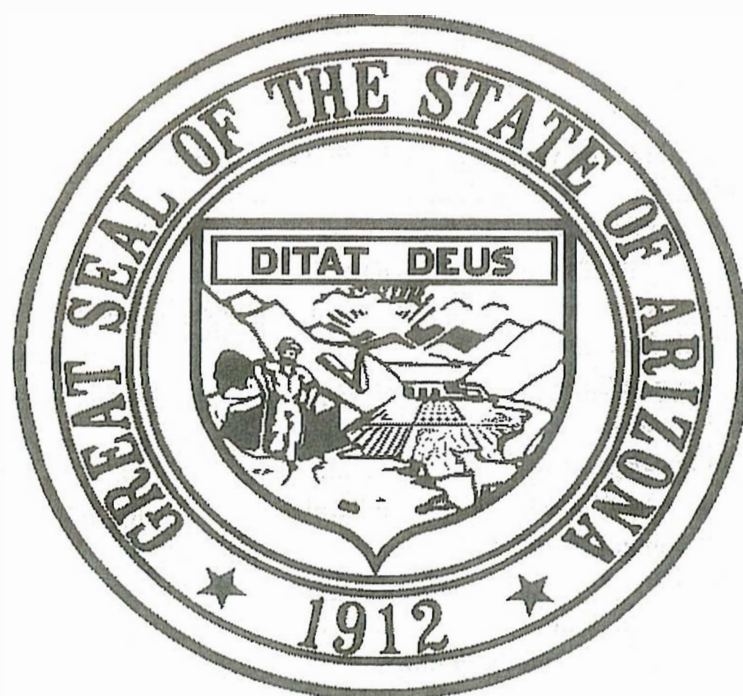


STATE OF ARIZONA
DEPARTMENT OF
WATER RESOURCES



STATUTES AND RULES GOVERNING
MINIMUM WELL CONSTRUCTION
STANDARDS AND THE LICENSING OF
WELL DRILLERS

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DIRECTOR
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**ARIZONA ADMINISTRATIVE CODE
TITLE 12 – NATURAL RESOURCES
CHAPTER 15 – ARIZONA DEPARTMENT OF WATER RESOURCES**

**ARTICLE 8.
WELL CONSTRUCTION AND LICENSING OF WELL DRILLERS**

R12-15-801. Definitions

In addition to the definitions set forth in A.R.S. §§ 45-101, 45-402, and 45-591 and in R12-15-202, the following words and phrases in this Article shall have the following meanings, unless the context otherwise requires:

1. "Annular space" means the space between the outer well casing and the borehole wall. An annular space also means the space between an inner well casing and outer well casing.
2. "Aquifer" means an underground formation capable of yielding or transmitting usable quantities of water.
3. "Artesian aquifer" means an aquifer which is overlain by a confining formation and which contains groundwater under sufficient pressure for the water to rise above the top of the aquifer.
4. "Artesian well" means a well that penetrates an artesian aquifer.
5. "Bentonite" means a colloidal clay composed mainly of sodium montmorillonite, a hydrated aluminum silicate.
6. "Cap" means a tamper-resistant, watertight steel plate of at least one-quarter inch thickness on the top of all inside and outside casings of a well.
7. "Casing" means the tubing or pipe installed in the borehole during or after drilling to support the sides of the well and prevent caving.
8. "Confining formation" means the relatively impermeable geologic unit immediately overlying an artesian aquifer.
9. "Consolidated formation" means a naturally occurring geologic unit through or into which a well is drilled, having a composition, density, and thickness which will provide a natural hydrologic barrier.
10. "Department" means the Arizona Department of Water Resources.
11. "Director" means the Director of the Arizona Department of Water Resources.
12. "Drilling card" means a card which is issued by the Director to the well drilling contractor or single well licensee designated in the notice of intent or permit, authorizing the well drilling contractor or licensee to drill the specific well or wells in the specific location as noticed or permitted.

13. "Exploration well" means a well drilled in search of geophysical, mineralogical or geotechnical data.
14. "Flowing artesian well" means an artesian well in which the pressure is sufficient to cause the water to rise above the land surface.
15. "Grout" or "cement grout" means cement mixed with no more than 50% sand by volume, and containing no more than six gallons of water per 94 pound sack of cement.
16. "Mineralized water" means any groundwater containing over 3000 milligrams per liter (mg/l) of total dissolved solids or containing any of the following chemical constituents above the indicated concentrations:

<u>Constituent</u>	<u>Concentration (mg/l)</u>
Arsenic	0.05
Barium	1.0
Cadmium	0.01
Chromium (total)	0.05
Fluoride	4.0
Lead	0.05
Mercury	0.002
Nitrate (as N)	10.0
Selenium	0.01
Silver	0.05

17. "Monitor well" means a well designed and drilled for the purpose of monitoring water quality within a specific depth interval.
18. "Open well" means a well which is not equipped with either a cap or a pump.
19. "Perforations" means a series of openings in a casing, made either before or after installation of the casing, to permit the entrance of water into the well.
20. "Piezometer well" means a well that is designed and drilled for the purpose of monitoring water levels within a specific depth interval.
- 21 "Pitless adaptor" means a commercially manufactured watertight unit or device designed for attachment to a steel well casing which permits discharge from the well below the land surface and allows access into the well casing while preventing contaminants from entering the well.
22. "Polluted water" means water whose chemical, physical, biological, or radiological integrity has been degraded through the artificial or natural infusion of chemicals, radionuclides, heat, biological organisms, or mineralogical or other extraneous matter.
23. "Pressure grouting" means a process by which a grout is confined within the borehole or casing of a well by the use of retaining plugs, packers, or a displacing fluid by which sufficient pressure is applied to drive the grout into and within the annular space or interval to be grouted.

24. "Qualifying party" means a partner, officer, or employee of a well drilling contractor, who has significant supervisory responsibilities and who has been designated to take the licensing examination for that well drilling contractor.

25. "Single well license" means a license issued to a person which allows the drilling or modification of a single exempt well on land owned by that person.

26. "Vadose zone well" means a well constructed in the interval between the land surface and the top of the static water level.

27. "Vault" means a tamper-resistant watertight structure used to complete a well below the land surface.

28. "Well abandonment" means the modification of the structure of a well by filling or sealing the borehole so that water may not be withdrawn or obtained from the well.

29. "Well drilling" means the construction or repair of a well, or the modification, except for abandonment, of a well, regardless of whether compensation is involved, including any deepening or additional perforating, any addition of casing or change to existing casing construction, and any other change in well construction not normally associated with well maintenance, pump replacement, or pump repair.

30. "Well drilling contractor" means an individual, public or private corporation, partnership, firm, association, or any other public or private organization or enterprise that holds a well driller's license pursuant to A.R.S. § 45-595(B).

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2).

R12-15-802. Scope of Article

This Article shall apply to man-made openings in the earth through which water may be withdrawn or obtained from beneath the surface of the earth, including all water wells, monitor wells and piezometer wells. It shall also apply to geothermal wells to the extent provided by A.R.S. § 45-591.01, and all exploration wells and grounding or cathodic protection holes greater than 100 feet in depth. However, this Article shall not apply to the following:

1. Man-made openings in the earth not commonly considered to be wells, such as construction and mining blast holes, underground mines and mine shafts, open pit mines, tunnels, septic tank systems, caissons, basements, and natural gas storage cavities.
2. Injection wells and vadose zone wells which are subject to regulation by the Arizona Department of Environmental Quality.
3. Oil, gas, and helium wells drilled pursuant to the provisions of A.R.S. Title 27.

4. Drilled boreholes in the earth less than 100 feet in depth which are made for purposes other than withdrawing or encountering groundwater, such as exploration wells and grounding or cathodic protection holes; except that in the event that groundwater is encountered in the drilling of a borehole, this Article shall apply.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2).

R12-15-803. Well Drilling and Abandonment Requirements; Licensing and Supervision Requirements

A. A person shall not drill or abandon a well, or cause a well to be drilled or abandoned, in a manner which is not in compliance with A.R.S. Title 45, Chapter 2, Article 10, and the rules adopted thereunder.

B. A person, other than a single well licensee or a bona fide employee of a well drilling contractor, shall not engage in well drilling or abandonment without first securing a well drilling license in accordance with R12-15-804, R12-15-805 and R12-15-806.

C. A qualifying party of a well drilling contractor shall provide direct and personal supervision of the contractor's employees to ensure that all wells are constructed and abandoned in accordance with this Article.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Section 12-15-803 amended and the text of former Section R12-15-804 renumbered to subsections (B) and (C) and amended effective June 18, 1990 (Supp. 90-2).

R12-15-804. Application for well drilling license

A. An applicant for a well drilling license shall submit a verified application of a form prescribed and furnished by the Director which contains the following information:

1. A designation of the classification of license sought by the applicant.
2. If the applicant is an individual, the individual's name, address and telephone number.
3. If the applicant is a partnership, the names, addresses, and telephone numbers of all partners, with a designation of any limited partners.
4. If the applicant is a corporation, association or other organization, the names, addresses and telephone numbers of the directors and of the president, vice president, secretary and treasurer, or the names, addresses and telephone numbers of the functional equivalent of such officers.

