

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF: )  
 )  
MAXIMUM SETBACK ZONES )  
35 Ill. Adm. Code 618 )  
 )  
 )  
 )

R11- 25  
(Rulemaking- Public Water Supplies)

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APR 21 2011

STATE OF ILLINOIS  
Pollution Control Board

ORIGINAL

NOTICE

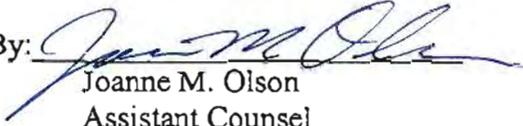
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PLEASE TAKE NOTICE that I have today filed with the Office of the Pollution Control Board the Illinois Environmental Protection Agency's Motion for Acceptance, Statement of Reasons, the Proposed Regulations, Certification of Origination, and an Appearance, copies of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By:   
Joanne M. Olson  
Assistant Counsel  
Division of Legal Counsel

DATED: April 18, 2011

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**THIS FILING IS SUBMITTED ON RECYCLED PAPER**

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MOTION FOR ACCEPTANCE

NOW COMES the Illinois Environmental Protection Agency (Illinois EPA) and pursuant to 35 Ill. Adm. Code 102.202 moves the Illinois Pollution Control Board ("Board") to accept the Illinois EPA's proposal for hearing. This regulatory proposal includes: (1) Statement of Reasons, (2) the proposed regulation, (3) Certification of Origination, (4) Appearance, and (5) electronic version of proposed regulations.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: Lisa Bonnett  
Lisa Bonnett  
Interim Director

DATED: April 6, 2011

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STATE OF ILLINOIS  
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	R11- 25
MAXIMUM SETBACK ZONES	)	(Rulemaking- Public Water Supplies)
35 Ill. Adm. Code 618	)	
	)	
	)	

STATEMENT OF REASONS

ORIGINAL

NOW COMES the Illinois Environmental Protection Agency, (Illinois EPA,) by and through its counsel, and hereby submits this Statement of Reasons to the Illinois Pollution Control Board ("Board") pursuant to Sections 14.3(d), 27, and 28 of the Environmental Protection Act ("Act") (415 ILCS 5/14.3, 27, and 28) and 35 Ill. Adm. Code 102.202 in support of the attached proposal of regulations.

**I. INTRODUCTION**

The Illinois EPA proposes that the Board adopt new regulations, Sections 618.110, 618.115, 618.210 and 618.Appendix B to Part 618 of Title 35 of the Illinois Administrative Code. It also proposes amending Sections 618.100, 618.105, 618.200 and 618.205 of Part 618. This proposed rulemaking is intended to establish a maximum setback zone for six wells owned by the Fayette Water Company, pursuant to Section 14.3 of the Illinois Environmental Protection Act, 415 ILCS 5/14.3. This maximum setback zone will protect a highly vulnerable source of community water supply for individuals served by the Fayette Water Company. Further, the proposed amendments seek to restructure Part 618 to accommodate the establishment of additional maximum setback zones for other community water supply (CWS) wells.

**II. STATUTORY BACKGROUND**

Public Act 85-863, the Illinois Groundwater Protection Act (IGPA), was enacted on September 24, 1987. 1987 Ill. Laws 3624. Sections 1 – 9 of Public Act 85-863 are now codified

as the Illinois Groundwater Protection Act, 415 ILCS 55/1 *et seq.* In the IGPA, the General Assembly found that it is the State of Illinois' policy to restore, protect and enhance the groundwaters of the State. 514 ILCS 55/2(b). Groundwater is of "vital importance to the general health, safety and welfare" of the people of Illinois. 514 ILCS 55/2(b).

The Public Act 85-0863 also added new sections to the Illinois Environmental Protection Act codified at 415 ILCS 5/1 *et seq.* Specifically, Sections 14.1 through 14.5, and 17.1 to 17.4 were added to the Act. 1987 Ill. Laws 3636. Section 14.1 establishes a minimum setback zone for CWS wells; no new CWS well may be located within 200 feet or 400 feet of any potential primary sources, potential routes, or potential secondary sources, as defined in Sections 3.345, 3.350, and 3.355 of the Act (415 ILCS 5/3.345, 3.350, 3.355). 415 ILCS 5/14.1. Section 14.2 establishes minimum setback zones of 200 or 400 feet for all new potential primary sources, new potential routes, or new potential secondary sources; no new potential primary sources, new potential routes or new potential secondary sources may be placed, without a waiver or exception, within 200 or 400 feet of an existing CWS or other potable water supply well. 415 ILCS 5/14.2(a).

While Sections 14.1 and 14.2 established minimum setback zones, Section 14.3 allows a county or municipality served by a CWS to adopt an ordinance establishing a maximum setback zone for CWS wells. 415 ILCS 5/14.3(c). Maximum setback zones are permissible when the lateral area of influence (LAI)<sup>1</sup> of the well under normal operating conditions exceeds the radius of the minimum setback zone established pursuant to Section 14.2. 415 ILCS 5/14.3(b)-(c). The maximum setback zone can have irregular boundaries, but the boundary cannot be in excess of

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<sup>1</sup> The lateral area of influence is determined by procedures found in Part 671 of Title 35 of the Illinois Administrative Code.

