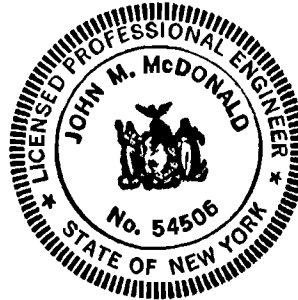


**APPENDIX A: Proposed Revision to the NYS Department of Health
Watershed Rules and Regulations for the Watervliet Reservoir Watershed.**

**CITY OF WATERVLIET
DRAFT**

**RULES AND REGULATIONS
FOR
PROTECTION FROM CONTAMINATION
OF THE
PUBLIC WATER SUPPLY
OF THE
WATERVLIET RESERVOIR
ALBANY COUNTY**

Promulgated by the New York State Commissioner of Health
Under Section 1100 of the Public Health Law



Prepared by:

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**Original March 1993
June 2002**

Pursuant to the authority vested in me as State Commissioner of Health by Section 1100 of the Public Health Law, I hereby repeal Section _____ of Part _____, Title 10 (Health) of the Official Compilation of codes, Rules and Regulations of the State of New York, this _____ day of _____, 1993 to be effective on filing in the Office of the Department of State, and add a new section to read as follows:

Section _____; City of Watervliet

A. Application: The rules and regulations set forth in this section, duly made and enacted in accordance with the provisions of Sections 1100-1107 of the Public Health Law shall apply to Watervliet Reservoir and all watercourses tributary thereto or which may ultimately discharge into said Watervliet Reservoir or which may be developed in the future to serve as sources of the water supply to the City of Watervliet, Albany County, New York. The location of boundaries designated for the protection zones, which comprise the Normans Kill and Bozenkill Watersheds to the Watervliet Reservoir are described on the watershed protection zone map, dated _____, 1993 and filed with the New York State Commissioner of Health, Albany, New York, and with the City Clerk of the City of Watervliet, Albany, County, New York, and included as Appendix A of these Rules.

Definitions

1. Agriculturally associated animal waste shall mean manure obtained from agricultural industries.
2. Agriculturally associated animal waste area shall mean land used for the deposition of agriculturally associated animal waste on the surface of the ground for fertilization purposes.
3. Chloride salt shall mean any bulk quantities of chloride compounds and other deicing compounds intended for application to roads, including mixtures of sand and chloride compounds in any proportion where the chloride compounds constitute over eight percent of the mixture. A bulk quantity of chloride compounds means a quantity of one thousand pounds or more, but does not include any chloride compounds in a solid form, including granules, which are packaged in waterproof bags or containers which do not exceed one hundred pounds each.

4. Commissioner of Health, unless otherwise noted, shall be the Commissioner of Health of the State of New York.
5. Disposal shall mean the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste, radioactive material, hazardous waste or wastewater into or on any land or water so that such solid waste, radioactive material, hazardous waste or wastewater will remain on the land or water and will not be removed.
6. Environmental assessment form shall be a form used by an agency to assist it in determining the environmental significance or nonsignificance of actions as defined in 6 NYCRR, Part 617.
7. Fertilizers shall be any commercially produced mixture generally containing phosphorous, nitrogen and potassium which is applied to the ground to increase nutrients to plants.
8. Flood plain shall be the land contiguous to streams, ponds, estuaries and lakes which would be inundated by the flood having a one percent chance of being equaled or exceeded in any given year.
9. Groundwater shall be any water beneath the land surface in the saturated zone.
10. Hazardous material shall mean any substance listed in or exhibited characteristics identified in either 6 NYCRR Part 371 or 6 NYCRR Part 597.
11. Herbicides shall mean any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any weed and being those substances defined as herbicides pursuant to Environmental Conservation Law Section 33-0101.
12. Human excreta shall mean human feces and urine.
13. Junkyard shall mean an area where two or more unregistered, old or secondhand motor vehicles are being accumulated for purposes of disposal, resale or used parts or reclaiming certain materials such as metal, glass, fabric and/or the like.

