

Senate Engrossed House Bill
temporary non-expansion area

State of Arizona
House of Representatives
Fifty-seventh Legislature
First Regular Session
2025

HOUSE BILL 2570

AN ACT

AMENDING TITLE 45, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 3.1; AMENDING SECTION 45-596, ARIZONA REVISED STATUTES; RELATING TO GROUNDWATER.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 45, chapter 2, Arizona Revised Statutes, is
3 amended by adding article 3.1, to read:

4 ARTICLE 3.1. TEMPORARY NON-EXPANSION AREAS

5 45-445. Temporary non-expansion areas; initiation procedures;
6 petition; definition

7 A. THE DESIGNATION OF A TEMPORARY NON-EXPANSION AREA IN ANY
8 LOCATION NOT INCLUDED IN AN ACTIVE MANAGEMENT AREA OR AN IRRIGATION
9 NON-EXPANSION AREA MAY BE INITIATED BY PETITION TO THE DIRECTOR SIGNED BY
10 BOTH:

11 1. AT LEAST ONE-HALF OF THE NUMBER OF IRRIGATION USERS OF
12 GROUNDWATER WITHIN THE BOUNDARIES OF THE GROUNDWATER BASIN OR SUBBASIN
13 SPECIFIED IN THE PETITION.

14 2. AT LEAST TEN PERCENT OF THE REGISTERED VOTERS RESIDING WITHIN
15 THE BOUNDARIES OF THE GROUNDWATER BASIN OR SUBBASIN SPECIFIED IN THE
16 PETITION AS OF THE MOST RECENT REPORT COMPILED BY THE COUNTY RECORDER IN
17 COMPLIANCE WITH SECTION 16-168, SUBSECTION H. IF A GROUNDWATER BASIN OR
18 SUBBASIN IS LOCATED IN TWO OR MORE COUNTIES, THE NUMBER OF REGISTERED
19 VOTERS REQUIRED TO SIGN THE PETITION SHALL BE AT LEAST TEN PERCENT OF THE
20 REGISTERED VOTERS RESIDING WITHIN THE BOUNDARIES OF THE GROUNDWATER BASIN
21 OR SUBBASIN, AS OF THE MOST RECENT REPORT COMPILED BY THE COUNTY RECORDER
22 IN COMPLIANCE WITH SECTION 16-168, SUBSECTION H, WITHIN THE COUNTY IN
23 WHICH THE PLURALITY OF THE REGISTERED VOTERS IN THE GROUNDWATER BASIN OR
24 SUBBASIN RESIDES.

25 B. THE FORM OF THE PETITION SHALL BE SUBSTANTIALLY SIMILAR TO AN
26 INITIATIVE PETITION, AND THE APPLICANT FOR SUCH PETITION SHALL COMPLY WITH
27 SECTION 19-111, SUBSECTIONS A, B AND E, EXCEPT THAT THE DUTIES REQUIRED OF
28 THE SECRETARY OF STATE SHALL BE PERFORMED BY THE COUNTY RECORDER OF THE
29 COUNTY IN WHICH THE PLURALITY OF REGISTERED VOTERS IN THE GROUNDWATER
30 BASIN OR SUBBASIN RESIDES. A PETITION MAY NOT BE ACCEPTED MORE THAN ONE
31 HUNDRED EIGHTY DAYS AFTER THE DATE OF SUBMISSION OF THE APPLICATION FOR
32 PETITION.

