

2. enforcement procedures as outlined in this Chapter and in [Article 10.C, GROUNDWATER AND NATURAL RESOURCES PROTECTION BOARD](#). [Ord. 2011-001]
- D. All monies collected as civil penalties for violations of this Chapter shall be deposited in the Pollution Recovery Trust Fund.

CHAPTER B WELLFIELD PROTECTION

Section 1 Purpose and Intent

- A. The purpose and intent of this Chapter is to protect and safeguard the health, safety, and welfare of the residents and visitors of PBC by providing criteria for regulating and prohibiting the use, handling, production and storage of certain deleterious substances which may impair present and future public potable water supply wells and wellfields.

Section 2 Definitions

See [Art. 1.I, DEFINITIONS AND ACRONYMS](#)

Section 3 Applicability

A. General

The provisions of this Chapter shall be effective within the incorporated and unincorporated areas of PBC, and shall set restrictions, constraints and prohibitions to protect present and future public potable water supply wells and wellfields from degradation by contamination of deleterious substances.

B. Review and Permitting Procedures

No building permit or business tax receipt for any nonresidential activity shall be issued by PBC or any city located within PBC that would allow development or construction in Zones 1, 2, 3, or 4 that is contrary to the restrictions and provisions provided in this Chapter. Permits or business tax receipts issued in violation of this Chapter confirm no right or privilege on the grantee and such invalid permit or licenses will not vest rights. [Ord. 2007-013]

Section 4 Effective Date

A. Effective Date

The requirements and provisions of this Chapter shall apply immediately upon and after March 7, 1988 to all new nonresidential activities. An existing activity is one for which a building permit or business tax receipt had been issued by the appropriate jurisdiction prior to March 7, 1988 and which had not expired on or before March 7, 1988, or for which a completed building permit or business tax receipt application had been filed and accepted with the appropriate jurisdiction prior to March 7, 1988. All other activities shall be deemed "new." [Ord. 2007-013]

B. Time of Review

Any application for a building permit for a nonresidential development or residential development greater than 25 units or nonresidential development subject to review by an advisory planning body and approval by the local governing authority or zoning board of appeals that includes property wholly or partially within Zones 1, 2, 3, or 4, of a wellfield shall include requirements of ERM. These requirements shall be as follows:

1. Notification by the local governing authority of the location of the property in Zones 1, 2, 3, or 4 and notarized letter from applicant admitting acceptance of notification. Notification shall be prepared by ERM providing details of Zones, prohibitions, and measures required for compliance; or
2. Submittal of application to ERM for notification.

C. Certification of Compliance

Any application submitted for a business tax receipt for any use within Zones 1, 2, 3, or 4 of an incorporated or unincorporated area shall require certification by ERM that the use meets the applicable requirements of this Article. [Ord. 2007-013]

D. Screening of Occupational License

It shall be the duty of each local agency to screen all applications for Zones 1, 2, 3, or 4 business tax receipts. [Ord. 2007-013]

E. Zone 1 Activities

ERM shall provide a list to all local agencies of potentially prohibited operations in Zone 1.

F. Interdepartmental Coordination

Copies of building permits for residential uses containing more than 25 units, all nonresidential projects, and all occupational licenses issued for Zones 1, 2, 3, or 4 shall be submitted to ERM on a weekly basis, or upon issuance by the appropriate issuing authority.

Section 5 Exemption

A. General Exemptions

A general exemption application and an operating permit issued pursuant to the provisions of [Article 14.B.6.C.2, Zone 2](#), shall be filed with ERM for any nonresidential activity claiming a general exemption to these regulations under [Article 14.B.5.A.4.a, Fire, Police, Emergency Medical Services and PBC Emergency](#), [Article 14.B.5.A.4.b, Utilities in Zone 1](#), and [Article 14.B.5.A.4.f, Retail/Wholesale Sales Activities](#). No nonresidential facility that stores, handles, produces, or uses any Regulated Substances after March 7, 1988 shall be eligible for a general exemption in Zone 1 unless such facility was in existence prior to the establishment of a new Wellfield Zone 1 or a reconfigured Wellfield Zone 1 and is required to move or cease operations as a direct result of a change in the Wellfield Protection Maps. **[Ord. 2013-001]**

1. Application

A general exemption application shall contain a concise statement detailing the circumstances which the applicant believes would entitle him or her to a general exemption pursuant to [Article 14.B.5.A, General Exemptions](#).

2. Fee

A fee shall be required as established by the approved fee schedule.

3. Procedure

Within 30 working days of receipt of an application for a general exemption, ERM shall inform the applicant whether such application contains sufficient information for a proper determination to be made. If the application is found to be insufficient, then ERM shall provide to the applicant a written statement by certified mail or hand delivery requesting the additional information required. The applicant shall inform ERM within ten working days of the date of the written statement of intent to either furnish the information or have the application processed as originally submitted. ERM shall have 90 working days from the date that the sufficiency determination was rendered or the date of receipt of additional requested information to act upon the application.

4. General Exemption Activities and Criteria

a. Fire, Police, Emergency Medical Services and PBC Emergency Management Center Facilities

Existing fire, police, emergency medical services and PBC emergency management center facilities are exempt from the Zone 1 prohibitions set forth in [Article 14.B.6.C.1, Zone 1](#), provided that an operating permit for such uses is obtained pursuant to [Article 14.B.7.B.1, Operating Permit](#).

b. Utilities in Zone 1

Existing utilities as of July 25, 1991 shall be exempt, except for the maintenance and refueling of vehicles, from the Zone 1 prohibitions set forth in [Article 14.B.6.C.1, Zone 1](#), provided that an operating permit for such uses is obtained pursuant to [Article 14.B.7.B.1, Operating Permit](#).

c. Continuous Transit

The transportation of any Regulated Substance through Zones 1, 2, 3, or 4 shall be exempt from the provisions of this Chapter, provided that the transporting motor vehicle is in continuous transit. The transport of such substances through existing permanent pipelines is also exempt, provided that the currently authorized use or uses are not changed, and provided that leak detection and monitoring as approved by ERM are employed. No general exemption or operating permit application is required except that an operating permit is required to establish the leak detection and monitoring requirements for said existing pipelines. Any new pipelines constructed through Zones 1, 2, or 3 and carrying Regulated Substances shall be provided with secondary containment, leak detection and monitoring as approved by ERM.

d. Vehicular and Lawn Maintenance Fuel and Lubricant Use

The use in a vehicle or lawn maintenance equipment of any Regulated Substance solely as fuel in that vehicle or equipment fuel tank or as a lubricant in that vehicle or equipment shall be exempt from the provisions of this Chapter. No general exemption or operating permit application is required.

e. Application of Pesticides, Herbicides, Fungicides and Rodenticides

The application of those Regulated Substances used as pesticides, herbicides, fungicides, and rodenticide in recreation, agriculture, pest control and aquatic weed control activities shall be exempt from the provisions of this Chapter provided that:

- 1) in all zones, the application is in strict conformity with the use requirement as set forth in the substances EPA registries and as indicated on the containers in which the substances are sold;
- 2) in all zones, the application is in strict conformity with the requirements as set forth in [F. S. Chapter 482, 487, and Chapters 5E 2 and 5E 9, F.A.C.](#);
- 3) in all zones, the application of any of the pesticides, herbicides, fungicides, and rodenticide shall be noted in the records of the certified operator. Records shall be kept of the date and amount of these substances applied at each location and said records shall be available for inspection at reasonable times by ERM;
- 4) in Zones 1, 2, 3, or 4, the pesticides, herbicides, fungicides, and rodenticide shall not be handled during application in a quantity exceeding 700 gallons of formulation; and
- 5) all nonresidential applicators of pesticides, herbicides, fungicides, and rodenticide who apply those substances in Zones 1, 2, 3, or 4 shall obtain an operating permit covering all application operations using these materials under one permit and shall comply with all the requirements of [Article 14.B.6.C.2.b.3](#)), Emergency Plan.