5. The address or location of the applicant's place of business, the mailing address if it is different from the applicant's place of business, and if applicant is a corporation, the state in which it is incorporated.
 6. The name, address and telephone number of each qualifying party, the qualifying party's relationship to the applicant, and a detailed history of each qualifying party's supervisory responsibilities and well drilling experience, including previous employers, job descriptions, duties and types of equipment utilized.
 7. The names, addresses and telephone numbers of three persons not members of each qualifying party's immediate family, who can attest to each qualifying party's good character and reputation, experience in well drilling, and qualifications for licensing.
 8. Such additional information relevant to the applicant's or qualifying party's experience and qualifications in well drilling as the Director may require.
- B. An applicant shall notify the Director in writing of any change in the information contained in the application within 30 days after such change.
- C. The Director shall not issue a license under this Article if the applicant or a qualifying party lacks good character and reputation.
- D. Prior to the issuance of a license, a qualifying party shall demonstrate three years of experience, dealing specifically with the type of drilling for which the applicant is applying for a license. This experience requirement may be reduced if the Director finds that the qualifying party has clearly and convincingly demonstrated a high degree of understanding and knowledge of well drilling techniques for the type of drilling for which the applicant is applying for a license. In no case, however, shall the practical experience requirement be less than two years.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Former Section R12-15-804 renumbered to R12-15-803(B) and (C), new Section R12-15-804 adopted effective June 18, 1990 (Supp. 90-2).

R12-15-805. Examination for Well Drilling License

A. The Director shall offer an examination for a well drilling license no less than six times yearly. The examination shall be administered to those eligible applicants whose applications were submitted at least 20 days prior to the date of the examination. The examination shall consist of a section on legal requirements, a section on general knowledge and one or more of six specialized sections. The section on legal requirements shall test the qualifying party's knowledge of A.R.S. Title 45, Chapter 2, Article 10, and the rules adopted thereunder. The section on general knowledge shall test the qualifying party's knowledge of general hydrologic concepts, principles, and practices in the well construction industry, and shall test knowledge of groundwater protection, pollution, water quality and public health effects. The specialized sections shall test the qualifying party's knowledge in the following classifications:

1. Cable tool drilling in rock and unconsolidated material.
2. Air rotary drilling in rock and unconsolidated material.
3. Mud rotary drilling in rock and unconsolidated material.
4. Reverse rotary drilling in rock and unconsolidated material.
5. Jetting and driving wells in unconsolidated material.
6. Boring and augering in unconsolidated material.

B. Only the qualifying party, department personnel, and persons having the express permission of the Director shall be permitted in the examination room while the examination is in progress. The qualifying party shall not bring books or notes into the examination room, or communicate by any means whatsoever while the examination is in progress without the express permission of the presiding examiner. The qualifying party shall not leave the examination room while the examination is in progress without first obtaining the permission of the presiding examiner. The Director may disqualify an applicant for violation of this subsection.

C. To obtain a well drilling license, a qualifying party of the applicant shall pass the section on legal requirements, the section on general knowledge, and one or more specialized sections. Each section of the examination shall be graded separately. The passing grade on each section shall be 70 percent.

D. No person may take the examination more than twice during any 12 months.

E. The Director may exempt a qualifying party from taking the section on general knowledge, and one or more of the specialized sections, if the qualifying party provides proof of passing an equivalent examination given by the National Ground Water Association.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Section repealed, new Section adopted effective June 18, 1990 (Supp. 90-2). Amended by final rulemaking at 13 A.A.R. 3022, effective October 6, 2007 (Supp. 07-3).

R12-15-806. License Fee; Issuance and Term of Licenses; Renewal; Display of License

A. The fee for a well driller's license shall be fifty dollars. No additional fee shall be charged for amendments to licenses pursuant to subsection (B).

B. Upon submittal of the license fee and satisfactory completion of an examination, the Director shall issue the applicant a well drilling license. The license shall be numbered and shall state the specialized classifications of drilling activities for which the applicant is qualified and licensed. The applicant shall be licensed in only those classifications for which the qualifying party has passed the specialized sections of the examination. If the qualifying party subsequently passes other specialized sections, the applicant's license shall be amended.

C. A well drilling contractor shall notify the Director in writing within 30 days of the date on which the well drilling contractor no longer has a qualifying party for one or more of its

specialized drilling classifications. Upon such notification, the Director may revoke or suspend part or all of the well drilling license of the well drilling contractor and require a new qualifying party to take and pass the examination.

D. A well drilling license shall expire each year on June 30th, unless renewed pursuant to subsection (E).

E. A person may renew a well drilling license by submitting an application for renewal on forms prescribed and furnished by the Director. The renewal fee shall be fifty dollars. If the application and renewal fee are postmarked on or before June 30, the well drilling contractor may operate as a licensee until actual issuance of the renewal license. A license which has expired may be reactivated and renewed within one year of its expiration by filing the required application and fifty dollars. If a license has been expired for one or more years for failure to renew, the well drilling contractor shall apply for a new license and repeat the examination.

F. A well drilling contractor shall prominently display the well drilling license number on all well drilling rigs owned or operated by the contractor in this state. Good quality paint or commercial decal numbers shall be used in placing each identification number on the drilling rig. The license number shall not be inscribed in crayon, chalk, pencil, or other temporary markings.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2).

R12-15-807. Single Well License

A. An applicant for a single well license pursuant to A.R.S. § 45-595(D) shall submit a verified application on forms prescribed and furnished by the Director, which shall include:

1. The name and address of the applicant.
2. The location of the well and whether the applicant owns the land.
3. The type of drill rig to be used and the owner of the rig.
4. The proposed design of the well or method of abandonment.
5. The names of any people who will be assisting the applicant in the drilling or abandonment of the well, and whether the applicant will compensate them for their efforts.
6. The applicant's experience, if any, in well drilling or abandonment.
7. Such other information as the Director may require relevant to the applicant's experience and qualifications in well drilling or abandonment.

B. The Director shall offer the single well examination no less than six times yearly and shall administer the examination to those eligible applicants whose applications were submitted at least 20 days prior to the date of the examination.

C. The single well examination shall be of a form prescribed and furnished by the Director and shall test the applicant's knowledge of abandonment techniques, or those minimum well construction requirements and drilling techniques applicable to the proposed design of the well. The passing grade on the sections of the examination dealing with construction requirements and drilling techniques, respectively, shall be 70 percent.

D. Rule R12-15-805 relating to testing procedures shall be fully applicable.

E. Applicants who twice fail the examination shall wait a minimum of 90 days before re-testing.

F. Upon passing the examination, the applicant shall be issued a single well license, authorizing the applicant to drill or abandon one exempt well at the location specified in the application. The license shall be valid for a period of one year from issuance.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2).

R12-15-808. Revocation of License

The Director may revoke, suspend, or place on probationary status a well drilling license issued pursuant to R12-15-806, or a single well license, for good cause, including:

1. Intentionally making a misstatement of fact on any filing with the Department.
2. Violating any provision of A.R.S. Title 45, Chapter 2, Article 10, and the rules promulgated thereunder, or aiding and abetting in such a violation.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2). Section number corrected (Supp. 93-1).

R12-15-809. Notice of Intention to Drill

A notice of intention to drill required to be filed pursuant to A.R.S. § 45-596 shall be signed by the owner or lessee of the property upon which the well is to be drilled.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2).

R12-15-810. Authorization to Drill

A. A well drilling contractor or single well licensee may commence drilling a well only if the well drilling contractor or licensee has possession of a drilling card at the well site issued by the Director in the name of the well drilling contractor or licensee, authorizing the drilling of the specific well in the specific location.

B. In extraordinary situations not requiring a permit but only a notice of intention to drill, the Director may grant a request by telephone for emergency authorization of commencement of drilling prior to the actual receipt by the well driller of the drilling card. Within seventy-two hours after such a request is granted, the well driller shall file a written statement indicating the nature and reasons for the request, and the date, time and Department employee granting the request, and the well owner shall file a notice of intent to drill if such a notice has not previously been filed.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2). Amended to correct typographical error under A.A.C. R1-1-109 (Supp. 01-2). Amended by final rulemaking at 13 A.A.R. 3022, effective October 6, 2007 (Supp. 07-3).

R12-15-811. Minimum Well Construction Requirements

A. Well casing

1. Casing shall be of a sufficient strength and wall thickness to hold the borehole open and survive any necessary grouting. A person shall use only steel or thermoplastic casing in the construction of a well, unless the person has received a variance from the Director pursuant to R12-15-820. The well casing or an extension of the casing shall extend a minimum of one foot above ground level. When installing a pitless adaptor, the casing may be terminated below ground level for aesthetic reasons or freeze protection purposes. Casing made of, or which has been exposed to, hazardous or potentially harmful materials, such as asbestos, shall not be used.

2. All well casing joints or overlaps shall be made watertight to prevent the degradation of the water supply by the migration of inferior quality water. Except as provided in subsection (H) of this rule, any openings in the casing that will be above the water level in the well, such as bar holes, cracks or perforations, shall be completely plugged or sealed.

3. Thermoplastic casing shall be installed only in an over sized drillhole without driving. Thermoplastic casing shall conform with American Society for Testing and Materials Standard Specification F480-89 (1989), which is incorporated herein by reference and is on file with the Office of the Secretary of State. Rivets or screws used in the casing joints shall not penetrate the inside of the casing.

4. Steel casing shall be new or in like-new condition, free from pits or breaks, and shall conform with American Society for Testing and Materials Standard Specification A53-89a (1989), A139-89b (1989) or A312/A312M-89a (1989), whichever is applicable, all of which are incorporated herein by reference and are on file with the Office of the Secretary of State.

5. Copies of The American Society for Testing and Materials standard specifications referred to in subsections (3) and (4) above may be obtained with these rules at the Office of the Secretary of State of the State of Arizona, State Capitol, West Wing, Phoenix, Arizona 85007; from the Department of Water Resources, 3550 N. Central Avenue, Phoenix, AZ 85012; and from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959. This rule does not include any later amendments or editions of those standard specifications.