1,000 feet from the wellhead. 415 ILCS 5/14.3(c). New potential primary sources are prohibited from being placed within the maximum setback zone. 415 ILCS 5/14.3(e).

Under Section 14.3(d), the Illinois EPA has the authority to propose to the Board a regulation establishing a maximum setback zone, after written notice to the appropriate county or municipality. 415 ILCS 5/14.3(d). The Illinois EPA's proposal must be based on all reasonable available hydrogeological information; it must also include the justification for expanding the zone and the specific boundaries. 415 ILCS 5/14.3(d) "Such justification shall include the need to protect a sole source of public water supply or a highly vulnerable source of groundwater, or an Agency finding that the presence of potential primary or potential secondary sources or potential routes represents a significant hazard to public health or the environment." 415 ILCS 5/14.3(d).

Section 14.4, Groundwater Rules, requires that the Illinois EPA propose regulations prescribing standards and requirements for certain activities within a setback zone. 415 ILCS 5/14.4. Activities required to be regulated by this Section include:

(1) land filling, land treating, surface impounding or piling of special waste and other wastes which could cause contamination of groundwater and which are generated on the site, other hazardous, livestock and landscape waste, and construction and demolition debris;

(2) storage of special waste in an underground storage tank for which federal regulatory requirements for the protection of groundwater are not applicable;

(3) storage and related handling of pesticides and fertilizers at a facility for the purpose of commercial application;

(4) storage and related handling of road oils and de-icing agents at a central location; and

(5) storage and related handling of pesticides and fertilizers at a central location for the purpose of distribution to retail sales outlets.

415 ILCS 5/14.4. The Illinois EPA proposed and the Board adopted these regulations in Parts 615 and 616, Title 35 of the Illinois Administrative Code.

Section 17.1 of the Act requires that each county or municipality served by a CWS to prepare a groundwater protection needs assessment. 415 ILCS 5/17.1(a). In lieu of a groundwater protection needs assessment, counties with less than 25,000, or municipalities with less than 5,000, inhabitants may request that the Illinois EPA perform a hazard review to identify those potential primary sources, potential secondary sources and potential routes which represent a hazard to the continued public use of groundwater in light of the susceptibility of the recharge area to contamination. 415 ILCS 5/17.1(h). Section 17.1 also requires the Illinois EPA to implement a survey program for CWS well sites. 415 ILCS 5/17.1(d).

Section 17.2 requires that the Illinois EPA establish a regional groundwater protection planning program. 415 ILCS 5/17.2(a). The groundwater protection program advances five general principles that are relevant to this proposal: local involvement, partnership between State and local interests, differential protection for the aquifer, the need for sound technical information, and a preference for prevention. 415 ILCS 5/17.2(c). Under this program, the Illinois EPA, in cooperation with the Department of Natural Resources, has designated priority groundwater protection planning regions, each with a regional planning committee. The priority groundwater protection planning regions were established based on mapping, the Potential for

Aquifer Recharge in Illinois, conducted by the Department of Natural Resources that identified appropriate recharge areas.<sup>2</sup> See 415 ILCS 55/7.2.

In addition to establishing minimum and maximum setback zones, Public Act 85-0863 created the Interagency Coordinating Committee on Groundwater, and the Groundwater Advisory Council.<sup>3</sup> 1987 Ill. Laws 3625-3626 (codified at 415 ILCS 55/4 and 5).

### III. STATEMENT OF FACTS

The Fayette Water Company CWS wells are located within the flood plain of the Kaskaskia River in Fayette County, and serve portions of Fayette, Shelby, and Effingham counties. Based on most recent available data the average daily pumpage from the groundwater source is 864,000 gallons per day (gpd) supplying about 6,510 persons directly. The counties served by the Fayette Water Company are not contained within a groundwater planning region because these counties lack many areas with high potential for groundwater recharge. The Fayette Water Company CWS wells, however, are located in an area on the Potential for Aquifer Recharge Map as having very high potential for recharge. Well records from the Fayette Water Company well field confirm the presence of permeable sediments at or near land surface. Below the alluvial sediments deposited in the Kaskaskia River valley and extending laterally beyond the river valley are deposits of Pennsylvanian age bedrock. Rocks of Pennsylvanian age in Illinois tend to be poor aquifers, with low rates of production. With a few exceptions where outcropping aquifers are recharged locally, groundwater produced from the Pennsylvanian is also highly

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<sup>2</sup> The Department of Natural Resources published the Potential for Aquifer Recharge in Illinois Map in 1990.

