

# **Private Well Regulations**

## **Implementation Manual**

**Division of Sanitarian Services**

**Bureau of Sewage and Water Services**

**September 1, 1990**

**Private Well Regulations**

# Implementation Manual

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## Introduction

### Statement of Purpose

The goal of the Private Well Regulations is to guide citizens in development of potable private water supplies and ground water protection. The regulations view ground water quality both from a public health and an environmental perspective. The Department believes the goal of the Private Well Regulations is shared with every citizen of the Commonwealth.

This manual was written to provide guidance and accountability for implementing the Private Well Regulations. The format for this manual is new. Tasks are identified with an associated goal or desired outcome. A procedure is defined to accomplish each task and an individual is designated to do the task. Finally, the individual responsible for supervising the task is identified and a time frame is given to complete the task.

The format is intended to focus thought on the actions and decisions necessary to accomplish the goal. The processes described are generic. No attempt was made to think out every possible outcome or stumbling block that could be encountered. Instead, the purpose or desired outcome of each task is defined. When the unexpected occurs, management and staff are encouraged to think. If an action will achieve the desired outcome and is ethical, chances are it's a good choice. If questions still remain, or if you wish to confirm a decision, by all means confer with your supervisor.

### Delegation and Responsibility

Nothing in this manual is intended to prevent the appropriate delegation of an action to a qualified subordinate. The delegation of an action does not diminish the responsibility of the delegating individual. For example, this manual places the responsibility for scheduling client appointments with the sanitarian. In many offices the actual work may be done by a clerk operating under the general guidance of the sanitarian or a sanitarian manager. This practice is acceptable provided the sanitarian assures that the task is completed. In other words, if the contact is not made, it remains the sanitarian's responsibility to make an appointment for a site visit.

Equally important, some offices accomplish tasks using higher levels of management than designated in this manual. Responsibility may be assigned higher than designated in this manual but not lower. The intention of this manual is to assure that certain minimum quality checks and balances exist, not to dictate the structure by which they will be accomplished. Adapting these checks and balances into your structure is acceptable. When doing so, remember that tasks can be delegated upward or downward; responsibility can only be reassigned upwards.

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### Communication

Effective communication is probably the most important measure of a work unit's effectiveness. Good relationships are the foundation of good communication. Where good communication exists, information moves up as well as down. One of the best rules we can all live with for deciding what needs to be communicated is simply, "No one likes surprises." This is especially true of your boss (no matter whether you are the newest sanitarian or the Commissioner). If something happens - good, bad or indifferent - that your supervisor is likely to hear about, take the time to inform your supervisor.

### Attitude and Enforcement

In the past the Department has tried to maintain the ability, or at the very least, the appearance of the ability, to enforce every aspect of a set of regulations. This takes manpower resources beyond that available today. Even the concept of strict enforcement of every aspect is questionable. Can the goals of the program be accomplished better in another fashion?

In evaluating how to implement these regulations, the Department reconsidered its reasons and methods for inspecting systems and enforcing violations. It was obvious that we could not monitor every aspect of well construction. Nor could we pursue every violation of the regulations. How could we manage our existing resources and those given to us to achieve our goals?

The Department will be taking a new course with the Private Well Regulations. Only those sections related to construction and location criteria will be stringently enforced. These portions of the regulations prevent ground water contamination and protect public health. All other aspects of the regulations are there to safeguard an individual consumer.

Inspections will be used to maintain quality assurance by making unannounced inspections at least once during the construction of a well. The role of the Department can no longer be to assure that every part of each well is inspected. Instead, the Department will be assuring that each driller knows how to comply with the regulations and an inspection of some aspect of the construction of each well will be made.

The Department is promoting an attitude of being there to assist consumers and solve problems. Education and assistance are taking a greater role than enforcement. If a homeowner is not interested in collecting a water sample, or assisting the Department in obtaining a form, it is typically the homeowner's loss. The sanitarian does not need to develop an ulcer trying to obtain compliance with every nuance of the regulations.

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The sanitarian's role will assure that each client is informed of the requirements of the regulations. This will mean notifying and documenting the contacts with compliant and non-compliant homeowners. When (or if) a homeowner decides to comply fully is beyond our ability to control. Our limited resources are best spent helping those who want our assistance and with assuring compliance with the location and construction requirements of the regulations.

Nothing in this manual should be interpreted as promoting leniency toward individuals who locate or construct wells in violation of a permit. A given instance may not necessitate legal action; however, no instance should go undocumented. A notice should be given to any individual violating a permit. Consistent or flagrant refusals to submit completion reports must be enforced.

As a final thought about attitude, the Department of Health is a service agency dedicated to protecting public health. Serving the public normally is a pleasant task undertaken with a smile and a helpful attitude. Confrontational behavior is neither necessary nor acceptable in the implementation of the Private Well Regulations.

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## I. Application Process

**Action:** Application Receipt

**Purpose or Desired Outcome:** To accept applications for processing that are likely to be complete, document the receipt of a fee, and prepare for supervisory review.

**Responsible Party:** Office Services Assistant (Clerk)

**Procedure:** Applications may be received by mail or in person at a local health department office. Appendix 1 is a sample Application. When accepting an application, the clerk is responsible for reviewing it to assure that it contains certain information. The application should have: adequate directions to find the property, the type of request (e.g., well, well and septic, etc.), a daytime phone number or method of contacting the applicant, and the signature of the owner or agent. After verifying the information, the clerk will date stamp the application and collect any required fees.