f. Retail/Wholesale Sales Activities

Retail/wholesale sales establishments in Zone 1 that store and handle Regulated Substances for resale in their original unopened containers shall be exempt from the prohibition in Zone 1, provided that those establishments obtain an operating permit pursuant to [Article 14.B.6.C.1, Zone 1](#). Items in [Article 14.B.6.C.2.b.7](#)), Monitoring for Regulated Substances in Potable Water, certification by a Professional Engineer or Professional Geologist registered or licensed in the State of Florida, and a bond or letter of credit as set forth in [Article 14.B.7.B.4, Bond Required](#), are not required for facilities in Zones 1, 2, or 3, provided no individual container of Regulated Substances exceeds five gallons, if liquid, or 25 pounds, if solid.

g. Office Uses

Offices uses, except for the use of Regulated Substances for the maintenance and cleaning of office buildings, shall be exempt from the provisions of this Chapter, and no general exemption or operating permit shall be required.

h. Construction Activities

The activities of constructing, repairing or maintaining any facility or improvement on lands within Zones 1, 2, 3, or 4 shall be exempt from the provisions of this Chapter, provided that all contractors, subcontractors, laborers, material men and their employees, when using, handling, storing or producing Regulated Substances in Zones 1, 2, 3, or 4, use those applicable Best Management Practices set forth in [Appendix 3](#), Best Management Practices, attached hereto and incorporated herein. No general exemption or operating permit applications are required.

i. Activities Subject to Regulation Due to Accumulation of Waste Regulated Substances

Activities in Zones 2 or 3, which are subject to permitting requirements of the Chapter shall obtain an Operating Permit pursuant to the provisions in [Article 14.B.6.C.2, Zone 2](#), or [Article 14.B.6.C.3, Zone 3](#). Items in [Article 14.B.6.C.2.b.7](#)), Monitoring for Regulated Substances in the Potable Water Wells, and [Article 14.B.6.C.2.b.8, Regulated Substances in Groundwater Monitoring Wells](#), and a bond or letter of credit as set forth in [Article 14.B.7.B.4, Bond Required](#), are not required, provided that all waste liquid Regulated Substance are secondarily contained according to the conditions described in [Article 14.B.6.C.2.b.1, Containment of Regulated Substances](#), and are removed from the site on a regular schedule by a contracted hauler licensed by EPA or the State of Florida to handle the waste Regulated Substance. The accumulated waste Regulated Substance shall at no time exceed 55 gallons if liquid or 220 pounds if solid, and the accumulation time shall not exceed 90 days. Records of removal and disposal of all waste Regulated Substance through the licensed hauler shall be maintained and made available for ERM inspection at reasonable times. In addition, all other Regulated Substance shall not exceed the threshold quantities identified in the definition of "Regulated Substances". Failure to comply with any of these requirements shall subject the facility to the full permitting provisions for the applicable zone.

B. Special Exemptions

An affected person in Zones 1 or 2 may petition the hearing officer pursuant to the appeal process in [Article 14.C.11, Appeals](#), for a Special Exemption, from the prohibitions and monitoring requirements set out in [Article 14.B.6.C.1, Zone 1](#), and [Article 14.B.6.C.2, Zone 2](#). No nonresidential facility that stores,

handles, produces, or uses any Regulated Substances after March 7, 1988 shall be eligible for a special exemption in Zone 1 unless such facility was in existence prior to the establishment of a new Wellfield Zone 1 or a reconfigured Wellfield Zone 1 and is required to move or cease operations as a direct result of a change in the Wellfield Protection Maps. **[Ord. 2013-001]**

1. Criteria

In order to obtain a special exemption, a person must demonstrate, by a preponderance of competent, substantial evidence, that:

- a. Special or unusual circumstances and adequate technology exists to isolate the facility or activity from the potable water supply; and
- b. In granting the special exemption, the hearing officer pursuant to [Article 14.C.11, Appeals](#), may prescribe any additional appropriate conditions and safeguards which are necessary to protect the wellfield.

2. Procedures

The following special exemption application and review procedures shall apply to activities claiming a special exemption with adequate technology to isolate the facility or activity from the potable water supply and protect the wellfield:

a. Application

A special exemption application claiming special or unusual circumstances and adequate protection technology shall be filed with ERM, who shall then promptly notify the County Attorney's office that such an application has been filed. The application shall be signed by the applicant and a Professional Engineer or Professional Geologist registered or licensed in the State of Florida;

b. Basis for Application

The application shall contain a concise statement by the applicant detailing the circumstances that the applicant feels entitles the applicant to special exemption, pursuant to this Chapter; and

c. Fee

A fee shall be required as established by the approved Fee Schedule.

d. Submittal Requirements

The application for special exemption shall contain but not be limited to the following elements:

1) Operating Conditions

A description of the situation at the site requiring isolation from the wellfield, including:

- a) a list of the Regulated Substances in use at the site;
- b) a site plan of the facility including all storage, piping, dispensing, shipping, etc., facilities;
- c) what operations at the facility involve Regulated Substances which must be isolated from the wellfields;
- d) the location of all operations involving Regulated Substances;
- e) a sampling and analysis of the groundwater on the site of the activity seeking a special exemption shall be performed to determine if any Regulated Substances are already present which constitute a threat to the water supply;
- f) an analysis of the affected well showing whether or not such well is already contaminated by any Regulated Substances and the extent of such contamination; and
- g) a hydrogeologic assessment of the site which shall address, as a minimum, soil characteristics and ground water levels, directional flow, and quality.

2) Technical Components

A technical proposal to achieve the required isolation including:

- a) components to be used and their individual functions;
- b) system tying the components together;
- c) a discussion and documentation, such as published technical articles, substantiating the performance and reliability of the components individually and the system as a whole. If the system has not been field tested, a discussion and laboratory test documentation to substantiate the proposed performance and reliability of the system; and
- d) details of the specific plans to install the system at the site.

3) Testing Procedures

If the proposed system does not have a proven history of successful in field operation, it may still be proposed using proven components. A test plan for the system as installed shall be provided to prove that the proposed system works in the field.

4) Backup Detection

A technical proposal for backup detection of Regulated Substances that may elude the isolation system and escape to outside a perimeter to be established by ERM. Such proposal

shall include emergency measures to be initiated in case of escape of Regulated Substances.

5) Criteria for Success

Site specific, system performance criteria shall be proposed to ascertain the success of the system. Such criteria shall include but shall not be limited to:

- a) performance;
- b) reliability;
- c) level of maintenance;
- d) level of Sensitivity to Regulated Substances; and
- e) effect of rain, flood, power failure or other natural disaster.

6) Precautions in Event of Failure

The applicant shall provide information on the on site availability of substance removal technologies sufficient to remediate any introduction of Regulated Substances into the water table at the site. Where water is removed from on site wells during the remedial process a plan shall be proposed for the disposal of such water.

7) Closure Plan

A closure plan shall be provided in the event the system does not prove successful in the testing required by [Article 14.B.5.B.2.d.3](#)), [Testing Procedures](#).

8) Other Information

Any other reasonable information deemed necessary by ERM shall be due to site specific circumstances.

e. Sufficiency Review

Within 30 working days of receipt of an application for special exemption, ERM shall inform the applicant whether such application contains sufficient information for a proper determination to be made. If the application is found to be insufficient, then ERM shall provide to the applicant a written statement by certified mail or hand delivery requesting the required additional information. The applicant shall inform ERM within ten working days of the date of the written statement of intent to either furnish the information or have the application denied. When the application contains sufficient information for a proper determination to be made, ERM shall notify the County Attorney's office that all documentation necessary to evaluate the special exemption has been received, and shall promptly transmit all such documentation to the County Attorney's office.

f. Action on Application

Any special exemption granted by the Reference to [Article 14.C.11, Appeals](#) Article, shall be subject to the applicable conditions which apply to Zones 1 and 2 and any other reasonable and necessary special conditions imposed by the Reference to [Article 14.C.11, Appeals](#). An operating permit shall be issued by ERM with the applicable conditions of [Article 14.B.6.C.1, Zone 1](#), and [Article 14.B.6.C.2, Zone 2](#), and any other reasonable and necessary special conditions imposed by the Hearing Officer. Such special exemptions shall be subject to revocation or revision by ERM for violation of any condition of said special exemption by first issuing a written notice of intent to revoke or revise (certified mail return receipt requested or hand delivery). Upon revocation or revision, the activity will immediately be subject to the enforcement provisions of this Article. **[Ord. 2013-001]**

Section 6 Zones of Influence

A. Maps

The Zones of Influence Maps, developed as described in [Article 14.B.6.A.2, Basis](#), are incorporated herein and made a part of this Chapter. These Maps shall be on file and maintained by ERM.