<sup>3</sup> The Illinois EPA chairs the ICCG. The ICCG is comprised of: the Illinois Department of Public Health (IDPH); Department of Natural Resources (DNR); Department of Agriculture (DOA); Illinois State Fire Marshall (ISFM); Department of Commerce and Economic Opportunity (DCEO), and Illinois Emergency Management Agency (IEMA). The IGPA also establishes the Groundwater Advisory Council (GAC). 415 ILCS 55/5. The GAC is comprised of environmental, business, public water supply, county and municipal government, regional planning and water well driller interest group representatives. 415 ILCS 55/5. The ICCG and GAC work jointly, and the Illinois EPA is the liaison between the ICCG and GAC.

mineralized. Highly productive groundwater sources with good natural quality tend to be limited to alluvial sediments along large streams in southern Illinois.

In 2002, the Illinois EPA conducted a source water assessment pursuant to Section 1453 of the Safe Drinking Water Act (SDWA) for the Fayette Water Company CWS wells. See 42 U.S.C. §300j-13. At this time, the Fayette Water Company obtained its water from three community water supply wells, wells #2, #3, and #4 (Illinois EPA #01013, #01014 and #01015, respectively). The wells are approximately 45 feet deep, and utilize a sand and gravel aquifer overlain by a relatively permeable material. The Illinois EPA also delineated the recharge area for the Fayette Water Company wells as part of the source water assessment.

The 2002 Source Water Assessment evaluated the existing water quality, intrinsic geologic vulnerability, and existing potential sources of groundwater contamination, and determined the overall susceptibility for these wells based on the combination of these factors. The Illinois EPA considers these wells to be geologically sensitive and concluded that all of the water system's wells are highly vulnerable to contamination. The wells are susceptible to inorganic chemicals (IOC), volatile organic compounds (VOC) and synthetic organic compounds (SOC). Illinois EPA considered agricultural land use, data from monitoring conducted at the wells and the entry point to the distribution system, and hydrogeologic data for the wells in reaching this determination.

The Illinois EPA identified four activities to protect the groundwater supply. Fayette Water Company should (1) develop a source water protection program, (2) have a maximum setback zone ordinance enacted, (3) revisit their contingency planning documents, and (4) review its cross connection control program.

In 2008, Fayette Water Company added three wells, wells #5, #6, and #7 (Illinois EPA #01533, #01616 and #01858, respectively). These new wells are in the same field as wells #2, #3 and #4, and utilize the same unconfined sand and gravel aquifer; they are of similar construction, and are also vulnerable to contamination. The recharge area delineation was updated in 2008 to include the new wells.

No potential primary sources, potential routes or potential secondary sources have been identified proximate to the Fayette Water Company wells. A petroleum pipeline, however, runs through the well field. A new pipeline has also been proposed that would follow the same right-of-way.

In April 2009, the Fayette Water Company met with the Fayette County Board Rules and Regulations Committee to discuss the adoption of maximum setback zones for its community wells. The Fayette Water Company determined the LAI of its wells; each community well has a LAI of approximately 972 feet when operating under normal conditions. On June 1, 2009, Fayette Water Company submitted a request to the Illinois EPA to review and confirm the technical adequacy of its determination. On July 27, 2009, the Illinois EPA confirmed the technical adequacy to the Fayette Water Company's determination of the LAI.

Currently, the designated minimum setback zone for all of the Fayette Water Company CWS wells is 400 feet. Because the LAI of the wells under normal operational conditions exceeded the radius of the minimum setback zones established for each well pursuant to Section 14.2 of the Act, Fayette Water Company requested a circular 1,000 foot maximum setback zone.

The Fayette Water Company and Illinois EPA staff met with the Fayette County Board Rules and Regulations Committee in September 2009 to discuss adoption of the maximum setback zone ordinance and answer any questions the Committee had regarding the regulations

associated with the adoption of maximum setback zones. The Fayette County Board did not take any action on the maximum setback zone ordinance during the following six months.

In March 2010, Fayette Water Company sent a letter to the Fayette County Board requesting a response to the maximum setback zone proposal and outlining the Illinois Pollution Control Board's authority to adopt maximum setback zones. The County Board did not respond to Fayette Water Company. On May 21, 2010, Fayette Water Company sent the Illinois EPA a written request asking the Agency to propose a maximum setback zone to the Board. The Illinois EPA notified Mr. Steven Knebel, Fayette County Chairman, on July 12, 2010, of its intent to propose a maximum setback zone for the Fayette Water Company community wells. The Fayette County Board has not sent a response to the Agency's notice. After the 30 days prescribed by Section 14.3(d) of the Act had elapsed, the Agency proceeded with development of the maximum setback zone proposal for the Fayette Water Company wells. Consistent with Fayette Water Company's request, the Illinois EPA is proposing the adoption of a circular maximum setback zone with a radius of 1,000 feet pursuant to Section 14.3(d) of the Act.

