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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



DAN WYANT
DIRECTOR

**Part 127 Revision
Stakeholder Meeting
Friday June 14, 2013
9:30am-3:00pm**

*State Secondary Complex, Operations Center
Ops Center Conference Room A & B
Operations Center
7285 Parsons Drive,
Dimondale, MI 48821*

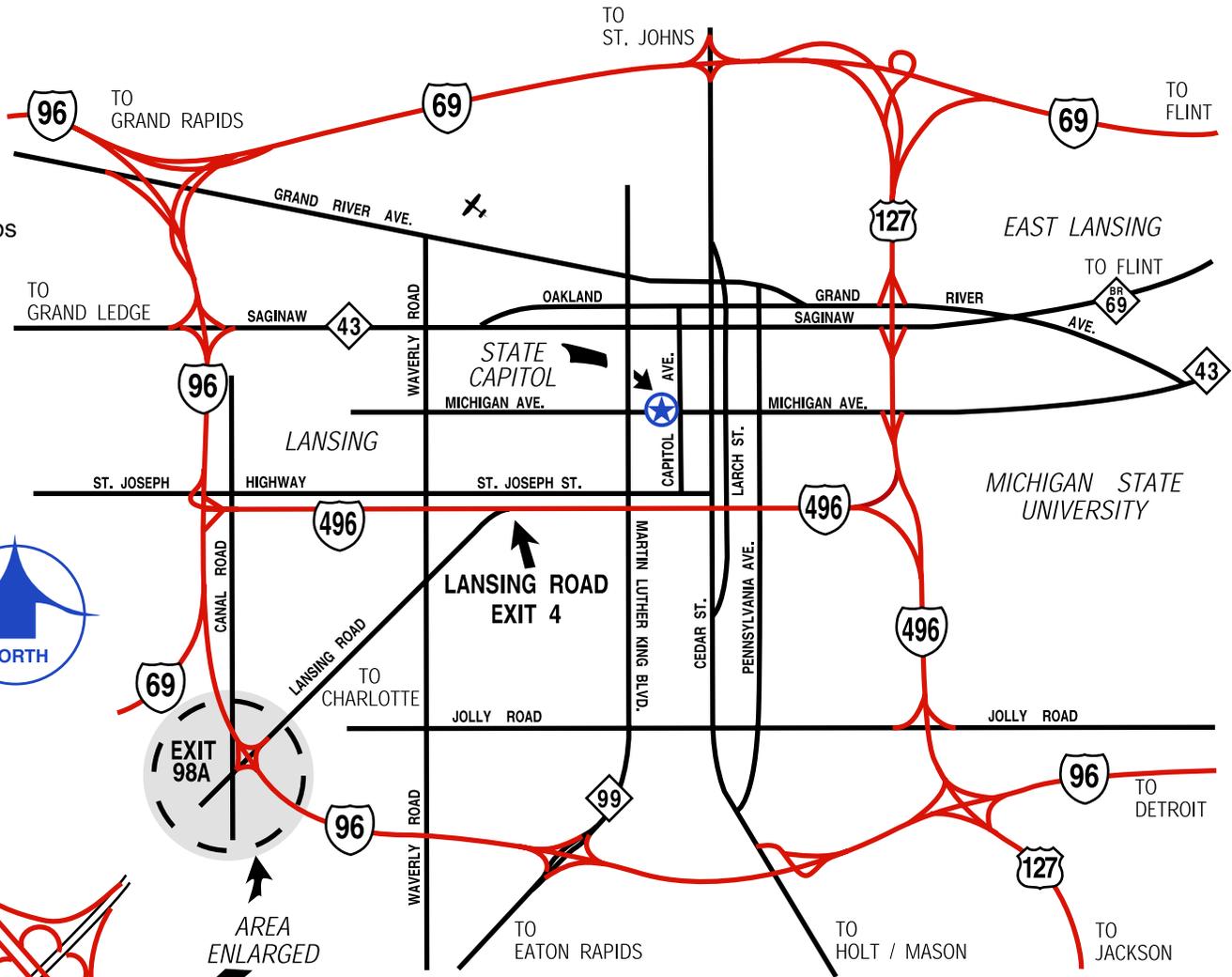
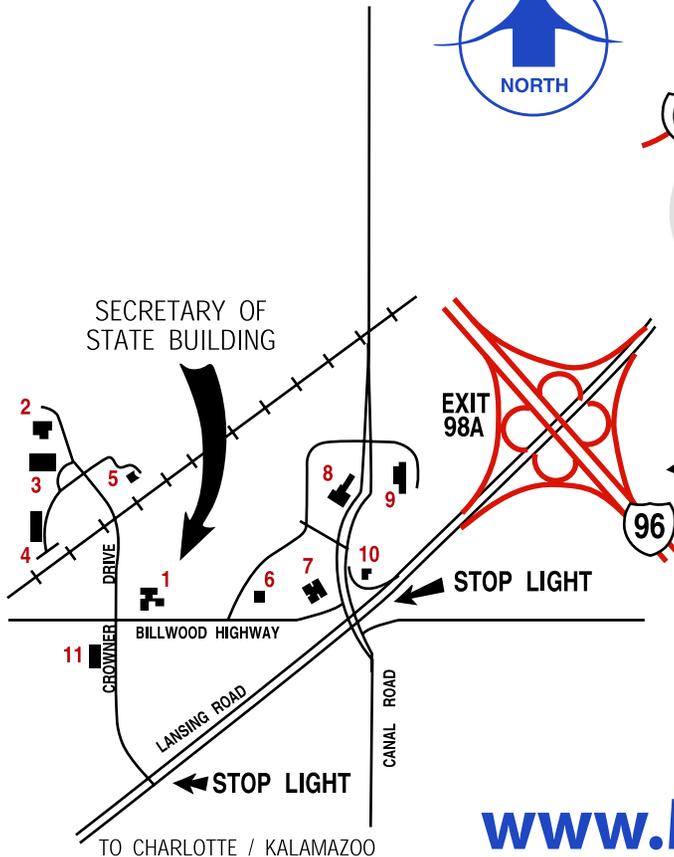
Agenda