B. Surface seal

1. Except as provided in subsections (2) and (4) of this subsection, and R12-15-817(B)(1), all wells shall be constructed with a surface seal as herein provided. The seal shall consist of steel casing, one foot of which shall extend above ground level, and cement grout placed in one continuous application from the bottom of the zone to be grouted to the land surface. If a pitless adaptor is utilized, the cement grout may terminate at the bottom of the pitless adaptor. The minimum length of the steel casing shall be 20 feet. The minimum annular space between the casing and the borehole for placement of grout shall be one and one-half inches. Curing additives, such as calcium chloride, shall not exceed ten percent of the total volume of grout. Bentonite as an additive shall not exceed five percent of the total volume. The minimum length of the surface seal shall be 20 feet. Any annular space between the outer casing and an inner casing shall be completely sealed to prevent contamination of the well.

2. All hand-dug wells shall be constructed with a watertight curbing extending, at a minimum, from one foot above the natural ground level to the static water level, or into the confining formation if the aquifer is artesian. The curbing shall consist of poured cement grout or casing surrounded by cement grout. Concrete block with cement grout and rock with cement grout may also be used. The poured cement grout shall not be less than six inches thick. If casing is to be used, the minimum annular space between the casing and the borehole shall be three inches. Hand-dug wells shall be sealed at the surface with a watertight, tamper-resistant cover to prevent contaminants from entering the well.

3. All wells constructed by jetting or driving shall have cement grout placed in the annular space to a minimum depth of six feet. The minimum annular space between the casing and the borehole for placement of the grout shall be one and one-half inches.

4. All horizontal wells, to prevent leakage, shall be constructed with a surface seal consisting of steel casing and cement grout extending a minimum of ten feet into the land surface.

C. Access port. Every well with casing four inches in diameter or larger shall be equipped with a functional watertight access port with a minimum diameter of one-half inch so that the water level or pressure head in the well can be monitored at all times.

D. Gravel packed wells

1. If a gravel pack has been installed, the annular space between the outer casing and the inner casing shall be sealed, either by welding a cap at the top or by filling with cement grout from the bottom of the outer casing to the surface.

2. If a gravel tube is installed, it shall be sealed with a cap.

E. Vents. All vents installed in the well casing shall open downward and be screened to prevent the entrance of foreign material.

F. Removal of drilling materials

1. In constructing a water well, the well driller shall take all reasonable precautions to protect the producing aquifer from contamination by drilling materials. Upon completion of the well, the well driller shall remove all foreign substances and materials introduced into the aquifer or aquifers during well construction. For purposes of this subsection, "substances and materials" means all drilling fluids, filter cake, lost circulation materials, and any other organic or inorganic substances.

2. Materials known to present a health hazard, such as chrome-based mud thinners, asbestos products, and petroleum-based fluids, shall not be used as construction, seal or fill materials or drilling fluids.

3. Drilling fluids and cuttings shall be contained in a manner which prevents discharge into any surface water.

G. Repair of existing wells

1. If, in the repair of a well, the old casing is withdrawn, the well shall be recased in conformance with these rules.

2. If an inner casing is installed to prevent leakage of undesirable water into a well, the annular space between the casings shall be completely sealed by packers, casing swedging, pressure grouting or other methods which will prevent the movement of water between the casings.

H. Monitor wells

1. A monitor well may be screened up to ten feet above the highest seasonal static water level of record for the purpose of monitoring contaminants.

2. A monitor well shall be identified as such on the vault cover or at the top of the steel casing. Identification information shall include the well registration number.

I. Completion at the surface. In areas of traffic or public rights-of-way, wells may be constructed below the land surface in a vault. All other requirements in this Article shall apply.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2). The reference to R12-14-817(B)(1) in subsection (B)(1) corrected to read R12-15-817(B)(1) (Supp. 93-1). Amended by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4).

R12-15-812. Special Aquifer Conditions

A. Artesian wells

1. The well casing shall extend into the confining formation immediately overlying the artesian aquifer and shall be grouted from a minimum of ten feet into the confining formation to the land surface to prevent surface leakage into and subsurface leakage from the artesian aquifer.
2. If leaks occur adjacent to the well or around the well casing, within 30 days the well shall be completed with the seals, packers, or casing and grouting necessary to eliminate such leakage or the well shall be abandoned according to R12-15-816.
3. If the well flows at land surface, the well shall be equipped with a control valve, or suitable alternative means of completely controlling the flow, which must be available for inspection at the well site at all times.

B. Mineralized or polluted water. In all water-bearing geologic units containing mineralized or polluted water as indicated by available data, the borehole shall be cased and grouted so that contamination of the overlying or underlying groundwater zones will not occur.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2).

R12-15-813. Unattended Wells

All wells, when unattended during well drilling, shall be securely covered for safety purposes and to prevent the introduction of foreign substances into the well.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Section number corrected (Supp. 93-1).

R12-15-814. Disinfection of Wells

A well drilling contractor shall disinfect any well from which the water to be withdrawn is intended to be utilized for human consumption or culinary purposes without prior treatment before removing the drill rig from the well site in accordance with the requirements contained in Engineering Bulletin No. 8, "Disinfection of Water Systems", issued by the Arizona Department of Health Services in August 1978, and Engineering Bulletin No. 10, "Guidelines for the Construction of Water Systems", issued by the Arizona Department of Health Services in May 1978, both of which are incorporated by reference and are on file with the Office of the Secretary of State. Copies of the Engineering Bulletins referred to above may be obtained with these rules at the Office of the Secretary of State of the State of Arizona, State Capitol, West Wing, Phoenix, Arizona

85007, and from the Department of Water Resources, 3550 N. Central Avenue, Phoenix, AZ 85012. This rule does not include any later amendments or editions of those Bulletins.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2). Amended by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4).

R12-15-815. Removal of Drill Rig from Well Site

The drilling rig shall not be removed from the well site unless the well is in one of the following conditions:

1. Constructed in full conformance with R12-15-811 and R12-15-812 and either sealed with a cap or equipped with a pump.
2. Abandoned in accordance with R12-15-816.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2).

R12-15-816. Abandonment

A. Well abandonment shall be performed only by a licensed well drilling contractor or single well licensee.

B. Except as provided in subsection (F) of this Section, the owner of a well shall file a notice of intent to abandon the well prior to abandonment, on a form prescribed and furnished by the Director, which shall include:

1. The name and mailing address of the person filing the notice.
2. The legal description of the land upon which the well proposed to be abandoned is located and the name and mailing address of the owner of the land.
3. The legal description of the location of the well on the land.
4. The depth, diameter and type of casing of the well.
5. The well registration number.
6. The materials and methods to be used to abandon the well.
7. When abandonment is to begin.

8. The name and well drilling license number of the well drilling contractor or single well licensee who is to abandon the well.

9. The reason for the abandonment.

10. Such other information as the Director may require.

C. The Director shall, upon receipt of a proper notice of intent to abandon, mail a well abandonment authorization card to the designated well drilling contractor or single well licensee.

D. Except as described in subsection (F) of this Section, a well drilling contractor or single well licensee may commence abandoning a well only if the driller has possession of an abandonment card at the well site, issued by the Director in the name of the driller, authorizing the abandonment of that specific well or wells in that specific location.

E. Within 30 days after a well is abandoned pursuant to this Section, the well drilling contractor or single well licensee shall file with the Director a Well Abandonment Completion Report on a form prescribed and furnished by the Director which shall include the date the abandonment of the well was completed and such other information as the Director may require.

F. In the course of drilling a new well, the well may be abandoned without first filing a notice of intent to abandon and without an abandonment card. If the well is abandoned pursuant to this subsection without first filing a notice of intent to abandon and without an abandonment card, the well drilling contractor or single well licensee shall provide the following information in the Well Abandonment Completion Report:

1. The legal description of the land upon which the well was abandoned and the name and mailing address of the owner of the land.

2. The legal description of the location of the well on the land.

3. The depth, diameter and type of casing of the well prior to abandonment.

4. The well registration number.

5. The materials and methods used to abandon the well.

6. The name and well drilling license number of the well drilling contractor or single well licensee who abandoned the well.

7. The date of completion of the abandonment of the well.

8. The reason for the abandonment.

9. Such other information as the Director may require.

G. The abandonment of a well shall be accomplished through filling or sealing the well so as to prevent the well, including the annular space outside the casing, from being a channel allowing the vertical movement of water.

H. A well drilling contractor or single well licensee shall construct a surface seal for a well that does not penetrate an aquifer, as follows:

1. If the casing is removed from the top 20 feet of the well, a cement grout plug shall be set extending from two feet below the land surface to a minimum of 20 feet below the land surface, and the well shall be backfilled above the top of the cement grout plug to the original land surface.
2. If the casing is not removed from the top 20 feet of the well, a cement grout plug shall be set extending from the top of the casing to a minimum of 20 feet below the land surface and the annular space outside the casing shall be filled with cement from the land surface to a minimum of 20 feet below the land surface.

I. In addition to the surface seal required in subsection (H):

1. A well penetrating a single aquifer system with no vertical flow components shall be filled with cement grout, concrete, bentonite drilling muds, clean sand with bentonite, or cuttings from the well.
2. A well penetrating a single or multiple aquifer system with vertical flow components shall be sealed with cement grout or a column of bentonite drilling mud of sufficient volume, density, and viscosity to prevent fluid communication between aquifers.

J. Materials containing organic or toxic matter shall not be used in the abandonment of a well.

K. The owner or operator of the well shall notify the Director in writing no later than 30 days after abandonment has been completed. The notification shall include the well owner's name, the location of the well, and the method of abandonment.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2). Amended by final rulemaking at 13 A.A.R. 3022, effective October 6, 2007 (Supp. 07-3).

R12-15-817. Exploration Wells

A. Notification. Prior to drilling one or more exploration wells, the well owner, lessee, or exploration firm shall file a notice of intention to drill on forms provided by the Director. If the notice of intention to drill is filed for the project as a whole, the drilling card shall be issued for the project as a whole.