On August 18, 2010, a summary of the history and actions taken thus far with regard to the Fayette Water Company maximum setback zone was provided to the Interagency Coordinating Committee on Groundwater (ICCG). The ICCG had no questions or comments for the Illinois EPA.

#### **IV. PURPOSE AND EFFECT**

The purpose of this regulation is to prevent contamination of the groundwater used by the Fayette Water Company CWS by establishing a maximum setback zone. Establishing a maximum setback zone will reduce the potential risk of contamination to the aquifer and increase the assurance of a safe and adequate source of potable water. The proposed regulations will

prohibit the placement of new potential primary sources of groundwater contamination wholly or partially within the maximum setback zone.

The source water assessment of Fayette Water Company wells found that the wells are geologically sensitive and susceptible to IOC, VOC and SOC contamination. These wells are highly vulnerable to contamination because the LAI is greater than the minimum setback zone of 400 feet. As the wells continue to draw from an aquifer, water is taken from the aquifer storage at greater and greater distances from the wellbores. The water levels in the vicinity of the well are lowered, creating cones of depression. The wells' pumping rate, pumping duration and aquifer characteristics determine the characteristics of the cone of depression. The LAI is the area from the wellbore to the outer limit of the cone of depression. Water in the LAI will reach the well faster than other water that replenishes the aquifer because, within the cone of depression, the groundwater velocity in the direction of the well is higher than outside the cone of depression. Likewise, contaminants in the LAI will reach the well faster than contaminants outside the LAI. Therefore, preventing new potential sources from locating within the maximum LAI will reduce the possibility of well water contamination, and increase the assurance of a safe and adequate source of potable water.

The natural circumstances surrounding the Fayette Water Company CWS wells also increase the need to protect the groundwater resources because the wells are located in an area where potentially suitable aquifers are limited. In the southern half of the State, the glacial deposits tend to be a thin layer 20-50 feet thick, dominated by clayey tills or loess. Low permeability rock is usually underneath these glacial deposits. Sand and gravel, which are good aquifer material, usually occur in thin and discontinuous stringers of sand, except in river valleys.

The Fayette Water Company CWS wells are located within a river valley, and they draw from a sand and gravel aquifer. If these wells were to become contaminated, sites for replacement wells would be difficult to find given the hydrogeology of Southern Illinois. Moving laterally away from the river would yield groundwater that lacks the quality and quantity available from the wells the Fayette Water Company currently operates. Replacement wells would have to be located upstream or downstream along the river, and constructing new wells and the necessary water mains to connect to existing infrastructure is costly.

Establishing a maximum setback zone for the Fayette Water Company CWS wells will provide numerous benefits. First, it promotes awareness of the sensitive nature of the well field. Second, it will prevent contamination and unexpected and costly water supply problems. Finally, it will provide regulatory control of new potential sources and existing potential sources through the application of groundwater rules and technology regulations. While neither the minimum nor maximum setback zone prohibit or regulate pipelines, a maximum setback zone will afford the Fayette Water Company wells an additional measure of protection if a release occurs. Pursuant to 35 Ill. Adm. Code 742.805, Tier 1 groundwater objectives must be met within any minimum setback zone or any designated maximum setback zone.

The placement of a new potential primary source within the maximum setback zone established by the Board is a violation of the Act. 415 ILCS 5/14.3(e). Further, any violation of a rule or standard set out in of 35 Ill. Adm. Code 618 Subpart B, once adopted by the Board, would constitute a violation of the Act (415 ILCS 5/18(a)(2)). Where the violation of a maximum setback zone established in Part 618 causes, threatens, or allows groundwater pollution, the infringement also constitutes a violation of the Groundwater Quality Standards (35 Ill. Adm. Code 620) and Section 12 of the Act (415 ILCS 5/12) .

## **V. TECHNICAL FEASIBILITY AND ECONOMIC REASONABLENESS**

The pollution of groundwater can have wide-ranging economic implications to local communities. Groundwater contamination can produce significant economic hardships for local businesses and communities, including the following: devalued real estate; diminished home sales or commercial real estate sales; loss to the tax base; consulting and legal fees; increased operation and maintenance costs; increased water rates for alternative water supplies as well as the cost of new equipment and treatment; and remediation costs including site characterization, feasibility studies, and long-term treatment and disposal costs. In contrast, establishing a maximum setback will reduce the likelihood of contamination, thereby reducing costs.

## **VI. GEOGRAPHIC REGIONS AND SOURCES AFFECTED**

The proposed regulations establishing a maximum setback zone directly affect the land around the well-head, creating a 1,000 foot radius wherein new potential sources will be prohibited. Groundwater supplying facilities in Fayette, Shelby, and Effingham Counties that receive water from these wells will be positively affected because the source of their water has additional protection from contamination.