33 C. AFTER RECEIVING A PETITION SIGNED BY REGISTERED VOTERS PURSUANT
34 TO SUBSECTION A, PARAGRAPH 2 OF THIS SECTION, THE DIRECTOR SHALL TRANSMIT
35 THE PETITION TO THE COUNTY RECORDER OF EACH COUNTY IN WHICH THE
36 GROUNDWATER BASIN OR SUBBASIN IS LOCATED FOR VERIFICATION OF
37 SIGNATURES. IN ADDITION, THE DIRECTOR SHALL TRANSMIT A MAP OF THE
38 GROUNDWATER BASIN OR SUBBASIN TO THE COUNTY RECORDER OF EACH SUCH COUNTY
39 INCLUDED. THE MAP SHALL BE ON A SCALE ADEQUATE TO SHOW WITH SUBSTANTIAL
40 ACCURACY WHERE THE BOUNDARIES OF THE GROUNDWATER BASIN OR SUBBASIN CROSS
41 THE BOUNDARIES OF COUNTY VOTING PRECINCTS. THE DIRECTOR SHALL ALSO
42 TRANSMIT TO THE COUNTY RECORDER ALL OTHER FACTUAL DATA CONCERNING THE
43 BOUNDARIES OF THE GROUNDWATER BASIN OR SUBBASIN THAT MAY AID THE COUNTY
44 RECORDER IN DETERMINING WHICH REGISTERED VOTERS OF THE COUNTY ARE
45 RESIDENTS OF THE GROUNDWATER BASIN OR SUBBASIN.

1 D. ON VERIFICATION THAT A SUFFICIENT NUMBER OF PERSONS SIGNED THE
2 PETITION IN SUPPORT OF ESTABLISHING A TEMPORARY NON-EXPANSION AREA, THE
3 DEPARTMENT SHALL HOLD A MEETING AS PRESCRIBED IN SECTION 45-445.01.

4 E. IF PROCEDURES ARE INITIATED FOR DESIGNATING A TEMPORARY
5 NON-EXPANSION AREA, AN IRRIGATION USER MAY IRRIGATE WITHIN THE PROPOSED
6 TEMPORARY NON-EXPANSION AREA ONLY ACRES OF LAND THAT WERE IRRIGATED AT ANY
7 TIME DURING THE TEN YEARS PRECEDING THE DATE OF THE NOTICE OF THE
8 INITIATION OF DESIGNATION PROCEDURES.

9 F. THE LIMITATION ON THE ACRES THAT MAY BE IRRIGATED SHALL CONTINUE
10 IN EFFECT UNTIL AN ELECTION IS HELD PURSUANT TO SECTION 45-445.02.

11 G. FOR THE PURPOSES OF THIS SECTION, "IRRIGATION USER OF
12 GROUNDWATER" MEANS ANY PERSON WHO HAS WITHDRAWN GROUNDWATER TO IRRIGATE
13 ACRES WITHIN THE PROPOSED TEMPORARY NON-EXPANSION AREA AT ANY TIME IN THE
14 TEN YEARS PRECEDING WHEN THE PETITION IS SUBMITTED TO INITIATE DESIGNATION
15 PROCEDURES.

16 45-445.01. Meetings; boundaries; notice

17 A. IF A PETITION IS FILED PURSUANT TO SECTION 45-445 WITH A
18 SUFFICIENT NUMBER OF SIGNATURES, THE DIRECTOR SHALL HOLD A PUBLIC MEETING
19 TO DESCRIBE THE BOUNDARIES OF THE PROPOSED TEMPORARY NON-EXPANSION AREA
20 AND TO DESCRIBE THE EFFECT OF A TEMPORARY NON-EXPANSION AREA IF
21 ESTABLISHED.

22 B. THE DIRECTOR SHALL GIVE REASONABLE NOTICE OF THE MEETING,
23 INCLUDING PUBLISHING THE NOTICE ONCE EACH WEEK FOR TWO CONSECUTIVE WEEKS
24 IN A NEWSPAPER OF GENERAL CIRCULATION IN EACH COUNTY IN WHICH THE PROPOSED
25 TEMPORARY NON-EXPANSION AREA IS LOCATED. THE NOTICE SHALL CONTAIN THE
26 TIME AND PLACE OF THE MEETING, THE LEGAL DESCRIPTION AND A MAP CLEARLY
27 IDENTIFYING AND DESCRIBING ALL LANDS TO BE INCLUDED IN THE PROPOSED
28 TEMPORARY NON-EXPANSION AREA AND ANY OTHER INFORMATION THE DIRECTOR DEEMS
29 NECESSARY.

