a) No person will operate a state small water system unless a permit to operate the system has been issued by the director.
- (b) The application must include:
 - (1) A technical report which must describe the proposed or existing system as follows: service area, distribution system including storage and pumping facilities, the water source including source capacity, water quality, and any water treatment facilities. The report must identify the owner of the system and the party responsible for day to day operation of the system. The report must include a plan for notification of those served by the system when drinking water quality standards are exceeded. The report must describe the operating plan for the system and must specify how the responsible party will respond to failure of major system components.
 - (2) A copy of the by-laws or Articles of Incorporation in compliance with California Corporation Code Section 14312 (a)(13).
- (c) A change in ownership of a state small water system will require the submission of a new application.
- (d) No domestic water system will be issued a permit if water service for each connection or all connections of a proposed water system is available from a public, private, or mutual water system thereby eliminating the necessity of formation of an additional water system. Availability will be determined, on a case by case basis, in consideration of the following: ability of the water system to provide service, economic feasibility, long term viability, and a determination that the water system will have an adequate source and supply of water.
- (e) The state small water system must comply with the standards and requirements as set forth in this chapter and in the most recent addition of Chapter 16, "California Waterworks Standards", of Title 22 of the California Code of Regulations, as may be amended from time to time, and incorporated herein by this reference, regarding design and construction of water systems.

Sec. B11-131. Permit amendment.

No person operating a state small water system can add or modify the system source of supply, add or change the method of treatment of the water supply, or change the system's distribution unless an amended permit has been issued by the director.

Sec. B11-132. State small water system construction review fee.

All state small water systems applying for a domestic water supply permit pursuant to Section B11-130 must pay a plan check review fee in an amount established by resolution of the board of supervisors.

Sec. B11-133. Operational requirements.

Any person who operates a state small water system must provide a permanent, reliable, continuous and adequate supply of pure, wholesome, and potable water.

Sec. B11-134. Bacteriological quality monitoring.

- (a) Each water supplier operating a state small water system must collect a minimum of one routine sample from the distribution system at least once every three months. The sample must be analyzed for the presence of total coliform bacteria by a laboratory certified by the California Department of Health Services for bacteriological analyses pursuant to Section 116390 of the Health and Safety Code. The results of the analyses must be reported to the director no later than the tenth day of the month following receipt of the results by the state small water system.
- (b) If any routine sample is total coliform-positive, the water supplier must collect a repeat sample from the same location within forty-eight hours of being notified of the positive result. If the repeat sample is also total coliform-positive, the sample must also be analyzed for the presence of fecal coliform or *Escherichia coli* (*E. coli*). If the repeat sample is total coliform-positive, the water supplier must notify the director within forty-eight hours of being notified of the result and will take corrective actions to eliminate the cause of the positive samples.
- (c) The water supplier must collect additional samples when any of the following conditions apply:
 - (1) Community or system-wide illness suspected of being waterborne;
 - (2) Vandalism and/or unauthorized access to facilities;
 - (3) Physical evidence indicating bacteriological contamination of facilities;
 - (4) Any interruptions in the treatment process;
 - (5) After construction or repair, or maintenance of storage facilities;
 - (6) After construction or repair of wells;

(7) After main installation or repair; and

Samples collected must represent the water quality in the affected portion of the water system.

- (d) Reports of the laboratory analyses must be reported to the director no later than the tenth day of the month following receipt of the results by the water system.
- (e) The director may require a state small water system to sample the distribution system each month, in lieu of the requirements of subsection (a), if the system has bacteriological contamination problems indicated by more than one total-coliform positive sample during the most recent twenty-four months of operation. The monthly sample must be analyzed for the presence of total coliform bacteria by a laboratory certified by the California Department of Health Services for bacteriological analyses pursuant to Section 116390 of the Health and Safety Code. The results of the analyses must be reported to the director no later than the tenth day of the month following receipt of the results by the state small water system.

Sec. B11-135. Chemical quality monitoring and reporting.