1. Amendments

Any amendments, additions or deletions to said Maps shall be approved by the BCC after public hearing. **[Ord. 2013-001]**

2. Basis

The Zones of Influence Maps are based upon travel time contours and one foot drawdown contours. They are generated using a contaminant transport computer model that simulates pollutant movement using particles released around wells. The travel time contours and the one foot drawdown contours are calculated by using finite difference computer modeling techniques that incorporate the effects of an extensive canal system, groundwater flows and SFWMD Consumptive Use Permit approved public water supply pumping rates. Additional considerations may be incorporated into the modeling methodology as approved by ERM. **[Ord. 2006-036]**

3. Review

The Zones of Influence Maps shall be reviewed at least on an annual basis. However, failure to conduct said review shall not affect the validity of the existing approved Maps. The basis for updating said Maps may include, but is not limited to, the following:

- a. Changes in the technical knowledge concerning the applicable aquifer;
- b. Changes in the pumping rate of wellfields;
- c. Wellfield reconfiguration; and
- d. Designation of new wellfields.

4. Boundaries

The Zones of Influence indicated on the Zones of Influence Maps are as follows:

a. Zone 1

The land area situated between the well(s) and the 30 day travel time contour;

b. Zone 2

The land area situated between the 30 day and the 210 day travel time contours;

c. Zone 3

The land area situated between 210 day and the 500 day travel time contours; and

d. Zone 4

The land area situated beyond the 500 day travel time contour and within the one foot drawdown contour.

5. Interpretation of Boundaries

In determining the location of properties and facilities within the zones depicted on the Zones of Influence Maps, the following rules shall apply:

- a. Properties located wholly within one zone reflected on the applicable Zones of Influence Maps shall be governed by the restrictions applicable to that zone;
- b. To that the extent [Article 14.B.6.C, Prohibitions and Restrictions](#), does not apply, properties having parts lying within more than one zone as reflected on the applicable Zones of Influence Maps shall be governed by the restrictions applicable to the zone in which the part of the property is located;
- c. Where a travel time contour which delineates the boundary between two Zones of Influence, passes through a facility, the entire facility shall be considered to be in the more restrictive zone; and
- d. Where the facility, or portion thereof, is overlapped by Zones of Influence of different wells or wellfields, the stricter zones shall apply.

6. Reference Raw Water Analysis to be Completed for Each Well

A reference set of raw water analyses shall be completed for each Well for which a Zones of Influence map has been established. Said analyses shall be completed within 185 days after March 7, 1988, for existing wells. A copy of the analytical report shall be forwarded to ERM and the PBCHD within 14 days of completion. For any new well, this set of analyses shall be completed prior to the release of the well into service by the PBCHD and ERM. Said analyses shall address inorganic priority pollutants and organic pollutants as listed in Chapter 62-550. F.A.C. The cost shall be borne by the utility. The analytical reports shall be prepared by a State of Florida certified laboratory, certified for the applicable analyses. Samples shall be taken by the State of Florida certified laboratory performing the analyses, or its authorized representative. **[Ord. 2013-001]**

B. Protection of Future Wellfields

The prohibitions and restrictions set forth in this Chapter and in regulations promulgated pursuant hereto shall apply to any sites officially designated by the BCC as future wellfields. Such prohibitions and restrictions shall become effective upon approval by the BCC of the Zones of Influence Maps for the designated future wellfield. **[Ord. 2013-001]**

C. Prohibitions and Restrictions

1. Zone 1

a. Prohibited Activities

The use, handling, production, and storage of Regulated Substances associated with nonresidential activities is prohibited in Zone 1, except as provided under the general exemptions and special exemptions provisions of this Chapter.

b. Closure of Existing Uses

All existing nonresidential activities within Zone 1 which store, handle, use or produce any Regulated Substances shall cease to do so within one year from the date of notification by writing, certified mail, or hand delivery, except as provided for in this Chapter.

A closure permit application, general exemption application or a special exemption application prepared and signed by a Professional Engineer or Professional Geologist registered or licensed in the State of Florida shall be submitted to ERM within 120 days receipt of the notice to cease. Within 30 days of receipt of said notice, the owner or operator shall file with ERM proof of retention of said engineer or geologist.

Any nonresidential activity in Zone 1 which is allowed to continue in accordance with the general exemption or special exemption provisions of this Chapter shall obtain an operating permit, unless expressly not required by this Chapter, which shall indicate the special conditions to be instituted and the dates on which such conditions shall be instituted. Such activities shall comply with all Zone 2 requirements unless otherwise provided herein. No expansions, modifications or alterations which would increase the storage, handling, use or production of Regulated Substances shall be permitted in Zone 1. An owner or operator that is denied a special exemption shall be issued a closure permit as part of the denial process. Any operating permit application required herein shall be filed with the applications for general exemption or special exemption.

2. Zone 2

a. Prohibited Activities

All nonresidential activities within Zone 2 which store, handle, use or produce any Regulated Substance are prohibited, unless they qualify as a general exemption, obtain a special exemption, or receive an operating permit from ERM.

b. Permit Conditions

An operating permit issued to any nonresidential activity within Zone 2 that stores, handles, uses or produces any Regulated Substance shall be subject to the following conditions:

1) Containment of Regulated Substances

Leak-proof trays under containers, floor curbing or other containment systems to provide secondary liquid containment shall be installed. The containment shall be of adequate size to handle all spills, leaks, overflows, and precipitation until appropriate action can be taken. The specific design and selection of materials shall be sufficient to preclude any Regulated Substance loss to the external environment. Containment systems shall be sheltered so that the intrusion of precipitation is effectively prevented. The owner/operator may choose to provide adequate and appropriate liquid collection methods rather than sheltering only after approval of the design by ERM. These requirements shall apply to all areas of use, production, and handling, to all storage areas, to loading and off-loading areas, and to above-ground and underground storage areas. The containment devices and liquid collection systems shall be certified in the operating permit application by the Professional Engineer or Professional Geologist registered or licensed in the State of Florida.

2) Emergency Collection Devices

Vacuum suction devices, absorbent scavenger materials or other devices approved by ERM, shall be present on-site or available within two hours (one hour in Zone 1) by contract with a clean up company approved by ERM, in sufficient magnitude so as to control and collect the total quantity of Regulated Substances present. To the degree feasible, emergency containers shall be present and of such capacity as to hold the total quantity of Regulated Substances plus absorbent material. The presence of such emergency collection devices shall be certified in the operating permit application for existing activities. Such certification for new activities shall be provided to ERM prior to the presence of Regulated Substances on the site. Certification shall be provided by a Professional Engineer or Professional Geologist registered or licensed in the State of Florida.

3) Emergency Plan

An emergency plan shall be prepared and filed with the operating permit application indicating the procedures which will be followed in the event of spillage of a Regulated Substance so as to control and collect all such spilled material in such a manner as to prevent it from reaching any storm or sanitary drains or the ground.

4) Inspection

A responsible person designated by the permittee who stores, handles, uses or produces the Regulated Substances shall check on every day of operation, for breakage or leakage of any container holding the Regulated Substances. Electronic sensing devices may be employed as part of the inspection process, if approved by ERM, and provided the sensing system is checked daily for malfunctions. The manner of daily inspection shall not necessarily require physical inspection of each container provided the location of the containers can be inspected

to a degree which reasonably assures ERM that breakage or leakage can be detected by the inspection. Monitoring records shall be kept and made available to ERM at all reasonable times for examination.

5) Proper and Adequate Maintenance of Containment and Emergency Equipment

Procedures shall be established for quarterly, in-house inspection and maintenance of containment and emergency equipment. Such procedure shall be in writing; a regular checklist and schedule of maintenance shall be established; and a log shall be kept of inspections and maintenance. Such logs and records shall be available for inspection by ERM.

6) Reporting of Spills

Any spill of a Regulated Substance in excess of the non-aggregate quantity thresholds identified in the definition of "Regulated Substance" shall be reported by telephone to PBCHD and the designated public utility within one hour, and to ERM within 24 hours of discovery of the spill. Clean-up shall commence immediately upon discovery of the spill. A full written report including the steps taken to contain and clean up the spill shall be submitted to ERM within 15 days of discovery of the spill.

