

**WATERSHED RULES AND REGULATIONS
FOR THE TOWN OF KIRKWOOD**

ID No. HLT-39-84-00042-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act,
NOTICE is hereby given of the following proposed rule:

Proposed action:.....Addition of new section 102.3 to Part 102 of Title
NYCRR
Statutory Authority:Public Health Law, Section 1100
Subject:Watershed rules and regulations for the Town of Kirkwood.
Purpose:.....To accord greater protection against contamination of the
source of public water supply for the Town of Kirkwood.
Text of Proposed Rule:Pursuant to the authority vested in the Commissioner of
Health by Section 1100 of the Public Health Law, a new
Section 102.3 is hereby added to Part 102 of Title 10
(Health) of the Official Compilation of Codes, Rules and
Regulations of the State of new York, to be effective upon
filing in the Office of the Department of State, to read as
follows:

Section 102.3 Water District No. 4, Town of Kirkwood, Broome County.

(a) Application. The rules and regulations herein set forth, duly made and enacted in accordance with the provisions of Section 1100-1107 of the Public Health Law, shall apply to the wells which comprise the source of the public water supply of Water District No. 4 of the Town of Kirkwood. Said wells are located on land owned by Water District No. 4 of the Town of Kirkwood and are situated and designated as Broome County Tax Map No. 7-1-S1*. More particularly, said premises are located on the easterly shore of the Susquehanna River approximately 2,000 feet south of the confluence of Park Creek with said Susquehanna River.

(b) Definitions.

(1) Agricultural associated animal waste shall mean manure obtained from agricultural industries.

(2) Chloride salt shall mean the solid compounds or solutions of potassium chloride (commonly used as fertilizer), calcium chloride (commonly used for winter-road maintenance) or sodium chloride (commonly used for water-softener regenerations).

(3) Construction and demolition dump shall mean a site used for the deposit of wastes resulting from construction, remodeling, repair and demolition of structures, road building and land clearing. Such wastes include but are not limited to bricks, concrete, and other masonry materials, soil, rock and lumber, road spoils, paving material and tree and brush stumps.

(4) Fertilizers shall be any commercially produced mixture generally containing phosphorus, nitrogen, and potassium which is applied to the ground to increase nutrients to plants.

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- (5) Groundwater shall be any water beneath the land surface in the saturated zone that is under atmospheric or artesian pressure and that enters wells and springs.
- (6) Herbicide shall mean any substance used to destroy or inhibit plant growth.
- (7) Human excreta shall mean human feces and urine.
- (8) Junkyard shall mean an area utilized for the collection, storage, burning, dumping, disassembling, dismantling, salvaging, sorting or otherwise handling or arranging for sale, resale, storage or disposal or otherwise of bodies, engines, or parts of autos.
- (9) Linear distance shall mean the shortest horizontal distance from the nearest point of the structure or object to the extension of the centerline of the wells.
- (10) Manure shall mean animal feces and urine.
- (11) Nonagricultural associated animal waste shall mean manure obtained from nonagricultural industries.
- (12) Pesticide shall mean any substance used to destroy or inhibit pests such a rodents and insects.
- (13) Pollutant shall mean dredge, spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, chemical waste, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial and municipal waste and agricultural and nonagricultural associated animal waste.
- (14) Radiation shall mean ionizing radiation, that is, any alpha particle, beta particle, gamma ray, x-ray, neutron, high-speed proton, and any other atomic particle producing ionization, but shall not mean any sound or radio wave, or visible infrared, or ultraviolet light.
- (15) Radioactive material shall mean any material in any form that emits radiation spontaneously.
- (16) Refuse shall mean all putrescible and nonputrescible solid wastes including garbage, manure, rubbish, ashes, incinerator residue, street cleaning, dead animals, offal and solid commercial and industrial wastes.
- (17) Refuse disposal area shall mean land used for the depositing of refuse except that it shall not include the land used for the depositing of refuse from a single family, a member of which is the owner, occupant or lessee of said land, or any party of a farm on which only agricultural associated animal wastes resulting from the operation of such farm are deposited.
- (18) Sewage shall mean any liquid or solid waste matter from a domestic, commercial, private or industrial establishment which is normally carried off in sewers or waste pipes.
- (19) Sewage disposal system shall mean any system used for disposing of sewage and includes treatment works.
- (20) Sludge shall mean any solid, semi-solid or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment, or air pollution control facility. Sludge does not include the treated effluent from a wastewater treatment plant.
- (21) Toxic substance shall mean any toxic substance as so defined by subdivision two of Section 4801 of the Public Health Law.

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(22) Treatment works shall mean any treatment plant, sewer, disposal field, lagoon, pumping station, septic system, construction drainage ditch or surface water intercepting ditch, incinerator, area devoted to sanitary landfill, or other works not specifically mentioned in this paragraph, installed for the purpose of treating, neutralizing, stabilizing, or disposing of sewage.

(23) Waste stabilization pond or lagoon shall mean any body of water used for the collection of waste or sewage.

(24) Water district shall mean Water District No. 4 of the Town of Kirkwood.

(25) Water supply shall mean the public water supply of Water District No. 4 of the Town of Kirkwood.

(26) Wells shall mean any well or wells now used as a source of this water supply or any additional well which may be constructed at this point as a source for this water supply.

(c) General prohibitions. No person, including State agencies or political subdivisions having jurisdiction, shall perform any act or grant any permit or approval which may result in the contravention of the most stringent of standards for water quality as contained in:

(1) Part 170 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York (10 NYCRR Part 170).

(2) Part 703 of Title 6 (Environmental Conservation) of the Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR Part 703).