30 C. THE MEETING SHALL BE HELD AT A LOCATION IN THE COUNTY IN WHICH
31 THE MAJOR PORTION OF THE PROPOSED TEMPORARY NON-EXPANSION AREA IS LOCATED
32 NOT MORE THAN SIXTY DAYS AFTER THE FIRST PUBLICATION OF THE NOTICE OF THE
33 MEETING. AT THE MEETING, THE DIRECTOR SHALL PRESENT ANY DATA ON
34 GROUNDWATER LEVELS FOR THE PROPOSED TEMPORARY NON-EXPANSION AREA FROM THE
35 DEPARTMENT AND SHALL DESCRIBE THE EFFECTS OF THE PROPOSED FORMATION OF THE
36 TEMPORARY NON-EXPANSION AREA. ANY PERSON MAY APPEAR AT THE MEETING,
37 EITHER IN PERSON OR BY REPRESENTATIVE AND SUBMIT ORAL OR DOCUMENTARY
38 INFORMATION REGARDING THE PROPOSED ACTION.

39 45-445.02. Election; eligible voters; map

40 A. THE DEPARTMENT SHALL NOTIFY THE COUNTY RECORDER OF EACH COUNTY
41 IN WHICH A PROPOSED TEMPORARY NON-EXPANSION AREA IS LOCATED WHEN THE
42 MEETING PRESCRIBED IN SECTION 45-445.01 IS COMPLETED, AND THE COUNTY
43 RECORDER SHALL PROVIDE NOTICE TO THE COUNTY BOARD OF SUPERVISORS. THE
44 BOARD SHALL CALL FOR AN ELECTION ON THE QUESTION OF DESIGNATING A
45 TEMPORARY NON-EXPANSION AREA WITH BOUNDARIES THAT ARE COTERMINOUS WITH THE

1 BOUNDARIES OF THE GROUNDWATER BASIN OR SUBBASIN SPECIFIED IN THE PETITION.
2 IF THE PROPOSED TEMPORARY NON-EXPANSION AREA IS LOCATED IN MORE THAN ONE
3 COUNTY, THE RESPECTIVE COUNTIES SHALL COOPERATE TO ADMINISTER THE
4 ELECTION. NOTWITHSTANDING ANY OTHER LAW, THE ELECTION SHALL BE CONDUCTED
5 AS PRESCRIBED IN TITLE 16, CHAPTER 4, ARTICLE 8.1, EXCEPT THAT THE
6 ELECTION SHALL INCLUDE ONLY REGISTERED VOTERS WHO RESIDE INSIDE THE
7 BOUNDARIES OF THE PROPOSED TEMPORARY NON-EXPANSION AREA AS ELIGIBLE
8 VOTERS.

9 B. IF A MAJORITY OF THE PERSONS VOTING ON THE QUESTION APPROVE THE
10 FORMATION OF THE TEMPORARY NON-EXPANSION AREA, THE TEMPORARY NON-EXPANSION
11 AREA IS ESTABLISHED, AND THE DIRECTOR SHALL FILE A TRUE COPY OF THE MAP OF
12 THE TEMPORARY NON-EXPANSION AREA IN THE OFFICE OF THE COUNTY RECORDER OF
13 THE COUNTY OR COUNTIES IN WHICH THE TEMPORARY NON-EXPANSION AREA IS
14 LOCATED.

15 C. A TEMPORARY NON-EXPANSION AREA ESTABLISHED PURSUANT TO THIS
16 SECTION MAY INCLUDE MORE THAN ONE GROUNDWATER SUBBASIN BUT MAY NOT BE
17 SMALLER THAN A GROUNDWATER SUBBASIN OR INCLUDE ONLY A PORTION OF A
18 GROUNDWATER SUBBASIN.