B. Construction and abandonment.

1. If an exploration well which is to be left open for re-entry at a later date encounters groundwater, it shall be cased and capped in accordance with R12-15-811, R12-15-812, and R12-15-822. The minimal length of surface seal shall be either 20 feet, or five feet

into the first encountered consolidated formation, whichever is less. If no groundwater is encountered, the well shall be cased, grouted and capped in such a manner so as to prevent contamination of the well bore from the surface.

2. Exploration wells not left open for re-entry shall be abandoned in accordance with R12-15-816.

C. Completion report. Within 30 days of project completion, the well owner, lessee, or exploration firm shall submit a project completion report on forms provided by the Director. The report shall include:

1. The exact number of wells drilled.
2. The depth to water encountered or detected, with reference to specific wells.
3. The abandonment method utilized, or construction details if completed for re-entry.
4. Any other information which the Director may require.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2).

R12-15-818. Well Location

Except for monitor wells and piezometer wells, no well shall be drilled within 100 feet of any septic tank system, sewage disposal area, landfill, hazardous waste facility, storage area of hazardous materials or petroleum storage areas and tanks, unless authorized in writing by the Director.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2).

R12-15-819. Use of Well as Disposal Site

No well may be used as a storage or disposal site for sewage, toxic industrial waste, or other materials that may pollute the groundwater, except as authorized by the Arizona Department of Environmental Quality.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2).

R12-15-820. Request for Variance

- A.** If extraordinary or unusual conditions exist, a well drilling contractor or owner may request a variance from the provisions of this Article.
- B.** The request for variance shall be in writing and shall set forth the location of the well site, the reasons for the request, and the recommended requirements to be applied. The Director may approve the request only if the well drilling contractor or owner has clearly demonstrated that the variance will not adversely affect other water users or the local aquifers.
- C.** A variance shall not be effective until the well drilling contractor or owner receives from the Director a written approval of the variance and a new drilling card stamped "variance issued."

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2).

R12-15-821. Special Requirements

If the Director determines that the literal application of the minimum well construction requirements contained in this Article would not adequately protect the aquifer or other water users, the Director may require that further additional measures be taken, such as increasing the length of the surface seal or increasing the well's minimum distance from a potential source of contamination.

Historical Note

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2).

R12-15-822. Capping of Open Wells

- A.** The owner of an open well shall either install a cap on the well or abandon the well in accordance with R12-15-816. Within five days after capping the well, the owner of the well shall file with the Department a notice of well capping on a form approved by the Director which shall include the following information:
1. The name and address of the well owner.
 2. The name and address of the person installing the cap.
 3. The well registration number.
 4. The legal description of the location of the well.
 5. The date the well was capped.
 6. The method of capping.

7. The type and diameter of casing.

B. If no casing exists in an open well, or if the integrity of the existing casing is insufficient to allow installation of a cap, the well owner shall install a surface seal in accordance with R12-15-811(B) prior to capping.

C. The owner of a well on which a cap is installed shall make the cap tamper resistant by welding the cap to the top of the casing by the electric arc method of welding, except that the owner of a well may make the cap tamper resistant by securing the cap to the top of the casing with a lock during temporary periods of well maintenance, modification or repair, not to exceed 30 days, or at any time if the well is a monitor well or piezometer well.

Historical Note

Adopted as an emergency effective March 2, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective June 2, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective September 5, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Emergency expired. Readopted without change as an emergency effective December 1, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-4). Emergency expired. Readopted without change as an emergency effective March 23, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-1). Permanent rule adopted with changes effective June 18, 1990 (Supp. 90-2). Amended by final rulemaking at 13 A.A.R. 3022, effective October 6, 2007 (Supp. 07-3).

R12-15-823. Reserved

through

R12-15-849. Reserved

R12-15-850. Evaluation of Notices of Intention to Drill; Notification of Registered Site Locations; Vertical Cross-Contamination Evaluation

A. The Director shall, upon receipt of a complete and correct notice of intention to drill form required under A.R.S. § 45-596, or upon receipt of an application for a permit under A.R.S. § 45-597 through 45-599, identify whether the proposed well will be drilled within a groundwater basin or subbasin in which there exists a site listed on the registry established under A.R.S. § 49-287.01(D). If the proposed well is situated within such a groundwater basin or subbasin, the Director shall notify the applicant and the authorized well drilling contractor in writing of the existence of the site and shall enclose a map indicating the boundaries of all listed sites within the groundwater basin or subbasin. The notification letter shall include the name, address, and telephone number of a Department contact person, along with a reference to the provision in R12-15-851 that requires the applicant to notify the Department in advance of the date drilling of the well will commence. The Department shall also specify in the notification letter whether the applicant is subject to the requirements of R12-15-851.

B. The Director shall, upon receipt of a complete and correct notice of intention to drill form required under A.R.S. § 45-596, or upon receipt of an application for a permit under

A.R.S. § 45-597 through 45-599, identify whether the proposed well will be drilled within an area where existing or anticipated future groundwater contamination presents a risk of vertical cross-contamination, as defined in A.R.S. § 49-281(15). If the Director determines that the proposed well will be drilled in such an area, and if the Director finds that the requirements of R12-15-811 are insufficient to prevent the risk of vertical cross-contamination, the Director shall establish site-specific requirements pursuant to R12-15-812 and R12-15-821.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 469, effective January 3, 2000 (Supp. 00-1).

R12-15-851. Notification of Well Drilling Commencement

A well owner who has been issued a drilling card for a notice of intent to drill authorizing the drilling of a well located within a site listed on the registry established under A.R.S. § 49-287.01, shall provide written notice to the Director indicating the date drilling will commence. The well owner shall coordinate with the contracted well driller to ensure that the Department receives proper notification under this Section. This notification shall consist of a letter or facsimile transmission received by the Department at least 2 business days before drilling commences at the well site. The Department shall use notification letters required by R12-15-850(A) to inform well owners whether they are subject to the requirements of this Section.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 469, effective January 3, 2000 (Supp. 00-1).

R12-15-852. Notice of Well Inspection; Opportunity to Comment

A. At least 30 days before the beginning of a well inspection under A.R.S. § 45-605(A), the Director shall notify in writing all potentially affected well owners of record within a community involvement area established under A.R.S. § 49-289.02 or within other areas that the Director has selected for inspection of wells that may be contributing to vertical cross-contamination. The notices shall include a map of the community involvement area, remedial site, or a subsection of either, that the Department intends to inspect, indicating the location of affected wells of record. The notice shall indicate the approximate date the inspection will start, the approximate duration of the inspection, an access agreement defining what specific activities will occur during a well inspection, and the name, address, and telephone number of a Department contact person.

B. Once the Director has given notice of a well inspection under A.R.S. § 45-605(A), potentially affected well owners have 30 days from the date the letter is postmarked to comment on the proposed inspection. The Director, upon receiving a written request, may extend the comment period for a maximum of 30 additional days.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 469, effective January 3, 2000 (Supp. 00-1).

**TITLE 45 – WATERS
CHAPTER 2 – GROUNDWATER CODE**

**ARTICLE 1
ADMINISTRATION
(Selected Sections)**

45-402. Definitions

In this chapter, unless the context otherwise requires:

2. "Active management area" means a geographical area which has been designated pursuant to article 2 of this chapter as requiring active management of groundwater or, in the case of the Santa Cruz active management area, active management of any water, other than stored water, withdrawn from a well.

8. "Exempt well" means a well having a pump with a maximum capacity of not more than thirty-five gallons per minute which is used to withdraw groundwater pursuant to section 45-454.

13. "Groundwater basin" means an area which, as nearly as known facts permit as determined by the director pursuant to this chapter, may be designated so as to enclose a relatively hydrologically distinct body or related bodies of groundwater, which shall be described horizontally by surface description.

16. "Initial active management area" means the Phoenix, Prescott or Pinal active management area established by section 45-411, the Tucson active management area established by section 45-411 and modified by section 45-411.02 and the Santa Cruz active management area established by section 45-411.03.

22. "Irrigation non-expansion area" means a geographical area which has been designated pursuant to article 3 of this chapter as having insufficient groundwater to provide a reasonably safe supply for the irrigation of the cultivated lands at the current rate of withdrawal.

35. "Subsequent active management area" means an active management area established after June 12, 1980 pursuant to article 2 of this chapter.

36. "Subsidence" means the settling or lowering of the surface of land which results from the withdrawal of groundwater.

43. "Well" means a man-made opening in the earth through which water may be withdrawn or obtained from beneath the surface of the earth except as provided in section 45-591.01.

ARTICLE 4
GROUNDWATER RIGHTS AND USES IN GENERAL
(Selected Sections)

45-454. Exemption of small non-irrigation wells; definitions

A. Withdrawals of groundwater for non-irrigation uses from wells having a pump with a maximum capacity of not more than thirty-five gallons per minute which were drilled before April 28, 1983 or which were drilled after April 28, 1983 pursuant to a notice of intention to drill which was on file with the department on such date are exempt from this chapter, except that:

1. Wells drilled before June 12, 1980 which are not abandoned or capped or wells which were not completed on June 12, 1980 but for which a notice of intention to drill was on file with the Arizona water commission on such date are subject to subsections I, J and K of this section and must be registered pursuant to section 45-593. If two or more wells in an active management area are exempt under this paragraph and are used to serve the same non-irrigation use at the same location, the aggregate quantity of groundwater withdrawn from the wells shall not exceed fifty-six acre-feet per year.

2. Wells drilled between June 12, 1980 and April 28, 1983, except as provided in paragraph 1 of this subsection, and wells drilled after April 28, 1983 pursuant to a notice of intention to drill which was on file with the department on April 28, 1983, are subject to subsections F, H, I and J of this section.