- (a) Each water supplier operating a state small water system must sample each water source before any treatment at least once. The sample must be analyzed for all primary, excluding organic chemicals and secondary (aesthetic) chemicals listed in chapter 15 of Title 22 of the California Code of Regulations as may be amended from time to time, and incorporated herein by this reference. A laboratory certified by the California Department of Health Services to perform the analyses in drinking water, using approved EPA Methods must analyze the sample.
- (b) Each water source, which has been designated as vulnerable by the director, must be sampled by the water supplier at least once prior to any treatment and analyzed for volatile organic chemicals according to EPA Method 502.2. A laboratory certified by the California Department of Health Services to perform EPA Method 502.2 analyses for organic chemicals in drinking water must perform the analysis. The water supplier to each user of the water system must distribute a copy of the results of the analysis within ninety days of receiving the results, and a copy of the distribution notice must be provided to the director.

If the level of any primary chemical exceeds the maximum contaminant level, the water supplier must notify the director within forty-eight hours from the receipt of the analysis and collect one additional sample within fourteen days to confirm the result. If the average of the two samples collected exceeds the maximum contaminant level, the water supplier must report this information to all users and the director within forty-eight hours and will monitor

quarterly beginning in the next quarter after the violation has occurred.

- (c) The water supplier must collect an additional sample to be analyzed for primary chemicals as required by the director if the director has reason to suspect that water quality in the water system has changed or has not been monitored within the last five years, to ensure compliance with drinking water standards.
- (d) If the director determines that a state small water system is subject to potential contamination, the director may require the water system to conduct a periodic water analysis in accordance with conditions specified by the director. The water analysis must be performed on a quarterly basis, unless the director finds that reasonable action requires either more or less frequent analysis.

Results of all laboratory analysis must be reported to the director no later than the tenth day of the month following receipt of the results by the water system.

Sec. B11-136. Drinking water standards maximum contaminant levels.

- (a) A state small water system must comply with any corrective actions ordered by the director for any primary chemicals contaminant which exceeds the maximum contaminant levels established in chapter 15 of Title 22 of the California Code of Regulations, as may be amended from time to time, incorporated herein by this reference.
- (b) Water exceeding the maximum contaminant levels established in chapter 15 of Title 22 of the California Code of Regulations, as may be amended from time to time, and incorporated herein by this reference, will not be supplied to users of the water system for human consumption or domestic purposes.
- (c) For state small systems, surface water sources and water exposed to potential bacteriological contamination sources, must be treated by filtration and disinfection, and turbidity level of the treated water must not exceed 0.5 turbidity units for an acceptable level of public health protection.

Sec. B11-137. Service connection limitation

No state small water system will add additional connections to the system so that the total number of service connections served by the system exceeds fourteen without a permit to operate as a public water system from the California Department of Health Services.

Sec. B11-138. Water supply requirements

Before receiving permit approval, a state small water system must demonstrate to the director that sufficient water is available from the water system's sources and distribution storage facilities to supply a minimum of three gallons per

minute for at least twenty-four hours for each service connection served by the system.

CHAPTER VII. NONPUBLIC WATER SYSTEMS INSPECTIONS

Sec. B11-140. Definitions.

In addition to the definitions in chapter I, the following terms are defined for the purposes of this chapter:

- (a) Deficiencies means inadequacies that may be of health significance.
- (b) Nonpublic water system means any water system that serves one or more dwelling units, not having an environmental health permit to operate issued by the director or the state department of health services. The system includes any collection, treatment, storage, or distribution facilities under control of the owner(s) of the system.
- (c) Sell means conveyance of title to real property in exchange for the approximate fair market value of the property. Sell does not include a gift. Sell does not include a transfer between spouses. Sell does not include a transfer resulting in the addition or deletion of one or more co-owners to the title.
- (d) Sanitary survey means the qualitative inspection of a water system and its physical environment to determine the quality of the water source and, to the extent possible, to uncover any condition that could potentially affect the safety or potability of that water. A sanitary survey would include an inspection of the well and storage and pressure tanks. It would also incorporate an investigation of the site location and adjacent properties in order to locate possible sources of chemical, pesticide, or sewage contamination that could pollute the water supply. A survey would also normally include a review of the results of water tests specified by the director.
- (e) Water system inspection report means the documented findings of sanitary surveys and of water quality tests to be included in the survey. The report includes a description of any identified water system deficiencies.