(3) Subpart 5-1 of Part 5 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York (10 NYCRR Subpart 5-1) relating to maximum contamination levels for drinking water or any subsequent revision to or replacement of any such codes, rules or regulations.

(d) Specific prohibitions.

(1) Any activity, system or facility, except for physical pumping and treatment facilities and controls, is prohibited within a 400 foot linear distance of the wells. Such prohibited activities include, among other things:

(a) Internment of a human body.

(b) Placement of any watertight pipe connected to a sewage disposal system or treatment works.

(c) Disposal or burial of construction demolition debris.

(d) Construction, location, placement, or maintenance of any sewage leaching area, privy, privy vault, pit or other receptacle of any kind for either the temporary storage or the permanent deposit of human excreta.

(e) Use of sodium chloride for deicing.

(f) Deposit or spreading of any agricultural or nonagricultural associated animal waste.

(g) Deposit or spreading of any fertilizer.

(2) The following actions or activities are prohibited within a 750 foot linear distance of the wells.

(a) Deposit of any refuse on or beneath the surface of the ground.

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- (b) Operation or location of any refuse disposal area.
 - (c) Storage, discharge or application of pesticides or herbicides, except when the property owner or applicator first obtains a permit for such activity from the appropriate Federal, State or local agencies having jurisdiction.
 - (d) Storing or stockpiling of any agricultural or nonagricultural associated animal waste, except where provisions have been made for a Soil Conservation Service designed and approved handling system to prevent seepage to the groundwater.
 - (e) Discharging or allowing any sewage or polluted liquid of any kind to flow on or beneath the surface of the ground, except in watertight pipes connected to a sewage disposal system for which a permit has been granted by the appropriate State agency having jurisdiction over such facilities.
 - (f) Operation or location of any new construction demolition dump, except that any existing construction demolition dump licenses by the New York State Department of Environmental Conservation shall be allowed within a 400 feet linear distance of the wells pursuant to subparagraph (c) of paragraph (1) of this subdivision so long as such license remains in full force and effect.
 - (g) Placement or location of any container of more than 275 gallons used for the storage of gasoline, kerosene, fuel oil, or diesel oil.
 - (h) Stockpiling or dumping of snow removed from streets, roads and parking areas.
 - (i) Open storage of fertilizers.
 - (j) Excavations or cut-ins which expose groundwater permanently or during maximum elevation of the water table, or which significantly reduce the thickness of the soil cover and thereby ease the entrance of contaminants into groundwaters.
 - (k) The operation of sand and gravel mining or dredging operations, except pursuant to a permit granted by the appropriate State or local agency having jurisdiction over the same.
 - (l) Operation or location of any junkyard licensed by the town of Kirkwood.
- (3) The following actions or activities are prohibited within a 1,000 foot linear distance of the wells:
- (a) Disposal or burial in the soil of any radioactive material.
 - (b) Placement, location or use of any waste stabilization pond or lagoon, for temporary or permanent storage of wastewater.
 - (c) Abandonment of drilled water supply wells without filling the same with cement grout.
 - (d) The construction of liquefied natural gas lines or pipelines for other materials which can impair water quality.
 - (e) Storage of a chloride salt except in weatherproof buildings or watertight vessels.
 - (f) Deposit or spreading upon or beneath the surface of the ground of any human excreta, sewage or sludge.
 - (g) Storage of any toxic substance.
 - (h) Storage of any toxic substance.

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(e) Reporting of accidental spills. Spills of one gallon or more of oil or any toxic substance within a 1,000 foot linear distance of the wells shall be reported within two hours of discovery of occurrence to the Town Commissioner of Public Works and appropriate Health authorities.

(f) Trespassing. No trespassing shall be allowed upon the property of the Water District upon which the wells are located and no person or persons shall enter in or upon such property except the person or persons authorized to enter said property by said Water District.

(g) Inspections. The Town Board of the Town of Kirkwood shall by its officers or duly appointed representatives make regular and thorough inspections, at least monthly, of the area surrounding the wells to ascertain whether these rules and regulations are being complied with. It shall be the duty of the aforesaid Town Board of the Town of Kirkwood to cause copies of any rules and regulations violated to be served upon the persons violating the same together with notices of such violations. If such persons served do not immediately comply with the rules and regulations, it shall be the further duty of the aforesaid Town Board of the Town of Kirkwood to promptly notify the State Commissioner of Health of such violations. The aforesaid Town Board of the town of Kirkwood shall report to the State Commissioner of Health in writing annually, prior to the 30th day of January, the results of the regular inspections made during the preceding year. The report shall state the number of inspections where were made, the number of violations found, the number of notices served, the number of violations abated, and the general condition of the area surrounding the wells at the time of the last inspection.

(h) Penalties for violations. Penalties for violations of these rules and regulations shall be those specified in Section 1103 of the Public Health Law.

Test of proposed rule and the regulatory impact statement may be obtained from:
Donald Macdonald, Department of Health, Bureau of Management Services, Corning
Tower, Rm. 1009, Empire State Plaza, Albany, NY 12237, (518) 474-8734.

Data, views or arguments may be submitted to: Same as above.

Regulatory Impact Statement

The proposed rule making is subject to a consolidated regulatory impact statement printed in the issue of February 22, 1984, I.D. No. HLT-08-84-00011-P.

Regulatory Flexibility Analysis

No regulatory flexibility analysis is required because the proposal does not affect small businesses. The proposed regulation relates only to the public water supply systems, and their sources, serving Water District No. 4, Town of Kirkwood, Broome County, New York.

*Current Tax Map No. 162.04-1-2.