

**The Code of Alabama 1975**

Title 22 HEALTH, MENTAL HEALTH, AND ENVIRONMENTAL CONTROL.

Chapter 23 WATERWORKS AND WATER SUPPLIES GENERALLY.

**Article 1 General Provisions.**

**Section 22-23-20**

**Upgrading of water service; savings.**

(a) Any law to the contrary notwithstanding, any water authority that upgrades its water services, including fire hydrants, that results in lower insurance rates for the customers, may enter into contracts with residential customers or business customers to receive the net savings realized for the first through fifth fiscal years thereafter, because of the upgrade.

(b) Any savings from the sixth fiscal year on realized for water service upgrade by a water authority including fire hydrants shall be passed to the residential customers or business customers of the service.

*(Acts 1997, No. 97-417, §§1, 2.)*

**Section 22-23-21**

**Notification of permanent change in fluoridation status.**

(a) A public water system, as defined in Section 22-23-31, that proposes to initiate any permanent change in the fluoridation status of its water supply, including, but not limited to, discontinuing the fluoridation of the water supply or reducing the level of fluoride from an optimal level as defined by the Centers for Disease Control and Prevention, shall provide written notice to the State Health Officer no fewer than 90 days before initiating the change. Notice shall include the proposed date of the change, reasons for the change, and all communities affected by the change.

(b) A public water system that fails to meet the notification requirements of subsection (a) shall resume the fluoridation of its water supply to its previous level until proper notice is provided to the State Health Officer.

(c) The notification requirements of subsection (a) do not apply to a temporary discontinuance of fluoridation that is caused by equipment failure, maintenance, or replacement; temporary chemical supply shortages; placing water sources offline; or other similar unavoidable circumstances.

*(Act 2018-547, §1.)*

**Article 2 Safe Drinking Water Act.**

**Section 22-23-30**

**Short title.**

This article may be cited as the "Alabama Safe Drinking Water Act of 1977."

*(Acts 1977, No. 805, p. 1389, §1.)*

**Section 22-23-31**

**Definitions.**

When used in this article and except where the context prohibits, the following words and terms shall have the following meanings:

- (1) FEDERAL ACT. The Federal Safe Drinking Water Act, being Public Law 93-523.
- (2) ADMINISTRATOR. The Administrator of the United States Environmental Protection Agency.
- (3) NATIONAL PRIMARY DRINKING WATER REGULATIONS. Primary drinking water regulations promulgated by the administrator pursuant to the federal act.
- (4) FEDERAL AGENCY. Any department, agency or instrumentality of the government of the United States, the regulation of which has been delegated to the State of Alabama pursuant to the federal act.
- (5) BOARD. The Alabama Department of Environmental Management.
- (6) HEALTH OFFICER. The Director of the Alabama Department of Environmental Management.
- (7) LOCAL GOVERNMENTAL UNIT. Any community, town, city, county, board, authority, nonprofit corporation or other unit of government created by the Legislature.
- (8) PERSON. Any individual, firm, partnership, corporation, local governmental unit, party, company, association, federal agency, state agency or any other public or private legal entity.
- (9) SUPPLIER OF WATER. Any person who owns or operates a public water system.
- (10) CONTAMINANT. Any physical, chemical, biological or radiological substance or matter in water.
- (11) PUBLIC WATER SYSTEM. A system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals at least 60 days out of the year. A public water system includes:
  - a. Any collection, treatment, storage and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and
  - b. Any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

A public water system is either a community water system or a noncommunity water system.

(12) COMMUNITY WATER SYSTEM. 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.

(13) NONCOMMUNITY WATER SYSTEM. A public water system which does not meet the requirements of a community water system.

(14) MAJOR MODIFICATION. Any modification of a public water supply which is declared to be "major" by the regulations of the board.

