ARIZONA DEPARTMENT OF WATER RESOURCES
SUBSTANTIVE POLICY STATEMENT

GRACE PERIOD FOR REGISTRATION OF MONITOR WELLS DRILLED AS PART
OF A CERCLA REMEDIAL ACTION ON A CERCLA SITE

NOTICES OF INTENT TO DRILL MUST BE FILED WITH THE DEPARTMENT
BEFORE DRILLING BEGINS

Department personnel have noticed with increasing concern that numerous Notices of
Intention to Drill ("N.O.I.s") are being filed with the Department after commencement of drilling
monitor wells on CERCLA sites. Although Arizona Revised Statute ("A.R.S.") § 45-
454.01(A)(1) allows drilling of wells to begin on CERCLA sites as part of a CERCLA remedial
action before receiving a drill card from the Department, this statute also states that exempted
wells remain subject to A.R.S. §45-596, which requires that before any well not requiring a
permit is drilled or deepened, an N.O.I. must be filed with the Department. Therefore, before
drilling commences on a CERCLA-exempt well, it first must be registered by filing an N.O.I.
with the Department of Water Resources. In order to help well drillers to comply with this law,
the Department is creating a grace period for registration of monitor/piezometer wells that were
drilled on CERCLA sites before an N.O.I. was filed. This grace period is explained at the end of
this policy statement.

THE DEPARTMENT RECOMMENDS OBTAINING A DRILL CARD BEFORE
DRILLING

Although filing the N.O.I. before drilling any well is required by law, A.R.S. § 45-
454.01(A)(1) does grant a limited exception regarding N.O.I.s for CERCLA wells in that
"authorization to drill need [not] be obtained before drilling." In other words, a driller may file
an N.O.I. and immediately commence drilling a well as part of a cleanup effort on a CERCLA
site before receiving the actual drill card from the Department. However, postponing
commencement of drilling until the drill card is issued allows the Department to work with the
driller in case a variance request or special well construction requirements are necessary.
Waiting for the drill card thus avoids the risk of non-complying wells being drilled before the
Department has had a chance to review the construction plans.

First, all N.O.I.s for wells drilled in CERCLA sites are routed through the Department's
Hydrology Division in order to assure compliance with the Department's Well Construction and
Licensing Rules, found in Arizona Administrative Code ("A.A.C.") R12-15-801 et seq., and
specifically A.A.C. R12-15-811, Minimum Well Construction Requirements. If "extraordinary
or unusual conditions" exist, and the applicant clearly demonstrates to the Department in writing
either before or during drilling that a variance "will not adversely affect other water users or the
local aquifers," a well drilling contractor or owner may obtain a variance from the Department's
well construction rules. A.A.C. R12-15-820. In fact, the Department requires applicants to
either amend the construction plans reflected in the N.O.I. or file a written request for a variance
if the Department finds that a proposed well will not comply with the minimum construction
requirements.

Once a non-complying well is drilled, however, Department policy does not allow a
variance from the minimum construction requirements. Rather, the Department requires the well
owner and driller to take any necessary action to protect the aquifer(s) from contamination.
Depending upon the nature and extent of the deviation from minimum construction requirements,
the Department may require the well to be modified or perhaps abandoned.

A second consideration is that special well construction requirements may be imposed by
the Department pursuant to A.A.C. R12-15-821. Under this rule, if the Department determines
that the minimum well construction requirements do not provide adequate protection, it may
require that additional steps be taken to protect the aquifer or other water users. The Department
may impose special requirements after a CERCLA well is drilled if drilling occurred prior to
receipt of the drill card and the Department would have imposed special construction
requirements had it reviewed the construction design prior to completion of the well.

Because a variance request will not be considered after a well is drilled, and may not be
granted even if a request is timely filed, and because the Department may find it necessary in its
review of the N.O.I. to impose special well construction requirements, commencement of drilling
before authorization is granted should not be undertaken lightly. The prudent course of action is
to await issuance of the drill card before drilling, particularly if there is a planned deviation from
usual well construction standards or the site conditions indicate a need for special aquifer
protection.

DEPARTMENT POLICY REGARDING FILING OF UNTIMELY NOTICES OF
INTENT TO DRILL

Wells drilled without first filing an N.O.I. with the Department violate A.R.S. § 45-596
and may subject the driller and well owner to possible enforcement action. However, the
Department wants to encourage registration of wells already drilled on CERCLA sites. It has
therefore established a grace period for registration of CERCLA monitor/piezometer wells drilled
without first filing an N.O.I. This grace period is effective immediately and will last through
December 29, 2000. It applies only to monitor/piezometer wells drilled before December 30,
1999, that otherwise meet the requirements for CERCLA exemption under A.R.S. § 45-454.01.
If a Notice of Intent, along with the Log of Wells, Well Driller's Report and Completion Report,
are filed with the Department by 5:00 p.m. on Friday, December 29, 2000, the Department will
issue a registration number and will not pursue an enforcement action against either the driller or
the well owner for failure to register the well before drilling.
The Department will still require compliance with the Minimum Well Construction Requirements. A.A.C. R12-15-811. Additionally, any special well construction requirements deemed necessary pursuant to A.A.C. R12-15-821 will be enforced, and after-the-fact variances will not be considered. Wells that do not comply with these requirements must be repaired, or the driller and/or owner will be subject to enforcement action.

EFFECTIVE DATE:
Immediately

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