19 45-445.03. Temporary non-expansion areas; irrigation
20 expansion moratorium; reporting requirement;
21 continuation; report

22 A. IF A TEMPORARY NON-EXPANSION AREA IS ESTABLISHED PURSUANT TO
23 SECTION 45-445.02:

24 1. ONLY ACRES OF LAND THAT WERE IRRIGATED AT ANY TIME DURING THE
25 TEN YEARS PRECEDING THE DATE OF THE NOTICE OF THE INITIATION OF
26 DESIGNATION PROCEDURES MAY BE IRRIGATED WITH GROUNDWATER. NO ADDITIONAL
27 LANDS MAY BE IRRIGATED WITH GROUNDWATER FOR A PERIOD OF TEN YEARS AFTER
28 THE DATE THAT THE TEMPORARY NON-EXPANSION AREA IS ESTABLISHED OR
29 CONTINUED. LAND THAT WAS NOT IRRIGATED AT ANY TIME DURING THE TEN-YEAR
30 PERIOD BEFORE DESIGNATION IS DEEMED TO HAVE BEEN IN IRRIGATION IF THE
31 DIRECTOR FINDS THAT SUBSTANTIAL CAPITAL INVESTMENT HAS BEEN MADE FOR THE
32 SUBJUGATION OF THE LAND FOR AN IRRIGATION USE, INCLUDING ON-SITE
33 IRRIGATION DISTRIBUTION FACILITIES AND A WELL OR WELLS THE DRILLING AND
34 CONSTRUCTION OF WHICH WERE SUBSTANTIALLY COMMENCED BEFORE THE DATE OF THE
35 NOTICE OF THE INITIATION OF DESIGNATION PROCEDURES.

36 2. A PERSON MAY NOT WITHDRAW GROUNDWATER FROM A NON-EXEMPT WELL IN
37 AN AMOUNT GREATER THAN THE PERSON'S HIGHEST LEVEL OF ANNUAL WITHDRAWAL IN
38 ANY ONE OF THE TEN YEARS PRECEDING THE DATE OF THE NOTICE OF THE
39 INITIATION OF THE DESIGNATION PROCEDURES.

40 3. THE DEPARTMENT MAY NOT ISSUE A DRILLING CARD THAT AUTHORIZES THE
41 DRILLING OF A WELL IN THE TEMPORARY NON-EXPANSION AREA, EXCEPT THAT A
42 PERSON MAY DEEPEN AN EXISTING WELL OR DRILL OR CAUSE TO BE DRILLED A
43 REPLACEMENT WELL, A NEW WELL THAT WILL BE USED AS A RECOVERY WELL PURSUANT
44 TO SECTION 45-834.01 OR AN EXEMPT WELL IN THE TEMPORARY NON-EXPANSION AREA

1 IF A NOTICE OF INTENTION TO DRILL IS FIRST FILED PURSUANT TO SECTION
2 45-596, SUBSECTION C.

3 4. A PERSON THAT WITHDRAWS GROUNDWATER FROM A NON-EXEMPT WELL FOR
4 AN IRRIGATION USE MAY NOT WITHDRAW MORE THAN FIVE ACRE-FEET OF GROUNDWATER
5 PER ACRE OF LAND THAT THE PERSON IRRIGATES PER YEAR.

6 5. EACH PERSON THAT WITHDRAWS GROUNDWATER FROM A NON-EXEMPT WELL
7 FOR AN IRRIGATION USE AND EACH PERSON THAT WITHDRAWS MORE THAN TEN
8 ACRE-FEET OF GROUNDWATER PER YEAR FROM A NON-EXEMPT WELL FOR A
9 NON-IRRIGATION USE SHALL USE A WATER MEASURING DEVICE APPROVED BY THE
10 DIRECTOR.