Sec. B11-141. Disclosure regarding recommendation to identify deficiencies of a nonpublic water system at the time of sale of a dwelling unit.

Any person intending to sell a dwelling unit, which is connected to a nonpublic water system, must provide the buyer with a real estate transfer disclosure statement which includes the following statement:

THE COUNTY OF SANTA CLARA RECOMMENDS THAT THE PURCHASER

OF ANY DWELLING UNIT WHICH IS SERVED BY A NONPUBLIC WATER SYSTEM AND IS LOCATED IN THE UNINCORPORATED AREA OF SANTA CLARA COUNTY, IS MADE AWARE OF THE QUALITY OF THE WATER AND IDENTIFIABLE DEFICIENCIES, IF ANY, WHICH MAY BE OF PUBLIC HEALTH SIGNIFICANCE IN THAT SYSTEM, PRIOR TO CONVEYANCE OF TITLE. SANTA CLARA COUNTY HAS DETERMINED THAT DEFICIENCIES OR THE POTENTIAL FOR DEFICIENCIES MAY BE DISCOVERED BY A SANITARY SURVEY OF THE SITE AND ANALYSIS OF WATER SAMPLING BY COUNTY CERTIFIED PROFESSIONALS. A LIST OF COUNTY CERTIFIED PROFESSIONALS IS MAINTAINED BY THE SANTA CLARA COUNTY DEPARTMENT OF ENVIRONMENTAL HEALTH AND IS AVAILABLE UPON REQUEST.

Sec. B11-142. Sanitary surveys of nonpublic water systems.

No person who renders sanitary survey services, for the purpose of assessing the quality of drinking water supplied by a nonpublic system, may perform these activities without first having applied for and received certification from the director. The director will issue the certification to any person qualified in accordance with the requirements set forth in section B11-143.

Sec. B11-143. Certification of nonpublic water system inspection professionals.

Qualified registered engineers, registered environmental health specialists, and other professionals with equivalent academic qualifications may be certified as nonpublic water system inspection professionals. If an applicant for certification, who does not possess an equivalent academic degree, can demonstrate to the satisfaction of the director that he or she can provide an acceptable combination of experience and specialized professional training in the field, the director may issue a certification to the person.

Sec. B11-144. Certification process.

Applications for certification must be submitted to the director on a form prescribed by the department. A non-refundable administrative fee, as established by resolution of the board of supervisors, must be included with the application. The certification must be renewed annually on the anniversary date of first application upon payment of the fee. The department will establish and maintain a list of certified professionals that will be made available upon request.

Sec. B11-145. Suspension or revocation of certification.

- (a) A certification may be suspended or revoked if, in the opinion of the director, a person holding that certification knowingly provides faulty or incorrect information, or fails to meet the requirements of this ordinance or any applicable state law or regulation.
- (b) The director will serve notice on the certification holder, by United States mail addressed to the business address shown on the application for

certification, of his or her intention to revoke or suspend the certification on the grounds stated therein. The notice must also state that the certification holder has fifteen days within which to request a hearing, or the certification will be suspended or revoked.

- (c) The hearing will be conducted by the director within fifteen calendar days of receipt of the request for a hearing, and the decision of the director will be final.

Sec. B11-146. Requirement for providing reports to the director.

Every person holding an approved certification must, upon completion of any testing, analysis, sanitary survey, or other site assessment of a nonpublic water system, provide a copy of the water system inspection report to the director on a form prescribed by the department. The report must be provided to the director not later than one month after submission of the original report to the client requesting the report. The director will enter the water quality and site survey data obtained from the reports onto an electronic file which can provide countywide information on the public health status of private water systems.

Sec. B11-147. County assumes no liability for damages and provides no warranty as to the report by a certified professional.

The county, its officers, agents, and employees, assume no liability to the applicant or anyone else relying on the water system inspection report, provided by a certified professional, for damage to persons or property caused by or arising from any inaccuracy in the report.

Sec. B11-148. Resolution of deficiencies.

The county assumes no responsibility for resolving any identified water system deficiencies. The correction of those deficiencies will be at the discretion of the persons responsible for the water system.