14. Linear distance shall mean the shortest horizontal distance from the nearest point of a structure or object to the high water mark of a reservoir or to the edge, margin or steep bank forming the ordinary high water line of watercourse.
15. Manure shall mean animal feces and urine.
16. Non-agriculturally associated animal waste shall mean manure obtained from non-agricultural industries.
17. Non-point discharge shall mean discharges of pollutants not subject to SPDES (State Pollutant Discharge Elimination System) permit requirements.
18. Open storage shall mean the holding of a material in a way that the material is exposed to the elements of nature.
19. Pest shall mean (1) any insect, rodent, fungus, weed or (2) any other form of terrestrial or aquatic plant or animal life or virus, bacteria or other micro-organism (except viruses, bacteria or micro-organisms on or in living man or other living animals) which the Commissioner of Environmental Conservation declares to be a pest as provided by Environmental conservation Law Section 33-0101.
20. Pesticide shall mean any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant and being those substances defined as pesticides pursuant to Environmental Conservation law Section 33-0101 et seq.
21. Point Source discharge shall mean pollutants discharge from a point source as defined in Environmental Conservation Law Section 17-0105.

22. Pollutant shall mean dredge, spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.
23. Protection zone shall mean any of the watershed management zones, as delineated on the watershed protection zone map, dated 1993 and included as Appendix A of these Rules and described herein. These zones shall be designated Zone I, Zone II and Zone III.
24. 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.
25. Radioactive material shall mean any material in any form that emits radiation spontaneously, excluding those radioactive materials or devices containing radioactive materials whose receipt, possession, use and transfer are exempt from licensing and regulatory control pursuant to regulations of the New York State Department of Labor or United States Nuclear Regulatory Commission.
26. Recyclables handling and recovery facility shall mean a solid waste management facility, other than pickup and transfer vehicles, at which recyclables are separated from the solid waste stream, or at which previously separated recyclables are collected, for collection, storage and off-site shipment.
27. Reservoir shall mean any natural or artificial lake or pond which is tributary to or serves as a source of the public water supply of the City of Watervliet.

28. Septage shall be the contents of a septic tank, cesspool, or other individual wastewater treatment work which receives domestic sewage wastes.
29. Sludge, or biosolids shall be the solid, semi-solid or liquid waste generated from a waste processing facility, but does not include the liquid stream of effluent.
30. Solid waste shall mean all putrescible and nonputrescible materials or substances discarded or rejected as being spent, useless, worthless or in excess to the owners at the end of such discard or rejection, including, but not limited to, garbage, refuse, industrial and commercial waste, sludges from air or water control facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris, discarded automobiles and offal but not including sewage and other highly diluted water carried material or substances and those in gaseous form, and being those wastes defined as solid waste pursuant to Environmental Conservation Law Section 27-0701.
31. Solid waste management facility means any facility employed beyond the initial waste collection process including, but not limited to, transfer stations, bailing facilities, rail haul facilities, processing systems, including recycling and resource recovery facilities or other facilities for reducing solid waste volume, sanitary landfills, sewage sludge or biosolids disposal facilities,

facilities for the disposal of construction and demolition debris, plants and facilities for compacting, composting or pyrolization of solid wastes, incinerators and other solid waste disposal, reduction or conversion facilities, as defined in Environmental Conservation Law Section 27-0701, et seq.