7) Monitoring for Regulated Substances in the Potable Water Wells

Arrangements shall be made with the designated public utility to establish a semi-annual schedule of raw water analysis unless sampling results indicate contamination, in which case ERM shall require an increased sampling schedule.

The analysis shall be for all substances which are listed on the operating permit. The analytical reports shall be prepared by a State of Florida certified laboratory, certified for the applicable analyses. It shall be the responsibility of the designated public utility to provide for the sampling and analyses but the cost shall be borne by the permittee or those permittees on a pro-rata basis as to the same substances listed on the permits of those permittees in Zones of Influence of the subject well. Samples shall be taken by the State of Florida certified laboratory performing the analyses, or its authorized representative. Semi-annual reports prepared by a State of Florida certified laboratory of the analyses for Regulated Substances shall be submitted to ERM for the purpose of determining the presence of Regulated Substances in each well for which a Zones of Influence map has been established.

8) Regulated Substances in Groundwater Monitoring Wells

Groundwater monitoring well(s) shall be provided at the expense of the permittee in a manner, number and location approved by ERM. Except for existing wells found by ERM to be adequate for this provision, the required well or wells shall be installed by a State of Florida licensed water well contractor. Samples shall be taken by the State of Florida certified laboratory performing the analyses, or its authorized representative. Analytical reports prepared by a State of Florida certified laboratory of the quantity present in each monitoring well of the Regulated Substances listed in the activity's operating permit shall be filed at least semi-annually, or more frequently, as determined by ERM, based upon site conditions and operations.

9) Alterations and Expansions

ERM shall be notified in writing prior to the expansion, alteration or modification of an activity holding an operating permit. Such expansion, alteration, or modification may result from increased square footage of production or storage capacity, or increased quantities of Regulated Substances, or changes in types of Regulated Substances beyond those square footages, quantities, and types upon which the permit was issued. Should a facility add new Regulated Substances which individually are below the non-aggregate limits identified in the definition of "Regulated Substance", it shall notify ERM on an annual basis of the types and quantities of such substances added and the location of the use, handling, storage, and production of said substances. **[Ord. 2013-001]**

Any such expansion, alteration or modification shall be in strict conformity with this Chapter. Further, except as provided herein, any existing operating permit shall be amended to reflect the introduction of any new Regulated Substances resulting from the change. However, the introduction of any new Regulated Substance shall not prevent the revocation or revision of any existing operating permit if, in the opinion of ERM, such introduction substantially or materially modifies, alters or affects the conditions upon which the existing operating permit was granted or the ability to remain qualified as a general exemption, if applicable, or to

continue to satisfy any conditions that have been imposed as part of a special exemption, if applicable. ERM shall notify the permittee in writing within 60 days of receipt of the permittee's notice that ERM proposes to revoke or revise the permit and state the grounds therefore.

10) Reconstruction after Catastrophe

Reconstruction of any portion of a structure or building in which there is any activity subject to the provisions of this regulation which is damaged by fire, vandalism, flood, explosion, collapse, wind, war or other catastrophe shall be in strict conformity with this Chapter.

11) Revocation or Revision for Spill

Within 30 days of acquiring knowledge of any spill of a Regulated Substance, ERM shall consider revocation or revision of the permit. In consideration of whether to revoke or revise the permit, ERM may consider the intentional nature or the degree of negligence, if any, associated with the spill, the extent to which containment or cleanup is possible, the nature, number and frequency of previous spills by the permittee and the potential degree of harm to the groundwater and surrounding wells due to such spill.

c. Permits for Existing Uses

All existing non-residential activities in Zone 2 which use, handle, store, or produce Regulated Substances shall file an application for an operating permit within 90 days of the receipt of written notice from ERM. Said permit application shall be prepared and signed by a Professional Engineer or Professional Geologist registered or licensed in the State of Florida, except for Closure or Transfer Permits as provided [Article 14.B.7.B.2, Closure Permit](#), and [Article 14.B.10, Transfers and Changes In Ownership](#). Within 30 days of receipt of said notice, the owner or operator shall file with ERM proof of retention of said engineer or geologist. If application is made for an operating permit, such a permit shall be issued or denied within 60 days of the filing of the completed application. If the application for an operating permit is denied, then the activity shall cease within 180 days of the denial of the operating permit. All Regulated Substances and contaminated containers shall be disposed in a lawful and environmentally sound manner in accordance with applicable state and federal laws, and the activity and environs shall be cleaned up so as to preclude leaching of residual Regulated Substances into the environment. **[Ord. 2013-001]**

3. Zone 3

a. Prohibited Activities

All nonresidential activities within Zone 3 which store, handle, use or produce any Regulated Substance are prohibited, unless they qualify as a general exemption or receive an operating permit from ERM.

b. Permit Conditions

An operating permit issued to any nonresidential activity within Zone Three that stores, handles, uses or produces any Regulated Substance shall be subject to the following conditions:

1) Containment of Regulated Substances

Leak-proof trays under containers, floor curbing or other containment systems to provide secondary liquid containment shall be installed. The containment shall be of adequate size to handle all spills, leaks, overflows, and precipitation until appropriate action can be taken. The specific design and selection of materials shall be sufficient to preclude any Regulated Substance loss to the external environment. Containment systems shall be sheltered so that the intrusion of precipitation is effectively prevented. The owner/operator may choose to provide adequate and appropriate liquid collection methods rather than sheltering only after approval of the design by ERM. These requirements shall apply to all areas of use, production, and handling, to all storage areas, to loading and off-loading areas, and to above-ground and underground storage areas. The containment devices and liquid collection systems shall be certified in the operating permit application by the Professional Engineer or Professional Geologist registered or licensed in the State of Florida.

2) Emergency Plan

An emergency plan shall be prepared and filed with the operating permit application indicating the procedures which will be followed in the event of spillage of a Regulated Substance so as to control and collect all such spilled material in such a manner as to prevent it from reaching any storm or sanitary drains or the ground.

3) Inspection

A responsible person designated by the permittee who stores, handles, uses or produces the Regulated Substances shall check on every day of operation, for breakage or leakage of any

container holding the Regulated Substances. Electronic sensing devices may be employed as part of the inspection process, if approved by ERM, and provided the sensing system is checked daily for malfunctions. The manner of daily inspection shall not necessarily require physical inspection of each container provided the location of the containers can be inspected to a degree which reasonably assures ERM that breakage or leakage can be detected by the inspection. Monitoring records shall be kept and made available to ERM at all reasonable times for examination.

4) Maintenance of Containment and Emergency Equipment

Procedures shall be established for the quarterly in-house inspection and maintenance of containment and emergency equipment. Such procedure shall be in writing; a regular checklist and schedule of maintenance shall be established; and a log shall be kept of inspections and maintenance. Such logs and records shall be available for inspection by ERM.

5) Reporting of Spills

Any spill of a Regulated Substance in excess of the non-aggregate quantity thresholds identified in the definition of "Regulated Substance" shall be reported by telephone to PBCHD and the designated public utility within one hour, and to ERM within 24 hours of discovery of the spill. Clean-up shall commence immediately upon discovery of the spill. A full written report including the steps taken to contain and clean up the spill shall be submitted to ERM within 15 days of discovery of the spill.

6) Revocation or Revision for Spill

Within 30 days of acquiring knowledge of any spill of a Regulated Substance, ERM shall consider revocation or revision of the permit to comply with some or all the conditions applicable to Zone 2, as set forth in [Article 14.B.6.C.2.b.1\), Permit Conditions](#), in addition to the Zone 3 conditions of [Article 14.B.6.C.3.b.1-7\), Permit Conditions](#). In consideration of whether to revoke or revise the permit, ERM may consider the intentional nature or the degree of negligence, if any, associated with the spill, the extent to which containment or cleanup is possible, the nature, number and frequency of previous spills by the permittee and the potential degree of harm to the groundwater and surrounding wells due to such spill.

