

Brownfields & Beyond: 2025 Florida Legislative & Rulemaking Update

**Environmental & Land Use Law Section of The Florida Bar
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Brownfields Legislation Update

Amendments to Section 376, relating to Brownfields

The 2025 Amendments CS/HB 733 are the first substantive amendments to the Brownfields Redevelopment Act since 2014

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

ENROLLED

CS/HB 733

2025 Legislature

1
2 An act relating to brownfields; amending s. 376.303,
3 F.S.; deleting a provision requiring certain property
4 owners to provide information regarding institutional
5 controls to the local government for mapping purposes;
6 deleting local government requirements for such
7 mapping; requiring that sites issued a site
8 rehabilitation completion order without institutional
9 controls be removed from the registry of all
10 contaminated sites located in a brownfield area;
11 amending s. 376.30781, F.S.; revising the conditions
12 under which an applicant who has rehabilitated a
13 contaminated site may submit and claim certain tax
14 credits; specifying a timeframe within which such tax
15 credit application must be submitted; revising the
16 criteria for determining applicants who are
17 redeveloping brownfield sites who may be eligible for
18 certain tax credits; deleting the definition of the
19 term "monetary compensation"; revising the date by
20 which the Department of Environmental Protection must
21 issue annual site rehabilitation tax credit

Brownfields Redevelopment Act, Background

- **What is the Brownfields Redevelopment Act?**

- The primary goals of the Brownfields Redevelopment Act are to reduce public health and environmental hazards on existing commercial and industrial sites that are abandoned or underused, create financial and regulatory incentives to encourage voluntary cleanup and redevelopment of sites, and derive appropriate cleanup target levels.

- **What is a “Brownfield”?**

- A real property, the expansion, redevelopment or reuse of which may be complicated by actual or perceived environmental contamination and **which has not yet been entered into a brownfield site rehabilitation agreement** pursuant to s. 376.80(5), Section 376.79(4), Fla. Stat. (2025)

- **Implications of the Amendments?**

- On balance, the amendments address the regulatory limitations which existed under the prior law with regard to site closures when multiple properties were affected, gives a mechanism for some of the most complicated sites to enter the brownfield program, extends eligibility to certain governmental units, and adjusts and updates procedures for efficiency and certainty.

Amendments

- **Section 1 Strikes the Requirement of Mapping for Local Governments**

376.303 Powers and duties of the Department of Environmental Protection.

~~(5) MAPPING.— If an institutional control is implemented at any contaminated site in a brownfield area designated pursuant to s. 376.80, the property owner must provide information regarding the institutional control to the local government for mapping purposes. The local government must then note the existence of the institutional control on any relevant local land use and zoning maps with a cross-reference to the department's site registry developed pursuant to subsection (6). If the type of institutional control used requires recording with the local government, then the map notation shall also provide a cross-reference to the book and page number where recorded. When a local government is provided with evidence that the department has subsequently issued a no further action order without institutional controls for a site currently noted on such maps, the local government shall remove the notation.~~

~~(6)~~ REGISTRY.

... At a minimum, the registry must ~~shall~~ include the type of institutional or engineering controls employed at a particular site, types of contaminants and affected media, land use limitations, and the county in which the site is located. Sites listed on the registry at which the department has subsequently issued a site rehabilitation completion ~~no further action~~ order without institutional controls must ~~shall~~ be removed from the registry.

Now what?

- **What will Section 1 do?**

- Create Efficiency and Reduce Burdens on Local Governments.
- Eliminates a potential compliance concern when PRFBSRs are not in control.
- Provides certainty in the sources of information for the real estate industry.
- Updates the law to match the current technology and processes.

- **What happens next?**

- Local Governments are not obligated to do anything under the law.
- Agency will continue its normal practices and maintain the Registry.

Amendments

- **Section 2 Provides Clarity for certain Tax Credit Applications**

Paragraphs (c), (d), and (e) of subsection (3) of section 376.30781, Florida Statutes, in part are amended to read:

(3)

(c) In order to encourage completion of site rehabilitation at contaminated sites that are being voluntarily cleaned up and that are eligible for a tax credit under this section, the tax credit applicant may claim an additional 25 percent of the total site rehabilitation costs, not to exceed \$500,000, if the Department of Environmental Protection has approved the applicant's annual site rehabilitation application and has issued a site rehabilitation completion in the final year of cleanup as evidenced by the Department of Environmental Protection issuing a "No Further Action" order for that site. The tax credit applicant must submit the claim for the additional 25 percent within 2 years after receipt of the site rehabilitation completion order for that site.

(e) In order to encourage the redevelopment of a brownfield site, as defined in the brownfield site rehabilitation agreement, that is hindered by the presence of solid waste, as defined in s. 403.703, costs related to solid waste removal may also be claimed under this section....These costs are eligible for a tax credit provided that the applicant meets the eligibility requirements of s. 376.82(1) and that submits an affidavit stating that, after consultation with appropriate local government officials and the department, to the best of the applicant's knowledge based upon such consultation and available historical records, the brownfield site was never operated as a permitted solid waste disposal area as regulated pursuant to s. 403.704 or was never operated for monetary compensation, and the applicant submits all other documentation and certifications required by this section. ...

Amendments

- **Section 2 Provides Clarity for certain Tax Credit Applications (cont.)**

Subsection (9) of section 376.30781, Florida Statutes, is amended to read:

(9) On or before June ~~May~~ 1, the Department of Environmental Protection shall inform each tax credit applicant that is subject to the January 31 annual application deadline of the applicant's eligibility status and the amount of any tax credit due. The department shall provide each eligible tax 186 credit applicant with a tax credit certificate that must be submitted with its tax return to the Department of Revenue to claim the tax credit or be transferred pursuant to s. 220.1845(2)(g). The June ~~May~~ 1 deadline for annual site rehabilitation tax credit certificate awards does shall not apply to any tax credit application for which the department has issued a notice of deficiency pursuant to subsection (8). The department shall respond within 120 ~~90~~ days after receiving a response from the tax credit applicant to such a notice of deficiency. Credits may not result in the payment of refunds if total credits exceed the amount of tax owed.

Now what?

• What will Section 2 do?

- Eliminates confusion as to which claims are eligible and attributable to the closure bonus.
- Establishes a time certain (2-year window) when closure bonus application must be submitted.
- Eliminates the former requirement of an affidavit for solid waste eligibility.
- Replaces the affidavit with a more certain permit inquiry along with the requirement of due diligence.
- Allows the Department more time for processing tax credit applications.

• What happens next?

- Department will have greater ability to quantify tax credit liabilities for bonuses.
- Evidentiary requirements for solid waste credits will be based on publicly available records.