32. Spill shall mean any escape of a substance from the containers employed in storage, transfer, processing or use.
33. State Pollutant Discharge Elimination System (SPDES) shall mean the system established pursuant to Article 17, Title 8 of Environmental Conservation Law for issuance of permits authorizing discharges to the waters of the State of New York.
34. Storm water runoff recharge basins shall mean a man-made device capable of retaining surface water runoff to induce groundwater infiltration.
35. Toxic substance shall mean any substance which is listed in the latest printed edition of the National Institute for Occupational Safety and Health Registry of Toxic Effects of Chemical Substances, or which has yielded positive evidence of acute or chronic health hazards in human, or animal or biological testing.
36. Wastewater treatment works shall mean any treatment plant, sewer, disposal field, lagoon, pumping station, septic system, collection and distribution pipes, on-site disposal systems and seepage units, constructed drainage ditch or surface water intercepting ditch, or other works not specifically mentioned in this paragraph, installed for the purpose of transport, treatment, neutralization, stabilization, storage or disposal of wastewater.
37. Wastewater shall mean aqueous carried waste including, but not limited to: dredge spoil, solid waste, hazardous waste, incinerator ash and residue, septage, garbage, refuse, sludge, chemical waste, infectious waste, biological material, radioactive materials, heat, and industrial, municipal and agricultural waste.

38. Water Reservoir Protection Zone shall mean the total land area, known as Zone I, delineated on the map, dated _____, 1993 and filed with the New York State Commissioner of Health and with the City Clerk of the City of Watervliet and included as Appendix A of these Rules. The Water Reservoir Protection Zone includes the Watervliet Reservoir and all city-owned lands bordering the reservoir.
39. Water Supply Protection Zone shall mean the land area, known as Zone II, delineated on the map, dated _____ 1993 and filed with the New York State Commissioner of Health and with the City Clerk of the City of Watervliet, and included as Appendix A of these Rules. The Water Supply Protection Zone includes all primary and secondary watercourses flowing directly or indirectly into the Watervliet Reservoir and all lands within 200 feet of primary and secondary watercourses.
40. Watershed Protection Zone shall mean the land area, known as Zone III, which is tributary to Zone I and Zone II and is the tributary surface area from which the reservoir is replenished by runoff. The Watershed Protection Zone is delineated on the map, dated _____ 1993 and filed with the New York State Commissioner of Health and with the City Clerk of the City of Watervliet, and included as Appendix A of these Rules.
41. Water supply shall mean the public water supply of the City of Watervliet.
42. Watercourses shall mean every spring, stream, marsh or channel of water of any kind which flows or may flow into the indicated water supply.
- a. Primary watercourses will be classified as those flowing directly into the Watervliet Reservoir.
Primary watercourses of the watershed include the Bozenkill, Normans Kill and Black Creek.
 - b. Secondary watercourses include all watercourses within the watershed not classified as primary watercourses.

43. Watershed shall mean the entire drainage area contributing water to the City of Watervliet water supply and shall include the three designated protection zones known as Zone I, Zone II and Zone III.

C. General Provisions:

1. 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 standards for raw water quality as contained in Part 170, Title 10 (Health) of the official Compilation of Codes, Rules and Regulations of the State of New York (10 NYCRR Part 170). In addition to observing the specific requirements set forth herein, all individuals or entities occupying land on or adjacent to the Watervliet Reservoir or any watercourse tributary thereto shall refrain from any activity, including those not specifically mentioned herein, which may result in contamination of the public water supply.
2. The maintenance of the water supply source shall be subject to the approval and enforcement authority of the Albany and Schenectady County Health Departments, NYSDEC and New York State Department of Health (NYSDOH) so as to eliminate the opportunity for pollution to enter the water sources.
3. Recreation Restrictions:
 - a. Bathing and swimming: No bathing and/or swimming shall be allowed in the Watervliet Reservoir or any watercourse owned by the City of Watervliet.
 - b. Boating: No boating shall be allowed in or upon the waters of the Watervliet Reservoir or in any watercourse owned by the City of Watervliet except by duly authorized employees of the City of Watervliet in the performance of their duties of supervision and maintenance of the water supply.