## **VII. SYNOPSIS OF TESTIMONY**

The Agency will provide one witness in this proceeding: Rick Cobb, Deputy Manager, Division of Public Water Supplies, Illinois Environmental Protection Agency. Mr. Cobb will provide an overview of the background necessitating this proposal as well as the regulatory development process and support for the entire proposal. The Illinois EPA will submit written testimony in advance of hearings pursuant to any hearing officer order that follows the proposal. The Illinois EPA respectfully requests that the Board accept Mr. Cobb's testimony into the record as if read at hearing and allow him to briefly summarize his testimony during the hearing.

The suggestion has streamlined several regulatory hearings in the past and offers the Illinois EPA the opportunity to more fully responded to questions (pre-filed or otherwise) during the information gathering process.

## **VIII. THE ILLINOIS EPA'S PROPOSAL**

The following is a section-by-section summary of the Illinois EPA's proposal.

### Subpart A General Maximum Setback Zones

This Subpart establishes the general provisions associated with maximum setback zones that are adopted by the Board.

#### Section 618.100 Purpose and Applicability

This Section defines the purpose of maximum setback zone regulations and the applicability of Part 618.

#### Section 618.105 Definitions

The Illinois EPA had proposed general definitions for maximum setback zones within the State of Illinois. The definitions are derived from the Act, the IGPA, and other Board regulations.

#### Section 618.110 Regulated Activities, Facilities and Uses.

This Section provides that the groundwater rules of Section 14.4 of the Act and corresponding Board regulations will apply to any activities, facilities and uses within the maximum setback zones established by this Part or the Act.

#### Section 618.115 Prohibitions

This Section prohibits the placement of any new potential primary source within a maximum setback zone.

### Subpart B Established Maximum Setback zones.

This Subpart establishes the maximum setback zones for different community water supply wells.

Section 618.200 Purpose

This Section states the purpose of Subpart B, namely to establish maximum setback zones to protect the public health, safety and welfare, to preserve water quality and to preserve groundwater resources.

Section 618.205 Marquette Heights' Maximum Setback Zone.

This Section establishes Marquette Heights' CWS wells' maximum setback zones.

Section 618.210 Fayette Water Company's Maximum Setback Zones

This Section establishes Fayette Water Company's CWS wells' maximum setback zones.

Section 618.Appendix A

Appendix A details a map of the Marquette Heights' CWS wells, maximum setback zone boundaries, roads, and property boundaries and associated identification numbers.

Section 618.Appendix B

Appendix B details a map of the Fayette Water Company's CWS wells, maximum setback zone boundaries, roads, and property boundaries and associated identification numbers.

**IX. PUBLISHED STUDY OR RESEARCH REPORT**

Section 102.202(e) of Title 35 of the Illinois Administrative Code requires the regulatory proposal to include “[a] descriptive title or other description of any published study or research report used in developing the rule.” Subsection 102.202(k) requires “a complete justification for the inapplicability or unavailability” of any information required under this 122.202. Neither a

research report nor a published study was used in developing this rule. Therefore, the requirement of section 102.202(e) is inapplicable.

#### **X. CONCLUSION**

The Illinois EPA proposes that the Board establish maximum setback zones for the Fayette Water Company's wells. The proposed regulations expand the applicability of the Board's existing technical standards and prohibit new potential primary sources from locating within the maximum setback zone. Promulgation of this proposal is necessary to protect the immediate recharge area of the Fayette Water Company CWS wells and the groundwater supplying facilities in Fayette, Shelby, and Effingham Counties. The proposed regulation is economically reasonable and technically feasible.

WHEREFORE, the Illinois EPA respectfully requests the Board to adopt the Illinois EPA's proposed regulation in its entirety as submitted.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By:   
Joanne M. Olson  
Assistant Counsel  
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DATED: April 18, 2011

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TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE F: PUBLIC WATER SUPPLIES  
CHAPTER I: POLLUTION CONTROL BOARD

PART 618  
MAXIMUM SETBACK ZONES

SUBPART A: GENERAL

Section	
618.100	Purpose and Applicability
618.105	Definitions
<u>618.110</u>	<u>Regulated Activities, Facilities or Units</u>
<u>618.115</u>	<u>Prohibitions</u>

SUBPART B: ~~ESTABLISHED MAXIMUM SETBACK ZONES MARQUETTE HEIGHTS'~~  
~~MAXIMUM SETBACK ZONE~~

Section	
618.200	<del>Purpose and Applicability established</del>
618.205	<del>Marquette Heights' Maximum Setback Zone 1,000 Foot Maximum Setback Zone</del> <del>Prohibition</del>
<u>618.210</u>	<u>Fayette Water Company's Maximum Setback Zone.</u>

618.APPENDIX A Boundaries of Marquette Heights' Maximum Setback Zone

618.APPENDIX B Boundaries of Fayette Water Company's Maximum Setback Zone

AUTHORITY: Implementing Section 14.3 and authorized by Section 27 of the Illinois Environmental Protection Act [415 ILCS 5/14.3 and 27].

SOURCE: Adopted in R05-9 at 30 Ill. Reg. 10448, effective May 23, 2006; amended in R \_\_\_ at Ill. Reg. \_\_\_, effective \_\_\_\_\_.