7) Permit Process

Operating permits required by this Chapter shall be applied for and processed in accordance with [Article 14.B.6.C.2.c, Permits for Existing Uses](#), by filing an application for an operating permit within 90 days of the receipt of written notice from ERM. Said permit application shall be prepared and signed by a Professional Engineer or Professional Geologist registered or licensed in the State of Florida. Within 30 days of receipt of said notice, the owner or operator shall file with ERM proof of retention of said engineer or geologist. If application is made for an operating permit, such a permit shall be issued or denied within 60 days of the filing of the completed application. If the application for an operating permit is denied, then the activity shall cease within 180 days of the denial of the operating permit. All Regulated Substances and contaminated containers shall be disposed in a lawful and environmentally sound manner in accordance with applicable state and federal laws, and the activity and environs shall be cleaned up so as to preclude leaching of residual Regulated Substances into the environment. **[Ord. 2013-001]**

4. Zone 4

a. Prohibited Activities

All nonresidential activities within Zone 4 which store, handle, use or produce any Regulated Substance are prohibited, unless they qualify as a general exemption or receive an operating permit from ERM.

b. Permit Conditions

An operating permit issued to any nonresidential activity within Zone 4 that stores, handles, uses or produces any Regulated Substance shall be subject to the following conditions:

1) Inspection

A responsible person designated by the permittee who stores, handles, uses or produces the Regulated Substances shall check on every day of operation, for breakage or leakage of any container holding the Regulated Substances. Electronic sensing devices may be employed as part of the inspection process, if approved by ERM, and provided the sensing system is checked daily for malfunctions. The manner of daily inspection shall not necessarily require physical inspection of each container provided the location of the containers can be inspected to a degree which reasonably assures ERM that breakage or leakage can be detected by the

inspection. Monitoring records shall be kept and made available to ERM at all reasonable times for examination.

2) Reporting of Spills

Any spill of a Regulated Substance in excess of the non-aggregate quantity thresholds identified in the definition of "Regulated Substance" shall be reported by telephone to PBCHD and the designated public utility within one hour, and to ERM within 24 hours of discovery of the spill. Clean-up shall commence immediately upon discovery of the spill. A full written report including the steps taken to contain and clean up the spill shall be submitted to ERM within 15 days of discovery of the spill.

3) Revocation or Revision for Spill

Within 30 days of acquiring knowledge of any spill of a Regulated Substance, ERM shall consider revocation or revision of the permit to comply with some or all the conditions applicable to Zone 2, as set forth in [Article 14.B.6.C.2, Zone 2](#), and [Article 14.B.6.C.2.b, Permit Conditions](#), in addition to those of [Article 14.B.6.C.4.b.1\)-4\), Permit Conditions](#), Permit Conditions. In consideration of whether to revoke or revise the permit, ERM may consider the intentional nature or the degree of negligence, if any, associate with the spill, the extent to which containment or cleanup is possible, the nature, number and frequency of previous spills by the permittee and the potential degree of harm to the groundwater and surrounding wells due to such spill.

4) Permit Process

Operating permits required by this Chapter shall be applied for and processed by filing an application for an operating permit within 90 days of the receipt of written notice from ERM. Said permit application shall be prepared and signed by a Professional Engineer or Professional Geologist registered or licensed in the State of Florida. However, a nonresidential activity in Zone 4 is not required to retain an engineer or geologist to prepare the operating permit if the revocation for spill provisions of this Chapter do not apply. Within 30 days of receipt of said notice, the owner or operator shall file with ERM proof of retention of said engineer or geologist. If application is made for an operating permit, such a permit shall be issued or denied within 60 days of the filing of the completed application. If the application for an operating permit is denied, then the activity shall cease within 180 days of the denial. All Regulated Substances and contaminated containers shall be disposed in a lawful and environmental sound manner in accordance with applicable state and federal laws, and the activity and environs shall be cleaned up so as to preclude leaching of residual Regulated Substances into the environment. **[Ord. 2013-001]**

D. Other Requirements and Liabilities

A notice to cease, or a permit or exemption issued under this Chapter shall not relieve the owner or operator of the obligation to comply with any other applicable federal, state, regional or local regulation, rule, ordinance or requirement. Nor shall said notice, permit, or exemption relieve any owner or operator of any liability for violation of such regulations, rules, ordinances or requirements.

E. Domestic Wastewater and Stormwater Treatment

1. Sanitary Sewer Mains

All new or replacement installations of sanitary sewer mains in Zone 1 or Zone 2 of a public drinking water wellfield shall be constructed using pressure pipe. Standards for installation are shown in Appendix 4, Minimum Standards for Sewer Pipe Fittings, Coatings and Leakage Testing, and shall be enforced by PBCHD through the permit process. For new wells placed in areas of existing sanitary sewers, the sewers in Zones 1 and 2 must be pressure tested at each joint, grouted and sealed with proof of testing provided to the PBCHD prior to release of the well for service. **[Ord. 2013-001]**

2. Exfiltration Systems

No new exfiltration system shall be constructed in Zone 1 or Zone 2 of a public drinking water wellfield.

3. Retention/Detention Ponds

New retention or detention ponds located within wellfield zones shall comply with the criteria described in the SFWMD Management and Storage of Surface Waters Permit Information Manual IV. These criteria are enforced through the SFWMD permitting process.

4. Percolation Ponds

New percolation ponds for domestic wastewater treatment located within wellfield zones shall comply with the requirements for separation from public drinking water wells set forth in Chapters 62-555 and 62-610, F.A.C., and enforced by Florida Department of Environmental Protection and the PBCHD.

5. Land Application of Domestic Wastewater Effluent

Land application of domestic effluent or sludge within wellfield zones shall comply with the requirements for separation from public drinking water wells as set forth in Chapters 62-555, 62-610, and 62-640, F.A.C. and enforced by Florida Department of Environmental Protection and the PBCHD.

6. Onsite Sewage Disposal Systems

New onsite sewage disposal systems (septic tanks) located within wellfield zones shall comply with the requirements for maximum sewage loading and separation from public drinking water wells as set forth in Environmental Control Rule (ECR) I and enforced by the PBCHD.

F. Spill Assessment and Remediation

Upon discovery of a spill in a wellfield zone, a determination shall be made as to jurisdiction. ERM shall provide notification to the Florida Department of Environmental Protection and PBCHD including all available information pertinent to the spill. Florida Department of Environmental Protection will be responsible for determination if the spill occurrence constitutes a Resource Conservation and Recovery Act (RCRA) regulated material as defined in [Chapter 62-730, F.A.C.](#) and [Title 40 CFR Part 261](#). If determination is made that the spill occurrence involves a RCRA regulated material, Florida Department of Environmental Protection will assume the role as lead regulatory agency in assessment and remediation. ERM will assume the role as lead agency if determination reveals a non-RCRA Regulated Substance. Upon issuance of an order by ERM, corrective action shall immediately be initiated by the responsible person. Failure to initiate corrective action shall be a violation of this Chapter. Corrective action shall include any or all of the following:

1. Cessation of the discharge and initial control, containment and recovery of free-flowing, floating or standing pollutants;
2. Removal and disposal of contaminated soils, sediments, vegetation, containers, recovery and other contaminated materials in accordance with applicable Federal, State and local regulations;
3. Assessment of the horizontal and vertical extent of soil, sediment, surface water and groundwater contamination, as well as rate and direction of migration of the contaminants; and
4. Remediation of contaminated soils, sediments, surface water and groundwater to preclude further migration of unacceptable levels of residual Regulated Substances into or through the surface water or groundwater environment. ERM shall determine necessary, reasonable measures and time frames for corrective action. The corrective action shall be completed to the satisfaction of ERM. Where State or Federal regulations establish procedures or cleanup levels for corrective action for particular discharges, the corrective action shall at a minimum comply with those procedures and cleanup levels. Completion of corrective action as specified by ERM shall not relieve the responsible person or persons of liability under any other applicable Federal, State or local regulation, rule, ordinance or requirement; nor shall it relieve the responsible person or persons of liability for corrective actions for conditions which were previously unknown to ERM, or which resulted from implementation of corrective action as required.

G. Closure Activity

When an activity in any Zone ceases operation, all Regulated Substances and contaminated containers shall be disposed of in a lawful and environmentally sound manner in accordance with applicable state and federal laws, and the activity and environs shall be cleaned up so as to preclude leaching of residual Regulated substances into the environment. When an activity in Zone 1 ceases operation, a closure permit shall be obtained. **[Ord. 2013-001]**

Section 7 Wellfield Protection (Operating and Closure Permits)

The following provisions provide the requirements and procedures for the issuance of operating and closure permits required by this Chapter.