11 6. EACH PERSON THAT WITHDRAWS GROUNDWATER FROM A NON-EXEMPT WELL
12 SHALL FILE A REPORT ON A CALENDAR YEAR BASIS WITH THE DIRECTOR ON A FORM
13 PROVIDED BY THE DIRECTOR NOT LATER THAN MARCH 31 OF THE FOLLOWING YEAR.
14 THE REPORT SHALL INCLUDE AN OUTLINE OF THE AREA ON WHICH THE PERSON USES
15 GROUNDWATER. IN FILING A REPORT, IF A PERSON WITHDRAWS TEN OR FEWER
16 ACRE-FEET OF GROUNDWATER PER YEAR FROM A NON-EXEMPT WELL, THE PERSON MAY
17 PROVIDE AN ESTIMATE OF THE PERSON'S WITHDRAWALS. FOR THE PURPOSES OF THIS
18 PARAGRAPH, THE GEOGRAPHIC AREA OF GROUNDWATER USE SHALL BE AS FOLLOWS:

19 (a) FOR AN INDUSTRIAL USER, THE AREA OF THE PROPERTY.

20 (b) FOR A MUNICIPAL PROVIDER, THE SERVICE AREA OF THE PROVIDER.

21 B. NOT EARLIER THAN ONE YEAR BEFORE COMPLETION OF THE INITIAL
22 TEN-YEAR MORATORIUM PERIOD OR ANY SUBSEQUENT MORATORIUM PERIOD, THE
23 DIRECTOR SHALL CONDUCT A HYDROLOGICAL ANALYSIS OF THE GROUNDWATER BASIN OR
24 SUBBASIN. THE ANALYSIS SHALL INCLUDE AN ESTIMATE OF ANY CHANGE IN
25 GROUNDWATER LEVELS IN THE AREA. NOT LESS THAN NINETY DAYS BEFORE THE END
26 OF THE TEN-YEAR MORATORIUM PERIOD, THE DIRECTOR SHALL SUBMIT A REPORT OF
27 THE ANALYSIS FINDINGS TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE
28 SPEAKER OF THE HOUSE OF REPRESENTATIVES AND SHALL PROVIDE A COPY OF THIS
29 REPORT TO THE SECRETARY OF STATE.

30 C. NOT LESS THAN SIXTY DAYS BEFORE THE COMPLETION OF THE TEN-YEAR
31 MORATORIUM PERIOD AND AFTER COMPLETION OF THE HYDROLOGICAL ANALYSIS, THE
32 DIRECTOR MAY CONTINUE THE TEMPORARY NON-EXPANSION AREA OR ALLOW THE
33 TEMPORARY NON-EXPANSION AREA DESIGNATION TO LAPSE.

34 D. IF THE DIRECTOR ALLOWS THE TEMPORARY NON-EXPANSION AREA
35 DESIGNATION TO LAPSE:

36 1. SUBSECTION A OF THIS SECTION NO LONGER APPLIES.

37 2. A PERSON MAY WITHDRAW GROUNDWATER CONSISTENT WITH THE LAWS OF
38 THIS STATE FOR A GROUNDWATER BASIN OR SUBBASIN NOT LOCATED IN AN ACTIVE
39 MANAGEMENT AREA OR IRRIGATION NON-EXPANSION AREA.

40 3. THE DEPARTMENT MAY ISSUE A DRILLING CARD THAT AUTHORIZES THE
41 DRILLING OF A WELL IN THE FORMER TEMPORARY NON-EXPANSION AREA.

1 Sec. 2. Section 45-596, Arizona Revised Statutes, is amended to
2 read:

3 45-596. Notice of intention to drill; fee

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

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

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

23 1. The name and mailing address of the person filing the notice.

24 2. The legal description of the land on which the well is proposed
25 to be drilled and the name and mailing address of the owner of the land.

26 3. The legal description of the location of the well on the land.

27 4. The depth, diameter and type of casing of the proposed well.

28 5. Such legal description of the land on which the groundwater is
29 proposed to be used as may be required by the director to administer this
30 chapter.