B. Withdrawals of groundwater for non-irrigation uses from wells having a pump with a maximum capacity of not more than thirty-five gallons per minute drilled on or after April 28, 1983, except wells drilled after April 28, 1983 pursuant to a notice of intention to drill which was on file with the department on such date, are exempt from this chapter, except that:

1. Such wells are subject to subsections F through J of this section.

2. In an active management area, other than a subsequent active management area designated for a portion of a groundwater basin in the regional aquifer systems of northern Arizona, withdrawals of groundwater from such wells for non-irrigation uses other than domestic purposes and stock watering shall not exceed ten acre-feet per year.

3. In a subsequent active management area that is designated for a portion of a groundwater basin in the regional aquifer systems of northern Arizona, groundwater withdrawn from such wells may be used only for domestic purposes and stock watering.

C. On or after January 1, 2006, an exempt well otherwise allowed by this section may not be drilled on land if any part of the land is within one hundred feet of the operating water distribution system of a municipal provider with an assured water supply designation within the boundaries of an active management area established on or before July 1, 1994, as shown on a digitized service area map provided to the director by the municipal provider and updated by the municipal provider as specified by the director.

D. On request from the owner of the land on which an exempt well is prohibited pursuant to subsection C of this section on a form prescribed by the director, the director shall issue an exemption from subsection C of this section if the landowner demonstrates to the satisfaction of the director that any of the following applies:

1. The landowner submitted a written request for service to the municipal provider that operates the distribution system and the municipal provider did not provide written verification to the landowner within thirty calendar days after receipt of the request that water service is available to the landowner after payment of any applicable fee to the municipal provider.
2. The total capital cost and fees for connecting to the operating water distribution system exceed the total capital cost and fees for drilling and fully equipping an exempt well.
3. If the applicant must obtain an easement across other land to connect to the water distribution system of the municipal provider, the applicant sent the owner of the land a request for the easement by certified mail, return receipt requested, and either the applicant did not receive a response to the request within thirty calendar days of mailing the request or the request was denied.
4. The landowner does not qualify for an exemption pursuant to paragraphs 1, 2 or 3 of this subsection and the landowner provides written verification from the municipal provider that the landowner shall not receive or request water service from the municipal provider while the exempt well is operational. The exemption for that well is revoked if the landowner or any subsequent landowner receives water service from the municipal provider. In determining whether to approve or reject a permit application filed under section 45-599, the director shall not consider any impacts the proposed well may have on an exempt well drilled pursuant to this paragraph.

E. This section does not prohibit a property owner, after January 1, 2006, from drilling a replacement exempt well for a lawful exempt well if the replacement well does not increase the total number of operable exempt wells on the applicant's land.

F. A remediation well drilled for the purpose of remediating groundwater is exempt from this section if it meets one of the following:

1. The remediation well is for an approved department of environmental quality or United States environmental protection agency remediation program.

2. A registered geologist certifies that the remediation well is for the purpose of remediation.

G. A person shall file a notice of intention to drill with the director pursuant to section 45-596 before drilling an exempt well or causing an exempt well to be drilled.

H. The registered well owner shall file a completion report pursuant to section 45-600, subsection B.

I. In an active management area only one exempt well may be drilled or used to serve the same non-irrigation use at the same location, except that a person may drill or use a second exempt well to serve the same non-irrigation use at the same location if the director determines that all of the following apply:

1. Because of its location, the first exempt well is not capable of consistently producing more than three gallons per minute of groundwater when equipped with a pump with a maximum capacity of thirty-five gallons per minute.

2. The second exempt well is located on the same parcel of land as the first exempt well, the parcel of land is at least one acre in size, all groundwater withdrawn from both exempt wells is used on that parcel of land and there are no other exempt wells on that parcel of land.

3. Combined withdrawals from both wells do not exceed five acre-feet per year.

4. If the second exempt well is drilled after January 1, 2000, the county health authority for the county in which the well is located or any other local health authority that controls the installation of septic tanks or sewer systems in the county has approved the location of the well in writing after physically inspecting the well site.

5. Use of two wells for the same non-irrigation use at the same location is not contrary to the health and welfare of the public.

J. An exempt well is subject to sections 45-594 and 45-595.

K. Groundwater withdrawn from an exempt well may be transported only pursuant to articles 8 and 8.1 of this chapter.

L. A person who owns land from which exempt withdrawals were being made as of the date of the designation of the active management area is not eligible for a certificate of grandfathered right for a type 2 non-irrigation use for such withdrawals.

M. For the purposes of this section:

1. "Domestic purposes" means uses related to the supply, service and activities of households and private residences and includes the application of water to less than two acres of land to produce plants or parts of plants for sale or human consumption, or for use

as feed for livestock, range livestock or poultry, as such terms are defined in section 3-1201.

2. "Municipal provider" means a city, town, private water company or irrigation district that supplies water for non-irrigation use.

3. "Stock watering" means the watering of livestock, range livestock or poultry, as such terms are defined in section 3-1201.

45-454.01. Exemption of superfund remedial action activities; use requirements; definition

A. New well construction and withdrawal, treatment and reinjection into the aquifer of groundwater that occur as a part of and on the site of a remedial action undertaken pursuant to CERCLA are exempt from this chapter, except that:

1. A well that is exempt under this section is subject to sections 45-594, 45-595, 45-596 and 45-600, but no authorization to drill need be obtained before drilling.

2. If the groundwater that is withdrawn is not reinjected into the aquifer, the groundwater shall be put to reasonable and beneficial use.

3. A person who uses groundwater withdrawn in an active management area pursuant to this section shall pay the groundwater withdrawal fee for the groundwater the person withdrew or received and shall use the groundwater only pursuant to articles 5 through 12 of this chapter. A city, town, private water company or irrigation district that serves groundwater pursuant to article 6 of this chapter is deemed to have used the groundwater for purposes of this paragraph.

B. For purposes of this section "CERCLA" means the comprehensive environmental response, compensation, and liability act of 1980, as amended (P.L. 96-510; 94 Stat. 2767; 42 United States Code sections 9601 through 9657), commonly known as "superfund".

**ARTICLE 10
WELLS
(Selected Sections)**

45-591. Definitions

In this article, unless the context otherwise requires:

1. "Existing well" means a well which was drilled before June 12, 1980 and which is not abandoned or sealed or a well which was not completed on June 12, 1980 but for which a notice of intention to drill was on file with the Arizona water commission on such date.

2. "New well" means a well for which a notice of intention to drill or a permit is required pursuant to this article or which is drilled pursuant to a permit issued under section 45-834.01.

45-591.01. Oil, gas, helium and geothermal wells; exemption

Wells drilled for oil, gas or helium pursuant to the provisions of title 27 are not wells as defined in this chapter. The director, by rule or regulation, may exempt exploration wells from any requirement of this article that the director determines is not necessary for the protection of groundwater. Geothermal wells drilled pursuant to the provisions of title 27 are not wells as defined in this chapter when the director finds that the rules and regulations of the oil and gas conservation commission require the reinjection of all waters associated with the geothermal resource to the producing strata.

45-592. Wells in general

A. A person may construct, replace or deepen a well in this state only pursuant to this article and section 45-834.01. The drilling of a well may not begin until all requirements of this article and section 45-834.01, as applicable, are met.

B. The director may adopt temporary rules to allow a person to construct, replace or deepen a well prior to the adoption of final rules pursuant to this article.

45-593. Registration of existing wells; permanent record of all wells; reporting open wells

A. On or before June 12, 1982, a person who owns an existing well which is or has been used to withdraw or monitor water shall register the well on a registration form provided by the director. The registration form shall include:

1. The registration number of any well previously required to be registered in this state before June 12, 1980.
2. The legal description of the land upon which the well is located, the location of the well on the land and the name and mailing address of the owner of the land.
3. The depth, diameter and type of casing of the well.
4. Such legal description of the land upon which the groundwater is being used as may be required by the director to administer this chapter.
5. The maximum pumping capacity of the well.
6. Any other information which the director may require.

B. The director shall assign a registration number to each well registered pursuant to this section and to all other wells drilled pursuant to this chapter and shall maintain a permanent record of registration numbers and all other information on new and existing wells pursuant to this chapter and previous law.

C. The person to whom a well is registered shall notify the director of a change in ownership of the well, and the new owner shall furnish information as required by the director to keep the department's well registration records current and accurate.

D. Within thirty days after a change of ownership of real property, the new owner shall notify the director in writing of the existence of any open well or wells on the property which the new owner has discovered. Thereafter, the owner shall report the existence of any open well on the property within ten days after the owner discovers the well.

E. This article shall not be construed to legalize any well existing on June 12, 1980, the effective date of this article, which was not in accordance with prior statutory law.

45-594. Well construction standards; remedial measures

A. The director shall adopt rules establishing construction standards for new wells and replacement wells, the deepening and abandonment of existing wells and the capping of open wells.

B. All well construction, replacement, deepening and abandonment operations shall comply with the rules adopted pursuant to this section. A well owner shall cap an open well according to the rules adopted pursuant to subsection A.

C. If the director determines that a well is not capped in compliance with the rules adopted pursuant to subsection A, that the well is dangerous to property or public health or safety and that there is not sufficient time to issue and enforce an order relative to its capping, the director may employ remedial measures necessary to protect property or public health or safety. The remedial measures may include remaining in full charge and control of the well site until the well has been rendered safe and capping the well. This subsection does not relieve an owner or operator of a well from the legal duties, obligations and liabilities arising from such ownership or operation.

45-595. Well construction requirements; licensing of well drillers

A. New well construction, including modifications of wells, shall be performed under the direct and personal supervision of a well driller who holds a well driller's license pursuant to subsection B.

B. A person who intends to construct or modify one or more wells in this state shall file an application for a well driller's license with the director. The application shall include:

1. The name, mailing address and place of business of the applicant.
2. The applicant's experience and qualifications.
3. Such other information as the director may require.