### Application Information

A receipt shall be issued for all fees collected. In order for the funds to be credited to the correct revenue account, receipts must show the appropriate receipt code found in the CHS OPTS Manual (see Section V, page V-119). The white copy of the receipt is given to the client, the yellow copy is given to the individual responsible for depositing monies collected and the pink copy remains in the receipt book.

### Fees

After accepting an application, the clerk will attach relevant environmental health files to it before giving it to the sanitarian supervisor. Relevant files include water and sewage records for the property on which the application was filed and, if appropriate, surrounding lots which may impact on the well site.

Frequently, the clerk accepting an application is the first contact an applicant has with the Department. Whether this contact is by phone or in person, the client's initial impression of the Department will be a lasting impression. Every effort should be made to make it a good impression. A basic knowledge of how long the process takes and what steps are required along with a positive helpful attitude will give the impression of knowledge, competency and friendliness. This will make each subsequent contact easier and more pleasant.

### Initial Impressions

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**Level and Frequency of Review:** The Sanitarian Supervisor will review timeliness and accuracy of the clerks' actions as part of each application review.

**Time Frame:** The preliminary clerical review will be done on the day the application is received.

**Action:** Attaching a tag sheet

**Purpose:** To provide a tracking mechanism and management tool for identifying areas where work can be done more efficiently.

**Responsible Party:** Each individual involved in processing any part of an application.

**Procedure:** The tag sheet will be attached by the clerk when an application is received. Appendix 6 is an example of the tag sheet. Each person completing any task designated on the tag sheet will initial and date the tag sheet in the appropriate area indicating a task has been completed. The file will then be given to the next individual assigned a task necessary to process an application.

### Tag Sheet

The tag sheet is a simple, but key, tool to effectively managing and implementing the well program. The tag sheet gives the manager a way of predicting backlogs and using resources where they can do the most good. The normal purpose of the review is to identify areas where the process is slowing down. When one area is identified as a chronic problem, appropriate corrective action(s) shall be identified and implemented. Tag sheets preferably will remain part of the permanent file. Alternatively, they may be retained in a separate file for a period of twelve months.

**Level and Frequency of Review:** The sanitarian supervisor or manager will review each tag sheet when reviewing a permit to be issued or denied.

**Time Frame:** Tag sheets will be attached the same day an application is received. Completed tag sheets will be reviewed concurrently with the review of permits issued and denied.

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**Action:** Application Review

**Purpose or Desired Outcome:** To assure that an application contains sufficient information for a sanitarian to issue or deny a permit after completing a site inspection.

**Responsible Party:** Sanitarian Supervisor

**Procedure:** The Sanitarian Supervisor will review the application for completeness and compliance with § 2.13 of Private Well Regulations. Items 1 and 2 (the owner and applicant's name and address) are self explanatory. Item 3 (a statement granting the department access to the property) is necessary to assure that the Department does not inadvertently commit trespass. When the application is deemed complete, the supervisor will assign the application to a sanitarian.

**Application  
Review**

Item 4 in § 2.13 requires a site plan showing property boundaries, sources of contamination, and a proposed well site. The sanitarian supervisor will assure that the level of accuracy and detail of the site plan is appropriate to the level of complexity and risk associated with the site. In many rural situations involving a single parcel of land, a hand drawn sketch will be adequate. In subdivisions, a copy of the final plat should be required. In the case of industrial sites where potentially hazardous chemicals have been used or stored, a detailed site plan may be required showing surveyed set back distances may be required. When in doubt about the detail necessary in a site plan, consult with the next level of Sanitarian Manager and your Health Director.

**Complexity**

Item 5 in § 2.13 is a requirement for detailed plans and specifications for well construction. Normally, this requirement is waived. This section allows the applicant a way to submit to the Department a methodology of protecting ground water resources, or developing wells, in complex geologic conditions beyond the scope of our expertise.

Applications found to be incomplete shall be completed by the applicant in the simplest manner possible. If the missing information can be obtained by phone it shall be added to the application. Information added as a result of a phone call shall be initialed by the individual collecting the information. When the information submitted is inadequate to locate a property or safely issue a well permit, the

**Additional  
Information**

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application shall be returned to the client. A letter of explanation shall accompany all returned applications. The letter must clearly and fully explain the additional information needed and offer reasonable help and assistance to the applicant.

**Level and Frequency of Review:** The sanitarian manager and the regional sanitarian will evaluate the quality of applications accepted. These evaluations will be made during field audits and quality assurance reviews.

**Time Frame:** Eighty percent of applications are to be reviewed within 3 working days and 100% of applications are to be reviewed within 5 working days of receipt.

**Action:** Fee Collection or Waiver Determination

**Purpose or Desired Outcome:** To recover a portion of the cost incurred permitting wells in accordance the Private Well Regulations.

**Responsible Party:** Sanitarian Supervisor

**Procedure:** The fee for a well permit is \$25.00. The supervisor is responsible for assuring that the fee has been properly collected or waived. Individuals meeting Federal poverty guidelines and individuals replacing a well that has ceased to provide satisfactory water quantity or quality are not charged a fee for a well permit. A copy of the previous years Federal income tax form will be used to determine if a client meets the Federal poverty limit.

