CHAPTER 62-524
NEW POTABLE WATER WELL PERMITTING IN DELINEATED AREAS

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62-524.200 Definitions for New Potable Water Well Permitting in Delineated Areas.

(1) "Available Potable Water System" means, for the purpose of this chapter, a public water system, as defined in Rule 62-550.200, Florida Administartive Code (F.A.C.), which has sufficient capacity and is legally able to serve specific additional connections.

(2) "Brownfield Site" shall have the same meaning when used in this chapter as Section 376.79(6), Florida Statutes (F.S.), unless context clearly indicates otherwise.

(~~2~~3) "Delineated Area" means the horizontal and vertical extent of an ~~a surface~~area identified pursuant to the process set forth in Rule 62-524.420, F.A.C.~~, within which ground water contamination is known to exist or which encompasses vulnerable areas or areas in which the Department provides a subsidy for restoration or replacement of contaminated drinking water supplies.~~

(~~3~~4) "Ground-Water Contamination" means, for the purpose of this chapter, the presence outside an applicable zone of discharge in Class F-I, G-I, or G-II groundwater of one or more substances in quantities which exceed applicable groundwater standards established in Chapter 62-520, F.A.C.~~a primary drinking water maximum contaminant level as set forth in Chapter 62-550, F.A.C.;~~, exceed an applicable groundwater cleanup target level established in Chapter 62-777, F.A.C.; present an imminent hazard pursuant to Section 403.855, F.S., or for which the State Health Officer in the Department of Health, based upon a written request from the Department, has advised the Department in writing is present in deleterious amounts. The determination, under this section, of the existence of groundwater contamination based upon the presence of deleterious amounts shall not constitute the establishment of a standard under either Chapter 62-520 or 62-550, F.A.C. If the concentration of any primary drinking water standard in the natural background quality of the ground-water is greater than the stated maximum contaminant level, the representative background value shall be the prevailing standard.

(~~4~~5) "New Potable Water Well" means any excavation that is drilled or bored, or converted from non-potable water use, after delineation in an area delineated pursuant to Rule 62-524.420 ~~62-524.400~~, F.A.C., when the intended use of such excavation is for the location and acquisition of ground-water which supplies water for human consumption. This does not include repair of an existing potable water well.

~~(5) "Vulnerable area" is an area in which research or monitoring data indicate that ground water is vulnerable to nitrate contamination because of the presence of potential sources of nitrate contamination, and because of land surface and subsurface characteristics.~~

Rulemaking Authority 373.309, 403.061, 403.062 FS. Law Implemented 373.309, 376.307 FS. History–New 5-16-89, Amended 3-3-92, Formerly 17-524.200, Amended 2-7-95, xx-xx-xx.

62-524.420 Procedures for Delineation of Areas for Application of New Potable Water Well Permitting.

(1) The Department shall delineate areas for application of new potable water well location and construction, testing, permitting, and clearance requirements set forth in this Chapter upon the request of a person responsible for site rehabilitation, as defined in subsection 62-780.200(35), F.A.C., for all or a portion of an area of known groundwater contamination only when one or more of the following conditions applies:

(a) A No Further Action with institutional controls to address groundwater contamination beyond the property boundary is approved pursuant to 62-780.680(2) or (3), F.A.C.;

(b) A Temporary Point of Compliance that extends beyond the property boundary is needed to facilitate monitoring of natural attenuation pursuant to Rule 62-780.690(2), F.A.C., where notice is required pursuant to 62-780.220(3), F.A.C.;

(c) A Temporary Point of Compliance that extends beyond the property boundary is needed to facilitate monitoring groundwater during active remediation to address the current conditions of the plume pursuant to Rule 62-780.700(2), F.A.C., where notice is required pursuant to 62-780.220(3), F.A.C.;

(d) The person responsible for site rehabilitation demonstrates the groundwater plume is stable or shrinking in a Site Assessment Report approved under paragraph 62-780.600(9)(a), F.A.C., or a Combined Document approved under paragraph 62-780.450(5)(a), F.A.C.; or

(e) The person responsible for site rehabilitation demonstrates the groundwater contamination eminating from a Brownfields Site is stable or shrinking in a Site Assessment Report approved under paragraph 62-780.600(9)(a), F.A.C., or a Combined Document approved under paragraph 62-780.450(5)(a), F.A.C.