A. General

1. An application which satisfies the requirements of the applicable Zones of Influence [Article 14.B.7.B, Applications](#), for operating permits and, if applicable, [Article 14.B.5.A, General Exemptions](#), for general exemptions and [Article 14.B.8, Appeals](#), shall be approved and a permit issued. In addition to the failure to satisfy these requirements, ERM may deny a permit based on repeated violations of this Chapter.
2. An operating permit shall remain valid provided the permittee is in compliance with the terms and conditions of the permit.
3. Permittees shall be required to pay annual permit renewal fees beginning October 1, 1990. Beginning October 1, 1990, all current and future permittees are subject to an annual permit renewal fee as

established by the approved Fee Schedule. Notification to ERM under [Article 14.B.6.C.2.b.9\), Alterations and Expansions](#), Alterations and Expansions is due with the renewal fee.

4. ERM shall have the right to make inspections of facilities at reasonable times to determine compliance with this Chapter.
5. All of the facilities owned and/or operated by one person when these structures and activities are located on contiguous parcels of property even where there are intervening public or private roads, may be covered under one permit.

B. Applications

1. Operating Permit

All applications for operating permits shall, at the minimum, provide the following information:

- a. A list of all Regulated Substances and substances on the Generic Substance List which are to be stored, handled, used or produced in the nonresidential activity being permitted including their quantities.
- b. A detailed description of the nonresidential activities that involve the storage, handling, use or production of the Regulated Substances indicating the unit quantities in which the substances are contained or manipulated including lay out plans or drawings of the facility in which the activities will take place.
- c. A description of the containment, the emergency collection devices, containers and emergency plan that will be employed to comply with the restrictions required for Zone 2 and 3 as set forth above. For Zone 4 this particular documentation will only be required if a permit revision is required pursuant to [Article 14.B.6.C.4.b.3\), Revocation or Revision for Spill](#).
- d. A description of the daily monitoring activities that have been or will be instituted to comply with the restrictions for Zones 2, 3, and 4 as set forth above in [Article 14.B.6.C.2, Zone 2](#).
- e. A description of the maintenance that will be provided for the containment facility, monitoring system and emergency equipment required to comply with the restrictions of Zones 2 and 3 as set forth above. For Zone 4 this particular documentation will be required if a permit revision is required pursuant to [Article 14.B.6.C.4.b.3\), Revocation or Revision for Spill](#).
- f. A description of the groundwater monitoring wells that have been or will be installed, other pertinent well construction information, and the arrangements which have been made or which will be made for certified analyses for specified Regulated Substances. For Zones 3 and 4 this particular documentation will only be required for a revised operating permit as required under [Article 14.B.6.C.3.b.6\), Revocation or Revision for Spill, Article 14.B.6.C.4.b.3\), Revocation or Revision for Spill](#), and [Article 14.B.13.C, Spills](#).
- g. Evidence of arrangements made with the appropriate designated public utility for sampling analysis of the raw water from the potable water well. For Zones 3 and 4 this particular documentation will only be required for a revised operating permit as required under [Article 14.B.6.C.3.b.6\), Revocation or Revision for Spill, Article 14.B.6.C.4.b.3\), Revocation or Revision for Spill](#), and [Article 14.B.13.C, Spills](#).
- h. An agreement to indemnify and hold PBC harmless from any and all claims, liabilities, causes of action, or damages arising out of the issuance of the permit. PBC shall provide reasonable notice to the permittee of any such claims.
- i. The application for the operating permit shall be filed with ERM within 90 days of receipt of written notification from ERM.

2. Closure Permit

Closure permit applications shall be required in Zone 1 and contain the following information: **[Ord. 2013-001]**

- a. A schedule of events to complete the closure of an activity that does or did store, handle, use, or produce Regulated Substances. As a minimum, the following actions shall be addressed:
 - 1) Disposition of all Regulated Substances and contaminated containers;
 - 2) Cleanup of the activity and environs to preclude leaching of unacceptable levels of residual Regulated Substances into the aquifer; and
 - 3) Certification by a Professional Engineer or Professional Geologist registered or licensed in the State of Florida that disposal and cleanup have been completed in a technically acceptable manner. The requirement for certification by a Professional Engineer or Geologist may be waived if the applicant provides evidence to ERM that all of the following items are applicable:
 - a) The entire operation is maintained inside the building(s) of the facility;
 - b) The standard method of removing operating waste is not by septic tank, sewer mains, or floor drains;

- c) There is no evidence of spills permeating floors or environs;
 - d) There are no outstanding or past notices of violation from any regulatory agency concerned with hazardous, industrial or special waste;
 - e) There is no evidence of past contamination in the public drinking water well(s) associated with the facility in Zone 1; and
 - f) The applicant shall provide a sworn statement that disposal and cleanup have been completed in a technically acceptable manner.
- 4) An appointment for an inspection by ERM; and
 - 5) An agreement to indemnify and hold PBC harmless from any and all claims, liabilities, causes of action, or damages arising out of the issuance of the permit. PBC shall provide reasonable notice to the permittee of any such claims.
- b. The issue of well reconfiguration shall be evaluated by ERM and the affected public utility as an alternative to a closure permit during the permit application process. Should a utility notify ERM in writing that it intends to reconfigure a wellfield and said configuration no longer subjects a facility to Zone 1 and Zone 2 requirements, ERM may issue an operating permit providing conditions under which said facility may continue to operate.
 - c. The Florida Department of Environmental Protection and the PBCHD shall be advised in writing of each closure permit application.

3. Permit Conditions

The permit conditions shall ensure compliance with all the prohibitions, restrictions, and requirements as set forth in this Chapter. Such conditions may include, but not be limited to, monitoring wells, periodic groundwater analysis reports, and compliance schedules. Said conditions may also include requirements in a closure permit to reduce the risk in the interim of contamination of the groundwaters, taking into account cost, likely effectiveness and degree of risk to the groundwater.

4. Bond Required

Except as provided in [Article 14.B.7.B.4.e](#), below, no permit herein required shall be issued unless there is filed at the time of application, except in the case of an application by a political subdivision or agency of the State of Florida, a cash bond, permit bond with a corporate surety, or letter of credit in the amount specified in Appendix 2, Operating and Closure Permit Bonds, attached hereto and incorporated herein.

- a. The permittee will operate its nonresidential activities and/or closure of such nonresidential activities, as applicable, in accordance with the conditions and requirements of this Chapter and permits issued hereunder.
- b. The permittee shall reimburse PBC in accordance with [Article 14.B.7.B.1, Operating Permit](#), for any and all expenses and costs that PBC incurs as a result of the permittee failing to comply with the conditions and requirements of this Chapter.
- c. Before a bond or letter of credit is accepted by ERM as being in compliance with this Chapter, the bond or letter of credit shall be reviewed and approved by the County Attorney's Office and Contract Development and Control. A corporate bond shall be executed by a corporation authorized to do business in the State of Florida as a Surety. A cash bond shall be deposited with ERM, who shall give receipt therefore.
- d. The bond or letter of credit required by this Chapter shall be kept in full force and effect for the term of the permit and for one year after voluntary cessation of activities permitted hereunder, expiration, or revocation of the permit.
- e. No bond or letter of credit is required for issuance of a permit for the following:
 - 1) Closure of a facility, provided that the conditions listed in [Art. 14.B.7.B.2.a.3](#)), above for waiver of certification by an engineer or geologist are applicable. **[Ord. 2005-002]**
 - 2) A facility in Zone 4, unless ERM has determined that a revision of the permit is appropriate under conditions described in [Article 14.B.6.C.4.b.3](#)), [Revocation or Revision for Spill](#) or [Article 14.B.13.C, Spills](#).
 - 3) Retail/wholesale activities which meet the conditions for this exemption set forth in [Article 14.B.5.A.4.f, Retail/Wholesale Sales Activities](#).
 - 4) Activities subject to regulation due to the accumulations of Wasted Regulated Substances, provided that they comply with the conditions for this exemption set forth in [Article 14.B.5.A.4.i, Activities Subject to Regulation Due to Accumulation](#).

