

REFERENCE TITLE: temporary non-expansion area

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HB 2442

Introduced by
Representative Griffin

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

1 THE GROUNDWATER BASIN OR SUBBASIN SPECIFIED IN THE PETITION. IF THE
2 PROPOSED TEMPORARY NON-EXPANSION AREA IS LOCATED IN MORE THAN ONE COUNTY,
3 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; groundwater users;
20 report

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

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

34 2. THE DEPARTMENT MAY NOT ISSUE A DRILLING CARD THAT AUTHORIZES THE
35 DRILLING OF A WELL IN THE TEMPORARY NON-EXPANSION AREA, EXCEPT THAT A
36 PERSON MAY DEEPEN AN EXISTING WELL OR DRILL OR CAUSE TO BE DRILLED A
37 REPLACEMENT WELL IN APPROXIMATELY THE SAME LOCATION, A NEW WELL THAT WILL
38 BE USED AS A RECOVERY WELL PURSUANT TO SECTION 45-834.01 OR AN EXEMPT WELL
39 IN THE TEMPORARY NON-EXPANSION AREA IF A NOTICE OF INTENTION TO DRILL IS
40 FIRST FILED PURSUANT TO SECTION 45-596, SUBSECTION C.

41 B. ON COMPLETION OF THE FIVE-YEAR PERIOD:

42 1. SUBSECTION A OF THIS SECTION NO LONGER APPLIES AND GROUNDWATER
43 MAY BE USED TO IRRIGATE ADDITIONAL LANDS AND THE DEPARTMENT MAY ISSUE A
44 DRILLING CARD THAT AUTHORIZES THE DRILLING OF A WELL IN THE TEMPORARY
45 NON-EXPANSION AREA.

1 2. THE DEPARTMENT SHALL REVIEW THE STATUS OF GROUNDWATER IN THE
2 TEMPORARY NON-EXPANSION AREA, SHALL ESTIMATE THE AMOUNT OF ANY CHANGE IN
3 GROUNDWATER LEVELS IN THE AREA, SHALL SUBMIT A REPORT ON THE DEPARTMENT'S
4 FINDINGS TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF
5 THE HOUSE OF REPRESENTATIVES AND SHALL PROVIDE A COPY OF THIS REPORT TO
6 THE SECRETARY OF STATE.

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

9 45-596. Notice of intention to drill; fee

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

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

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

- 29 1. The name and mailing address of the person filing the notice.
- 30 2. The legal description of the land on which the well is proposed
31 to be drilled and the name and mailing address of the owner of the land.
- 32 3. The legal description of the location of the well on the land.
- 33 4. The depth, diameter and type of casing of the proposed well.
- 34 5. Such legal description of the land on which the groundwater is
35 proposed to be used as may be required by the director to administer this
36 chapter.
- 37 6. When construction is to begin.
- 38 7. The proposed uses to which the groundwater will be applied.
- 39 8. The name and well driller's license number of the well driller
40 who is to construct the well.
- 41 9. The design pumping capacity of the well.
- 42 10. If for a replacement well, the maximum capacity of the original
43 well and the distance of the replacement well from the original well.
- 44 11. Proof that the director determines to be satisfactory that the
45 person proposing to construct the well holds a valid license issued by the

1 registrar of contractors pursuant to title 32, chapter 10 and that the
2 license is of the type necessary to construct the well described in the
3 notice of intention to drill. If the proposed well driller does not hold
4 a valid license, the director may accept proof that the proposed well
5 driller is exempt from licensing as prescribed by section 32-1121.

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

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

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

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

17 D. On receiving a notice of intention to drill and the fee required
18 by subsection L of this section, the director shall endorse on the notice
19 the date of its receipt. The director shall then determine whether all
20 information that is required has been submitted and whether the
21 requirements of subsection C, paragraphs 11 and 12 and subsection I of
22 this section have been met. If so, within fifteen days ~~of~~ AFTER receipt
23 of the notice, or ~~such~~ A longer time as provided in subsection J of this
24 section, the director shall record the notice, mail a drilling card that
25 authorizes the drilling of the well to the well driller identified in the
26 notice and mail written notice of the issuance of the drilling card to the
27 person filing the notice of intention to drill at the address stated in
28 the notice. IF THE WELL TO BE DRILLED IS LOCATED IN A TEMPORARY NON-
29 EXPANSION AREA, THE DIRECTOR MAY ONLY RECORD THE NOTICE, MAIL THE DRILLING
30 CARD THAT AUTHORIZES THE DRILLING OF THE WELL AND MAIL WRITTEN NOTICE OF
31 THE ISSUANCE OF THE DRILLING CARD IF THE WELL IS DRILLED PURSUANT TO
32 SECTION 45-445.03, SUBSECTION A, PARAGRAPH 2. On receipt of the drilling
33 card, the well driller may proceed to drill or deepen the well as
34 described in the notice of intention to drill. If the director determines
35 that the required information has not been submitted or that the
36 requirements of subsection C, paragraphs 11 and 12 or subsection I of this
37 section have not been met, the director shall mail a statement of the
38 determination to the person giving the notice to the address stated in the
39 notice, and the person giving the notice may not proceed to drill or
40 deepen the well.

41 E. The well shall be completed within one year after the date of
42 the notice unless the director approves a longer period of time pursuant
43 to this subsection. If the well is not completed within one year or
44 within the time approved by the director pursuant to this subsection, the
45 person shall file a new notice before proceeding with further

1 construction. At the time the drilling card for the well is issued, the
2 director may provide for and approve a completion period that is greater
3 than one year but not to exceed five years from the date of the notice if
4 both of the following apply:

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

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

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

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

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

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

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

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

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

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

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

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

40 1. "Contaminated groundwater" means groundwater that has been
 41 contaminated by a release of a hazardous substance, as defined in section
 42 49-201, or a pollutant, as defined in section 49-201.

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

2 (a) The site of a remedial action undertaken pursuant to the
3 comprehensive environmental response, compensation, and liability act of
4 1980, as amended (P.L. 96-510; 94 Stat. 2767; 42 United States Code
5 sections 9601 through 9657), commonly known as "superfund".

6 (b) The site of a corrective action undertaken pursuant to title
7 49, chapter 6.

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

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

14 (e) The site of a remedial action undertaken pursuant to the
15 resource conservation and recovery act of 1976 (P.L. 94-580; 90 Stat.
16 2795; 42 United States Code sections 6901 through 6992).

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

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

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

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

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

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

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

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

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

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

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

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

6 L. A notice of intention to drill filed under this section shall be
7 accompanied by a filing fee of ~~one hundred fifty dollars~~ \$150, except that
8 a notice filed for a proposed well that will not be located within an
9 active management area or an irrigation nonexpansion area, that will be
10 used solely for domestic purposes as defined in section 45-454 and that
11 will have a pump with a maximum capacity of not more than thirty-five
12 gallons per minute shall be accompanied by a filing fee of ~~one hundred~~
13 ~~dollars~~ \$100. The director shall deposit, pursuant to sections 35-146 and
14 35-147, all fees collected pursuant to this subsection in the well
15 administration and enforcement fund established by section 45-606.