SUBPART A: GENERAL

Section 618.100 Purpose and Applicability

- a) This Part is established in the interest of securing the public health, safety, and welfare; to preserve the quality and quantity of groundwater resources in order to assure a safe and adequate water supply for present and future generations; and to

preserve groundwater resources currently in use and those aquifers having a potential for future use as a public water supply.

- b) ~~Pursuant to the authority of Section 14.3(d) of the Illinois Environmental Protection Act (Act) [415 ILCS 5/14.3(d)],~~ The provisions of this Part apply to all properties located wholly or partially within a maximum setback zone established under Section 14.3(d) of the Act or this Part.

Section 618.105      Definitions

- a) ~~Unless specified otherwise, all terms shall have the meanings set forth in the Illinois Environmental Protection Act, (415 ILCS 5/1 et seq.), the Illinois Groundwater Protection Act,(415 ILCS 55/1 et seq), and 35 Ill. Adm. Code 671. Unless a different meaning of a word or term is clear from the context, the definitions of words or terms in this Part are the same as those used in the Act, the Illinois Groundwater Protection Act [415 ILCS 55], or 35 Ill. Adm. Code 671.~~

- b) For the purposes of this Part, the following definitions apply:

“Act” means the Illinois Environmental Protection Act, 415 ILCS 5/1 et seq, as amended.

“Agency” means the Illinois Environmental Protection Agency.

“Board” means the Illinois Pollution Control Board.

“Facility” means *the buildings and all real property contiguous thereto, and the equipment at a single location used for the conduct of business* [430 ILCS 45/3].

“New Potential Primary Source” means:

*a potential primary source which is not in existence or for which construction has not commenced at its location as of January 1, 1988; or*

*a potential primary source which expands laterally beyond the currently permitted boundary or, if the primary source is not permitted, the boundary in existence as of January 1, 1988; or*

*a potential primary source which is part of a facility that undergoes major reconstruction. Such reconstruction shall be deemed to have taken place where the fixed capital cost of the new components constructed within a 2-year period exceed 50% of the fixed capital cost of a comparable entirely new facility* [415 ILCS 5/3.345].

“New Potential Route” means:

*a potential route which is not in existence or for which construction has not commenced at its location as of January 1, 1988; or*

*a potential route which expands laterally beyond the currently permitted boundary or, if the potential route is not permitted, the boundary in existence as of January 1, 1988 [415 ILCS 5/3.350].*

“New Potential Secondary Source” means *a potential secondary source which:*

*is not in existence or for which construction has not commenced at its location as of July 1, 1988; or*

*expands laterally beyond the currently permitted boundary or, if the secondary source is not permitted, the boundary in existence as of July 1, 1988, other than an expansion for handling of livestock waste or for treating domestic wastewaters; or*

*is part of a facility that undergoes major reconstruction. Such reconstruction shall be deemed to have taken place where the fixed capital cost of the new components constructed within a 2-year period exceed 50% of the fixed capital cost of a comparable entirely new facility [415 ILCS 5/3.355]; but*

*excludes an agrichemical facility that modifies on-site storage capacity such that the volume of the pesticide storage does not exceed 125% of the available capacity in existence on April 1, 1990, or the volume of fertilizer storage does not exceed 150% of the available capacity in existence on April 1, 1990; provided that a written endorsement for an agrichemical facility permit is in effect under Section 39.4 of the Act and the maximum feasible setback is maintained. This on-site storage capacity includes mini-bulk pesticides, package agrichemical storage areas, liquid or dry fertilizers, and liquid or dry pesticides [415 ILCS 5/14.2(g)(4)].*

“Potential Primary Source” means *any unit at a facility or site not currently subject to a removal or remedial action which:*

*is utilized for the treatment, storage, or disposal of any hazardous or special waste not generated at the site; or*

*is utilized for the disposal of municipal waste not generated at the site, other than landscape waste and construction and demolition debris; or*

*is utilized for the landfilling, land treating, surface impounding or piling of any hazardous or special waste that is generated on the site or at other sites owned, controlled or operated by the same person; or*

*stores or accumulates at any time more than 75,000 pounds above ground, or more than 7,500 pounds below ground, of any hazardous substances [415 ILCS 5/3.345].*

“Potential route” means *abandoned and improperly plugged wells of all kinds, drainage wells, all injection wells, including closed loop heat pump wells, and any excavation for the discovery, development or production of stone, sand or gravel [415 ILCS 5/3.350].*

“Potential secondary source” means *any unit at a facility or a site not currently subject to a removal or remedial action, other than a potential primary source, which:*

*is utilized for the landfilling, land treating, or surface impounding of waste that is generated on the site or at other sites owned, controlled or operated by the same person, other than livestock and landscape waste, and construction and demolition debris; or*