**Fee Waiver**

**Level and Frequency of Review:** The sanitarian manager or regional sanitarian will review the appropriateness of fees collected by each local office at least annually.

**Time Frame:** Fee determinations will be completed within the time frame established for the application review process.

**Action:** Application Assignment

**Purpose or Desired Outcome:** To assign a balanced workload among trained staff. Assignments should be made to compliment the strengths, talents and training of staff.

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**Responsible Party:** Sanitarian Supervisor

**Procedure:** After reviewing an application and finding it complete, the sanitarian supervisor shall assign it to a sanitarian. When assigning an application, the supervisor will consider relative work load demands among staff as well as training and experience. The supervisor is responsible for assigning applications only to staff trained in the Private Well Regulations. Well applications determined to be more complex (due to either technical considerations or personality) during screening, will be assigned to appropriate staff.

### Application Assignment

**Level and Frequency of Review:** The sanitarian manager or regional sanitarian will evaluate application assignments during field audits and quality assurance reviews.

**Time Frame:** Eighty percent of applications are to be assigned within 3 working days of receipt and 100% of applications are to be assigned within 5 working days of receipt.

## **II. Field Evaluation Process**

**Action:** Scheduling a Site Visit

**Purpose or Desired Outcome:** To meet with an applicant at the earliest mutually acceptable time for the purpose of evaluating a proposed well site.

**Responsible Party:** Sanitarian

**Procedure:** The sanitarian is responsible for contacting the client and establishing a mutually acceptable time and place to meet for the purpose of reviewing the pending application. This will usually be accomplished by phone; however, if the client is a developer, realtor, consultant, or other regular client of the Department, the sanitarian may elect to schedule the site visit during another client contact.

**Scheduling Site  
Evaluation**

**Level and Frequency of Review:** The Sanitarian Supervisor will review the time taken to schedule each application when reviewing the completed permit.

**Time Frame:** Site visits should be scheduled within five work days of assignment by the supervisor.

**Action:** Site Evaluation

**Purpose or Desired Outcome:** To establish whether or not a site, acceptable to the applicant, exists which meets the letter and intent of the Private Well Regulations.

**Responsible Party:** Sanitarian

**Procedure:** The site visit in many cases will be the first professional contact a client has with the Department. Every effort should be made to make the encounter pleasant. Take time to greet the applicant and shake hands. Find out what the client's plans are and confirm that they match the application. Listen to the client's plans and intentions for the property. Listening carefully gives the applicant esteem and shows your intentions really are to help. Use this initial encounter as a way to continue the conversation as you make your

**First Impression  
of Sanitarian**

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evaluation. Use the opportunity to explain and educate the public about environmental health.

Sanitarians are expected to be familiar with the county they work in and, to a limited extent, be able to anticipate problems and questions which may arise. Therefore, prior to making a field visit the sanitarian will review and familiarize himself or herself with the application and the attached records. If it appears that records are missing that will be needed to complete the application, the sanitarian is responsible for assuring that records are attached prior to the field visit. Similarly, if other additional information is necessary, the sanitarian is responsible for assuring the information is obtained.

**Anticipate  
Problems - Be  
Prepared**

The sanitarian is expected to meet the client at the designated location on time. Delays and emergencies do occur and when this happens the sanitarian is expected to make every reasonable effort to advise the client. At a minimum this will include a phone call to the applicant at the daytime phone number on the application and if this is unsuccessful, a call will be made to advise the clerk at the local health department that the sanitarian is behind schedule.

**Emergency  
Appointment  
Cancellations**

During the site visit the sanitarian will solicit an explanation from the client of his or her intentions for the property relative to the proposed well. A site sketch will be made, or if adequate, the site sketch or plat submitted by the applicant may be used, to document the findings of the field evaluation. Accurate measurements will be made between the proposed well site and all sources of contamination within 200' of that site. All measurements will be made from landmarks that are readily identifiable and may be expected to survive the permit.

Proposed well sites may be either specific locations or designated areas with defined boundaries. The use of well areas can avoid unnecessary follow-up site evaluations. Where dry holes or low yielding wells are common, or other conditions indicate their use (such as with heat pump return wells), a well area may be more appropriate than a well site. When a well area is designated and a dry hole is encountered, a well driller may drill multiple wells without reapplying for a new permit for each new site. The use of well areas is encouraged by the Department in areas deemed appropriate by a District. When a well area is designated, the boundaries shall be clearly defined and limited on all sides. If a specific well site is being permitted its location shall be triangulated.

**Well Areas**

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The identification and location of sources of contamination is the responsibility of the sanitarian. The sanitarian shall make every reasonable effort to identify the location of actual and proposed sources of contamination prior to recommending issuance of a construction permit. This includes at a minimum, walking and visually inspecting the area around the well site and reviewing health department records for the location of other existing or proposed nearby wells and sewage disposal systems, and reviewing the information submitted by the applicant. The location of the sewage system for each nearby dwelling or proposed dwelling shall be identified.

### Minimum Evaluation Process

Failure on the part of the applicant to identify a nearby source of contamination does not necessarily relieve a sanitarian from liability. The sanitarian is responsible for conducting a comprehensive evaluation of the area to be permitted and is expected to identify and locate sources of contamination that can be seen or inferred prior to drafting a permit. Under no circumstances should a sanitarian rely exclusively on the information submitted with an application to the exclusion of conducting a thorough field evaluation.