Amendments



- **Section 3 Makes the Intent of the Law consistent with current Application.**

Subsection (1) of section 376.78, Florida Statutes, is amended to read:

(1) The reduction of public health and environmental hazards on ~~existing commercial and industrial~~ sites proposed to be rehabilitated and redeveloped is vital to their use and reuse as sources of employment, housing, recreation, and open space areas. The reuse of such sites ~~industrial land~~ is an important component of sound land use policy for productive urban purposes which will help prevent the premature development of farmland, open space areas, and natural areas, and reduce public costs for installing new water, sewer, and highway infrastructure.

Now what?

- **What will Section 3 do?**

- Eliminates confusion or statutory limitation on the types of properties that can be considered as brownfield sites.

- **What happens next?**

- The Brownfield Redevelopment Act will more accurately reflect the administration of the program and the types of properties being redeveloped.

Amendments

- **Section 4 Changes Critical Definitions and the Application of Site Closure Criteria**

Present subsections (6) through (21) of section 376.79, Florida Statutes, are redesignated as subsections (7) through (22), respectively, a new subsection (6) is added to that section, and subsections (4) and (5) of that section are amended, to read:

- (4) "Brownfield-sites" means any real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination and which has not yet been entered into a brownfield site rehabilitation agreement pursuant to s. 376.80(5).
- (5) "Brownfield area" means a contiguous area of one or more brownfields ~~brownfield-sites~~, some of which may not be contaminated, and which has been designated by a local government by resolution. Such areas may include all or portions of community redevelopment areas, enterprise zones, empowerment zones, other such designated economically deprived communities and areas, and United States Environmental Protection Agency-designated brownfield pilot projects.
- (6) "Brownfield site" means the real property identified in a brownfield site rehabilitation agreement executed by the person responsible for brownfield site rehabilitation of the property and the department or a delegated local pollution control program, as applicable.

Now what?

- **What will Section 4 do?**

- Creates a new significant definition of a “brownfield site” which will give greater importance to the Brownfield Site Rehabilitation Agreement.

- **What happens next?**

- Practitioners will work with the Department to determine the relationship between a “brownfield site” and the definition of “contaminated site” present in Section 376.301(11), F.S.
- These definitional changes are required for the Section 5 amendment.

Amendments

- **Section 5 Changes the Department's discretion with regard to applying Closure Criteria to brownfield sites, Section 376.81, F.S.**

Present subsection (3) of section 376.81, Florida Statutes, is redesignated as subsection (4), a new subsection (3) is added to that section, and present subsection (3) of that section is amended, to read:

376.81 Brownfield site and brownfield areas contamination cleanup criteria.—

(3)(a) The Legislature finds that rehabilitation and redevelopment of a potential brownfield site that is a portion of a larger contaminated site are significantly complicated when multiple parties may own, lease, or operate different portions of the contaminated site. The Legislature further finds that delaying a person's ability to achieve a "No Further Action" status for a potential brownfield site until such time as the owners, lessees, or operators of all other portions of the larger historical contaminated site have completed site rehabilitation on their respective portions is not in the public interest, as such delay disincentivizes rehabilitation and redevelopment of the potential brownfield site by imposing unnecessary legal burdens, technical obstacles, and financial costs.

(b) Therefore, the Legislature finds that it is in the public interest to remove any such barriers to the rehabilitation and redevelopment of property by providing a clear path to obtaining a "No Further Action" status in cases where a potential brownfield site is only a portion of a larger contaminated site.

Amendments

- **Section 5 Changes the Department's discretion with regard to applying Closure Criteria to brownfield sites, Section 376.81, F.S. (cont.)**

(c) If the person responsible for a brownfield site rehabilitation demonstrates compliance with the applicable contamination cleanup criteria described in subsection (1), and the brownfield site is only a portion of a larger contaminated site, the department or any delegated local pollution control program under s. 376.80(9) may not:

1. Deny a "No Further Action" status for the brownfield site; or

2. Refuse to issue a site rehabilitation completion order for the brownfield site, regardless of whether it has engineering and institutional controls. This subparagraph applies even when similar contamination exists elsewhere on the contaminated site which was the result of similar or related activities or operations that occurred both on the contaminated site and the brownfield site, provided that all soil and groundwater contamination emanating from the brownfield site is adequately addressed pursuant to chapter 62-780, Florida Administrative Code.

(d) This subsection applies to all brownfield sites, irrespective of the effective date of the brownfield site rehabilitation agreement.

~~(4)(3)~~ The cleanup criteria described in this section govern only site rehabilitation activities occurring at the brownfield ~~contaminated~~ site. Removal of contaminated media from a site for offsite relocation or treatment must be in accordance with all applicable federal, state, and local laws and regulations.

Now what?

- **What will Section 5 do?**

- Restricts the Department's or designated local program from denying a Site Rehabilitation Completion Order for the "brownfield site" where the PRFBSR demonstrates compliance with applicable cleanup criteria.
- Seems to create an entitlement if conditions within the brownfield site meet criteria.

- **What happens next?**

- Section 5 will increase the number of Site Rehabilitation Completion Orders entered for the Program.
- Larger number of closure bonuses will be claimed.
- Brownfield sites should be closed more readily.
- A question of interpretation still exists regarding the application of the following provision: "provided that all soil and groundwater contamination emanating from the brownfield site is adequately addressed pursuant to chapter 62-780, Florida Administrative Code."

Amendments

- **Section 6 Changes the date of eligibility for local governments and Adjusts eligibility for Superfund Sites.**

Paragraphs (a) and (b) of subsection (1) and paragraphs (e) and (g) of subsection (2) of section 376.82, Florida Statutes, are amended to read:

376.82 Eligibility criteria and liability protection.—

(1) ELIGIBILITY.—

(a) All of the following persons are eligible to participate in the brownfield program established in ss. 376.77-376.85:

1. Notwithstanding subparagraph 2., a ~~any~~ person who has not caused or contributed to the contamination of a brownfield site on or after July 1, 1997.

2. A local governmental entity, including any other person who may be organized or united with the local governmental entity for a business purpose, if such entity or person did not cause or contribute to the contamination of a brownfield site on or after July 1, 2025.



Now what?



- **What will this part of Section 6 do?**

- Draws a distinction between “persons” and “local government entities.”
- Moves the date for eligibility so that the local governments could participate in the brownfield program even if they were responsible for the discharge.

- **What happens next?**

- Local governments can reassess sites under their ownership or in partnership for potential brownfield opportunities.
- New brownfield areas and BSRAs may be entered into by local governments which were formerly ineligible.