31 6. When construction is to begin.

32 7. The proposed uses to which the groundwater will be applied.

33 8. The name and well driller's license number of the well driller
34 who is to construct the well.

35 9. The design pumping capacity of the well.

36 10. If for a replacement well, the maximum capacity of the original
37 well and the distance of the replacement well from the original well.

38 11. Proof that the director determines to be satisfactory that the
39 person proposing to construct the well holds a valid license issued by the
40 registrar of contractors pursuant to title 32, chapter 10 and that the
41 license is of the type necessary to construct the well described in the
42 notice of intention to drill. If the proposed well driller does not hold
43 a valid license, the director may accept proof that the proposed well
44 driller is exempt from licensing as prescribed by section 32-1121.

1 12. If any water from the proposed well will be used for domestic
2 purposes as defined in section 45-454, evidence of compliance with the
3 requirements of subsection F of this section.

4 13. If for a second exempt well at the same location for the same
5 use pursuant to section 45-454, subsection I, proof that the requirements
6 of that subsection are met.

7 14. If for a well to obtain geophysical, mineralogical or
8 geotechnical data within a single section of land, the information
9 prescribed by this subsection for each well that will be included in that
10 section of land before each well is drilled.

11 15. Such other information as the director may require.

12 D. On receiving a notice of intention to drill and the fee required
13 by subsection L of this section, the director shall endorse on the notice
14 the date of its receipt. The director shall then determine whether all
15 information that is required has been submitted and whether the
16 requirements of subsection C, paragraphs 11 and 12 and subsection I of
17 this section have been met. If so, within fifteen days ~~of~~ AFTER receipt
18 of the notice, or ~~such~~ A longer time as provided in subsection J of this
19 section, the director shall record the notice, mail a drilling card that
20 authorizes the drilling of the well to the well driller identified in the
21 notice and mail written notice of the issuance of the drilling card to the
22 person filing the notice of intention to drill at the address stated in
23 the notice. IF THE WELL TO BE DRILLED IS LOCATED IN A TEMPORARY
24 NON-EXPANSION AREA, THE DIRECTOR MAY ONLY RECORD THE NOTICE, MAIL THE
25 DRILLING CARD THAT AUTHORIZES THE DRILLING OF THE WELL AND MAIL WRITTEN
26 NOTICE OF THE ISSUANCE OF THE DRILLING CARD IF THE WELL IS DRILLED
27 PURSUANT TO SECTION 45-445.03, SUBSECTION A, PARAGRAPH 3. On receipt of
28 the drilling card, the well driller may proceed to drill or deepen the
29 well as described in the notice of intention to drill. If the director
30 determines that the required information has not been submitted or that
31 the requirements of subsection C, paragraphs 11 and 12 or subsection I of
32 this section have not been met, the director shall mail a statement of the
33 determination to the person giving the notice to the address stated in the
34 notice, and the person giving the notice may not proceed to drill or
35 deepen the well.

36 E. The well shall be completed within one year after the date of
37 the notice unless the director approves a longer period of time pursuant
38 to this subsection. If the well is not completed within one year or
39 within the time approved by the director pursuant to this subsection, the
40 person shall file a new notice before proceeding with further
41 construction. At the time the drilling card for the well is issued, the
42 director may provide for and approve a completion period that is greater
43 than one year but not to exceed five years from the date of the notice if
44 both of the following apply:

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

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

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

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

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

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

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

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

29 G. Before approving a well site plan submitted pursuant to
30 subsection F of this section, the county or local health authority or the
31 department of water resources, as applicable, pursuant to subsection F of
32 this section, shall review the well site plan and determine whether the
33 proposed well location complies with applicable local laws, ordinances and
34 regulations and any laws or rules adopted under this title and title 49
35 regarding the placement of wells and the proximity of wells to septic
36 tanks or sewer systems. If the health authority or the department of
37 water resources, as applicable, pursuant to subsection F of this section,
38 finds that the proposed well location complies with this title and title
39 49 and with local requirements, it shall endorse the site plan and the
40 proposed well placement in a manner indicating approval. On endorsement,
41 the director of water resources shall approve the construction of the
42 well, if all remaining requirements have been met. If the health
43 authority is unable to determine whether the proposed well location
44 complies with this title and title 49 and local requirements, it shall
45 indicate this on the site plan and the decision to approve or reject the

