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CHAPTER I STATE SANITARY CODE (10 NYCRR Subpart 5-2)

SUBPART 5-2
WATER WELL CONSTRUCTION

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Section 5-2.1 Statement.

The improper construction, operation, maintenance or abandonment of water wells and the improper installation of water well pumps and pumping equipment represent a potential hazard to public health and safety. More than two million people in New York State depend upon private or individual water well supplies as their only sources of drinking water because public water supply systems are not available to serve them. To assure such consumers that the ground waters available to them will be reasonably and sanitary for drinking, culinary or food processing purposes, the following regulations for water well construction have been promulgated.

5-2.2 Scope.

Minimum requirements are hereby prescribed governing the location, construction and abandonment of water wells used for drinking, culinary and food processing purposes other than municipal or public sources, together with procedures relating thereto, in implementation of this Subpart. No person shall construct or abandon or cause to be constructed or abandoned, any water well, nor shall any person install or cause to be installed, any pump or pumping equipment contrary to this Subpart. Distribution of water beyond the point of discharge from the storage or pressure tank, or beyond the point of discharge from the pump if no tank is employed and to wells used or intended to be used as a source of water supply for public water supply systems, or to any pump, well, or other equipment used temporarily for de-watering purposes shall comply with all other applicable State and local regulations.

5-2.3 Definitions.

As used in this Subpart:

(a) Abandoned well means a well whose use has been permanently discontinued. A well shall be deemed abandoned if it is in such a state of disrepair that continued use for the purpose of obtaining a satisfactory ground water supply is impracticable.

(b) Applicant means the owner, lessee or other person having the possession and control of property on which a well is to be constructed or abandoned.

(c) Construction of water wells means all acts necessary to obtain ground water by wells, including the location and excavation of the well.

(d) Permit-issuing official means the health commissioner or health officer of a city of 50,000 population or over, the health commissioner or health officer of a county or part-county health district, the State regional health director or area director having jurisdiction, a grade I or grade II public health administrator qualified and appointed pursuant to Part 11 of this Title, or any county health director having all the powers and duties prescribed in section 352 of the Public Health Law. The health commissioner or health officer of a city of 50,000 population or over, or the health commissioner or health officer of a county or part-county health district, or such grade I or grade II public health administrator or county health director may designate the director of environmental health of such district; and the State regional health director or area director may designate the district sanitary engineer as additional persons authorized to issue the permits required by this Part.

(e) Installation of pumps and pumping equipment means the procedure employed in the placement, protection and preparation for operation of pumps and pumping equipment, including all construction involved in making entrance to the well and establishing seals.

(f) Person means any individual, public or private corporation, political subdivision, government agency, municipality, industry, copartnership, association, firm, trust, estate or any other legal entity.

(g) Pumps and pumping equipment means any equipment or materials utilized or intended for use in withdrawing or obtaining ground water for any use; including, without limitation, seals and tanks, together with fittings and controls.

(h) Yield means the quantity of water per unit of time which may flow or be pumped from a well at a stabilized drawdown water level.

(i) Specific capacity means the rate of yield of well per unit drawdown expressed either as gallons per minute per foot or as liters per minute per meter.

(j) Water well contractor means any person, firm or corporation engaged in the business of constructing water wells.

(k) Well means any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of such excavation is for the location or acquisition of ground water, but such term does not include an excavation made for the purpose of obtaining or for prospecting for oil, natural gas, minerals, or products of mining or quarrying, or for inserting media to repressure oil or natural gas-bearing formation or for storing petroleum, natural gas or other products.

5-2.4 Need for permit.

No person shall construct or abandon any water well unless a permit has first been secured from the permit issuing official.

5-2.5 Applications.

Applications for a permit to construct or abandon a water well shall be directed to the permit issuing official by the applicant or his agent and shall be on a form prescribed by the State Department of Health.

5-2.6 Permit.

The permit issuing official shall issue a permit whenever he finds that an application is in proper form and contains required information, provided that on the basis of the information therein contained, the proposed location, construction, abandonment or installation will not be contrary to applicable law, rules or regulations. Such permit, may, at the discretion of the permit issuing official, direct the applicant to file a "compliance notice" as hereinafter provided.