(15) STATE PRIMARY DRINKING WATER REGULATION. A regulation which:

- a. Applies to a public water system;
- b. Specifies contaminants which, in the judgment of the board, may have an adverse effect on the public health;
- c. Specifies for each such contaminant either:
  1. A maximum contaminant level; or
  2. Each treatment technique known to the board which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of Section 22-23-33 if, in the judgment of the board, it is not economically or technologically feasible to ascertain the level of such contaminant; and
- d. Contains criteria and procedures to assure a supply of drinking water which dependably does not exceed such maximum contaminant levels, including quality control and testing procedures to insure compliance with such levels and to insure proper operation and maintenance of the system, and requirements as to:
  1. The minimum quality of water which may be taken into the system; and
  2. Siting for new facilities for public water systems.

(16) STATE SECONDARY DRINKING WATER REGULATION. A regulation which:

- a. Applies to a public water system;
- b. Specifies maximum contaminant levels necessary to protect the public comfort or well-being controlling contaminants which:
  1. Adversely affect odor or appearance of water, thereby causing substantial number of persons to discontinue its use; or
  2. Otherwise adversely affect the public comfort or well-being; and
- c. May vary according to geographic and other circumstances.

*(Acts 1977, No. 805, p. 1389, §2; Acts 1982, No. 82-612, p. 1111, §11(c).)*

**Section 22-23-32**

**Regulatory authority of board over water supplies.**

The board has regulatory authority over all public water systems in the state insofar as purity, potability, wholesomeness and physical quality of water which may affect the public health, comfort or well-being and shall, from time to time, examine, investigate and monitor the sources of public water supplies, the method of protecting groundwater supplies and the method of filtering, treating, storing and delivering water to consumers. The board shall consult with and advise suppliers of water or persons intending to become suppliers of water as to the best source of water and the best method of assuring its purity.

*(Acts 1977, No. 805, p. 1389, §3.)*

**Section 22-23-33**

**State primary drinking water regulations.**

The board shall promulgate and enforce state primary drinking water regulations that at no time shall be less stringent than the complete, current interim or revised national primary drinking water regulations. State primary drinking water regulations shall apply to each public water system in the state, except those which meet all the following:

- (1) Consist only of distribution and storage facilities and which do not have any collection and treatment facilities;
- (2) Obtain all their water from, but are not owned or operated by, a public water system to which such regulations apply;
- (3) Do not sell water to any person; and
- (4) Are not carriers which convey passengers in interstate commerce.

*(Acts 1977, No. 805, p. 1389, §4.)*

**Section 22-23-34**

**State secondary drinking water regulations.**

The board shall promulgate and enforce state secondary drinking water regulations. State secondary drinking water regulations shall apply to each public water system in the state, except those systems exempted by Section 22-23-33.

*(Acts 1977, No. 805, p. 1389, §5.)*

**Section 22-23-35**

**Variations and exemptions from regulations.**

The board may authorize variations and exemptions from the regulations issued pursuant to Section 22-23-32 under conditions and in such manner as it, by regulation, deems necessary and desirable.

*(Acts 1977, No. 805, p. 1389, §6.)*

**Section 22-23-36**

**Action by board regarding imminent and substantial hazards.**

The board, upon receipt of information that a contaminant which is present in or is likely to enter a public water system may present an imminent and substantial danger to the public health, may take the following or other appropriate administrative actions:

- (1) Issue such orders as may be necessary to protect the health of persons who are or may be users of such system, including travelers; and
- (2) Commence a civil action for appropriate relief, including a restraining order or permanent injunction as provided in Sections 22-23-52 and 22-23-53.

*(Acts 1977, No. 805, p. 1389, §7.)*

**Section 22-23-37**

**Notification of users and regulatory agencies by water suppliers of certain violations, etc.**

(a) The supplier of water shall, as soon as practicable, notify the local county health departments, the board, the administrator, users, the public and communications media located in the area served by the system whenever a public water system:

- (1) Is not in compliance with the state primary drinking water regulations;
- (2) Fails to perform monitoring required by regulations adopted by the board;
- (3) Is subject to a variance granted for an inability to meet a maximum contaminant level requirement;
- (4) Is subject to an exemption; or
- (5) Fails to comply with the requirements prescribed by a variance or exemption.

(b) The notice shall include the fact of violation of public drinking water regulations, variance or exemption from compliance with such regulations and the extent, nature and possible health effects of such fact. Public notice shall be given in a manner prescribed by regulation.