Amendments

- **Section 6 Changes the date of eligibility for local governments, Adjusts eligibility for Superfund Sites (cont.).**

Paragraphs (a) and (b) of subsection (1) and paragraphs (e) and (g) of subsection (2) of section 376.82, Florida Statutes, are amended to read:

376.82 Eligibility criteria and liability protection.—

(1) ELIGIBILITY.—

...

(b) A person eligible to participate in the brownfield program pursuant to paragraph (a) ~~is, is eligible to participate 306 in the brownfield program established in ss. 376.77-376.85,~~ subject to the following:

1.~~(a)~~ Potential brownfield sites that are subject to an ongoing formal judicial or administrative enforcement action...or that have obtained or are required to obtain a permit for the operation of a hazardous waste treatment, storage, or disposal facility; a postclosure permit; or a permit pursuant to the federal Hazardous and Solid Waste Amendments of 1984, are not eligible for participation in the brownfield program established in ss. 376.77-376.85 unless, pursuant to paragraph (2)(g), specific exemptions are secured by a memorandum of agreement with the United States Environmental Protection Agency issues a letter stating it has no objection to such participation and the department issues a letter of concurrence.



Now what?



- **What will this part of Section 6 do?**

- Creates a new process for Resource Conservation and Recovery Act and Superfund Sites to enter into the state's brownfield program.
- Relies on acceptance by both the U.S. EPA Region 4 and the Department.

- **What happens next?**

- On a site specific basis, a brownfield redeveloper will work with U.S. EPA and the Department on the "No Objection" and "Concurrence" letters, respectively.
- Templates may be included in the draft BSRA.
- Actual letters will be an attachment to the final BSRA.



Amendments



- **Section 6 Changes the date of eligibility for local governments and Adjusts eligibility for Superfund Sites (cont.).**

Paragraphs (a) and (b) of subsection (1) and paragraphs (e) and (g) of subsection (2) of section 376.82, Florida Statutes, are amended to read:

376.82 Eligibility criteria and liability protection.—

(1) ELIGIBILITY.—

...

(b) ...

~~2....a.1.~~ The proposed brownfield site is currently idle or underutilized as a result of the contamination, and participation in the brownfield program will immediately, after cleanup or sooner, result in increased economic productivity at the site, including at a minimum the creation of 10 new permanent jobs, whether full-time or part-time, which are not associated with implementation of the brownfield site rehabilitation agreement. However, the job creation requirement does not apply to the rehabilitation and redevelopment of a brownfield site that will provide housing that is affordable as defined in s. 420.0004; create recreational areas, conservation areas, or parks; or be maintained for cultural or historical preservation purposes; and ...



Now what?



- **What will this part of Section 6 do?**

- Waives the job creation requirement if the brownfield redevelopment is or includes:
 - ✓ Affordable housing
 - ✓ Land area for recreation, conservation or parks or
 - ✓ Land area for cultural or historical preservation purposes.

- **What happens next?**

- This change could influence future land use and encourage the above uses.

Amendments

- **Section 6 Changes the date of eligibility for local governments and Adjusts eligibility for Superfund Sites (cont.).**

Paragraphs (a) and (b) of subsection (1) and paragraphs (e) and (g) of subsection (2) of section 376.82, Florida Statutes, are amended to read:

376.82 Eligibility criteria and liability protection.—

...

(2) LIABILITY PROTECTION.—

...

(e) Completion of the performance of the remediation obligations at the brownfield site shall be evidenced by a site rehabilitation completion order ~~letter or a "no further action"~~ letter issued by the department or the approved local pollution control program, which letter shall include the following statement: "Based upon the information provided by (property owner) concerning property located at (address), it is the opinion of (the Florida Department of Environmental Protection or approved local pollution control program) that (party) has successfully and satisfactorily implemented the approved brownfield site rehabilitation agreement schedule and, accordingly, no further action is required to assure that any land use identified in the brownfield site rehabilitation agreement is consistent with existing and proposed uses."

Amendments

- **Section 6 Changes the date of eligibility for local governments and Adjusts eligibility for Superfund Sites (cont.).**

Paragraphs (a) and (b) of subsection (1) and paragraphs (e) and (g) of subsection (2) of section 376.82, Florida Statutes, are amended to read:

376.82 Eligibility criteria and liability protection.—

...

(2) LIABILITY PROTECTION.—

...

(g)1. The Legislature recognizes the benefits of promoting the reuse of brownfield sites, even when subject to its limitations in addressing cleanup liability under federal pollution control programs, including those enumerated in subparagraph (1)(b)1. In an effort to encourage such reuse ~~secure federal liability protection~~ for persons willing to undertake ~~remediation~~ responsibility for site rehabilitation at a brownfield site, the department may, upon receipt of a letter from ~~shall attempt to negotiate a memorandum of agreement or similar document with the~~ United States Environmental Protection Agency stating it has no objection to a site's participation pursuant to subparagraph (1)(b)1. and upon a reasonable demonstration by the person seeking to participate in the brownfield program that he or she will conduct site rehabilitation pursuant to s. 376.81, issue a letter of no objection that states the person may participate in the brownfield program.

Amendments

- **Section 6 Changes the date of eligibility for local governments and Adjusts eligibility for Superfund Sites (cont.).**

Paragraphs (a) and (b) of subsection (1) and paragraphs (e) and (g) of subsection (2) of section 376.82, Florida Statutes, are amended to read:

376.82 Eligibility criteria and liability protection.—

...

(2) LIABILITY PROTECTION.—

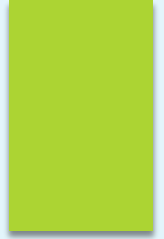
...

(g)1...

The department may not require, as a condition of such letter of concurrence, that, whereby the that he or she will conduct site rehabilitation pursuant to s. 376.81, issue a letter of no objection that states the person may participate in the brownfield program. The department may not require, as a condition of such letter of concurrence, that, ~~whereby~~ the United States Environmental Protection Agency agree ~~agrees~~ to forego enforcement of federal corrective action authority at brownfield sites that have received a site rehabilitation completion order ~~or "No Further Action" determination~~ from the department or the approved local pollution control program or that are in the process of implementing a brownfield site rehabilitation agreement in accordance with this act. The letter of no objection from the United States Environmental Protection Agency and the letter of concurrence from the department must be added as attachments to the brownfield site rehabilitation agreement.



Now what?



- **What will this part of Section 6 do?**

- Severs state and federal liability schemes.
- Sets up for the liability protection from the state for brownfield sites.
- Federal liability could still apply.