C. The director shall, by rule or regulation, establish qualifications and a reasonable fee of not more than fifty dollars for licenses for well drillers and establish procedures for the evaluation and licensing of applicants. A nontransferable well driller's license shall be issued if the director finds that the applicant meets the qualifications established pursuant to this subsection. The director may revoke a well driller's license for good cause.

D. A person who drills or modifies an exempt well on land owned by that person shall first obtain a single well license from the department. The department shall issue the license to drill the well according to standard small well construction standards. No fee may be charged for a single well license.

45-596. Notice of intention to drill; fee

A. In an area not subject to active management, a person may not drill or cause to be drilled any well or deepen an existing well without first filing notice of intention to drill pursuant to subsection C of this section or obtaining a permit pursuant to section 45-834.01. Only one notice of intention to drill is required for all wells that are drilled by or for the same person to obtain geophysical, mineralogical or geotechnical data within a single section of land.

B. In an active management area, a person may not drill or cause to be drilled an exempt well, a replacement well in approximately the same location or any other well for which a permit is not required under this article, article 7 of this chapter or section 45-834.01 or deepen an existing well without first filing a notice of intention to drill pursuant to subsection C of this section. Only one notice of intention to drill is required for all wells that are drilled by or for the same person to obtain geophysical, mineralogical or geotechnical data within a single section of land.

C. A notice of intention to drill shall be filed with the director on a form which is prescribed and furnished by the director and which shall include:

1. The name and mailing address of the person filing the notice.
2. The legal description of the land upon which the well is proposed to be drilled and the name and mailing address of the owner of the land.
3. The legal description of the location of the well on the land.
4. The depth, diameter and type of casing of the proposed well.
5. Such legal description of the land upon which the groundwater is proposed to be used as may be required by the director to administer this chapter.

6. When construction is to begin.
 7. The proposed uses to which the groundwater will be applied.
 8. The name and well driller's license number of the well driller who is to construct the well.
 9. The design pumping capacity of the well.
 10. If for a replacement well, the maximum capacity of the original well and the distance of the replacement well from the original well.
 11. Proof that the director determines to be satisfactory that the person proposing to construct the well holds a valid license issued by the registrar of contractors pursuant to title 32, chapter 10 and that the license is of the type necessary to construct the well described in the notice of intention to drill. If the proposed well driller does not hold a valid license, the director may accept proof that the proposed well driller is exempt from licensing as prescribed by section 32-1121.
 12. If any water from the proposed well will be used for domestic purposes as defined in section 45-454, evidence of compliance with the requirements of subsection F of this section.
 13. If for a second exempt well at the same location for the same use pursuant to section 45-454, subsection I, proof that the requirements of that subsection are met.
 14. If for a well to obtain geophysical, mineralogical or geotechnical data within a single section of land, the information prescribed by this subsection for each well that will be included in that section of land before each well is drilled.
 15. Such other information as the director may require.
- D. Upon receiving a notice of intention to drill and the fee required by subsection I of this section, the director shall endorse on the notice the date of its receipt. The director shall then determine whether all information that is required has been submitted and whether the requirements of subsection C, paragraphs 11 and 12 and subsection I of this section have been met. If so, within fifteen days of receipt of the notice, or such longer time as provided in subsection J of this section, the director shall record the notice, mail a drilling card that authorizes the drilling of the well to the well driller identified in the notice and mail written notice of the issuance of the drilling card to the person filing the notice of intention to drill at the address stated in the notice. Upon receipt of the drilling card, the well driller may proceed to drill or deepen the well as described in the notice of intention to drill. If the director determines that the required information has not been submitted or that the requirements of subsection C, paragraphs 11 and 12 or subsection I of this section have not been met, the director shall mail a statement of the determination to the person giving the notice to the address stated in the notice, and the person giving the notice may not proceed to drill or deepen the well.
- E. The well shall be completed within one year after the date of the notice unless the director approves a longer period of time pursuant to this subsection. If the well is not completed within one year or within the time approved by the director pursuant to this

subsection, the person shall file a new notice before proceeding with further construction. At the time the drilling card for the well is issued, the director may provide for and approve a completion period that is greater than one year but not to exceed five years from the date of the notice if both of the following apply:

1. The proposed well is a nonexempt well within an active management area and qualifies as a replacement well in approximately the same location as prescribed in rules adopted by the director pursuant to section 45-597.

2. The applicant has submitted evidence that demonstrates one of the following:

- (a) This state or a political subdivision of this state has acquired or has begun a condemnation action to acquire the land on which the original well is located.

- (b) The original well has been rendered inoperable due to flooding, subsidence or other extraordinary physical circumstances that are beyond the control of the well owner.

F. If any water from a proposed well will be used for domestic purposes as defined in section 45-454 on a parcel of land of five or fewer acres, the applicant shall submit a well site plan of the property with the notice of intention to drill. The site plan shall:

1. Include the county assessor's parcel identification number.

2. Show the proposed well location and the location of any septic tank or sewer system that is either located on the property or within one hundred feet of the proposed well site.

3. Show written approval by the county health authority that controls the installation of septic tanks or sewer systems in the county, or by the local health authority in areas where the authority to control installation of septic tanks or sewer systems has been delegated to a local authority. In areas where there is no local or county authority that controls the installation of septic tanks or sewer systems, the applicant shall apply for approval directly to the department of water resources.

G. Before approving a well site plan submitted pursuant to subsection F of this section, the county or local health authority or the department of water resources, as applicable, pursuant to subsection F of this section, shall review the well site plan and determine whether the proposed well location complies with applicable local laws, ordinances and regulations and any laws or rules adopted under this title and title 49 regarding the placement of wells and the proximity of wells to septic tanks or sewer systems. If the health authority or the department of water resources, as applicable, pursuant to subsection F of this section, finds that the proposed well location complies with this title and title 49 and with local requirements, it shall endorse the site plan and the proposed well placement in a manner indicating approval. On endorsement, the director of water resources shall approve the construction of the well, if all remaining requirements have been met. If the health authority is unable to determine whether the proposed well location complies with this title and title 49 and local requirements, it shall indicate this on the site plan and the decision to approve or reject the proposed construction rests with the director of water resources. If parcel size, geology or location of improvements on the property prevents the well from being drilled in accordance with this title and title 49 or local requirements, the property owner may apply for a variance. The property owner shall make the request for a variance to the county or local authority if a county or local law, ordinance or regulation

prevents the proposed construction. If a law or rule adopted under this title or title 49 prevents the proposed construction, the property owner shall make the request for a variance directly to the department of water resources. The request for a variance shall be in the form and shall contain the information that the department of water resources, county or local authority may require. The department of water resources, or the county or local authority whose law, ordinance or regulation prevents the proposed construction, may expressly require that a particular variance shall include certification by a registered professional engineer or geologist that the location of the well will not pose a health hazard to the applicant or surrounding property or inhabitants. If all necessary variances are obtained, the director of water resources shall approve the construction of the well if all remaining requirements have been met.

H. If a well that was originally drilled as an exploration well, a monitor well or a piezometer well or for any use other than domestic use is later proposed to be converted to use for domestic purposes as defined in section 45-454, the well owner shall file a notice of intention to drill and shall comply with this section before the well is converted and any water from that well is used for domestic purposes.

I. Except as prescribed in subsection K of this section, the director shall not approve the drilling of the well if the director determines that the well will likely cause the migration of contaminated groundwater from a remedial action site to another well, resulting in unreasonably increasing damage to the owner of the well or persons using water from the well. In making this determination, the director of water resources shall follow the applicable criteria in the rules adopted by the director of water resources pursuant to section 45-598, subsection A and shall consult with the director of environmental quality. For the purposes of this subsection:

1. "Contaminated groundwater" means groundwater that has been contaminated by a release of a hazardous substance, as defined in section 49-201, or a pollutant, as defined in section 49-201.

2. "Remedial action site" means any of the following:

(a) The site of a remedial action undertaken pursuant to the comprehensive environmental response, compensation, and liability act of 1980, as amended (P.L. 96-510; 94 Stat. 2767; 42 United States Code sections 9601 through 9657), commonly known as "superfund".

(b) The site of a corrective action undertaken pursuant to title 49, chapter 6.

(c) The site of a voluntary remediation action undertaken pursuant to title 49, chapter 1, article 5.

(d) The site of a remedial action undertaken pursuant to title 49, chapter 2, article 5.

(e) The site of a remedial action undertaken pursuant to the resource conservation and recovery act of 1976 (P.L. 94-580; 90 Stat. 2795; 42 United States Code sections 6901 through 6992).

(f) The site of remedial action undertaken pursuant to the department of defense environmental restoration program (P.L. 99-499; 100 Stat. 1719; 10 United States Code section 2701).

J. Except as prescribed in subsection K of this section, the director shall approve or deny the drilling of a well within forty-five days after receipt of the notice of intention to drill if one of the following applies:

1. The proposed well is located within a remedial action site.
2. The proposed well is located within one mile of any of the following remedial action sites:
 - (a) A remedial action undertaken pursuant to title 49, chapter 2, article 5.
 - (b) A remedial action undertaken pursuant to the comprehensive environmental response, compensation, and liability act of 1980, as amended (P.L. 96-510; 94 stat. 2767; 42 United States code sections 9601 through 9657), commonly known as "superfund".
 - (c) A remedial action undertaken pursuant to the department of defense environmental restoration program (P.L. 99-499; 100 stat. 1719; 10 United States code section 2701).
3. The proposed well is located within one-half mile of either of the following remedial action sites:
 - (a) A remedial action undertaken pursuant to title 49, chapter 1, article 5.
 - (b) A remedial action undertaken pursuant to the resource conservation and recovery act of 1976 (P.L. 94-580; 90 stat. 2795; 42 United States code sections 6901 through 6992).
4. The proposed well is located within five hundred feet of the site of a corrective action undertaken pursuant to title 49, chapter 6.