*(Acts 1977, No. 805, p. 1389, §8.)*

**Section 22-23-38**

**Samples of water supplied to the public - Required.**

At least once a month or as required by the board, every supplier of water shall deliver to the State Laboratory or a laboratory certified by the board samples of water supplied to the public.

*(Acts 1977, No. 805, p. 1389, §9.)*

**Section 22-23-39**

**Samples of water supplied to the public - Analysis; fee.**

The board shall cause a bacteriological, sanitary and/or chemical analysis to be made of each sample so delivered, shall record such analysis and shall furnish a copy to the supplier of water. The board is authorized to collect from the supplier a fee equal to its reasonable anticipated costs in causing such analysis to be made and providing such record.

*(Acts 1977, No. 805, p. 1389, §10; Acts 1984, 1st Ex. Sess., No. 84-783, §3.)*

**Section 22-23-40**

**Permit to construct or modify water system - Required; prerequisite to issuance of bonds by local government unit.**

No person shall construct or make major modification of any public water system, or portion thereof, without having first obtained a permit from the board as provided in this article. No local government unit shall be authorized to incur any debt or to issue bonds in aid of such public water system unless a permit shall first have been obtained from the board as required by this article.

*(Acts 1977, No. 805, p. 1389, §17.)*

**Section 22-23-41**

**Permit to construct or modify water system - Application.**

Any person proposing to operate, construct, install, add to or make major modification of a public water system shall, prior to construction of such, file with the board an application for a permit to do so, together with complete plans and specifications and a statement containing a general description of the proposed public water system or of the proposed changes in the existing system, showing the geographical location thereof with relation to the source of water supply and the manner of storage, purification, treatment or delivery proposed or used for the supply, and all the sanitary and health conditions surrounding and affecting the said supply and the works, system and plant. The plans and specifications and statements shall be in such form and shall detail such matters as the board by regulation shall require.

*(Acts 1977, No. 805, p. 1389, §11.)*

**Section 22-23-42**

**Permit to construct or modify water system - Investigation of water system.**

Upon filing of plans and specifications and statements by an applicant, the board is authorized to investigate the proposed system or existing works, system, plant, water supply and all other circumstances and conditions deemed material by the board.

*(Acts 1977, No. 805, p. 1389, §12.)*

#### **Section 22-23-43**

##### **Permit to construct or modify water system - Order of board upon finding that water is impure, unwholesome, etc.**

Upon completion of any such investigation or of any routine or special inspection, if the board shall determine that the water being supplied or to be supplied is impure, unwholesome or unpotable, fails to comply with a maximum contaminant level or may constitute a menace or danger to the health or lives of human beings, or that the existing or proposed works, systems, plant or water supply or proposed modifications thereof are not suited to the production and delivery of healthful, pure and wholesome water, then, upon order of the board, the applicant or supplier of water shall make, within a time designated by the board, such changes as the board deems necessary to secure a continuous supply of pure, wholesome, potable and healthy water. The board may prohibit the use of said water supply or any modification, construction or operation of said works, system or plant until all orders of the board are carried out. Thereafter, it shall be unlawful for the applicant to use the said public water supply or to modify, construct or operate the said works, system or plants until the orders of the board are withdrawn.

*(Acts 1977, No. 805, p. 1389, §13.)*

#### **Section 22-23-44**

##### **Permit to construct or modify water system - Issuance; suspension or revocation; permits in addition to others required by law.**

If the board shall determine that the water being supplied or to be supplied is pure, wholesome and potable and does not endanger the lives or health of human beings, it is authorized to grant the applicant a permit authorizing the applicant to furnish or to continue to furnish or supply water to human beings. All permits issued hereunder are revocable and may be suspended by the board at any time the board shall determine that the water being supplied is or is in danger of becoming impure, unwholesome or unpotable or does or will endanger the lives, health, comfort or well-being of human beings. Permits issued under this article are in addition to any other permits required by law.