- c. Fishing and Trespassing: No fishing and/or trespassing shall be allowed in or upon any reservoir watercourse owned by the City of Watervliet within 1000 foot linear distance of water supply intakes except by duly authorized employees of the City of Watervliet in the performance of their duties of supervision and maintenance of the water supply. Public fishing will be permitted only in areas specifically designated for such a purpose.
 - d. Motorized vehicles: No motorized vehicles will be allowed on the water, or on the ice, of the Watervliet Reservoir, or any watercourse tributary thereto, except by duly authorized employees of the City of Watervliet in the performance of their duties of supervision and maintenance of the water supply.
 - e. Public notification: Notification of the public of these restrictions shall be made by posting signs in appropriate places. Regular patrols shall be made during recreation season(s) to enforce this restriction.
4. Other Zone I Regulations: In addition to the above-described regulations, all of the following regulations for Watershed Zones II and III also apply to Zone I.
- E. Specific Regulations for Watershed Zone II (Primary and Secondary Watercourses):
- 1. On-site Disposal Systems:
 - a. No human excreta or sewage shall be deposited or allowed to escape into any reservoir or primary or secondary watercourse on the watershed.
 - b. All wastewater treatment works discharging to groundwater and receiving wastewater without the admixture of industrial or other wastes, as those terms are defined in Environmental Conservation Law, Section 17-0701, in quantities of less than 1,000 gallons per day shall be designed, installed and maintained in accordance with the sanitary code and standards

- established in 10 NYCRR Part 75 (Appendix 75A) and any wastewater disposal standards promulgated by the Albany or Schenectady County Health Departments where such standards are more stringent.
- c. A permit is required prior to the installation of any subsurface disposal system. This permit must be obtained from the County Health Department or from the Town or Village office having local jurisdiction. Conditions for a permit shall include an approved engineering plan, verification of the percolation rate by a disinterested party and inspection of the installation prior to backfilling. Permits are renewable on a five-year basis. All septic tanks shall be pumped clean every five years or more often if conditions warrant.
 - d. The applicable standards and permit requirements of the NYS Department of Environmental Conservation shall apply to systems with flows in excess of 1,000 gallons per day or those which contain industrial wastewater.
 - e. No portion of the seepage unit shall be constructed, placed or rebuilt within 50 feet linear distance of a lake, reservoir, impoundment, stream or their tributary watercourses.
2. Point of source discharges, other than storm water runoff conduits, are prohibited except pursuant to an authorization issued by the New York State Department of Environmental Conservation.
 - a. Storm sewer outlets shall not be made directly to lakes, reservoirs, impoundments, streams or their tributary watercourses. Provisions shall be made to discharge to the surface at least 100 feet from lakes, reservoirs, impoundments, streams and their tributary watercourses.
 3. Animal Wastes:

- a. No concentration of animal wastes from an agricultural operation, including but not limited to: Manure piles, feedlots, barnyards and yarding areas, shall be located within a 100 feet linear distance from any lake, reservoir, impoundment or watercourse. Areas utilized for the storage or stockpiling of manure and agriculturally associated animal waste shall be constructed and maintained such that seepage, leachate and runoff from storage or stockpiling of animal waste cannot adversely impact the quality of the groundwater or surface water.
- b. Barnyards, feedlots, yarding areas and manure piles shall be separated from streams and water bodies by ditches or surface grading to prevent their runoff from entering streams and water bodies.
- c. Drainage from barnyards, feedlots, yarding areas and manure piles shall not be discharged directly to a lake, reservoir, impoundment or watercourse. Such drainage shall be dispersed over the surface of the ground at a minimum distance of 250 feet linear distance from any lake, reservoir, impoundment or watercourse.
- d. Provisions shall be made for satisfactory disposal of milk house waste either by surface or subsurface irrigation that prevents any discharge to any lake, reservoir, impoundment or watercourse. Such facilities shall be located at least 100 feet linear distance from any lake, reservoir, impoundment or watercourse.
- e. Manure shall not be spread on frozen ground if there is any likelihood that surface runoff will be carried into adjacent lakes, reservoirs, impoundments or watercourses. No manure shall be spread on land within 250 feet of a lake, impoundment or watercourse from November 1 through March 31.
- f. No structures of any kind for the purpose of sheltering or corralling animals shall be constructed within a 100 foot linear distance of any reservoir or watercourse.