5. Clean-up and Reimbursement

Any person subject to regulation under this Chapter shall be liable with respect to Regulated Substances emanating on or from the person's property for all costs of removal or remedial action incurred by PBC and damages for injury to, destruction of, or loss of natural resources, including the

reasonable cost of assessing such injury, destruction or loss resulting from the release or threatened release of a Regulated Substances as defined in this Chapter. Such removal or remedial action by PBC may include, but is not limited to, the prevention of further contamination of groundwater, monitoring, containment, and clean-up or disposal of Regulated Substances resulting from the spilling, leaking, pumping, pouring, emitting or dumping of any Regulated Substance or material which creates an emergency hazardous situation or is expected to create an emergency hazardous situation.

Section 8 Appeals

A. General

Any affected party may appeal ERM decisions set forth below, pursuant to procedures in [Article 14.C.11, Appeals](#).

B. Matters for Review and Time for Filing

Any person may appeal to a Hearing Officer as established in [Article 2.1.7, Hearing Officers](#) of this Chapter for the following reasons:

1. To appeal ERM's permit conditions, denial of a permit, general exemption or non disclosure of a trade secret;
2. To appeal an intent to revoke or revise an Operating permit and a General or special exemption; and
3. To request a special exemption.

Section 9 Petition for Compensation

The purpose of this section is to provide a means of petitioning PBC for reasonable compensation in the event a person operating a facility in existence prior to the establishment of a new Wellfield Zone 1 or a reconfigured Wellfield Zone 1 is required to move or cease operations as a direct result of a change in the Wellfield Protection Maps. This section shall apply only in the event an application for a General or Special Exemption, as set forth in [Article 14.B.5](#), and all subsequent appeals, are denied. ERM may impose a reasonable fee for each petition in order to defray the costs to PBC in administering this section. **[Ord. 2013-001]**

A. Filing

A petition for compensation shall be filed with ERM no later than 90 days after an application for a General or Special Exemption, as set forth in [Article 14.B.5](#), and all subsequent appeals, are denied. The petition shall be heard by a Hearing Officer as established in [Article 2.G.3.G, Hearing Officers](#). **[Ord. 2013-001]**

B. Contents of Petition

A petition for compensation shall contain, as applicable, the following:

1. An analysis of the need to move, or cease operations including a summary of alternatives investigated and estimated costs of those alternatives; **[Ord. 2013-001]**
2. A list of all previously issued EPA notices of violation by ERM, Florida Department of Environmental Protection or the EPA regarding use of Regulated Substances including a description of any corrective action taken or pending;
3. Detailed specification of the amount for which compensation is being requested. Petitions shall include documentation to verify all costs for which compensation is sought. **[Ord. 2013-001]**

C. Administrative Review

ERM shall review all petitions for compensation for completeness within 30 working days of receipt of the petition. If ERM determines the petition is not complete, written notice shall be mailed to the Petitioner specifying the deficiencies. No further action shall be taken on the petition until the deficiencies are remedied. If the deficiencies are not remedied within 30 working days of receipt of written notice, the petition shall be deemed abandoned and any rights that may be conferred under this Section shall be waived. Upon a finding of sufficiency, ERM shall review the petition and make recommendations to the Hearing Officer regarding the reasonableness of any amounts requested by the Petitioner, whether the requested compensation consists of amounts greater than the cost of any reasonable facility/operation modifications. Based upon such recommendations, the Hearing Officer may deny such petition. **[Ord. 2013-001]**

D. Hearing on Petition

As soon as practicable after submission of a petition for compensation, but no later than 90 days, by an owner or operator of an activity, the Hearing Officer shall hold a hearing to determine the eligibility of the activity for compensation pursuant to this Chapter. The Hearing Officer may extend the 90 day period for good cause based on the request of the Petitioner, PBC, or on its own initiative. Petitioner shall be given

written notice by certified mail or hand delivery of such hearing at least 30 days prior to the hearing. At least ten days prior to the hearing, the Petitioner and PBC shall exchange names and addresses of witnesses and copies of all documentary evidence intended to be used at the hearing. Formal Rules of Evidence shall not apply to such hearing, but fundamental due process shall be observed and shall govern the proceedings. Petitioner and PBC shall have the right to: **[Ord. 2013-001]**

1. Call and examine witnesses;
2. Introduce exhibits;
3. Cross examine witnesses on any relevant matter;
4. Rebut the evidence; and
5. Be represented by counsel.

E. Review and Evaluation Criteria

1. Cessation or Move

In determining whether the petitioner is eligible for compensation for cessation or moving, the Hearing Officer shall consider:

- a. Whether a reasonable, cost effective alternative to cessation or moving of operations exists for complying with this Chapter, including reconfiguring of the wellfield. Petitioner, with the cooperation of ERM and the affected public utility, shall address the issue of reconfiguration; **[Ord. 2013-001]**
- b. Whether the requirements of this Chapter were the sole reason for cessation or moving of the operation; **[Ord. 2013-001]**
- c. Past environmental record; and
- d. Efforts to mitigate financial impact of this Chapter and these corresponding regulations.

F. Classes of Impact for Which Compensation May Be Granted

1. Actual Reasonable Relocation Expenses

a. Costs

The owner or operator of an affected activity may be paid the actual reasonable cost of relocation within PBC, such amount to include the cost of: **[Ord. 2013-001]**

- 1) Dismantling operation;
- 2) Actual moving;
- 3) Reassembling equipment;
- 4) Installation of equipment;
- 5) Internal connection of utilities to equipment;
- 6) Minor modification of site to accommodate operation, specifically excluding structural changes to the building or paving and drainage requirements at the site;
- 7) Any losses caused by the necessity of terminating a lease, such compensation not to exceed three months rent. **[Ord. 2013-001]**

b. Documentation of Costs

The eligible costs for actual reasonable relocation expenses shall be supported by two itemized and sealed bids and a detailed listing of the claimed items. The amount to be paid shall not exceed the lower of the two bids. In order to verify such information, ERM shall have the right to enter the activity's premises at reasonable times. Such bids and detailed listing of the cost shall be verified by ERM.

c. Self-Moves

In the case of a self move the owner of a relocated activity may be paid the lower of two sealed and itemized bids from licensed moving companies based on a detailed listing of the cost.

2. Actual Direct Losses of Tangible Personal Property

Actual direct losses of tangible personal property are allowed when a person closes or relocates an activity. Payment may only be made after a diligent effort is made by the owner to sell the item(s) involved.

- a. If the activity is to be re-established and an item of property to be used therewith is not moved but promptly replaced with a comparable item at the new site, reimbursement shall be either:
 - 1) Replacement cost, taking into account depreciation, less the proceeds of the sale. Present value based on accepted standards in the related business community may be substituted for net proceeds of a sale where applicable; or
 - 2) Estimated cost of moving the item to the replacement site within the geographic boundaries of PBC.
- b. If a sale is not effected because no offer is received and the item is abandoned, payment for the loss may be its fair market value for continued use at its existing location plus the costs of the attempted sale, less the equipment's salvage value.

3. In Lieu of Actual Moving Expenses

In lieu of the payments described in [Article 14.B.9.E.1, Actual Reasonable Relocation Expenses](#), [Article 14.B.9.E.2, Actual Reasonable Modification of Operation Expenses](#), and [Article 14.B.9.E.3, Actual Direct Losses of Tangible Personal Property](#), an owner of a discontinued activity may be eligible to receive a payment equal to 75 percent of the estimated reasonable cost of moving the activity within PBC, except that such payment shall not be more than the lower of two sealed and itemized bids, provided the following requirements are met:

- a. For the owner of an affected activity to be entitled to this payment, the Hearing Officer must determine that the business cannot be relocated without a substantial loss of its existing patronage. Such determination shall be made by the Hearing Officer only after consideration of all pertinent circumstances, including, but not limited to, the following factors:
 - 1) The type of business conducted by the displaced activity;
 - 2) The nature of the clientele of the displaced activity;
 - 3) The relative importance of the present location to the displaced activity; and
 - 4) The additional costs which would have to be incurred to move the activity due to changed circumstances or applicable laws, ordinances, or regulations.
- b. For the owner or operator of an affected activity to be entitled to his or her payment, information must be provided to support the estimated moving costs. Such proof shall consist of two sealed bids from licensed moving companies based on a detailed inventory of the items which would be moved.