5-2.7 Notice of disapproval and appeal.

The permit issuing official shall issue a "notice of disapproval" whenever he finds that an application fails to meet the requirements for issuance of a permit as hereinabove provided. Such notice shall:

- (a) state the grounds for disapproval, and
- (b) be served upon the applicant or his agent, provided, however, that such notice shall be deemed to be properly served upon such applicant or agent, if a copy thereof is sent by registered or certified mail to his last known address, or if he is served by such other methods as are, or may be authorized, under the laws of this State governing personal service of process upon individuals. Such notice may state any remedial action which, if taken, will effect compliance with this Subpart and permit approval of the application.

5-2.8 Application to construct a water well.

An application for permission to construct a water well shall be submitted by the applicant or his agent and contain the following information:

- (a) name and address of the applicant;
- (b) legal or other description adequate to locate the property and the well;
- (c) name and address of the water well contractor;
- (d) estimated depth in feet and method of construction;
- (e) purpose for which well is to be used and desired yield;
- (f) proposed diameter of the well and drillhole in inches;
- (g) type and depth of the proposed well casing;

(h) approximate distance and relative elevation to well of any potential sources of ground water pollution which may be located within 200 feet of such well including, without limitation, the following: privy, sewage seepage pit, sewage filter bed, sewage disposal field, underground sewers, septic tank, storm water drain, building foundation drain, milk house drain outlet, manure pile, barn gutter, silo, abandoned well, other well, sink hole, cow yard, hog lot, chicken yard, other animal yard, stone quarry, mine, rock outcrop, rain water cistern, solid waste disposal site, calcium or salt piles;

(i) distance to well from existing and proposed structures, as well as property lines located within 100 feet;

(j) statement of whether site is subject to flooding; and

(k) statement regarding the availability of a public water supply.

5-2.9 Completed works.

Within 30 days of the completion of water well construction, the applicant or his agent shall:

(a) pump the well until the water is clear;

(b) disinfect the well in accordance with the requirements of the permit issuing official; and

(c) submit a well log to the permit issuing official. Such well log shall specify the well location, depth and diameter, formations penetrated, casing length, extent and nature of grouting, well output tests and associated water levels, and any other information required by the permit issuing official. In addition, analytical data of the water quality associated with such well shall be submitted when available.

5-2.10 Certificate or letter of compliance.

Upon satisfactory completion of the requirements of the permit issuing official as contained in sections 5-2.9 and 5-2.13 of this Subpart, a certificate of compliance will be issued to the applicant.

5-2.11 Notification of abandonment of a water well.

Every abandoned well shall be sealed or closed so as to protect the aquifer from pollution and to prevent a hazard to life or property. If such well is to be sealed or closed the owner of the property shall make application of notification to abandon such water well and provide the following information:

(a) name and address of the applicant;

(b) legal or other description adequate to locate the property and the well;

(c) name and address of the water well contractor employed to perform the work herein required for abandonment;

(d) type and description of well;

(e) reason for abandonment; and

(f) description of work to be performed to effect abandonment.

5-2.12 Variance.

(a) Where the permit-issuing official finds that compliance with all requirements of this Subpart would result in undue hardship, a variance from any one or more such requirements may be granted by the State Department of Health to the extent necessary to ameliorate such undue hardship and to the extent such variance can be granted without impairing the intent and purpose of this Subpart.

(b) An application for a variance shall be submitted to the permit-issuing official by the applicant including any requested additional information concerning the application.

5-2.13 General provisions.

Provisions and standards applicable to the construction and location of all water wells, and the installation of all pumps and pumping equipment contained in Appendix 5-B, Standards of Water Wells of this Title shall be used as the basis for issuing or denying a permit.

5-2.14 Applicability.

The requirements of this Subpart shall:

(a) Apply within a county health district, a part-county health district, and a city having a city health department, when adopted by the appropriate local authority.

(b) Apply in those State district health areas designated by the State Commissioner of Health.