*stores or accumulates at any time more than 25,000 but not more than 75,000 pounds above ground, or more than 2,500 but not more than 7,500 pounds below ground, of any hazardous substances; or*

*stores or accumulates at any time more than 25,000 gallons above ground, or more than 500 gallons below ground, of petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance; or*

*stores or accumulates pesticides, fertilizers, or road oils for purposes of commercial application or for distribution to retail sales outlets; or*

*stores or accumulates at any time more than 50,000 pounds of any de-icing agent; or*

*is utilized for handling livestock waste or for treating domestic wastewaters other than private sewage disposal systems as defined in the Private Sewage Disposal Licensing Act [415 ILCS 5/3.355].*

“Setback zone” means *a geographic area, designated pursuant to the Act, containing a potable water supply well or a potential source or potential route,*

*having a continuous boundary, and within which certain prohibitions or regulations are applicable in order to protect groundwaters [415 ILCS 5/3.450].*

*“Site” means any location, place, tract of land, and facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control by the Act or regulations thereunder [415 ILCS 5/3.460].*

*“Unit” means any device, mechanism, equipment, or area (exclusive of land utilized only for agricultural production). This term includes secondary containment structures and their contents at agrichemical facilities. [415 ILCS 5/3.515]*

*“Unit boundary” means a line at the land’s surface circumscribing the area on which, above which, or below which waste, pesticides, fertilizers, road oils or de-icing agents will be placed during the active life of the facility. The space taken up by any liner, dike or other barrier designed to contain waste, pesticides, fertilizer, road oils, or de-icing agents falls within the unit boundary.*

Section 618.110      Regulated Activities, Facilities or Units

All new or existing activities, facilities or units located wholly or partially in any maximum setback zone created by this Part will be subject to the groundwater rules set forth in Section 14.4 of the Act, and any Board regulations promulgated pursuant to Section 14.4 of the Act.

Section 618.115      Prohibitions

New potential primary sources of groundwater contamination are prohibited from locating wholly or partially within any maximum setback zone established under Section 14.3 of the Act or this Part.

SUBPART B: ESTABLISHED MAXIMUM SETBACK ZONES-MARQUETTE HEIGHTS  
MAXIMUM SETBACK ZONE

Section 618.200      Purpose and Applicability

- a) — This Subpart prescribes maximum setback zones for individual community water supply wells ~~prohibitions and the applicable technology control regulations that apply under 35 Ill. Adm. Code 615 and 616~~ in the interest of securing the public health, safety, and welfare; to preserve the quality and quantity of groundwater resources in order to assure a safe and adequate water supply for present and future generations; and to preserve groundwater resources currently in use and those aquifers having a potential for future use as a public water supply.

~~b) The provisions of this Subpart apply to all properties located wholly or partially within the maximum setback zone boundaries of Marquette Heights, as delineated in Appendix A of this Part:~~

~~1) That are new potential primary sources of groundwater contamination pursuant to Section 14.3(d) of the Act; or~~

~~2) That are existing or new activities regulated under 35 Ill. Adm. Code 615 or 616, excluding agrochemical facilities that affirmatively opt out of 35 Ill. Adm. Code 615 or 616, which are regulated instead under 8 Ill. Adm. Code 257 or 77 Ill. Adm. Code 830.~~

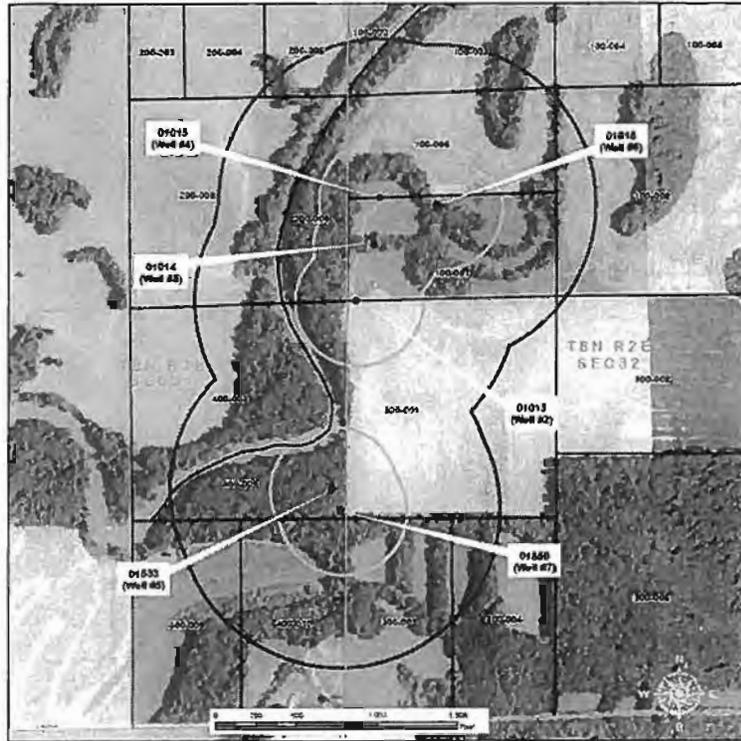
Section 618.205      Marquette Heights' Maximum Setback Zone 1,000 Foot Maximum Setback Zone Prohibition

~~New potential primary sources of groundwater contamination are prohibited from locating wholly or partially within the~~ The Marquette Heights' maximum setback zone is established as boundaries delineated in Appendix A of this Part.