- **What happens next?**

- Prior sites normally excluded from state program are now potentially eligible.
- Codified defenses should be fully considered.
 - Bonafide Prospective Purchaser with Continuing Obligations
 - Innocent Purchaser
 - Contiguous Landowner

Amendments

- **Section 6 Changes the date of eligibility for local governments and Adjusts eligibility for Superfund Sites (cont.).**

Paragraphs (a) and (b) of subsection (1) and paragraphs (e) and (g) of subsection (2) of section 376.82, Florida Statutes, are amended to read:

376.82 Eligibility criteria and liability protection.—

...

(2) LIABILITY PROTECTION.—

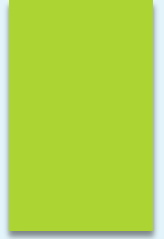
...

2. Proposed brownfield sites that are subject to ongoing formal judicial or administrative enforcement action or corrective action pursuant to an order from the United States Environmental Protection Agency pursuant to s. 3008(h) of the Resource Conservation and Recovery Act, as amended by 42 U.S.C. 415 s. 6928(h), or that have obtained or are required to obtain a permit for the operation of a hazardous waste treatment, storage, or disposal facility, a postclosure permit, or a permit pursuant to the federal Hazardous and Solid Waste Amendments of 1984 are eligible for participation in the brownfield program established in ss. 376.77-376.85, provided that the sites:

- a. Obtain the necessary letters of no objection and concurrence pursuant to subparagraph (1)(b)1. and subparagraph 1.; or
- b. Comply with the provisions of Section V of the Memorandum of Agreement between the department and the United States Environmental Protection Agency Region 4 covering Florida's Brownfield Program, dated November 28, 2005, as may be amended.



Now what?



- **What will this part of Section 6 do?**

- Creates the criteria for obtaining and maintaining liability protections.

- **What happens next?**

- RCRA sites that are subject to Brownfield Site Rehabilitation Agreements will be held to the requirements of the Interagency MOA.
- New RCRA or CERCLA sites will go through the letter of consent/no objection model.
- These letters will be generated on a site specific basis.



Chapter 62-524, F.A.C., Rulemaking Update

Chapter 62-524, F.A.C., Rulemaking Petition

The Florida Brownfields Association filed a Petition to Initiate Rulemaking with FDEP on June 6, 2025, seeking substantial amendments to Chapter 62-524, F.A.C.

**BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In re:

Petition for rulemaking of
The Florida Brownfields Association to
Update and Ensure Consistency of Chapter 62-524, F.A.C
with the provisions and requirements of FS 373.309

Petition to Initiate Rulemaking

Petitioner, the Florida Brownfields Association, on behalf of itself and its members, submits this Petition pursuant to Section 120.54(7), Florida Statutes, seeking to revise the language of Chapter 62-524, Florida Administrative Code (“F.A.C.”), on the following grounds:

Chapter 62-524, F.A.C., Background

- **What is Chapter 62-524?**

- In 1989, FDEP promulgated Chapter 62-524, F.A.C., titled “New Potable Water Well Permitting in Delineated Areas.”

- **What is a “Delineated Area”?**

- As currently defined, a “Delineated Area” is “a surface area identified pursuant to Rule 62-524.420, F.A.C., within which ground water contamination is known to exist or which encompasses vulnerable areas or areas in which the Department provides a subsidy for restoration or replacement of contaminated drinking water supplies.”

- **Implications of a “Delineated Area”?**

- Under Chapter 62-524, the applicant typically cannot construct a potable well in a delineated area if the property boundary is within 500 feet of public water system, unless narrow exceptions apply (e.g., certain economic factors or water line cannot be completed within 30 days). Otherwise, potable well installation in a delineated area may be allowed, but only if applicant complies with well construction and testing requirements and obtains necessary regulatory approvals (e.g., letter of clearance from FDOH).

Chapter 62-524, F.A.C., Background

- **What is the statutory authority for Chapter 62-524?**

- Florida Legislature passed § 373.309, Fla. Stat., in response to widespread groundwater contamination by ethylene dibromide (EDB) of more than approximately 427,000 acres. The 1988 amendments to the statute authorize and require FDEP to promulgate rules regarding delineated areas.
- Section 373.309, Fla. Stat., states: “The department shall adopt, and may from time to time amend, rules governing the location, construction, repair, and abandonment of water wells and shall be responsible for the administration of this part. With respect thereto, the department shall: ... (e) **Encourage prevention of potable water well contamination and promote cost-effective remediation of contaminated potable water supplies by use of the Water Quality Assurance Trust Fund as provided in s. 376.307(1)(e) and establish by rule:**

1. Delineation of areas of groundwater contamination for implementation of well location and construction, testing, permitting, and clearance requirements as set forth in subparagraphs 2., 3., 4., 5., and 6. The department shall make available to water management districts, regional planning councils, the Department of Health, and county building and zoning departments, maps or other information on areas of contamination, including areas of ethylene dibromide contamination. Such maps or other information shall be made available to property owners, realtors, real estate associations, property appraisers, and other interested persons upon request and upon payment of appropriate costs.”