1 proposed construction rests with the director of water resources. If
2 parcel size, geology or location of improvements on the property prevents
3 the well from being drilled in accordance with this title and title 49 or
4 local requirements, the property owner may apply for a variance. The
5 property owner shall make the request for a variance to the county or
6 local authority if a county or local law, ordinance or regulation prevents
7 the proposed construction. If a law or rule adopted under this title or
8 title 49 prevents the proposed construction, the property owner shall make
9 the request for a variance directly to the department of water resources.
10 The request for a variance shall be in the form and shall contain the
11 information that the department of water resources, county or local
12 authority may require. The department of water resources, or the county
13 or local authority whose law, ordinance or regulation prevents the
14 proposed construction, may expressly require that a particular variance
15 shall include certification by a registered professional engineer or
16 geologist that the location of the well will not pose a health hazard to
17 the applicant or surrounding property or inhabitants. If all necessary
18 variances are obtained, the director of water resources shall approve the
19 construction of the well if all remaining requirements have been met.

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

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

36 1. "Contaminated groundwater" means groundwater that has been
37 contaminated by a release of a hazardous substance, as defined in section
38 49-201, or a pollutant, as defined in section 49-201.

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

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

1 (b) The site of a corrective action undertaken pursuant to title
2 49, chapter 6.

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

5 (d) The site of a remedial action undertaken pursuant to title 49,
6 chapter 2, article 5, including mitigation of a nonhazardous release
7 undertaken pursuant to an order issued by the department of environmental
8 quality pursuant to section 49-286.

9 (e) The site of a remedial action undertaken pursuant to the
10 resource conservation and recovery act of 1976 (P.L. 94-580; 90 Stat.
11 2795; 42 United States Code sections 6901 through 6992).

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

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

19 1. The proposed well is located within a remedial action site.

20 2. The proposed well is located within one mile of any of the
21 following remedial action sites:

22 (a) A remedial action undertaken pursuant to title 49, chapter 2,
23 article 5, including mitigation of a nonhazardous release undertaken
24 pursuant to an order issued by the department of environmental quality
25 pursuant to section 49-286.

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

30 (c) A remedial action undertaken pursuant to the department of
31 defense environmental restoration program (P.L. 99-499; 100 Stat. 1719; 10
32 United States Code section 2701).

33 3. The proposed well is located within one-half mile of either of
34 the following remedial action sites:

35 (a) A remedial action undertaken pursuant to title 49, chapter 1,
36 article 5.

37 (b) A remedial action undertaken pursuant to the resource
38 conservation and recovery act of 1976 (P.L. 94-580; 90 Stat. 2795; 42
39 United States Code sections 6901 through 6992).

40 4. The proposed well is located within five hundred feet of the
41 site of a corrective action undertaken pursuant to title 49, chapter 6.

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

1 L. A notice of intention to drill filed under this section shall be
2 accompanied by a filing fee of ~~one hundred fifty dollars~~ \$150, except that
3 a notice filed for a proposed well that will not be located within an
4 active management area or an irrigation nonexpansion area, that will be
5 used solely for domestic purposes as defined in section 45-454 and that
6 will have a pump with a maximum capacity of not more than thirty-five
7 gallons per minute shall be accompanied by a filing fee of ~~one hundred~~
8 ~~dollars~~ \$100. The director shall deposit, pursuant to sections 35-146 and
9 35-147, all fees collected pursuant to this subsection in the well
10 administration and enforcement fund established by section 45-606.