Section 618.210      Fayette Water Company's Maximum Setback Zone

The Fayette Water Company's maximum setback zone is established as delineated in Appendix B of this Part.

Section 618.APPENDIX B: Boundaries of Fayette Water Company's Maximum Setback Zone



**PROPOSED MAXIMUM SETBACK ZONE  
FAYETTE WATER COMPANY (IL0510010)  
T8N R2E 3TH PRINCIPAL MERIDIAN**

**SECTION 31**

Partially Contained	Wholly Contained
100 - 004	400 - 008
200 - 003	
300 - 006	
400 - 003	
400 - 006	
400 - 009	
400 - 005	
400 - 010	

**SECTION 32**

Partially Contained	Wholly Contained
100 - 002	100 - 007
100 - 003	
100 - 006	
100 - 008	
300 - 001	
300 - 002	
300 - 003	
300 - 004	

- Legend**
- Community Water Supply Wells
  - CWS Wells Minimum Setback Zone
  - Proposed Maximum Setback Zone
  - Fayette County PINS
  - Section Boundaries

**SOURCE INFORMATION**  
Fayette County PINS obtained from the Fayette County Assessor's Office. Aerial photography obtained from Microsoft's Virtual Earth software and minimum setback zones, and CWS wells minimum by, and map compiled and created by the Illinois EPA, Division of Water Supplies, Groundwater Section.

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APR 21 2011

STATE OF ILLINOIS  
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF: )  
 )  
MAXIMUM SETBACK ZONES )  
35 Ill. Adm. Code 618 )  
 )

R11- 25  
(Rulemaking- Public Water Supplies)

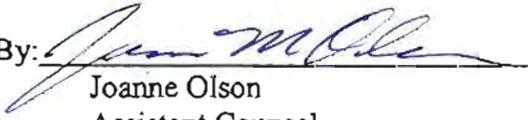
ORIGINAL

CERTIFICATION OF ORIGINATION

The Illinois Environmental Protection Agency certifies in accordance with 35 Ill. Adm. Code 102.202(i) that this proposal for amendments to 35 Ill. Adm. Code 618 amends the most recent version of the rules as published on the Illinois Pollution Control Board's website.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By:   
Joanne Olson  
Assistant Counsel  
Division of Legal Counsel

DATED: April 18, 2011

1021 N. Grand Ave. East  
P.O. Box 19276  
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STATE OF ILLINOIS  
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF: )

MAXIMUM SETBACK ZONES )  
35 Ill. Adm. Code 618 )  
)  
)  
)

R11- 25  
(Rulemaking- Public Water Supplies)

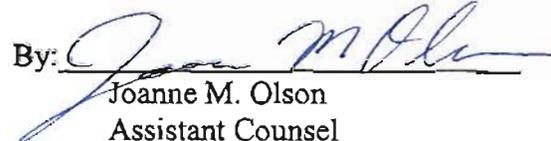
ORIGINAL

APPEARANCE

The undersigned hereby enters her appearance as an attorney on behalf of the Illinois  
Environmental Protection Agency.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By:   
Joanne M. Olson  
Assistant Counsel  
Division of Legal Counsel

DATED: April 18, 2011

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD APR 21 2011

STATE OF ILLINOIS  
Pollution Control Board

IN THE MATTER OF: )  
 )  
MAXIMUM SETBACK ZONES )  
35 Ill. Adm. Code 618 )  
 )  
 )  
 )

R11- 25  
(Rulemaking- Public Water Supplies)

ORIGINAL

CERTIFICATE OF SERVICE

I, the undersigned, an attorney, state that I have served the attached REGULATORY PROPOSAL entitled "MAXIMUM SETBACK ZONES, 35 ILL. ADM. CODE 618" and APPEARANCE of the Illinois Environmental Protection Agency upon the person to whom it is directed, by placing a copy of each in an envelope addressed to:

John Therriault, Assistant Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph, Suite 11-500  
Chicago, Illinois 60601-3218

Matthew Dunn, Chief  
Division of Environmental Enforcement  
Office of the Attorney General  
100 West Randolph St., Suite 1200  
Chicago, IL 60601

Virginia Yang  
Deputy Legal Counsel  
Illinois Department of Natural Resources  
One Natural Resources Way  
Springfield, IL 62702

and mailing each envelope by first class mail on April 18, 2011, with sufficient postage affixed

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: Joanne M. Olson  
Joanne M. Olson  
Assistant Counsel  
Division of Legal Counsel

DATED: April 18, 2011

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