(2) The area delineated under subsection (1) shall equate to the plume identified in the person responsible for site rehabilitation's Site Assessment Report approved under paragraph 62-780.600(9)(a), F.A.C.; a Combined Document approved under paragraph 62-780.450(5)(a), F.A.C.; a Natural Attenuation Monitoring Report submitted pursuant to paragraph 62-780.690(8)(d), F.A.C.; a Remedial Action Status Report submitted pursuant to paragraph 62-780.700(12), F.A.C.; a Post Active Remediation Monitoring Report submitted pursuant to paragraph 62-780.750(4)(d), F.A.C.; or a No Further Action Proposal approved pursuant to 62-780.680(5), F.A.C.; whichever provides the most recent inforamtion on the plume boundaries at the time of initial delineation.

(3) The Department shall consider delineating areas for application of new potable water well location and construction, testing, permitting, and clearance requirements, for all or a portion of an area of known groundwater contamination on its own initiative, or upon the request of:

(a) local, state and federal government agencies;

(b) water management districts; or

(c) any person or entity who is not a person responsible for site rehabilitation, as defined in subsection 62-780.200(35), F.A.C., and who is a property owner whose property has been contaminated with groundwater contamination emanating from a nearby source property.

(4) The Department's consideration of whether to delineate an area pursuant to subsection (3) shall be based on whether the following criteria indicates a practicably unresolvable risk of potable water supply contamination from new potable water wells:

(a) the current exposure and potential risk of exposure evaluation conducted pursuant to paragraph 62-780.600(3)(a), F.A.C.;

(b) the nature and extent of known groundwater contamination as determined by the Department, or by a person responsible for site rehabilitation through a Site Assessment Report approved under paragraph 62-780.600(9)(a), F.A.C., or a Combined Document approved under paragraph 62-780.450(5)(a), F.A.C.;

(c) whether all or a portion of an area with known groundwater contamination is eligible for state-funded site rehabilitation;

(d) the applicable requirements for any person responsible for site rehabilitation, pursuant to Chapter 62-780, F.A.C., for all or a portion of an area with known groundwater contamination; and,

(e) input from affected water management districts, and local, state or federal government agencies, particularly those receiving delegation for potable water well permitting, for the technical aspects of delineation.

(5) To delineate an area upon reciept of a request from a person responsible for site rehabilitation under subsection (1) or after considering the criteria in subsection (4), the Department shall:

(a) Serve a Notice of Intent to Establish a Delineated Area to parties identified by the Department as record

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owner(s) as listed in current county property tax office records for real property that the delineated area is proposed to encompass.

1. The notice shall be served by mail on the parties or other form of delivery that provides confirmation of receipt.

2. The notice shall also be published in a newspaper of general circulation in the county or counties in which the affected properties are located in accordance with subsections 62-110.106(5) and (8), F.A.C., respectively. Where a person responsible for site rehabilitation has requested the intended delineation of an area of known groundwater contamination pursuant to subsection (1), F.A.C., the requesting entity shall publish the notice of proposed agency action upon the Department's direction and approval.

3. The notice shall include:

a. a narrative description of the horizontal and vertical extent of contamination proposed to be delineated;

b. a map, or link to a map stored on a Department network, that depicts the surface area defined by Geographic Information System (GIS) coordinates, shape file, or other appropriate means that is proposed to be delineated;

c. a summary of the data upon which the delineation is based;

d. instructions as to how the recipient(s) can inspect and copy the associated Site Assessment Report approved under Rule 62-780.600, F.A.C., or the Combined Document approved under paragraph 62-780.450(5)(a), F.A.C., if applicable, or other information used by the Department for determination of the nature and extent of an area of known groundwater contamination; and

e. Notice of Right to Hearing that reads in substantial conformity with subsection 62-110.106(12), F.A.C.

(b) If a timely and sufficient petition is not filed, the proposed delineated area shall become final. The Department will subsequently issue a final order depicting the delineated area to all of the parties to the Notice of Intent to Establish a Delineated Area.