4. Exclusions on Moving Expenses and Losses

The following expenses are considered ineligible for payment as "actual" moving expenses:

- a. Additional expenses incurred because of moving to and living in a new location including search cost for finding a new dwelling;
- b. Cost of moving structures, improvements or other real property in which the displaced activity reserved ownership;
- c. Significant changes in building structure but not including minor electrical, plumbing or carpentry work;
- d. Cost of improvement to activity made after such activity was on notice that it is affected by this Chapter and would have to cease or alter an operation in Zone 1;
- e. Interest on loans to cover moving expenses;
- f. Loss of goodwill;
- g. Loss of business or profits or both;
- h. Loss of trained employees; and
- i. Cost of preparing the petition for compensation.

5. Payment and Release of Obligation

PBC shall disperse 85 percent of the compensation to be paid as determined by the Hearing Officer in advance of any move or change of operation. PBC shall retain 15 percent of the monies authorized as compensation for economic impact of this Chapter until such time as the affected activity has carried out the procedures outlined in its petition for compensation and provides evidence of such expenditures. Upon receipt of payment of compensation as provided in this Chapter, the recipient shall execute a release in favor of PBC from any further obligation to the recipient with regard to the economic impact of this Chapter on the recipient or activity.

6. Appeal

PBC or the Petitioner seeking compensation under this Section may appeal the final decision of the Hearing Officer by filing a Petition for Writ of Certiorari in the 15th Judicial Circuit Court in and for PBC. **[Ord. 2013-001]**

Section 10 Transfers and Changes In Ownership

In the event, there is a change of ownership, a new lease, or an assignment of a lease, a sublease or any other change in regard to the person conducting the operation regulated, ERM shall be notified and upon payment of the appropriate fee and completion of processing of an application by ERM, the Wellfield Protection operating permit shall be transferred.

Section 11 Trade Secrets

ERM shall not disclose any trade secrets of the applicant or permittee that are exempted from such disclosure by Federal or State law; provided, however, the burden shall be on the applicant or permittee to demonstrate

entitlement to such nondisclosure. Decisions by ERM as to such entitlement shall be subject to challenge by the applicant or permittee by filing a petition with the hearing officer pursuant to [Article 14.C.11, Appeals](#).

Section 12 Fees

A. Filing Fee

All applicants for a wellfield protection operating or closure permit shall pay a non-refundable filing fee as established by the approved Fee Schedule. The fee shall be provided at the time of acceptance of the permit application.

B. Wellfield Protection Operating Permit Fee

The fee for a wellfield operating permit including any permit obtained pursuant to the general exemptions set forth in [Article 14.B.5.A, General Exemptions](#), of this Chapter as established by the approved Fee Schedule. The operating fee shall be used to defray the cost of administering this Chapter.

C. Closure Permit Fee

The fee for a closure permit under this regulation shall be one half of the fee for the wellfield protection operating permit as established by the approved Fee Schedule.

D. Permit Transfer Fee

The fee for transfer of an operating permit or closure permit shall be as established by the approved Fee Schedule to defray the cost of processing the transfer. Application for Transfer of Permit is to be made within 60 days of transfer of ownership of the activity.

E. Special Exemption Fee

A Fee shall be required for any person seeking a special exemption as established by the approved Fee Schedule.

F. General Exemption Fee

A Fee shall be required for any person seeking a general exemption as established by the approved Fee Schedule.

G. Annual Permit Renewal Fee

The fee for annually renewing the permit established by the approved Fee Schedule, shall be used to defray the cost of administering this Chapter. Beginning October 2, 1990, all permittees shall pay an annual permit renewal fee for each permitted facility.

H. Late Fee

A late fee as established by the approved Fee Schedule, shall be paid to ERM if the application for permit or renewal is late.

Section 13 Revocation and Revision of Permits and Exemptions

A. Revocation

Any permit issued under the provisions of this Chapter shall not become vested in the permittee. ERM may revoke any permit issued by it by first issuing a written notice of intent to revoke (certified mail return receipt requested, or hand delivery) if it finds that the permit holder:

1. Has failed or refused to comply with any of the provisions of this Chapter, including but not limited to permit conditions and bond requirements of [Article 14.B.7.B.4, Bond Required](#), herein;
2. Has submitted false or inaccurate information in this application;
3. Has failed to submit operational reports or other information required by this Chapter; or
4. Has refused lawful inspection under [Art. 14.B.7.A.4, General](#). **[Ord. 2005-002]**
5. Is subject to revocation under [Article 14.B.6.C.2.b.11\), Revocation or Revision for Spill, Article 14.B.6.C.3.b.6\), Revocation or Revision for Spill, or Article 14.B.6.C.4.b.3\), Revocation or Revision for Spill, of Article 14.B.13.C, Spills](#).

B. Revision

ERM may revise any permit pursuant to [Article 14.B.6.C.2.b.11, Revocation or Revision for Spill, Article 14.B.6.C.3.b.6\), Revocation or Revision for Spill, and Article 14.B.6.C.4.b.3\), Revocation or Revision for Spill](#), first issuing a written notice of intent to revise (certified mail return receipt requested, or hand delivery).

C. Spills

In addition to the provisions of [Article 14.B.6.C.2.b.11\), Revocation or Revision for Spill, Article 14.B.6.C.3.b.6\), Revocation or Revision for Spill, and Article 14.B.6.C.4.b.3\), Revocation or Revision for Spill](#), within 30 days of acquiring knowledge of any spill of a Regulated Substance in a wellfield zone, ERM shall consider revocation or revision of the permit. Upon such consideration, ERM may issue a notice of intent to revoke or revise, which shall be subject to the appeal provisions of this Chapter, or elect

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not to issue such notice. In consideration of whether to revoke or revise the permit, ERM may consider the intentional nature or degree of negligence, if any, associated with this spill, and the extent to which containment or cleanup is possible, the nature, number and frequency of previous spills by the permittee and the potential degree of harm to the groundwater and surrounding wells due to such spill.

D. Revocations of Exemptions

For any revocation or revision by ERM of a special exemption or general exemption that requires an operating permit as provided under the terms of this Chapter, ERM shall issue a notice of intent to revoke or revise which shall contain the intent to revoke or revise both the applicable exemption and the accompanying operating permit.

E. Notice

The written notice of intent to revoke or revise shall contain the following information:

1. The name and address of the permittee, if any, and property owner, if different;
2. A description of the facility which is the subject of the proposed revocation or revision;
3. Location of the spill, if any;
4. Concise explanation and specific reasons for the proposed revocation or revision; and
5. A statement that "Failure to appeal a notice of intent to revoke or revise, within 20 days after the date upon which permittee receives written notice pursuant to [Article 14.C.11, Appeals](#), shall render the proposed revocation or revision final and in full force and effect."

F. Appeals

Failure of permittee to file a petition in accordance with the appeal provisions of this Chapter shall render the proposed revocation or revision final and in full force and effect.

G. Other Remedies

Nothing in this Chapter shall preclude or be deemed a condition precedent to ERM seeking a temporary or permanent injunction.

Section 14 Violations, Enforcement and Penalties

Failure to comply with the requirements of this Chapter or any permit, exemption, or approval granted or authorized hereunder shall constitute a violation of this Chapter.

Section 15 Groundwater And Natural Resources Protection Board (GNRPB)

The GNRPB shall hear violations of this Chapter pursuant to [Article 10.C, GROUNDWATER AND NATURAL RESOURCES PROTECTION BOARD](#). Violations of this Chapter may be referred by ERM to the GNRPB for corrective actions and civil penalties.

Section 16 Additional Enforcement Measures

In addition to the enforcement procedures set forth above, violations of the provisions of this Chapter may be enforced pursuant to [F.S. §125.69](#). Such violations may be deemed a separate offense for each day during any portion of which any violation is committed or continued. In addition to the sanctions contained herein, PBC may take any other appropriate legal action, including but not limited to, administrative action and requests for temporary and permanent injunctions, to enforce the provisions of this Chapter. It is the purpose of this Chapter to provide additional cumulative remedies.

Section 17 PBC Pollution Recovery Trust Fund

Funds collected pursuant to administrative penalties levied by the GNRPB for violations of this Chapter shall be deposited in the PBC Pollution Recovery Trust Fund.

CHAPTER C VEGETATION PRESERVATION AND PROTECTION

Section 1 General

A. Goals

The goals of this Chapter are:

1. To avoid the unnecessary destruction of native vegetation;
2. To pursue eradication of invasive non-native vegetation;
3. To minimize adverse impacts to native vegetation during parcel improvement;