When the precise location of a source of contamination is uncertain the sanitarian must refrain from optimistic guessing. The sanitarian may offer the applicant either of two options. First, if set-back distances allow, a permit may be based on a conservative estimate of the location(s) of sources of contamination. Alternatively, the applicant may provide additional information to locate the source(s).

**Level and Frequency of Review:** Sanitarian supervisor or manager when reviewing the proposed permit.

**Time Frame:** Normally site evaluations will be completed within two weeks of receipt of the well permit application. Where necessary up to 55 calendar days from date of application may be taken to complete the site evaluation (See Code of Virginia § 32.1-176.5 A).

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**Action:** Site Review Documentation

**Purpose:** To document a site visit, identify sources of actual or potential contamination, landscape positions, and potential well sites.

**Responsible Party:** Sanitarian

**Procedure:** The field sanitarian will draw a sketch of the proposed well site and surroundings during the site evaluation. The sketch will identify all relevant site characteristics (see Table 3.1 and § 3.4). The sketch shall be made on CHS Form 201 B (see appendix 2) or a surveyed plat when done in conjunction with an onsite sewage disposal application. When processing an application for a well alone, the sketch may be made on the same form, a local form, or plain paper. In any event, the owners name, application number, date of the site evaluation and the sanitarians name must appear on the sketch. The site sketch must be sufficiently detailed and accurate enough to issue or deny a permit.

### Site Sketches

**Level and Frequency of Review:** The sanitarian supervisor will review the site sketch as part of the permit review and compare it with the permit sketch for completeness. Periodic field evaluations shall be made to confirm the accuracy, completeness and quality of the field work done by sanitarians. Quarterly recommendations are suggested until a comprehensive quality assurance program is developed.

**Time Frame:** Site evaluation sketches are to be made in the field during the site evaluation.

**III. Permitting Process**

**Action:** Permit Issuance

**Purpose or Desired Outcome:** To issue a permit in compliance with the Private Well Regulations that meets the needs of the applicant and can be easily and accurately located by all parties involved in the construction process.

**Responsible Party:** Any sanitarian having successfully completed the Private Well Regulations training as certified by the Bureau of Sewage and Water Services.

**Procedure:** After making a field evaluation the sanitarian will draft a permit using the CHS forms 202 A and 202 B revised 8/90 (see appendices 3 and 4). The permit will be based on the information collected during the site evaluation and on that submitted with the well application. In all instances the permit shall be in compliance with the Private Well Regulations.

As a minimum, the proposed permit will identify all known sources (actual or potential) of contamination, and designate set back distances to be observed during construction. When a well area is designated, the boundaries shall be clearly defined and limited on all sides. If a specific well site is being permitted, its location shall be triangulated.

**Level and Frequency of Review:** The sanitarian supervisor will review each permit prior to issuance.

**Time Frame:** Seventy-five percent of all permits should be drafted and given to the sanitarian supervisor within 2 working days of completing the field evaluation. All permits must be completed within 60 days of receipt of the completed application (See Code of Virginia § 32.1-176.5 A).

**Action:** Permit Denial

**Purpose or Desired Outcome:** To deny a site having no location

**Who can issue a permit**

**Permit Forms**

**60 Day Time Limit**

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where a well can be located in accordance with the Private Well Regulations.

**Responsible Party:** Sanitarian

**Procedure:** A site evaluation shall be made as described in the site evaluation process. When the results of an evaluation show that no site exists which can meet the needs expressed by the applicant, and the location and construction requirements of the Private Well Regulations, the site evaluated shall be denied.

The denial shall be made in writing and include a site sketch on CHS form 202 B showing the location of all actual and potential sources of contamination as well as minimum set back distances. Where options are available to an applicant which would allow the department to issue a permit, such options shall be noted. Options available to the applicant may include, placing the well in a location not initially under consideration or increasing the construction standards from Class IIIC to IIIA or IIIB. Further, the denial letter shall explain the applicant's right of appeal. A suggested well denial letter is included in Appendix 12.

**Options to  
Clients Denied**

The draft letter, field notes and site sketch shall be forwarded to the sanitarian supervisor for review.

**Level and Frequency of Review:** The sanitarian supervisor or manager will evaluate each permit denied

**Time Frame:** Seventy-five percent of all permit denials should be drafted and given to the sanitarian supervisor within 2 working days of completing the field evaluation. All permits to be denied must be completed within 60 calendar days of receipt of the completed application (See Code of Virginia § 32.1-176.5 A).

**60 Day Time  
Limit**

**Action:** Permit Review

**Purpose or Desired Outcome:** To review the completeness, accuracy and basis for issuing or denying a permit under the Private Well Regulations.

**Responsible Party:** Sanitarian Supervisor

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**Procedure:** The sanitarian supervisor may review permits by either reviewing the actual paper work or by reviewing FAX copies of the paper work. In either case the entire file is to be available for review by the supervisor. Permit reviews conducted using FAX machines are to be conducted in accordance with the guidance given under the January 22, 1990 memo from Dr. C. M. G. Buttery to all managers and field staff. A copy of this policy is included as Appendix 10.