K. Subsections I and J of this section do not apply to the deepening of a well or to the drilling of a replacement well in approximately the same location.

L. A notice of intention to drill filed under this section shall be accompanied by a filing fee of one hundred fifty dollars, except that a notice filed for a proposed well that will not be located within an active management area or an irrigation nonexpansion area, that will be used solely for domestic purposes as defined in section 45-454 and that will have a pump with a maximum capacity of not more than thirty-five gallons per minute shall be accompanied by a filing fee of one hundred dollars. The director shall deposit, pursuant to sections 35-146 and 35-147, all fees collected pursuant to this subsection in the well administration and enforcement fund established by section 45-606.

45-597. Deepening and replacement of wells in active management areas; filing of notice

A. A person entitled to withdraw groundwater in an active management area or a person entitled to recover stored water pursuant to section 45-834.01 may deepen an existing well or construct a replacement well at approximately the same location. The director shall by rule define what constitutes a replacement well, including the distance from the original well site that is deemed to be the same location for a replacement well.

B. Prior to deepening an existing well or constructing a replacement well at approximately the same location, the person shall file a notice of intention to drill pursuant to section 45-596 and provide the director with any other information as the director may by rules require.

45-598. New wells and replacement wells in new locations in active management areas; rules; permit required

A. The director shall adopt rules governing the location of new wells and replacement wells in new locations in active management areas to prevent unreasonably increasing damage to surrounding land or other water users from the concentration of wells.

B. A person entitled to withdraw groundwater in an active management area pursuant to article 5 or 6 of this chapter may construct a new well or a replacement well in a new location if the location of the new well or the replacement well complies with the rules adopted by the director pursuant to subsection A of this section and if the person has applied for and received a permit from the director pursuant to section 45-599.

C. An applicant for a general industrial use permit pursuant to sections 45-515 and 45-521 who proposes to construct a new well or a replacement well in a new location shall also apply for a permit pursuant to section 45-599.

D. A person who is entitled to withdraw groundwater in an active management area under article 5 or 6 of this chapter may withdraw groundwater under article 5 or 6 of this chapter from a well drilled to withdraw groundwater pursuant to a groundwater withdrawal permit issued under article 7 of this chapter if the location of the well complies with the rules adopted by the director under subsection A of this section and if the person has applied for and received a permit from the director pursuant to section 45-599. A person entitled to withdraw groundwater in an active management area under a general industrial use permit issued under section 45-515 may withdraw groundwater under section 45-515 from a well used to withdraw groundwater pursuant to another category of groundwater withdrawal permit issued under article 7 of this chapter if the location of the well complies with the rules adopted by the director under subsection A of this section and if the person has applied for and received a permit from the director pursuant to section 45-599.

45-599. Permit application; contents; correction of defective application; issuance of permit; fee

A. An application for a permit to construct a new well or replacement well in a new location shall be made on a form that is prescribed and furnished by the director and that includes:

1. The name and mailing address of the applicant.
2. The legal description of the land upon which the new well is proposed to be constructed and the name and mailing address of the owner of the land.

3. The legal description of the proposed location of the new well on the land.
 4. If for a replacement well, the legal description of the land upon which the original well is located, the name and mailing address of the owner of the land, the legal description of the location of the original well on the land, the depth and diameter of the original well and evidence of proper abandonment.
 5. The depth, diameter and type of casing of the new well.
 6. Such legal description of the land upon which the groundwater is proposed to be used as may be required by the director to administer this chapter.
 7. When construction is to begin.
 8. The proposed use of the groundwater to be withdrawn.
 9. The design pumping capacity of the new well.
 10. The name and well driller's license number of the well driller who is to construct the well.
 11. The estimated time required to complete the well, if more than one year from the date of receipt of the permit.
 12. Such other information including any maps, drawings and data as the director may require.
- B. Upon receipt of a permit application and the fee required by subsection J of this section, the director shall endorse on the application the date of its receipt. If the application is incorrect or incomplete, the director may request additional information from the applicant. The director may conduct independent investigations as may be necessary to determine whether the application should be approved or rejected.
- C. The director shall approve an application for a permit for a new well or a replacement well in a new location if the proposed well complies with the rules adopted pursuant to section 45-598, subsection A and, if the proposed well is in the Santa Cruz active management area, if the location of the proposed well is consistent with the management plan for the active management area.
- D. Except as provided in subsection E of this section, within sixty days of receipt of a complete and correct application and the fee required by subsection J of this section, the director shall approve or reject the application and mail notice of the action to the applicant.
- E. If the director determines that an administrative hearing should be held before approving or rejecting an application, the director shall notify the applicant of the date of the hearing within sixty days of receipt of the complete and correct application and the fee required by subsection J of this section.
- F. If at the request of the applicant the director determines that an emergency exists, the director shall expedite all decisions under this section.

G. If the application is approved, the director shall issue a permit and the applicant may proceed to construct the well. If the application is rejected, the applicant shall not proceed with construction of the well. The well shall be completed within one year of receipt of the permit, unless the director in granting the permit approves a longer period to complete the well. If the well is not completed within one year or the longer period approved by the director, the applicant shall file a new application before proceeding with construction.

H. The permit shall state the following:

1. The legal description of the land upon which the well may be constructed.
2. The legal description of the location of the new well on the land.
3. The depth and diameter of the well and type of casing.
4. The maximum pumping capacity of the well.
5. The legal description of the land upon which the groundwater will be used.
6. The use of the groundwater to be withdrawn.
7. The latest date for completing the well.

I. Section 45-114, subsections A and B govern administrative proceedings, rehearing or review and judicial review of final decisions of the director under this section. If an administrative hearing is held, it shall be conducted in the active management area in which the use is located.

J. An application for a permit filed under this section shall be accompanied by a filing fee of one hundred fifty dollars. The director shall deposit, pursuant to sections 35-146 and 35-147, all fees collected pursuant to this subsection in the well administration and enforcement fund established by section 45-606.

45-600. Filing of report by driller; filing of completion report

A. A well driller shall maintain a complete and accurate log of each well drilled. Within thirty days of completion of the drilling of any well in this state, the driller shall file a well driller report with the director which shall include all information contained in the log of the well, including information on the casing of the well and, if the well is an artesian well, the capping. The director shall prescribe well driller report forms and the department shall furnish them on request.

B. Within thirty days after the installation of pumping equipment in any well in this state, the registered well owner shall file a completion report with the director. The director shall prescribe the completion report form and the department shall furnish them on request. The completion report form shall include:

1. The type of equipment installed.

2. Tested pumping capacity of the well in gallons per minute as determined for a non-flowing well by measuring the discharge of the pump after continuous operation for at least four hours, or for a flowing well by measuring the natural flow at the land surface.
3. Drawdown of the water level measured in feet for a non-flowing well after not less than four hours of continuous operation and while still in operation, or for a flowing well, the shut-in pressure measured in feet above the land surface or in pounds per square inch at the land surface.
4. Depth in feet from the land surface to the static groundwater level, measured immediately prior to the well-capacity test.
5. Such other information as the director may require.

45-601. Operating rules for multiple wells

The director may adopt rules governing pumping patterns of persons who withdraw groundwater or recover stored water, as defined in section 45-802.01, from multiple wells in an active management area to minimize damage to adjacent groundwater users. The director may not require a person who withdraws groundwater or recovers stored water from multiple wells to change the person's pumping patterns if the person or user cannot reasonably accommodate such changes.

45-602. Capping of wells; waste

A. Groundwater which has been withdrawn shall not be allowed to waste. To effectuate the purposes of this section, the director shall:

1. Require all flowing wells to be capped or equipped with valves so that the flow of water can be completely stopped when not in use.
2. Require both flowing and non-flowing wells to be constructed and maintained so as to prevent waste of groundwater through leaky casing, lack of casings, pipes, fittings, valves or pumps, either above or below the surface of the ground.

B. The reasonable withdrawal of groundwater for development, testing or repair of a well or the inadvertent loss of water due to breakage of a pump, valve, pipe or fitting is not waste if reasonable diligence is shown in effecting the necessary repairs.

45-603. Criteria for rules and regulations

In developing rules and regulations under this article, the director shall consider, among other things, water quality, cones of depression and land subsidence.

45-604. Water measuring devices

A. Except as provided in subsections B, C and D of this section, a person who withdraws groundwater from a nonexempt well in an active management area or an irrigation non-expansion area, a person who withdraws water from a non-exempt well in the Santa Cruz active management area or a person who withdraws groundwater for transportation to an initial active management area pursuant to article 8.1 of this chapter shall use a water measuring device approved by the director.

B. A person who holds a type 2 non-irrigation grandfathered right or a groundwater withdrawal permit in the amount of ten or fewer acre-feet per year is not required to use a water measuring device to measure withdrawals pursuant to that grandfathered right or groundwater withdrawal permit unless the person holds more than one such right or permit in the aggregate amount of more than ten acre-feet per year and withdraws more than ten acre-feet of groundwater per year pursuant to those rights or permits from one well.

C. In an irrigation non-expansion area:

1. A person who withdraws ten or fewer acre-feet of groundwater per year from a non-exempt well for a non-irrigation use is not required to use a water measuring device to measure withdrawals from that well.

2. A person who withdraws groundwater from a non-exempt well for an irrigation use is not required to use a water measuring device to measure withdrawals from that well if both of the following apply:

(a) Groundwater withdrawn from the well for an irrigation use is used only on land that is owned by a person who has the right under section 45-437 to irrigate ten or fewer contiguous acres at the place of the use.

(b) Groundwater withdrawn from the well is not used on land that is part of an integrated farming operation.

