

**Guidance Related to the Wastewater System and Potable
Water Supply Rules Effective September 29, 2007**

**Guidance Document
2011-03**

**Groundwater Sources that are Protected when Permitting a
Wastewater System**

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This guidance document is intended to establish the criteria for when groundwater sources (Sources) will be protected or not protected when permitting a new wastewater system or site, or an increase in design flows to an existing wastewater system. For the purpose of this guidance document and the Wastewater System and Potable Water Supply Rules (Rules), a Source is a potable water supply, as defined by Section 1-201(a)(47) of the Rules, that obtains water from the ground and includes drilled wells, driven well points, shallow wells, and springs. A licensed designer preparing a plan for a new wastewater system or site that will receive a Wastewater System and Potable Water Supply Permit (Permit) issued by the Wastewater Management Division (Division) is required to identify all Sources that may be affected by the wastewater system.

Sources fall into the following categories:

1. Sources that have a Permit but are not yet developed:

- These Sources shall be protected so that the project may be developed in accordance with the conditions of the Permit.

2. Sources that have a Permit and have been developed in compliance with the permit conditions :

- These Sources shall be protected.
- The Rules allow for deviations from the stamped plan and Permit provided a qualified licensed designer submits record drawings and the required post installation certification for the relocated source.

Such sources shall be protected if the above provisions have been met.

3. Sources that have a Permit that are developed but are not in compliance with the Permit :

- Sources developed after January 1, 2007 with a Permit issued to develop the Sources either before or after that date and where the Sources are not in the location approved by the Permit are not protected unless they meet the requirements for record drawings.
- The original Source location identified on a stamped plan referenced by a Permit shall be protected when the existing Source does not meet the requirements for record drawings. For example, in projects where the Source was relocated and is therefore subject to an enforcement action to obtain a Permit for the revised Source location, the originally permitted location shall be protected rather than the revised location unless the original location has also been compromised due to the relocation of the permitted wastewater system, house, etc. As another example, in a project permitted for a drilled well where the drilled well was replaced by a dug well that requires an increase in isolation distances to wastewater systems, the dug well will not be protected but a drilled well located according to the Permit and replacing the dug well will be protected.

4. Sources in existence prior to January 1, 2007 that are exempt under Section 1-304(a)(1) of the Rules (the “Clean Slate” exemption). These Sources may or may not have a Permit and/or a Permit:

- These Sources shall be protected.

5. Replacement Sources that are installed according to the exemption under Section 1-304(a)(22) of the Rules “Construction of a Replacement Well that serves only one Single Family Residence on its own Individual Lot”:

- The development of these Sources must meet the specific criteria stated in the Rules in order to be exempt including the filing in the land records of the document “Exemption Form for construction of a Replacement Water Supply that serves only one single family residence on its own Individual Lot”. Sources that have the document recorded in the land records prior to the receipt of an administratively complete application for a new wastewater system that would affect that Source shall be protected. These replacement Sources will not be protected until the document is recorded in the land records. Regardless of the filing of the document, the

replacement Source will not be protected from exempt and/or permitted wastewater systems that existed prior to development of the replacement Source.

- Note: A single family residence that constructs a replacement Source and files the exemption document in the land records must utilize the replacement Source and properly abandon the original Source. The replacement Source exemption applies only when one Source is replaced with another Source. A Permit is required if the proposal is to connect an additional Source to an existing single family residence

6. Sources that are subject to a deeded water right that are not part of a potable water supply system and do not have a Permit:

- These Sources are not protected unless the source qualifies for an exemption in Category 7. The Division can only protect Sources that receive a Permit following a determination that the source meets all necessary isolation distances from existing or permitted wastewater systems and the Source location complies with the Rules or qualifies for an exemption in Category 7.

7. Sources that serve an undeveloped project and/or qualify for an exemption under the Rules:

- These Sources shall be protected provided the source is developed in accordance with the applicable exemption of the Rules. Such exemptions include those under Section 1-304(a)(3) when the lot has a valid municipal permit issued prior to November 1, 2004 and Section 1-304(a)(4) or (5) for a Source developed for a primitive camp.

8. Sources that exist that are not part of a potable water supply system and do not have a Permit:

- These sources are not protected. The Rules can only protect sources that exist as part of a potable water supply. Examples of these types of Sources include ones used to water animals and ones used for other purposes not involving human consumption, bathing, laundering, or the preparation of food.

9. Sources that exist and are part of a potable water supply system that are not exempt and do not have a Permit:

- Sources that exist that required a permit and are not exempt under the “Clean Slate” or any other provisions of this document are not protected.

- There are existing Sources that are part of a permitted or exempt potable water supply system that required a Permit or Permit amendment based on operational changes to the water supply system that occurred after January 1, 2007 where the required Permit or Permit amendment was never obtained. These Sources shall be protected for the use of the Source that existed prior to January 1, 2007. For example, prior to January 1, 2007, a Source that served a project that had a maximum day demand of 1.9 gallons per minute required a specific isolation zone for protection. Post January 1, 2007 and without first obtaining a Permit, there was an operational change to the potable water supply for the project that increased the maximum day demand to greater than 2.0 gallons per minute which in turn required an increase to the isolation zone. The pre-January 1, 2007 isolation zone shall be protected unless a permit application was received or Permit was issued prior to the application for a new wastewater system.

10. “First in Time”

- The Division reviews each application based on the “first in time” principle. Exempt or Permitted Sources are “first in time” and are protected as specified in this Guidance. An application for a proposed wastewater system received prior to an application for a proposed Source is “first in time” and may be approved even if the wastewater shield includes the Source for the second application. A replacement Source to serve one single family residence on its own lot that filed the document “Exemption Form for construction of a Replacement Water Supply that serves only one single family residence on its own Individual Lot” in the land records and that complies with all other aspects for the replacement well exemption shall be considered “first in time” provided the exemption form was filed prior to the receipt of an administratively complete application for a new wastewater system affecting that Source.