### FAX Review

After assuring that the permit documentation complies with the Private Well Regulations, the supervisor will validate the permit by countersigning it in the block "Reviewed By" and return the permit to the clerk.

**Level and Frequency of Review:** Sanitarian Manager and Regional Sanitarian during field audits and as part of a quality assurance program.

**Time Frame:** The permit should be reviewed within two working days after the issuance or denial is drafted.

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**IV. Construction and Inspection Process**

**Action:** Construction Inspection

**Purpose or Desired Outcome:** To assure the construction and location requirements of the Private Well Regulations are complied with to the greatest extent possible within the constraints of allocated resources.

**Responsible Party:** Sanitarian

**Procedure:** At least one inspection will be made of each well installed under the Private Well Regulations. Each well driller will be required to advise the health department prior to starting a new well. Inspections may be made during construction or prior to placing the well in service. The sanitarian supervisor is responsible for assigning construction inspections.

**One Inspection  
Required**

Well inspections will be made at different phases of construction for different wells and, to the greatest extent possible, more than one inspection will be made of each well during construction. The purpose of the inspection is to assure that the drilling contractor knows and complies with the requirements of the Private Well Regulations.

The results of all construction and location inspections will be recorded on the Record of Inspection (see appendix 5). The record will show the results of the inspection, the date it was made, and the sanitarians initials.

Recommended times of inspection are listed below with suggested items to review.

\* During equipment set-up.

The sanitarian can observe the location of the well and confirm that it does or does not comply with the permit and regulations. If permit revisions are necessary and possible, this is the time to make them.

**Options of  
Times to  
Inspect**

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- \* During drilling.

The sanitarian can observe the location of the well and review the geologic conditions encountered. With this information the sanitarian can confirm that the intended construction practices will comply with the regulations. If casing materials are available onsite, they should be inspected to verify that the quality and quantity present are adequate to meet the regulations.

**Inspection  
Options  
(Continued)**

- \* At the time of grouting.

The sanitarian can verify that the location is correct, the depth and weight of casing are adequate, and the annular space is free of obstructions. Grouting can be observed to assure that proper materials are used and no more than six gallons of water is added per bag of cement. When grouting to a depth greater than 20 feet, grouting must be achieved from the bottom up (see § 3.7.C.5).

- \* During Disinfection

The sanitarian can evaluate the quantity and type of disinfectant used and the method it is applied. At the same time location and well head observations can be made.

- \* After Construction and prior to use.

The sanitarian can review site location and, if the well is not yet capped, can evaluate the casing thickness. When the well has been capped the sanitarian can establish whether an approved well seal has been used.

Sanitarians are encouraged to make use of every opportunity to build professional relationships with local well contractors and homeowners. When people know what is expected and why it is necessary, they are much more likely to comply willingly with permit requirements. Taking time during inspections to discuss why the construction and location requirements are important is time well spent. Compliance with the intent of the regulations is as important as compliance with the letter of the regulations and next to

**Importance of  
Communication  
With  
Developers and  
Well Drillers**

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impossible to achieve with an uninformed public.

**Level and Frequency of Review:** The sanitarian supervisor will review the documentation for each well inspection made.

**Time Frame:** Construction inspections will be made during all phases of construction. Typically, construction inspections will be made within 48 hours of the well drillers notice to begin drilling.

**Action:** Water Sample Interpretation

**Purpose or Desired Outcome:** To accurately interpret water sample analysis reports within the guidelines established by the Department of Health.

**Responsible Party:** Sanitarian

**Procedure:** See Appendix 9

**Level and Frequency of Review:** Consistency and quality assurance in the interpretation of water sample analysis is the responsibility of the sanitarian supervisor. Review and evaluation will normally be accomplished by observing actual client interactions. The frequency of review will vary with the level of experience of the sanitarian. It is recommended that sanitarians with less than six months experience be observed not less than twice monthly. Periodic observation should be made of all sanitarians as much for demeanor and attitude as for technical accuracy.

**Time Frame:** On demand.

**Action:** Issuing a Record of Inspection

**Purpose:** To document wells completed in accordance with Private Well Regulations and to provide a method of closing a file when the requirements of the regulations are met.

**Responsible Party:** Sanitarian

**Procedure:** After the Department has inspected the well and found the location and construction satisfactory and upon receipt of a

### Water Sample Interpretations

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Uniform Well Completion Report or a GW-2 (Appendices 7 and 8 respectively) and a satisfactory bacteriological analysis, the sanitarian shall complete and sign the Record of Inspection (CHS form 204; appendix 5).

**Level and Frequency of Review:** The sanitarian supervisor will review each well approval recommended by a sanitarian prior to countersigning the approval.

**Time Frame:** The well approval notification will be completed and mailed within 3 work days of receipt of all necessary documentation to approve the well.

**Action:** Closing an Incomplete File

**Purpose or Desired Outcome:** To close incomplete files and notify owners that the Department is unable to issue an Inspection Statement.

**Responsible Party:** Sanitarian

**Procedure:** When a Well Inspection Report has not been completed within 60 days of the Department's well construction inspection the permit file shall be reviewed. If the Department has not received a satisfactory water sample report or a well completion report, the owner should be notified of the problem. Cooperation should be solicited rather than coercive enforcement to obtain compliance. Having a water sample and a completion report are in the owner's best interest. Missing an isolated water sample or well completion report has little or no direct public health impact. Consequently, there is little or nothing to be gained with a strong arm approach.