(6) When a proposed delineated area becomes final pusuant to paragraph (5)(b), the Department shall update its authoritative geospatial data to reflect the newly delineated area. The Department shall make all newly and previously established delineated areas available to the public on its delineated areas website located at [WEBLINK] and as an additional layer for pubic use on its geospatial open data portal https://geodata.dep.state.fl.us. Prior to applying for a permit to construct a new potable water well within a delineated area, potential applicants should review the posted map to determine if the location of a the desired well would be within a delineated area. Prior to taking action on a permit application for the construction of a new potable well within a delineated area, the permitting authority should also review posted map to determine if the proposed well would be within a delineated area.

(7) Based on data submitted pursuant to Rules 62-780.680, 62-780.690, 62-780.700, or 62-780.750, F.A.C., that demonstrates an area delineated under this Rule has expanded or shrank, the Department shall on its own initiative or at the request of local, state, and federal governmental agencies; water management districts; the person responsible for site rehabilitation as defined in subsection 62-780.200(35), F.A.C., who submitted the approved Site Assessment Report or Combined Document; or any person whose substantial interest is affected by the delineated area, propose to revise or remove the delineated area accordingly by serving a Notice of Intent to Revise or Remove a Delineated Area in accordance with the same procedure detailed in subsection 62-524.420(5), F.A.C., except that with respect to sub-subparagraph (5)(a)3.d. instructions must be included as to how the recipient(s) can inspect and copy the data upon which the revised delineation is based.

(8) When a proposed revision to a delineated area becomes final, the Department shall update the map referenced in 62-524.420(5), F.A.C.

~~(1) Based upon available data, the Department shall identify and locate, for the purpose of application of the requirements of this chapter, areas within which ground water contamination is known to exist or which encompasses vulnerable areas or areas in which the Department provides a subsidy for restoration or replacement of contaminated drinking water supplies.~~

~~(2) The Department shall rely on data from samples collected and analyzed using Department approved quality assurance/ quality control procedures. Where quality assurance/quality control procedures are not documented the Department shall evaluate the data for completeness and accuracy in order to determine acceptability for use in delineation under this chapter.~~

~~(3) Sources of ground water data to be used for delineation of areas under this chapter shall include:~~

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(a) Local, state, and federal agencies.

(b) Water management districts.

(c) Department programs.

(4) For wells, sites, or sources with known ground water contamination, where insufficient site specific ground water data exist for determination of contaminant plume boundaries, a delineated area shall be established in the following manner:

(a) A 1000 foot setback from the well, site or source boundary.

(b) Where data from the distribution or movement of ground water contamination indicate that a 1000 foot setback is insufficient the Department shall establish an alternate setback based on such data.

(5) For sites with a history of application of ethylene dibromide where insufficient site specific ground water data exist for determination of contaminant plume boundaries, the Department shall delineate an area which encompasses the area of application and a setback, based on data on the distribution of ethylene dibromide contamination, or a 1000 foot setback, whichever is larger.

(6) For sites where a hydrogeologic investigation of ground water has been conducted and the nature and extent of a contaminant plume is documented and sufficient data exist for predictive ground water modelling, the Department shall delineate an area which encompasses the ground water contamination and its predicted movement for the next two years.

(7) Where the source or site which resulted in an area being delineated is the subject of remediation for ground water clean up, the effect of this remediation shall be considered by the Department in subsequent delineation updates.

(8) For areas in which the Department provides a subsidy for restoration or replacement of contaminated drinking water supplies through extending existing water lines or developing new water supply systems under Section 376.307(4)(b)3. and (c), F.S., the Department shall delineate an area which encompasses such extended water lines or water lines constructed as part of a new water system and a 1000 foot setback.

(9) For areas in which the Department determines that ground water is vulnerable to contamination with nitrate, the Department shall delineate such vulnerable areas. The Department shall determine where vulnerable areas exist by using the following information when available:

(a) Physical properties of soils

(b) Vadose zone media

(c) Hydrogeologic characteristics of aquifer systems

(d) Depth to ground water

(e) Recharge

(f) Karst features

(g) Topography

(h) Presence of Class G-II ground water or other potable ground water with less than 10,000 mg/L total dissolved solids

(i) Water quality data; and

(j) Nitrogen application or loading rates for potential sources of nitrate contamination.

(10) In delineating areas under this rule, the Department shall coordinate with other affected agencies, particularly those receiving delegation under Rule 62 524.800, F.A.C., in the technical aspects of delineation.