Chapter 62-524, F.A.C., Background

- **What is EDB? According to the U.S. EPA:**

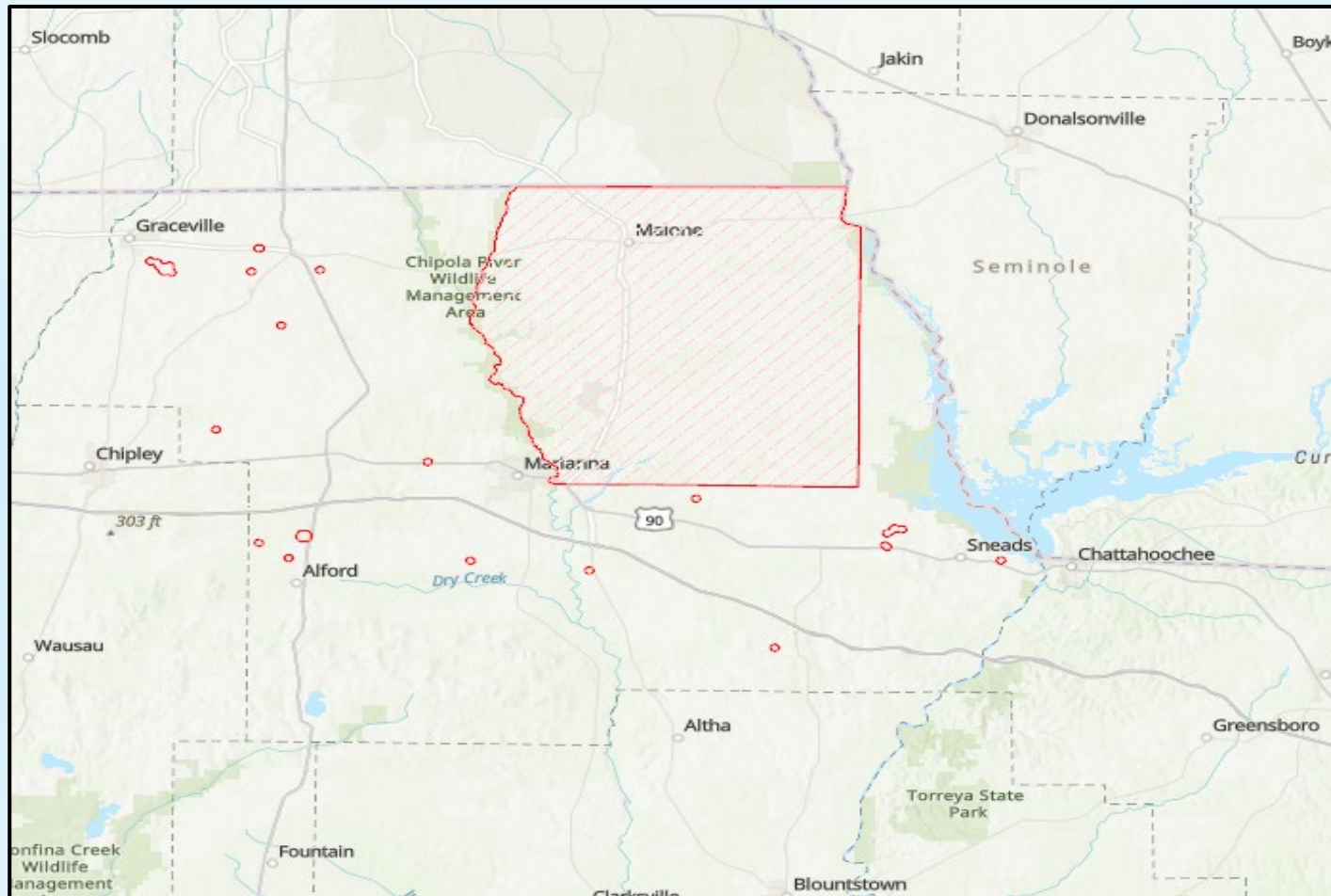
- EDB was commonly used as a fumigant/pesticide to treat insects, pests, and nematodes in citrus, vegetable, and grain crops, and as a fumigant for turf, including on golf courses.
- EDB was also used as an additive to leaded gasoline.
- EDB has been classified as a probable human carcinogen by U.S. EPA.
- EDB is harmful to humans and the environment.
 - Possible exposure through contaminated drinking water or inhalation.
- U.S. EPA banned agricultural use of EDB in 1984.

- **Florida Statistics:**

- Per the Florida Department of Health, EDB use in agricultural applications ceased in 1984.
- According to FDEP's Delineated Areas Program, approximately 427,897 acres in 38 Florida counties have been delineated as areas of known groundwater contamination. The majority of these were delineated for EDB contamination, with a small number delineated for solvents and gasoline contamination.

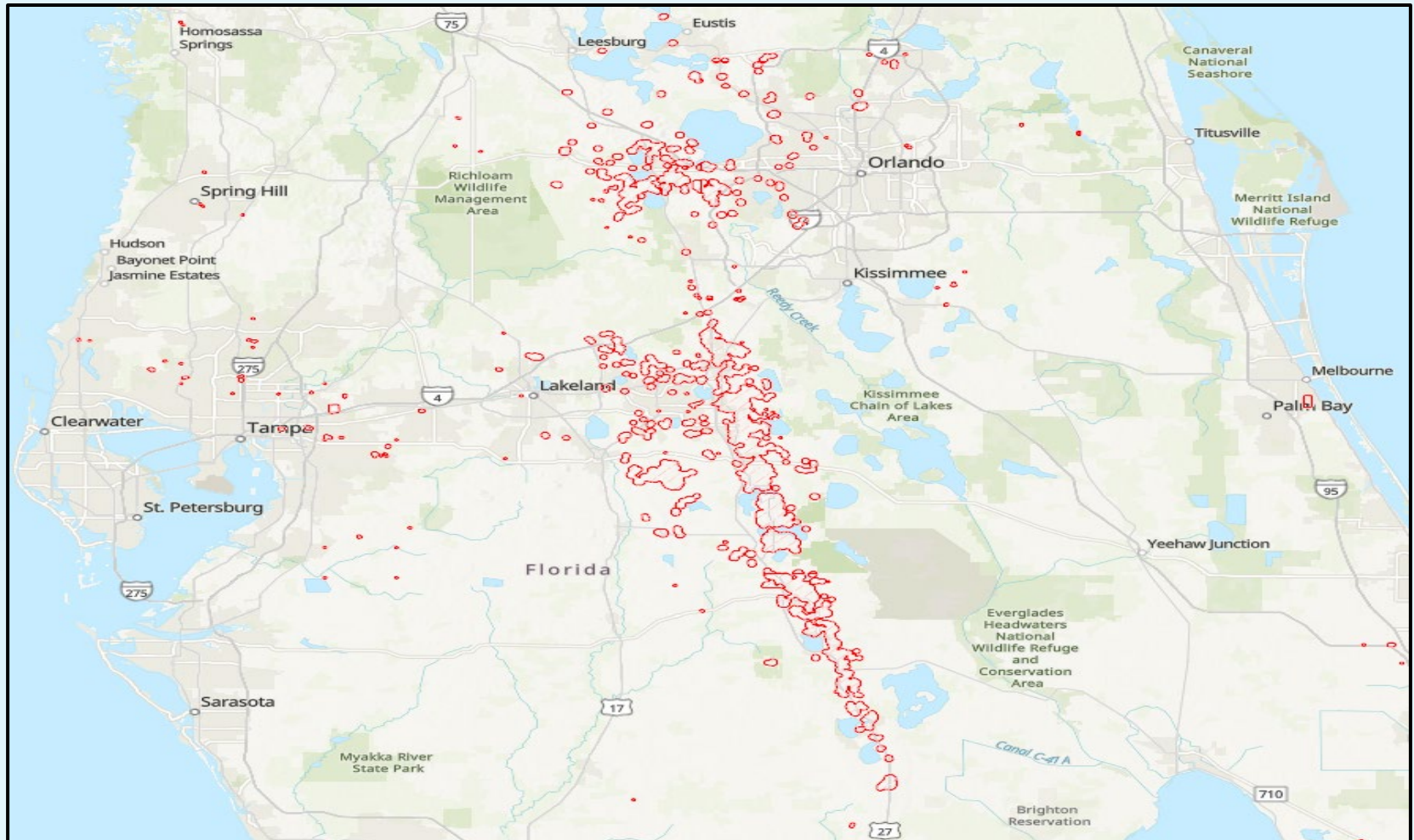
Map of Delineated Areas - Jackson County

- Delineated areas of groundwater contamination in Jackson County, FL, including large delineated area of EDB – pesticide for crops (e.g., soybeans and peanuts) (source: FDEP).