Each client contact should be documented and kept with the file. After three attempts to collect the information, with at least one written attempt (see appendix 13 for an initial written notification), the file may be closed as incomplete. To close a file as incomplete, the sanitarian will notify the homeowner. This notification will include sending a copy of CHS form 204 noting the well does not comply with the Private Well Regulations, a cover letter noting the attempts to collect the information, and copies of all information collected to date. The letter shall indicate what information or steps are

**Closing  
Incomplete  
Files**

**Notifying the  
Building  
Inspector**

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necessary to complete the file. A time frame should be given to homeowner to complete the file. Thirty to 45 calendar days is suggested as a reasonable time frame. Unusual circumstances may warrant a longer or shorter time frame. If the file has not been completed by the suspense date, the sanitarian will close the incomplete file. The local building official should be copied on this letter or sent this information in a separate memo. A suggested letter is included in Appendix 14.

**Level and Frequency of Review:** All letters closing a file as incomplete shall be reviewed by a sanitarian supervisor to assure that at least three reasonable attempts have been made to contact the homeowner.

**Time Frame:** Letters should be mailed between 60 and 90 calendar days after the Department's last well construction inspection.

**V. Legal Issues and Options**

**Action:** Variance Recommendations and Supporting Documentation

**Purpose or Desired Outcome:** To issue or deny a variance request, within 60 calendar days, based upon a thorough evaluation of the public health and environmental factors associated with the site and the request made.

**Responsible Party:** Regional Sanitarian

**Procedure:** A variance is a waiver of the Private Well Regulations issued by the State Health Commissioner. Variances are only issued where the conditions imposed by the regulations create an unnecessary burden that is not warranted by public health or environmental protection considerations.

**Commissioner  
Issues  
Variances**

An application for a variance may be initiated with or without the knowledge or assistance of the Department. If asked how to initiate a variance, the client should be advised to make a written request to the Commissioner of Health with copies to the district and regional offices of the Department. All variance requests must be signed by the property owner and should address the issues referred to in § 2.7.B of Private Well Regulations. If a variance request is made without the prior knowledge of the Department, and the parties cited above are not copied (i.e. the District, Regional and Central Offices of the State Health Department), the office receiving the request shall forward the request to the other offices.

**Advising Clients**

In order to evaluate a variance the Commissioner must be made aware of all facts which have bearing on the decision making process. To accomplish this the Commissioner relies upon information supplied by the district and regional offices. The district office shall provide the initial review and evaluation of the variance request and forward its written findings, with a recommendation, to the regional office. The regional office shall review the recommendation and factual basis for the recommendation, and forward the package to the Bureau of Sewage and Water Services with its recommendation for approval or denial.

**Review Process**

The Bureau will review the materials and draft an Issue Summary for the Commissioner. In the event that the Bureau does not agree with

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either the district or regional recommendation, the Bureau will forward (normally by FAX) their Issue Summary to the district or region for comment and further justification. Because of the short time allowed to respond to variances, the time to comment back on variances where there is not a consensus is normally short. One to three days is typical.

After completing the Issue Summary and a letter for the Commissioner approving or denying the variance, the package is forwarded to the State Health Commissioner for a decision. After a decision is made and the applicant informed of the decision, copies of the decision letter will be sent to the regional and district offices.

**Level and Frequency of Review:** The Bureau of Sewage and Water Services Director will review variances as they are filed.

**Time Frame:** 60 calendar days to complete. Applications received at the local or district health department shall be reviewed, written comments attached and forwarded to the Regional office within 10 work days. The regional office shall review, comment and forward to the Bureau within 10 work days. The Bureau will forward to the Commissioner with a recommendation within 10 work days.

**Action:** Recommendation to Revoke a Permit

Note: The permit revocation process is used when conditions become known that alter whether a permit would have been issued initially. If conditions are changed (i.e. a house site or drainfield site is relocated) from those shown on the permit, the permit should be made null and void.

**Purpose or Desired Outcome:** To substantiate to the Commissioner that a currently valid permit should be revoked because information has become available that the installation of the well will cause a potential health hazard or adversely affect ground water resources.

**Responsible Party:** Regional Sanitarian

**Recommending  
A Permit Be  
Revoked**

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**Procedure:** When a sanitarian discovers a situation which appears to necessitate revoking a permit, the following protocol will be followed.

The sanitarian will establish to the fullest extent possible the facts which led to violation or potential violation. This should be accomplished professionally and as non-confrontationally as possible. The sanitarian will evaluate what alternative solutions are available and what the advantages and disadvantages are to each. The sanitarian does not have the authority to revoke a permit and should not indicate in any manner that the permit is no longer valid. The permit holder, or his agent, should be notified immediately that it may be necessary to revoke the permit. The reasons which form the basis for the recommendation should be discussed fully and they should be allowed to offer solutions to remedy the problem.

**Sanitarians  
Role in  
Revoking a  
Permit**

If no solution can be found to resolve the problem, the sanitarian shall advise his or her supervisor immediately of the situation. The supervisor shall notify the regional sanitarian of the problem immediately. Within 24 hours in all cases, and the same day when possible, the district and regional sanitarians shall discuss the situation (typically by phone) with the sanitarian. They will determine what options are available and whether or not the problem warrants immediate revocation. In the event they decide a permit should be revoked, a copy of the file must be FAXED to the Enforcement Chief. After reviewing the file the enforcement chief will call the Regional Sanitarian and discuss the options available.