(11) The Department shall present delineated areas to the Environmental Regulation Commission for approval at rulemaking public hearings duly noticed as required by Section 120.54, F.S.

(a) At such public hearings the Commission, when approving delineated areas, shall consider the known ground water contamination and its projected movement until the next delineation update.

(b) If requested by the Commission, the Department shall present the data, predictive ground water modelling, and mapping procedure used to delineate each area presented to the Commission.

(c) The Commission shall consider any other competent evidence regarding delineated areas.

(d) Approval by the Commission of a delineated area shall result in that area being included on maps or other means of location and description prepared by the Department as described in subsections (12) and (13). Each approved map or other means of location and description shall contain an effective date and shall be made available

~~as provided in subsections (12) and (13).~~

~~(12) To facilitate the permitting process, the Department shall provide maps which indicate all sections which contain any portion of a delineated area. Prior to construction of a new potable water well within a mapped section, the potential applicant should contact the appropriate permitting authority which shall determine if the proposed well is within a delineated area. Such maps or other information shall be made available by the Department to interested persons upon written request and upon payment of appropriate costs.~~

~~(13) Following each update, the Department shall make available to water management districts, regional planning councils, the Department of Health, and county building and zoning departments, maps or other information on areas for application of the requirements of this chapter.~~

~~(a) Where maps are provided, they shall be of an appropriate scale as determined by the Department based on the accuracy and precision of the data.~~

~~(b) For each delineated area the Department shall provide a list of those contaminants to be tested pursuant to Rule 62-524.600, F.A.C., and shall specify any casing or solvent bond restrictions.~~

~~(14) Maps or other information on areas for application of the requirements of this chapter shall be periodically updated by the Department. Additional areas, or revision to existing areas, for application of the requirements of this chapter may be delineated at any time as technical information becomes available.~~

Rulemaking Authority 373.309, 403.061, 403.062 FS. Law Implemented 373.309, 376.307 FS. History–New 5-16-89, Amended 3-3-92, Formerly 17-524.200, Amended 2-7-95, xx-xx-xx.

62-524.430 Maps Containing Delineated Areas.

The following maps, ~~which are incorporated herein by reference,~~ show surface areas delineated pursuant to Rule 62-524.420, F.A.C., prior to its amendment on [DATE]. ~~Each map listed contains a month and year which corresponds to the date the Department prepared the most recent map showing any portion of a delineated area~~. These maps are depectied in Delineated Areas Prior to 2010, effecitve date [MONTH/YEAR], which is hereby adopted and incorporated by reference. Copies of these maps ~~may be examined at the Department of Environmental Protection, Bureau of Information Systems, or copies may be obtained, upon receipt of reproduction and other appropriate costs, from the Department of Environmental Protection, Bureau of Information Systems, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400~~ are available from the Department's Division of Water Resource Management, Mail Station 8633, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or online at https://floridadep.gov/water/source-drinking-water/content/delineated-areas or [HYPERLINK]. Each map listed in the following table contains a month and year that corresponds to the date the Department initially prepared the map showing any portion of a delineated area. The delineated areas on the maps are also depicted on the database referenced in subsection 62-524.420(5), F.A.C.

(1) through (38) No change.

Rulemaking Authority 373.309, 403.061 FS. Law Implemented 373.309 FS. History–New 3-25-90, Amended 10-4-90, 7-4-91, Formerly 17-524.430, Amended 2-7-95, 6-27-00, *xx-xx-xx*.

62-524.550 Well Construction Requirements for New Potable Water Well Permitting in Delineated Areas and Department Subsidy Areas.

(1) New potable water wells in areas delineated pursuant to Rule 62-524.420, F.A.C., or within 1,000 feet of an area in which the Department provides a subsidy for restoration or replacement of contaminated drinking water supplies through extending existing water lines or developing new water supply systems under Sections 376.307(1)(e)1.a., F.S., shall comply with the minimum construction standards contained in Rule 62-532.500, F.A.C. Additional requirements may be assigned by the permitting authority relative to depth restrictions, location of screened or open hole interval, and length of casing where warranted by local specific information.

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(2) No Change.

Rulemaking Authority 373.309, 403.061, 403.062 FS. Law Implemented 373.309 FS. History–New 5-16-89, Amended 3-25-90, 3-3-92, Formerly 17-524.550, Amended 12-9-96, xx-xx-xx.