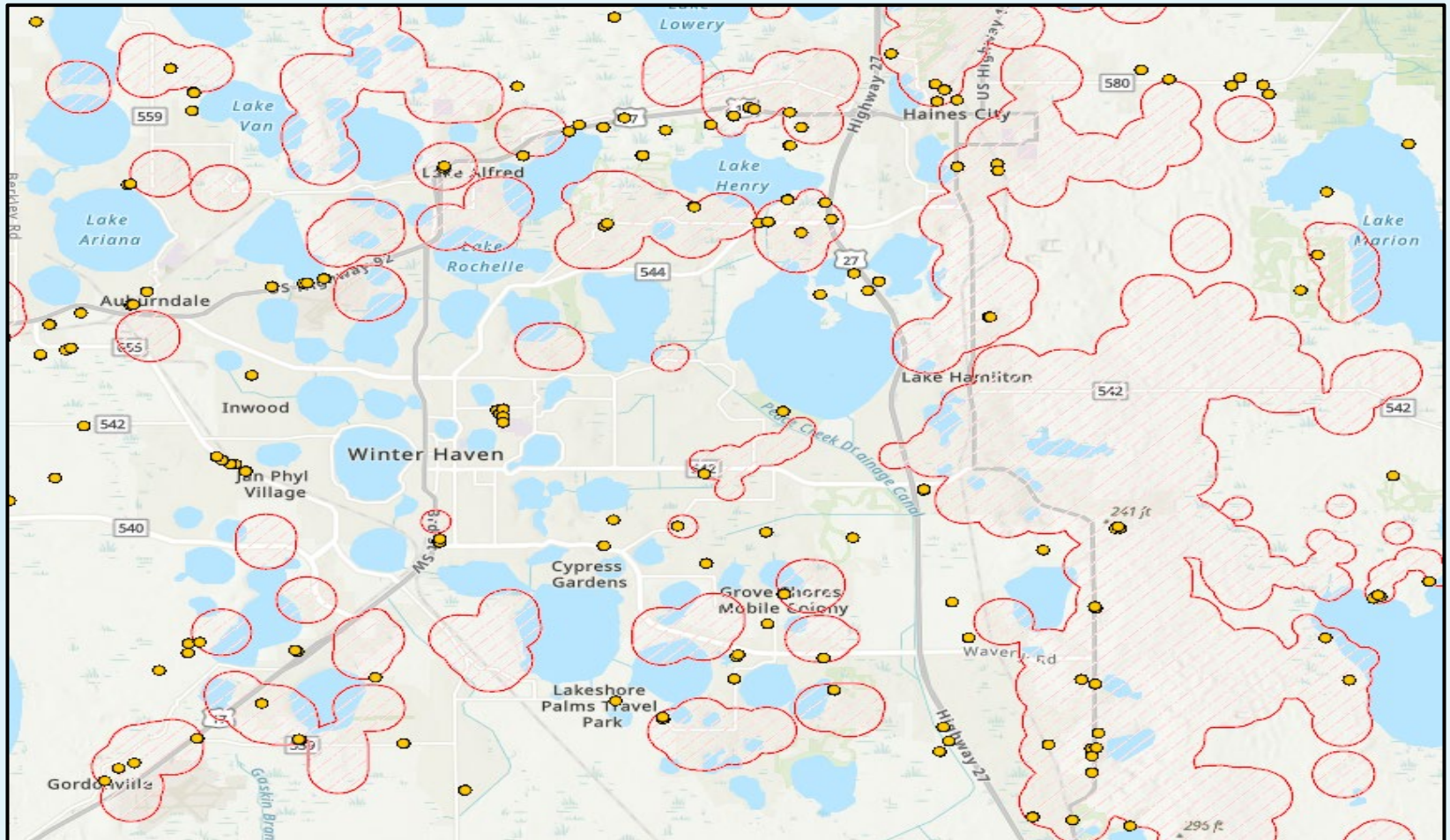


Map of Delineated Areas - Central Florida

- Delineated areas of groundwater contamination in Central Florida – citrus groves (source: FDEP).



- Public water supply wells in delineated areas (source: FDEP).



Chapter 62-524, F.A.C., Rulemaking Petition

- **What does the rulemaking Petition assert?** Petition contends the Rule should be updated and modernized (rule promulgated in 1989, with last substantial amendments in 1996) to further protect human health, address technological advances, make the delineated area process more dynamic and streamlined, and allow access to non-contaminated portions of aquifers. FDEP suspended delineation of areas of groundwater contamination in the mid-1990s.
- **What are some main goals of the Petition?**
 - Confirm that FDEP may accept a delineated area without needing approval from Environmental Regulation Commission (which requires notice and hearing).
 - Allow private parties to submit data in support of a delineated area and request approval of delineated area.
 - Allow consideration of other contaminants, in addition to nitrates.
 - Incorporate depth of groundwater contamination into delineated area analysis.
 - Provide that delineated areas shall constitute institutional controls.
 - Improve public accessibility via rule requiring simple, online GIS-based database.
 - Make other definitional and technical changes.

Chapter 62-524, F.A.C., Rulemaking Petition

- **What is the current status of the rulemaking Petition?**
 - **FDEP issued a Notice of Development of Rulemaking on July 7, 2025:** “Revisions to Chapter 62-524, Florida Administrative Code (F.A.C.), are being considered to ensure proper regulation of new potable water wells within delineated areas of contamination in the state of Florida. The proposed revisions add clarity to both substantive and administrative aspects of Chapter 62-524, F.A.C.”
 - **FDEP’s initial feedback has generally been positive.** FBA is reviewing input from FDEP and others (Florida Groundwater Association submitted comments).
 - **Next steps in rulemaking process:** FDEP Rule Development Workshop with date TBD.

Chapter 62-524 Rulemaking Petition - Proposed Amendments

Definition of Delineated Area

- Amend Rule 62-524.200(2) to modify definition of “Delineated Area” to include that a “Delineated Area” may be accepted by FDEP and does not require acceptance by the Environmental Regulation Commission (notice and hearing process; 7-member board within FDEP; Governor selects members, subject to Senate confirmation).
- Amend Rule to broaden definition of “Delineated Area” including so it applies to a geographic area (not surface area) and so that FDEP may accept a “Delineated Area” upon request of private parties or governmental agency.

