

**MEMORANDUM OF AGREEMENT BETWEEN THE DIVISION OF WATER QUALITY
AND THE DIVISION OF ENVIRONMENTAL HEALTH REGARDING PRIVATE
DRINKING WATER WELL PROGRAMS**

The purpose of this Memorandum of Agreement (MOA) is to provide to the general public, well contractors, local health department staff, and staff of DENR a clear delineation of the resources available to them for assistance with issues related to private drinking water wells. This MOA is intended to ensure fulfillment of DENR's responsibilities under the Well Construction Act, including protection of the groundwater resources of the state and protection of public health, welfare, and safety, as well as to provide efficient, high-quality, and consistent customer service

Initial Point of Contact for Private Drinking Water Well Concerns

The Division of Environmental Health (DEH) and Division of Water Quality (DWQ) agree that the public is best served by having a single agency available as first point of contact for issues related to permitting, construction, repair, and maintenance of private drinking water wells. Due to the local health department's lead role in permitting, inspecting, and testing of private drinking water wells for construction and repairs, the local health department is best suited to serve as the public's initial point of contact for private drinking water well issues.

Responsibilities for Permitting, Inspecting, and Testing of Wells

In keeping with G.S. 87-88(a), local health departments will be responsible for permitting, inspecting, and testing private drinking water wells with a designed capacity of less than 100,000 gallons per day, except for private drinking water wells that are to be constructed in a geographical area where the Environmental Management Commission (EMC) has found that prior permission is necessary.

DEH will be responsible for permitting, inspecting, and testing of:

- private drinking water wells with a designed capacity of 100,000 gallons per day or greater, and
- private drinking water wells that are to be constructed in a geographical area where the EMC has found that prior permission is necessary under 87-88(a)

DWQ will continue to be responsible for any necessary permitting, inspecting and testing of the following wells:

- wells or well systems with a designed capacity of 100,000 gallons per day or greater, except private drinking water wells,
- wells that are to be constructed in a geographical area where the EMC has found that prior permission is necessary under 87-88(a) (except private drinking water wells),
- injection wells,
- monitoring wells, and
- any other wells outside the authority of the local health department or DEH.

Well Construction Variances and Other Deviations from Standard Construction

DEH will be responsible for review and issuance of variances under 15A NCAC 2C .0113 for private drinking water wells. DEH will also be responsible for review and issuance of variances under 15A NCAC 2C .0113 for irrigation wells with a designed capacity of less than 100,000 gallons per day and sited on the same property as an on-site wastewater system permitted by a local health department.

In programs that operate under local rules, the local rules determine whether variances are available or not. With respect to those programs, variances to any local ordinance that is more stringent than the state standard will continue to be a local government decision.

In accordance with rule 15A NCAC 2C .0116, local health departments may issue permits for wells constructed with less than 20 feet of casing in areas designated by 15A NCAC 2C .0116(a) or in cases where the conditions of 15A NCAC 2C .0116(c) are met. DWQ may delineate additional areas where less than 20 feet of casing is allowed, in accordance with 15A NCAC 2C .0116(b). DWQ will consult with DEH and local health departments when delineating these areas.

Enforcement, Interpretation, and Revision of Well Regulations

In accordance with G.S. 87-97, local health departments have authority to enforce the minimum well construction standards in 15A NCAC 2C .0100 for all private drinking water wells. DWQ recognizes the authority of DEH to provide guidance to the local health department on interpretation of the rules in 15A NCAC 2C .0100. When needed to address trends or pervasive issues with rule interpretation, DEH and DWQ will collaborate to draft guidance and policy regarding rule interpretations.

When enforcement actions for violations of EMC rules (15A NCAC 2C .0100, .0300, and other rules in 15A NCAC Chapter 2) are pursued, the division that prepared the enforcement action will be responsible for seeing the enforcement case through to its conclusion. The agency which has variance or permitting authority for the well shall be responsible for enforcement. The local health department has authority to determine the appropriate corrective action for any private drinking water well violation, regardless of the date of well construction.

DWQ will retain lead responsibility for revisions to the well construction rules in 15A NCAC 2C.0100 and .0200. To the extent potential rule changes affect private drinking water wells, DWQ will develop the rules in consultation with DEH and local health departments. DEH may propose changes to the 15A NCAC 2C.0100 rules that affect only private drinking water wells to the EMC following consultation with DWQ. DEH will retain lead responsibility for revisions to the private drinking water well permitting and inspection rules in 15A NCAC 2C.0300, but will solicit DWQ and local health department input on proposed revisions to the rules before asking the EMC to send new or amended rules to public notice.

Technical Assistance for Private Drinking Water Well Concerns

Due to the local health department's lead role in permitting, inspecting, and testing of private drinking water wells for construction and repairs, the local health department is best suited to serve as the initial point of contact for complaints from private drinking water well users or requests for technical assistance regarding siting or construction of private drinking water wells. DWQ and DEH staff will refer initial complaints regarding private drinking water wells and requests for technical assistance regarding siting or construction of private drinking water wells to the appropriate local health department.

Discovery and Reporting of Contamination Incidents

If a water quality complaint is determined to be due to groundwater contamination rather than faulty well construction, local health departments should refer the contamination incident to the staff of the Division of Waste Management (DWM) or the Division of Water Quality as follows:

To DWM when:

- contamination is related to spills, leaks, or unlawful disposal of petroleum, solvents, and various inorganic, organic, and hazardous substances (such as underground or above ground fuel tanks, dry cleaning operations, or industrial waste facilities)

To DWQ when:

- contamination is related to wastewater discharge or non-discharge facilities,
- contamination is related to agricultural operations including application of agricultural chemicals, and
- contamination is suspected to be naturally occurring (such as arsenic or radon)

Data Management for Well Construction Records

DWQ will continue to manage data entry for well construction (GW-1) and well abandonment (GW-30) records. DWQ will consult with DEH and local health departments prior to making changes to well construction and well abandonment forms.

Support for Environmental Management Commission

DWQ will continue to support interactions with the Environmental Management Commission (EMC), such as soliciting agenda items, preparing the agenda, and serving as staff representatives to the EMC. DEH will designate a single point of contact from its staff to coordinate submission of agenda items to the EMC and its committees. It will be the responsibility of DEH to assure that such items are submitted to DWQ in accordance with established timeframes.

Support for Well Contractors Certification Commission

Support staff for the Well Contractors Certification Commission (WCCC) will be transferred from DWQ to DEH effective July 1, 2010.

Any agency which encounters potential uncertified well contractor activities or a pattern of repeated violations may make a referral to the WCCC for investigation or enforcement. WCCC support staff will notify DWQ, DEH, and local health departments of disciplinary actions against well contractors.

Effective Date

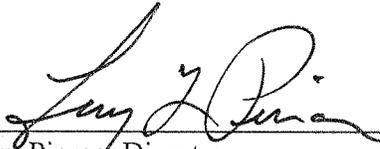
This Memorandum of Agreement will become effective on the date it is signed by both directors.



Coleen H. Sullins, Director
Division of Water Quality
Department of Environment and Natural Resources

5/19/10

Date



Terry Pierce, Director
Division of Environmental Health
Department of Environment and Natural Resources

18 May 2010

Date