**Review Process**

In the event the option selected is to revoke the permit, the owner shall be notified immediately, either by phone or in person, and advised of the Department's decision. Notice given verbally of the Department's intention shall be followed up in writing by certified mail. At a minimum, the written and oral notices shall give the reasons for the Department's intention to rescind the permit, any available options for receiving a revised permit, notice of the client's right to a hearing and a date and place where the hearing will occur. All written correspondence shall be approved by the Bureau before being mailed.

**Notice Given**

**Level and Frequency of Review:** The State Health Commissioner will review as necessary.

**Time Frame:** Verbal notice shall be given within 24 hours of the

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Department's intention to revoke the permit. Written notice shall be given within 7 work days.

**Action:** Revoking a Permit

**Purpose or Desired Outcome:** To revoke permits issued in violation of the Private Well Regulations or where conditions are discovered that place the permit in violation of the Private Well Regulations.

**Responsible Party:** State Health Commissioner

**Procedure:** The Enforcement Chief will prepare an issue summary for the Commissioner based upon information forwarded by the regional sanitarian. The Enforcement Chief will review all documents and verify that every option has been explored to remedy the problem and minimize the Department's liability. If additional information is necessary the Enforcement chief will obtain the information. The issue summary and supporting documentation will be reviewed by the Bureau Director, the Division Director and the Deputy Commissioner with appropriate recommendations prior to review by the Commissioner.

**Issue Summary  
For  
Commissioner**

The responsibility and authority to revoke a permit lies with the Commissioner. After the Commissioner renders a decision the Bureau will notify the permit holder, and the regional and district offices within one work day.

**Commissioner  
Renders  
Decision**

**Level and Frequency of Review:** None

**Time Frame:** Emergency revocations will be reviewed and sent to the Commissioner within one work day. Revocations that are not emergency in nature will be completed within two calendar weeks.

**Action:** Informal Hearing

**Purpose or Desired Outcome:** Informal hearings provide an informal approach to problem resolution.

**Responsible Party:** District Health Director

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**Procedure:** Informal hearings will normally be held in an office or meeting room within the local or district health department. The district or local health director will preside over the hearing. Every effort shall be made to make the appellant feel at ease. The hearing should be kept as informal as possible while maintaining a professional and impartial atmosphere. Hearings result more often from the public's perception of the department's attitude than from a technical dispute. As noted, the purpose of the meeting is to solve problems.

**Problem  
Solving  
Informal  
Hearing** at

The Health Director should begin the hearing by introducing all parties, if necessary, and clearly stating the purpose and format of the hearing. This statement will provide the focus of the hearing and should be formulated in advance based on the appellant's request. The goal of the hearing officer is to discover the facts of the dispute, evaluate them and, if possible, propose a solution within the limits of the Private Well Regulations. To achieve this goal, it is usually necessary to strike a balance between focusing the discussion on relevant issues while not being perceived as limiting the scope of discussion. With some un-focused appellants this can challenge the skills of a hearing officer.

**Hearing  
Process**

Either the appellant or the department may present their side first; however, it is generally recommended that the department begin by presenting a chronology of events. After presenting the factual basis for the hearing the applicant should be given every opportunity to dispute the department's presentation. It is recommended that a brief written chronology be prepared and given to the appellant at the hearing. This can be used to help focus the concerns of the appellant. Every opportunity must be taken to fully consider all of the appellant's concerns.

A decision must be rendered within 15 days of the completion of a hearing. When possible, the decision should be made at the hearing. If this is not possible, the decision should be made as soon as possible after the hearing, reduced to writing and sent to all parties in attendance at the hearing, the appropriate Regional Office and the Enforcement Chief or the Bureau of Sewage and Water Services. If evidence is presented at a hearing that the Department has not evaluated, the hearing should continued. The new evidence should be evaluated at the Department's earliest convenience, the hearing reconvened, and a decision rendered.

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**Level and Frequency of Review:** Enforcement Chief, Bureau of Sewage and Water Services will review the decisions of informal hearings for compliance with the Administrative Process Act and the Department's interests and standing should the case proceed to an adjudicatory hearing. Where inadequacies are noted, corrective action will be made through the Regional Director and Regional Sanitarian.

**Time Frame:** Hearings shall be held within 30 calendar days of request unless an extension is requested by the appellant. A decision shall be made and reported to the appellant within 15 work days of completion with copies as noted above.

**Action:** Preparation for Adjudicatory Hearings (Formal Appeal)

**Purpose or Desired Outcome:** Adjudicatory hearings provide a final level of review for an appellant and the Department before initiating civil litigation.

**Responsible Party:** Enforcement Chief

**Procedure:** Prior to the Commissioner or his designee conducting an Adjudicatory Hearing, the Enforcement Chief will obtain copies of all records relevant to the case. The Regional and District offices will assist the Bureau by providing records, testimony and other information as needed to prepare the Department's case. The Enforcement Chief will prepare the Department's case with the assistance of the Attorney General's Office. After a decision has been rendered, the Enforcement Chief will prepare a summary of the case, including the basis for the hearing, facts in dispute, the arguments of all parties, the decision and any recommendations for how the Department can be better prepared in the future.