62-524.200(2). “Delineated Area” means a ~~surface-geographic~~ area ~~identified~~ accepted by the Department pursuant to Rule 62-524.420, F.A.C. upon the request of a governmental agency or private party, defined by GIS coordinates, shape file, or other appropriate means including known (or estimated) vertical extent, within which groundwater contamination in the Surficial, Intermediate, and/or other Aquifers is known or estimated to exist or which encompasses vulnerable areas or areas in which the Department provides a subsidy for restoration or replacement of contaminated drinking water supplies.

Chapter 62-524 Rulemaking Petition - Proposed Amendments

Definition of Vulnerable Area

- Amend Rule 62-524.200(5) to clarify and expand the definition of “Vulnerable area” to include other types of contamination in addition to nitrate, which is already listed in the Rule, and to confirm that data may be provided by governmental agencies or private parties. Important because a “Delineated Area” encompasses vulnerable areas.

62-524.200(5). “Vulnerable area” is an area in which groundwater assessment, research or monitoring data provided to the Department by a governmental agency or private party, indicate that groundwater is vulnerable to nitrate or other contaminants because of the presence of potential sources of nitrate or other contamination, and because of land surface and subsurface characteristics.

Chapter 62-524 Rulemaking Petition - Proposed Amendments

Procedures for Delineation

- Amend Rule 62-524.420(3) to allow, in support of a delineated area, entities other than FDEP, such as private parties, to provide technically defensible data that meets the Rule requirements.

62-524.420(3). Sources of groundwater data to be used for delineation of areas under this chapter shall include:

- (a) Local, state, and federal agencies.
- (b) Water management districts.
- (c) Department programs.

(d) Governmental agencies or private parties that have provided information to the Department meeting the technical requirements specified in Section 9 and that have requested the Department to accept for delineation a specified area where the nature, lateral extent, and vertical extent of contamination are known (or estimated) and has the potential to affect public or private wells.

Chapter 62-524 Rulemaking Petition - Proposed Amendments

Procedures for Delineation

- Under current Rule, for wells or sites with known groundwater contamination, if there is insufficient data for determination of contaminant plume boundaries, then the default setback distance constituting the delineated area under the Rule is 1,000 feet “from the well, site or source boundary.”
- Amend Rule 62-524.420(4)(b) to allow additional parties to provide technically defensible data to establish an alternate setback distance from a site, well, or source boundary.

62-524.420(4)(b). Where data from the distribution or movement of ground water contamination indicate that a plume of groundwater contamination is stable or shrinking, or that a 1,000-foot setback is ~~insufficient~~ not technically justified, the Department shall establish an alternate setback based on such data. The Department shall review and accept technical data submitted by parties other than the Department to establish an alternate setback distance.

Chapter 62-524 Rulemaking Petition - Proposed Amendments

Procedures for Delineation

- Amend Rule 62-524.420(5) to allow FDEP, in relation to sites with a history of EDB application or the presence of other contaminants, to accept for delineation areas meeting specific technical requirements.
- Amend Rule to incorporate the depth interval of the aquifer to allow the public access to groundwater from the non-contaminated depth intervals and have that portion of the aquifer be excluded from the delineated area.

(5). For sites with a history of application of ethylene dibromide or the presence of other contaminants where insufficient site specific ground water data exist for determination of contaminant plume boundaries, depth, or stability, the Department shall accept for delineation an area which encompasses the area of application or area of known presence of contaminants, the area of known or estimated affected aquifer depth interval, and a setback, based on data on the distribution and nature of ~~ethylene dibromide~~ groundwater contamination, fate and transport modeling, or other technically defensible analysis, or in the absence of the submission of such technical analysis, a 1000-foot setback, whichever is larger.

Chapter 62-524 Rulemaking Petition - Proposed Amendments

Procedures for Delineation

- Amend Rule 62-524.420(6) to allow FDEP, in relation to sites that underwent a hydrogeologic investigation, to accept for delineation areas meeting specific technical requirements and allow parties other than FDEP to submit data.
- Amend Rule to incorporate the depth interval of the aquifer to allow the public access to groundwater from the non-contaminated depth intervals.

(6). For sites where a hydrogeologic investigation of ground water has been conducted and the nature and lateral and vertical extent of a contaminant plume is documented and sufficient data exist for predictive ground water modeling, the Department shall delineate an area which encompasses the ground water contamination and known or estimated affected aquifer depth interval, and its predicted movement for the next two years in order to protect the public health, safety, and welfare; water resources; and the environment. The Department shall accept groundwater modeling data submitted by parties other than the Department to allow the establishment of the predictive movement of contamination.

Chapter 62-524 Rulemaking Petition - Proposed Amendments

Vulnerable Areas. Amend Rule 62-524.420(9) so contaminants in addition to nitrate may be used to determine aquifer vulnerability and delineation. Amend Rule to allow for additional parties to present information for FDEP to request delineation of areas of groundwater contamination, including through data obtained under Chapter 62-780 (contaminated site cleanup rule).

62-524.420(9). For areas in which the Department determines that ground water is vulnerable to or is contaminated by nitrate or other contaminants, the Department shall delineate such vulnerable areas or areas of groundwater contamination. The Department shall determine where vulnerable areas or an area of groundwater contamination is appropriate for delineation under this rule, by using the following information when available:

- (a) Physical properties of soils;
- (b) Vadose and saturated zone media;
- (c) Hydrogeologic characteristics of aquifer systems;
- (d) Depth to ground water;
- (e) Recharge;
- (f) Karst features;
- (g) Topography;
- (h) Presence of Class G-II ground water or other potable ground water with less than 10,000 mg/L total dissolved solids;
- (i) Water quality or groundwater assessment data, including without limitation, groundwater assessment data obtained pursuant to Chapter 62-780, F.A.C.; and
- (j) Soil cover;
- (k) Regional Water Supply Plans;
- (l) Nitrogen application or loading rates for potential sources of nitrate contamination; and
- (m) Potential sources or presence of contaminants that have the potential to affect human health over large geographical areas.

Chapter 62-524 Rulemaking Petition - Proposed Amendments

Notice

- Amend Rule 62-524.420(10) to allow for notice by publication when a delineated area has been accepted or modified by FDEP, thereby providing constructive notice to potentially interested parties.