*(Acts 1977, No. 805, p. 1389, §14.)*

#### **Section 22-23-45**

##### **Right of entry of board for investigations and inspections.**

The board and its inspectors shall have full power and authority to enter into and upon any and all places, property, enclosures and structures for the purpose of making investigations or inspections required by Section 22-23-42 and any routine or special inspections as the board may determine necessary.

*(Acts 1977, No. 805, p. 1389, §15.)*

#### **Section 22-23-46**

##### **Reports of condition of water supply, plant, etc., by applicants, or suppliers.**

Any applicant or supplier of water may, for cause stated, be required by the board to furnish a complete report of the condition and operation of the water supply, plant, works or system owned, operated or controlled by the said applicant. This report shall be made by a duly licensed professional engineer, the cost and expenses of which shall be paid by the applicant.

*(Acts 1977, No. 805, p. 1389, §16.)*

#### **Section 22-23-47**

##### **Polluting public water supply.**

No person shall deposit any dead animal or fowl or any noxious, nauseous or poisonous substance or any human waste in any portion of a public water supply or in any private well, spring, reservoir, tank, vessel or receptacle appurtenant to a public or private water supply.

*(Acts 1977, No. 805, p. 1389, §18.)*

#### **Section 22-23-48**

##### **Prohibited acts.**

The following acts and the causing thereof are prohibited:

- (1) Failure by a supplier of water to comply with the requirements of Section 22-23-39, or dissemination by such supplier of any false or misleading information with respect to notices required pursuant to Section 22-23-37 or regulations promulgated thereunder or with respect to remedial actions being undertaken to achieve compliance with State Primary Drinking Water Regulations and State Secondary Drinking Water Regulations;
- (2) Failure by any supplier of water to comply with Section 22-23-38;
- (3) Failure by a supplier of water to comply with regulations promulgated pursuant to this article or with conditions for variances or exemptions authorized under Section 22-23-35; and



(4) Failure by any person to comply with any order issued by the board pursuant to this article.

*(Acts 1977, No. 805, p. 1389, §19.)*

#### **Section 22-23-49**

##### **Powers and duties of board in administration of article.**

To carry out the provisions and purposes of this article, the board is authorized and empowered to:

(1) Perform any and all acts necessary to carry out the purposes and requirements of this article relating to the adoption and enforcement of state primary drinking water regulations and state secondary drinking water regulations;

(2) Administer and enforce the provisions of this article and all rules, regulations and orders promulgated or issued under this article;

(3) Receive financial and technical assistance from the federal government and other public or private agencies;

(4) Participate in related programs of the federal government, other states, interstate agencies or other public or private agencies or organizations;

(5) Establish adequate fiscal controls and accounting procedures to assure proper disbursement of and accounting for funds appropriated or otherwise provided for the purpose of administering requirements of this article;

(6) Maintain such records as may be required by the administrator pursuant to the federal act;

(7) Delegate the authority to carry out the duties as deemed appropriate for the purpose of administering requirements of this article;

(8) Establish and collect fees for the purpose of certifying or giving approval to any governmentally or privately owned laboratory desiring to perform laboratory analyses for water suppliers in a manner required by the board;

(9) Collect fees from any supplier of water willfully or negligently causing the board to perform extraordinary or repetitive inspections, a sum equivalent to that expended by the board for its performance of additional inspections; and

(10) Promulgate such regulations as are necessary or appropriate to carry out the purposes of this article.

*(Acts 1977, No. 805, p. 1389, §21.)*

#### **Section 22-23-52**

##### **Penalties.**

A fine not to exceed \$5,000.00 may be imposed by a court of competent jurisdiction on any person who violates Section 22-23-40, 22-23-41 or 22-23-47 or subdivision (1) or (2) of Section 22-23-48.

*(Acts 1977, No. 805, p. 1389, §20; Acts 1986, No. 86-542, p. 1053, §8.)*

**Section 22-23-53**

**Public nuisances.**

Anything done, maintained or suffered in violation of any of the provisions of this article shall be deemed to be a public nuisance and dangerous to health, and may be abated, summarily or otherwise, by the board in a manner prescribed by law.

*(Acts 1977, No. 805, p. 1389, §22.)*