D. In an active management area, a person, other than an irrigation district, who withdraws groundwater from a non-exempt well for use pursuant to an irrigation grandfathered right that is appurtenant to ten or fewer irrigation acres is not required to use a water measuring device to measure withdrawals from that well unless groundwater withdrawn from the well is also used pursuant to either a service area right pursuant to article 6 of this chapter or a grandfathered groundwater right other than an irrigation grandfathered right that is appurtenant to irrigation acres that are exempt from irrigation water duties pursuant to section 45-563.02.

E. The director shall adopt rules setting forth the requirements and specifications for water measuring devices.

45-605. Well inspections; cross-contamination; remedial measures; definition

A. The director of water resources, in consultation with the director of environmental quality, may inspect wells for vertical cross-contamination of groundwater by hazardous

substances and may take appropriate remedial actions to prevent or mitigate the cross-contamination at no cost to the well owner, subject to subsection D of this section. The director shall consult with and seek the voluntary compliance of affected well owners regarding well access, investigations and remedial actions. On receiving permission from the well owner or operator, the director or the director's designee may enter property owned or operated by the well owner at reasonable times under any of the following circumstances:

1. To inspect and collect samples from a well and to inspect and copy all documents or records relating to the well. If a sample is obtained pursuant to this section, the director, before leaving the property, shall give to the well owner or operator a receipt describing the sample obtained and, if requested, a portion of each sample. A copy of the results of any analysis made of these samples shall be furnished promptly to the well owner.

2. To conduct appropriate remedial actions regarding vertical cross-contamination.

B. The director shall provide notice to the director of environmental quality of the results of the inspection, including copies of the department's records and documents and the analysis of any samples taken. If it is determined that the well results in vertical cross-contamination, the director, upon receiving permission from the well owner or operator and approval from the director of the department of environmental quality, may take appropriate remedial actions, including well modification, abandonment or replacement, or provision of a replacement water supply.

C. A well owner who is not a responsible party pursuant to title 49, chapter 2, article 5 and who cooperates with the investigation and remedial activities of the director and the department of environmental quality to the extent possible and consistent with the owner's water delivery responsibilities and system operational requirements, shall receive a covenant not to sue from the director of environmental quality pursuant to section 49-282.04, subsection C.

D. Notwithstanding subsection C of this section, if the director takes a remedial action pursuant to subsection A of this section and the well owner or operator is later determined to be responsible under title 49, chapter 2, article 5 for a release or threatened release of hazardous substances that contaminated or may have contaminated the well, the well owner or operator shall reimburse the water quality assurance revolving fund established pursuant to section 49-282 for the owner or operator's proportionate share of the costs incurred in taking the action.

E. The director shall notify an applicant for a permit or a person who files a notice of intent to drill a new or replacement well if the location of the proposed well is within a sub-basin where there is a site on the registry established pursuant to section 49-287.01, subsection D. The director shall adopt rules requiring the review of notices and applications regarding new or replacement wells to identify whether a well will be located where existing or anticipated future groundwater contamination presents a risk of vertical cross-contamination by the well. The rules shall require that a new or replacement well in this type of location be designed and constructed in a manner to prevent vertical cross-contamination within an aquifer.

F. On approval from the director of environmental quality, the department of water resources may be reimbursed for any actions conducted pursuant to title 49, chapter 2, article 5.

G. The well inspection authority granted the director in this section is in addition to any other well inspection authority otherwise prescribed in this title.

H. For purposes of this section, "vertical cross-contamination" has the same meaning prescribed by section 49-281.

45-606. Well administration and enforcement fund; purpose

A. The well administration and enforcement fund is established consisting of fees paid to the department pursuant to section 45-596, subsection L and section 45-599, subsection J. The department shall administer the fund. Monies in the fund are continuously appropriated and shall be used by the director for the following purposes:

1. For the reasonable and necessary costs of the department to implement this article.
2. For compliance monitoring, investigation and enforcement activities of the department pertaining to the construction, replacement, deepening and abandonment of wells and capping of open wells under this article.

B. The fund shall be a separate account on the books of the department. Monies remaining in the fund at the end of the fiscal year remain in the fund and are exempt from the provisions of section 35-190 relating to the lapsing of appropriations. On notice from the director, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

**ARTICLE 12
ENFORCEMENT
(Selected Sections)**

45-633. Inspections, investigations and audits

A. The director or the director's authorized representative may enter at reasonable times upon private or public property where a well, including a well under construction or a well not used to withdraw groundwater or another facility for the withdrawal, transportation or use of groundwater is located and the owner, manager or occupant of the property shall permit such entry to:

1. Inspect a well, including a well under construction or a well not used to withdraw groundwater, or another facility for the withdrawal, transportation or use of groundwater that is subject to this chapter.

2. Obtain factual data or access to records required to be kept under section 45-632.
3. Ascertain compliance with this chapter.

B. Inspections and investigations under subsection A of this section shall be upon reasonable notice to the owner, manager or occupant of the property unless reasonable grounds exist to believe that such notice would frustrate the enforcement of this chapter or where entry is sought for the sole purpose of inspecting water measuring devices required pursuant to section 45-604. The director shall adopt rules for conducting inspections, examining records and obtaining warrants pursuant to this section. The director may apply for and obtain warrants. If warrants are required by law, the director shall apply for and obtain warrants for entry and inspection to carry out the administrative and enforcement purposes of this chapter.

C. The director may require a person who is required to keep records under section 45-632 to appear, at reasonable times and upon reasonable notice, at the director's office and produce such records and information as are specified in the notice to determine whether the records and annual reports required by section 45-632 are complete, true and correct. The director shall audit the records of a sufficient number of persons under this subsection to ensure general compliance with this chapter.

D. The director shall provide a written report of each inspection, investigation and audit under this section to the person subject to such action.

45-634. Cease and desist order; temporary cease and desist order; hearing; injunctive relief

A. Except as provided by subsection B of this section, if the director has reason to believe that a person is violating or has violated a provision of this chapter or a permit, rule or order issued or adopted pursuant to this chapter, the director may give the person written notice that the person may appear and show cause at an administrative hearing why the person should not be ordered to cease and desist from the violation.

B. If the director finds that a person is constructing or modifying a well and the person does not hold a well driller's or single well license pursuant to section 45-595 or has not obtained the necessary authority to construct or modify the well pursuant to article 7 of this chapter or section 45-596, 45-597, 45-598 or 45-834.01, the director may issue a temporary order for the person to cease and desist the construction or modification pending final action by the director pursuant to subsection C of this section. The order shall include written notice to the person of the date, time and place where the person may appear at an administrative hearing to show cause why the temporary order should be vacated. The hearing shall be held within fifteen days of the date of the order unless the person consents to a longer period.

C. The decision and order of the director under subsections A and B of this section may take such form as the director determines to be reasonable and appropriate and may include a determination of violation, a cease and desist order, the recommendation of a civil penalty and an order directing that positive steps be taken to abate or ameliorate any harm or damage arising from the violation. The person affected may seek judicial review of the

final decision of the director as provided in section 45-114, subsection B in the superior court in the county in which the violation is alleged to have occurred.

D. If the person continues the violation after the director has issued a final decision and order pursuant to subsection C of this section or a temporary order pursuant to subsection B of this section, the director may apply for a temporary restraining order or preliminary or permanent injunction from the superior court according to the Arizona rules of civil procedure. A decision to seek injunctive relief does not preclude other forms of relief or enforcement against the violator.

E. Section 45-114, subsections A and B govern administrative proceedings, rehearing or review and judicial review of final decisions of the director under this section.

45-635. Violation; civil penalties

A. A person who is determined pursuant to section 45-634 to be in violation of this chapter or a permit, rule, regulation or order issued or adopted pursuant to this chapter may be assessed a civil penalty in an amount not exceeding:

1. Except as provided in paragraph 3 of this subsection, one hundred dollars per day of violation not directly related to illegal withdrawal, use or transportation of groundwater.
2. Ten thousand dollars per day of violation directly related to illegal withdrawal, use or transportation of groundwater.
3. In the Santa Cruz active management area, ten thousand dollars per day of violation for a violation of an applicable conservation requirement established by the director pursuant to article 9 of this chapter for the withdrawal of water, other than stored water, from a well or the distribution or use of water, other than stored water, withdrawn from a well.

B. An action to recover penalties under this section shall be brought by the director in the superior court in the county in which the violation occurred.

C. In determining the amount of the penalty, the court shall consider the degree of harm to the public, whether the violation was knowing or wilful, the past conduct of the defendant, whether the defendant should have been on notice of the violation, whether the defendant has taken steps to cease, remove or mitigate the violation and any other relevant information.

D. All civil penalties assessed pursuant to this section shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

45-636. Violation; classification

A. Unless otherwise specified, a person who knowingly violates or refuses to comply with a provision of this chapter or a permit, rule, regulation or order issued or adopted pursuant to this chapter is guilty of a class 2 misdemeanor. A person who, after notice of violation,

continues in violation of a provision of this chapter or a permit, rule, regulation or order issued or adopted pursuant to this chapter is guilty of a separate offense for each day of violation.

B. A person who knowingly falsifies or renders inaccurate a measuring device required to be installed or maintained under this chapter is guilty of a class 6 felony.

C. A person who knowingly and intentionally withdraws or uses groundwater in violation of this chapter is guilty of:

1. A class 6 felony if the amount of groundwater illegally withdrawn or used is one thousand acre-feet or more.
2. A class 1 misdemeanor if the amount of groundwater illegally withdrawn or used is more than one hundred acre-feet but less than one thousand acre-feet.
3. A class 3 misdemeanor if the amount of groundwater illegally withdrawn or used is one hundred acre-feet or less.

STATE OF ARIZONA

STATUTES AND RULES GOVERNING
MINIMUM WELL CONSTRUCTION
STANDARDS AND LICENSING OF WELL DRILLERS

REVISION DATE: JUNE 16, 2020

COPIES CAN BE OBTAINED BY CONTACTING THE
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