### Adjudicatory Hearings

**Level and Frequency of Review:** Director, Bureau of Sewage and Water Services.

**Time Frame:** Cases will be prepared at least 5 work days prior to the scheduled hearing. Case summaries will be completed within 45 calendar days of a decision.

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**Action:** Issuance of an Order

**Purpose or Desired Outcome:** To require an owner or other person to comply with the provisions of the Private Well Regulations.

**Responsible Party:** State Health Commissioner

**Procedure:** The State Health Commissioner will issue an order only after all other compliance options have been exhausted. Further, the site specific conditions must be evaluated and found to present a significant hazard to either public health or the environment sufficient to warrant such an action.

Prior to issuing an order, the Commissioner must hold a hearing. Notice must be given for the hearing, by certified mail, giving not less than 30 days notice of the hearing. The purpose of this hearing is to give the affected owner an opportunity to dispute the reported violation of these regulations.

**Hearing Before  
an Order**

Prior to the Commissioner holding a hearing pursuant to issuing an order, the Enforcement Chief will obtain copies of all records relevant to the case. The Regional and District offices will assist the Bureau by providing records, testimony and other information as needed to support issuing the order.

**Level and Frequency of Review:** None

**Time Frame:** Orders shall become effective not less than 15 days after mailing a copy of the order. See § 2.5.D of the Private Well Regulations.

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**Action:** Emergency Orders

**Purpose or Desired Outcome:** To protect the public health, safety and welfare or to protect ground water resources from an emergency situation.  
**Responsible Party:** State Health Commissioner

**Procedure:** Emergency orders can be issued only by the State Health Commissioner. Emergency orders will be issued in accordance with § 2.4 of the Private Well Regulations. Emergency orders are normally initiated by the local or district health department in concert with their regional office. Because of the nature of emergencies, initial documentation of the basis for an emergency order will normally be an oral report by phone with additional supporting documentation transmitted by FAX. Documentation and follow-up reports will be determined on a case by case basis.

**Initiating an  
Emergency  
Order**

**Level and Frequency of Review:** None

**Time Frame:** Immediate

**Appendix 6**

Permit I.D. No. \_\_\_\_\_

Tag Sheet

	Initials	Date
Application Received:	_____	_____
Application Reviewed:	_____	_____
Fee Determination	_____	_____
Assigned to:	_____	_____
Site Visit Scheduled:	_____	_____
Site Visit Made:	_____	_____
Follow-up Visit:	_____	_____
Follow-up Visit:	_____	_____
Issue/Deny Drafted:	_____	_____
Issue/Deny Reviewed:	_____	_____
Issue/Deny Countersigned:	_____	_____
Issue/Deny Mailed:	_____	_____

## Appendix 10

### FAX POLICY

**PURPOSE:** This policy describes the Department's policy for the review of sewage disposal system construction permits using fax machines.

**BACKGROUND:** Since the adoption of the Sewage Handling and Disposal Regulations in 1982 the issuance of construction permits has slowed due to the requirement for the sanitarian manager or supervisor to countersign the permit before its issuance. In some localities this has contributed to a backlog of permits. Some local departments allow the issuance of permits without them having been reviewed and countersigned by the manager or supervisor thus negating the quality control aspect of the review and countersign requirement.

Therefore, the policy of the Department for reviewing and countersigning permits is that sewage disposal system permits shall not be issued before they have been reviewed, approved, and countersigned by the manager or supervisor. In districts where the manager or supervisor is responsible for overseeing the operation of more than one local office, fax machines may be used to assist in the review process in the following manner:

1. When the sanitarian has completed the permit and signed it and the manager or supervisor is not scheduled to be in the sanitarian's office for several days, the sanitarian shall fax a copy of the application, the permit, the soil evaluation forms, and any other material to the office where the manager or supervisor is for his review. This will require the manager or supervisor to keep the sanitarians informed which office he can be reached each day. If no manager or supervisor is to be in the district for several days the local or district health director may choose to either hold permits until a manager or supervisor returns or he may ask the sanitarian manager to designate a sanitarian to review all permits in his absence.
2. Once the manager or supervisor receives the material he will thoroughly review each document for compliance with the regulations. If the package is not complete he will request from the sanitarian those items needed to complete his review. If the manager or supervisor's review indicates that the permit cannot be issued as drawn he will inform the sanitarian and, if possible attempt to resolve the issues involved. When the manager or supervisor's review indicates that the permit complies with the regulations and is ready to be issued, the manager or supervisor will date and sign page two of the faced copy of the permit in the appropriate place and fax a copy of it back to the sanitarian.

3. When the sanitarian receives the signed faced copy from the manager or supervisor, he may issue the permit. The sanitarian shall note on the permit that the manager or supervisor signed the faced copy of the permit. He shall also attach the signed faced copy to the file copy of the permit as a permanent record. No permits shall be issued until the manager or supervisor signs either a faced copy or the original permit.
4. When the manager or supervisor next visits the sanitarian's office, he will date and sign the original copy of page two of the permit. The date shall be actual date, **not** the date the fax copy was signed. The manager or supervisor will also check to see that the signed faced copy is attached to the file copy of the permit.