62-524.600 Water Quality Testing for New Potable Water Well Delineated Areas and Department Subsidy Areas.

(1) New potable water wells shall be tested using methods as specified for groundwater or other non-potable water matrix samples, as defined for in accordance with subsection 62-160.120(18), F.A.C. ~~in Rule 62-524.420, F.A.C.,~~ for the presence in the untreated water of the ground-water contamination which resulted in the delineation. Test methods for drinking water matrix samples may be substitued where collected and analyzed in accordance with the applicable provisions of Chapter 62-160, F.A.C.

(2) The data shall be provided to the well permitting authority having permitted the well and, for new potable wells that do not serve a public water supply system, to the Florida Department of Health County Health Department with jurisdiction over the area where the well is located. ~~The Department shall accept only test results obtained from water samples collected and analyzed by the Department of Health. The well construction permit applicant shall be responsible for the cost of sample collection, shipping, and analysis.~~

Rulemaking Authority 373.309, 403.061, 403.062 FS. Law Implemented 373.309 FS. History–New 5-16-89, Amended 3-3-92, 5-6-93, Formerly 17-524.600, Amended xx-xx-xx.

62-524.650 Clearing for Use of New Potable Water Wells in Delineated Areas and Department Subsidy Areas.

(1) If no ground-water contamination is found upon testing of a new potable water well in a delineated area or a Department subsidy area, pursuant to Rule 62-524.600, F.A.C., the Department of Health shall be responsible for issuance of a letter of clearance to the well construction permit applicant.

(2) No change.

Rulemaking Authority 373.309, 403.061, 403.062 FS. Law Implemented 373.309 FS. History–New 3-3-92, Formerly 17-524.650, Amended 12-9-96, xx-xx-xx.

62-524.700 Permit Requirements for New Potable Water Wells in Delineated Areas and Department Subsidy Areas.

(1) through (2) No change.

Rulemaking Authority 373.309, 403.061, 403.062 FS. Law Implemented 373.309 FS. History–New 5-16-89, Amended 3-3-92, Formerly 17-524.700, Amended 12-9-96, xx-xx-xx.

62-524.710 Exemption from New Potable Water Well Permitting in Delineated Areas and Department Subsidy Areas.

No change.

Rulemaking Authority 373.309, 403.061, 403.062 FS. Law Implemented 373.309, 373.326 FS. History–New 5-16-89, Formerly 17-524.710, Amended xx-xx-xx.

62-524.740 Violations and Penalties for New Potable Water Wells in Delineated Areas and Department Subsidy Areas.

(1) Prohibited Acts.

(a) It shall be a violation of Section 373.309, F.S., and this chapter to construct, convert from non-potable use, or abandon any potable water well, or use for human consumption any well subject to permit under this chapter without having obtained a permit pursuant to Rule 62-524.700, F.A.C. This prohibition shall apply to both the water well contractor and the well owner.

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(b) It shall be a violation of Section 373.309, F.S., and this chapter to use for human consumption, after delineation, any water well subject to permit under this chapter without having performed water quality testing pursuant to Rule 62-524.600, F.A.C.

(c) It shall be a violation of Section 373.309, F.S., and this chapter to use for human consumption, after delineation, any water well subject to permit under this chapter in which contaminants have been found without a demonstration through water quality testing that a filter or other means of preventing the users of such a well from being exposed to ground-water contamination is effective.

(2) Penalties.

(a) Any person who violates any provision of this chapter, order, or permit issued under the authority of this chapter shall, upon conviction, be guilty of a misdemeanor of the second degree, punishable as provided in Sections 775.082 and 775.083, F.S. Continuing violation after an order or conviction shall constitute a separate violation for each day the violation occurs.

(b) Any water well contractor who is in violation of paragraph (1)(a) shall, in addition to paragraph (2)(a), also be subject to the penalty provisions in Chapter 62-531, F.A.C., including the license suspension and revocation provisions contained therein.

Rulemaking Authority 373.309, 403.061, 403.062 FS. Law Implemented 373.309, 373.323, 373.336 FS. History–New 5-16-89, Amended 3-25-90, Formerly 17-524.740, Amended xx-xx-xx.

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