62-524.420(10). ~~In delineating areas under this rule, the Department shall coordinate with other affected agencies, particularly those receiving delegation under Rule 62-524.800, F.A.C., in the technical aspects of delineation.~~ When a delineated area has been accepted or modified by the Department, the Department shall publish notice of the delineated area in the legal advertisements section of a newspaper of general circulation meeting the requirements of Sections 50.011 and 50.031, F.S., in the county or counties in which the delineated area lies, including a map of the delineated area and providing references where additional information can be obtained.

Chapter 62-524 Rulemaking Petition - Proposed Amendments

Environmental Regulation Commission

- Delete Rule 62-524.420(11). FBA's position is that the enabling statute – Section 373.309 – and other statutes do not require approval of the delineated area by Environmental Regulation Commission because a delineated area is not a “standard” needing such approval. See §§ 373.309(1)(e) (well location and construction standards), 403.803(13) (standard includes rule relating to water quality), and 403.804(1) (ERC has standards-setting authority). This change would streamline the approval process (potential compromise: Rule Amendments subject to ERC approval).

~~(11) The Department shall present delineated areas to the Environmental Regulation Commission for approval at rulemaking public hearings duly noticed as required by Section 120.54, F.S.~~

~~(a) At such public hearings the Commission, when approving delineated areas, shall consider the known ground water contamination and its projected movement until the next delineation update.~~

~~(b) If requested by the Commission, the Department shall present the data, predictive ground water modelling, and mapping procedure used to delineate each area presented to the Commission.~~

~~(c) The Commission shall consider any other competent evidence regarding delineated areas.~~

~~(d) Approval by the Commission of a delineated area shall result in that area being included on maps or other means of location and description prepared by the Department as described in subsections (12) and (13). Each approved map or other means of location and description shall contain an effective date and shall be made available as provided in subsections (12) and (13).~~

Chapter 62-524 Rulemaking Petition - Proposed Amendments

GIS-Based Mapping Database

- Create new Rule 62-524.420(11) to improve human health protection and notification and to specify requirements for a publicly accessible database of delineated areas (i.e., GIS-based and maintained in designated repository with “Delineated Areas” heading).

62-524.420(11) The Department shall develop and maintain a database of accepted delineated areas where the nature, the lateral and vertical extent of a contaminant plume is documented. Such database shall be accessible to the public and governmental agencies including water management districts, regional planning councils, the Department of Health, and county building and zoning departments. Maps or other information on delineated areas meeting the technical requirements of this chapter must be GIS-based and kept in a publicly accessible repository under a “Delineated Areas” heading.

Chapter 62-524 Rulemaking Petition - Proposed Amendments

Institutional Controls

- Amend Rule 62-524.420(12) to clarify the well permitting process will be implemented in delineated areas to allow groundwater to be extracted from non-contaminated depth intervals, facilitate the availability of online maps for public benefit during permitting process, and prevent accidental ingestion or use of contaminated groundwater.
- Amend Rule so delineated areas constitute “institutional controls” under applicable statutes.

62-524.420(12): To facilitate the well permitting process, the Department shall create and provide maps which indicate ~~all sections which contain any portion of the~~ location of all delineated areas. The maps must be available to the public and housed in a GIS-based database updated semiannually. Prior to issuing a well construction permit for a new potable water well ~~within a mapped section, the well permitting authority shall potential applicant should contact the appropriate permitting authority or consult the publicly available database and which shall~~ determine if the proposed well is within a delineated area and if so require specific well construction procedures to allow the extraction of groundwater from a non-contaminated portion of the aquifer. Delineated areas shall constitute “institutional controls” within the meaning of sections 376.301(21) and 376.76(11), F.S.

Chapter 62-524 Rulemaking Petition - Proposed Amendments

Water Quality Testing for New Wells

- Amend Rule 62-524.600(2) regarding water quality testing for new potable wells in delineated areas to allow additional parties to provide analytical data from a permitted well to the well permitting authority. The analytical data would be obtained from an FDEP-certified laboratory and be of quality equivalent to analytical data obtained by the Florida Department of Health.

62-524.600(2). The Department shall accept ~~only~~ groundwater analytical test results obtained from water samples collected and analyzed by the Department of Health or by governmental agencies or private parties in accordance with Chapter 62-160, F.A.C. ~~The well construction permit applicant shall be responsible for the cost of sample collection, shipping, and analysis. The data shall be provided to the well permitting authority having permitted the well and to the Florida Department of Health with jurisdiction over the area where the well is located.~~

Chapter 62-524 Rulemaking Petition - Proposed Amendments

Modification of Delineated Areas

- Create new Rule 62-524.500 regarding modification of delineated areas. New Rule would provide that an accepted delineated area may be modified or eliminated at the request of a private party or governmental agency, based on submission of supporting data satisfying Chapter 62-160, F.A.C. (data quality assurance).
- This new Rule makes the delineation process more dynamic and incentivizes stakeholders such as water resource planners, cities, and the public to play an active role in public health protection. Tracking changes in groundwater quality of delineated areas is crucial to inform the public and management decision-making to protect and sustain valuable groundwater resources.

62-524.500 Modification to Delineated Areas.

Upon the request of a private party or a governmental agency that has provided data meeting the requirements of Chapter 62-160, F.A.C., and demonstrating a change in the location and/or vertical extent of the delineated area, the Department shall modify or eliminate the delineated area, as appropriate.

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Michael Larson advises clients on a range of complex environmental law issues arising in litigation, regulatory, and transactional matters. In addition to handling environmental disputes and administrative challenges to agency action, he routinely assists clients with the cleanup, rehabilitation, reuse, and redevelopment of Brownfields and other contaminated or distressed properties. Michael routinely guides clients through obtaining environmental regulatory closure of contaminated sites. His practice additionally includes managing and performing significant environmental due diligence in connection with real estate and corporate transactions across the country. Michael frequently aids clients with assessing potential environmental risks associated with transactions and assists with risk management strategies, including the procurement of environmental insurance policies.

Michael is the President-Elect of the Florida Brownfields Association and has been recognized in Best Lawyers in America for Litigation - Environmental and in the Florida edition of Super Lawyers as a Rising Star in Environmental.

The logo for the law firm Akerman, featuring the word "akerman" in a white, lowercase, serif font. A small red horizontal line is positioned beneath the letter "a". The logo is set against a background of a river flowing through a dense forest, with the water reflecting the surrounding greenery.

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Joe advises businesses, landowners, private companies, and local governments across Florida on all aspects of federal, state, and local environmental laws, regulations, and land use processes. With over 25 years of experience, he represents clients in administrative enforcement proceedings and civil actions, negotiates cleanup requirements and institutional controls, and handles property transactions involving contamination, environmental liabilities, and permits.