- g. No animal shall be allowed to stand, wallow, wade or swim in any reservoir or watercourse.
- h. Pet owners in urban areas must provide for animal waste disposal on an individual basis.

4. Fertilizer and Manure Use:

- a. Open storage of fertilizers for nonfarm and nonresidential use is prohibited.
- b. Agricultural use of fertilizers and land application of manure shall be in conformance with best management practices and to the degree practicable with “Controlling Agricultural Nonpoint Source Water Pollution in New York State – A guide to the Selection of Best Management Practices to Improve and Protect Water Quality”, dated 1991 and included as Appendix C of these rules.
- c. Fertilizer use for non-farm and non-residential usage shall not be applied in a manner or at rates which would contaminate the water supply.

5. Pesticide and Herbicide Use:

- a. All pesticide and herbicide storage, use, application and disposal shall be under permit as provided in Environmental Conservation Law, Article 33, subject to the approval and enforcement authority of the NYSDEC.
- b. Disposal of water used for make-up water or for washing of equipment is prohibited except pursuant to an authorization issued by the NYSDEC.
- c. Use of lakes, reservoirs or streams as a source of water or for make-up water or washing of equipment used in conjunction with pesticides and herbicides is prohibited.

6. Solid Waste Management Facilities:

- a. Not junkyard shall be located with a 500 foot linear distance of any lake, impoundment, reservoir or watercourse.
 - b. The establishment or continued operation of solid waste management facilities shall conform to 6 NYCRR Part 360, and be under valid permit from, or other authorization by, the NYSDEC.
 - c. No refuse shall be deposited either on or beneath the surface of the ground within a 250 foot linear distance of any reservoir or watercourse.
 - d. Waste disposal areas (including, but not limited to, landfills, compost, recycling, resource recovery, transfer stations, sludge construction and demolition landfills, waste tire, medical wastes or incineration facilities) are prohibited except for the solid waste generated from a single-family residence or farm, provided that the disposal area is located within the property boundaries of the single-family residence or farm and the refuse disposal area is not located within a 500 foot linear distance of any reservoir or watercourse.
 - e. Land application (including storage) of septage and sludge is prohibited except by permit issued per 6 NYCRR Part 360 by the NYSDEC.
 - f. Abandoned landfills and dumps shall be investigated, and they shall be monitored when data warrant, and remedial action shall be undertaken if undesirable conditions are present.
7. Radioactive Material: Storage, use and disposal of radioactive material is subject to the approval and enforcement authority of the NYSDEC, the NYSDOH and any other State or Federal agencies having jurisdiction. No radioactive material shall be disposed of by burial in soil at any point within the watershed.
8. Hazardous Material:

- a. Storage and use of hazardous materials are subject to the approval and enforcement authority of the NYSDEC or other agency having jurisdiction.
 - b. No container used for the storage of toxic chemicals or substances shall be stored or deposited on the ground within a 1000 foot linear distance of any reservoir or watercourse.
 - c. Disposal of hazardous or toxic chemicals and substances will be prohibited at all points within the watershed.
9. Bulk Storage:
- A. Aboveground or underground petroleum storage tanks, including design, installation and maintenance, are subject to the approval and enforcement authority of the NYSDEC as per Environmental Conservation Law Sections 17-0303 and 17-1001 et seq.
 - b. Abandoned petroleum tanks are subject to the closure requirements of 6 NYCRR, Section 613.9.
 - c. Storage of chloride salts is prohibited except in structures designed to minimize contact with precipitation, constructed on low permeability pads designed to control seepage and runoff, and at least 500 foot linear distance from any reservoir of watercourse.
10. Accidental Spills:
- a. Spills of any material stored in bulk shall be reported as required by Environmental Conservation Law Section 1743. Cleanup of spills is the responsibility of the owner; in cases of material in transit, cleanup is the responsibility of the carrier.
 - b. The NYSDEC shall be advised of any accidental spills within two hours by phoning 1-800-457-7362.
11. Deicing Salts and Snow Disposal:

- a. Deicing salt application is restricted to the minimum amount needed for public safety in accordance with best management practices as developed by the New York State Department of Transportation. Calcium chloride shall be used instead of sodium chloride where possible to limit sodium input to area waters.
 - b. Snow disposal of snow removed from streets, roads or parking areas is prohibited from being dumped or deposited within a 1000 foot linear distance of any reservoir or a 200 foot linear distance of any watercourse.
12. Sediment Generation:
- a. Farm tillage practices shall be in conformance to the degree practicable with “Controlling Agricultural Nonpoint Source Water Pollution in New York State – A Guide to the Selection of Best Management Practices to Improve and Protect Water Quality”, dated 1991 and included as Appendix C of these Rules.
 - b. Land disturbing activities which may result in deterioration of the quality or quantity of the public water supply source, including general construction, highway construction, access road construction and maintenance are prohibited except where measures have been put in place to prevent erosion and sediment production.
13. Cemeteries: Not interment of human body shall be made within a 250 foot linear distance of a lake, reservoir, impoundment or watercourse.
14. Atmospheric Fallout: Appropriate monitoring of the constituents of precipitation shall be undertaken by the water supply agency and the NYSDOH and NYSDEC, and where data indicate, appropriate action shall be taken.
15. Land Use Management:

- a. Where surface water deterioration is likely to be caused by land development, the water supplier, municipal officials and the NYSDOH shall insure that appropriate zoning and other controls are implemented to protect the surface water.
- b. All lands or tributary streams draining to public water supply reservoirs, lakes, or impoundments, shall be so identified on land use maps and in zoning regulations.

16. Recreational land use shall be so managed to prevent any adverse impact on water quality.

F. Specific Regulations for Watershed Zone III (Remaining Watershed Lands):

- 1. The specific regulations of Watershed Zone II also apply to Watershed Zone III, except that the linear setback distances referred to generally apply only to Watershed Zone 1 and II areas. Where the linear setback distances exceed the boundaries of Watershed Zone II, or I the specific regulation also applies to Watershed Zone III.
- 2. Surveillance: Maintain Information on any system, facility or activity that could pose a pollution threat to the water source.
- 3. Compliance: Require compliance with general water pollution control program and related environmental protection programs.

G. Inspection: The General Manager of the City of Watervliet or any persons charges with the maintenance or supervision of the public water supply system by its officers or their duly appointed representative, shall make regular and thorough inspections of the identified protection zones to ascertain compliance with the rules and regulations set forth in this section. It shall be the duty of the aforesaid officials 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 officials to notify the NYS Commissioner of Health or his designee of such violations.

H. Penalties for Violations: Any person, firm or corporation who violates any provisions of these Watershed Rules and Regulations shall be subject to those penalties specified in Section 1103 of the New York State Public Health Law. Any such violation may be enjoined subject to Section 1104 and 1005 of the New York State Public Health Law.

The rules and regulations for the protection from contamination of the public water supply of the City of Watervliet, promulgated by the NYS Commissioner of Health on the 15th day of June 1962, are hereby repealed and the foregoing rules and regulations for the protection from contamination of the public water supply of the City of Watervliet are hereby duly made, ordained and established on this _____ day of _____, 1993, pursuant to Section 1100 of the Public Health Law effective upon filing in the office of the Department of State.

Commissioner of Health of the State of New York

_____, 1993
Albany, New York

Appendix A: City of Watervliet – Watershed Protection Zone Map, _____ 1993

Appendix B: Watervliet Watershed Inventory and Census Summary, _____ 1993

Appendix C: “Controlling Agricultural Nonpoint Source Water Pollution in New York State – A guide to the Selection of Best Management Practices to Improve and Protect Water quality, dated 1991

Text of proposed rule appendices, the regulatory impact statement and the regulatory flexibility analysis, if any, may be obtained from: Donald MacDonald, Department of Health, Bureau of Management Services, Corning Tower, Room 2230, Empire State Plaza, Albany, NY 12237, (518/474-8734).

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