- I. Agenda Review
- II. Review Minutes from Previous Meeting
- III. Review Well Construction Website (www.michigan.gov/deqwaterwellconstruction)
- IV. Summary of Statute Surveys
- V. Other States' Well Regulations
- VI. Discussion Items-(in no particular order, as many as we can get to)
 - a. Continuing Education
 - b. Licensing vs. Registration
 - c. Enforcement
 - d. Bonding
 - e. Definitions
 - f. Well Records
 - g. Well Owner Installed Wells
 - h. Advisory Board
- VII. Wrap-Up and Summary of Discussion Items
- VIII. Next Meeting Date and Location
Friday, July 26, 2013 9:30-3:00
State Secondary Complex

Directions to

SECONDARY COMPLEX OFFICES

1. SECRETARY OF STATE BUILDING
2. General Warehouse & Maintenance Shops
3. General Services Building
4. Operations Center
5. Central Energy Plant
6. Transportation Department Photo Lab
7. General Office Building
8. Testing and Research Labs
9. State Police Academy
10. State Police Post
11. Fleet Operation & Repair Facility



- The Secretary of State Building is located in the State Secondary Complex (about 9 miles southwest of the State Capitol Building) at the corner of Crowner Drive and Billwood Highway, Dimondale.
 - From I-96 take Exit 98A (Charlotte exit). Turn right at the second light onto Crowner Drive.
 - From I-69 North (from Charlotte/Kalamazoo), take Exit 70 (Lansing Road exit). Turn left at the first stop light onto Crowner Drive.
 - In Lansing, Instant Title offices are located at: 108 S. Washington Square or 5827 W. Saginaw St.
- Please note there is **no** same-day service on:

- Titles from another state
- Mobile home titles
- Titles with a stolen notice on record

www.Michigan.gov/sos

The following pages contain responses to survey questions that were sent electronically to all stakeholders. The comments are shown verbatim to avoid any interpretation of DEQ staff that compiled the responses.

The survey was sent to 12 stakeholders and 11 responses were received.

Statute Survey #1

**Definitions (Sec. 12701), Note: additional definitions are found in the Rules, starting on page 6
Applicability (Sec. 12703), and Well Records (Sec. 12707)**

1. Section 12701(1) has a limited number of definitions. Should any definitions be added, such as “supervision”, which is currently in policy? If yes, please explain in the comments. Note: Additional definitions are found in the Rules, starting on page 6.

50% Yes

30% No

20% No opinion

Comments:

- a. supervision needs definition; modify definition of well so that sock wells are included; need better defintion of well completiondrilling equi[pem]t should also be defined as water truck and repair vehicles
- b. I think that the registered contractor should be present during the drilling process. If alone on a rig a person should be registered.
- c. how do out of state well drilling contractors fit in def (e)? a well drilling contactor shoul db e defined as a perosn who "directly" supervises the construction of water well
- d. A lot has changed since rules were originally written

2. Should any of the existing definitions found in Section 12701(1) be modified? If yes, please explain in the comments. Note: The definition of a “person” is already defined in the Public Health Code and cannot be changed.

60% Yes

40% No

0% No opinion

Comments:

- a. see above comment
- b. 12701(d) should we include monitoring wells here?
- c. Modify pump definition to include pump types such as centrifugal, jet and submersible
- d. "contaminant" should have a statement as to the possibility it occurs naturally or introduced into the environment. Rule 106(3) "well" should include "observation wells", "monitor wells"
- e. the definitions refer to a qualified person but uses a certification process. It seems it would be clearer to say a person "certified" under defintion d and e.

3. Section 12703(2) allows the property owner to drill a well at their single family home or farm. Should this continue?

30% Yes

70% No

0% No opinion

Comments:

- a. Although there are very few homeowners who attempt to drill their own well - when it does occur that are frequently bad outcomes because homeowners do not have the proper equipment to drill a safe well and usually drill on their own to try to work around a rule.
- b. Average property owners do not have the skills necessary to properly install and hook up a well.
- c. all treated equal
- d. However, they should still be required to obtain a permit and complete the well in accordance with the applicable code (and that will likely stop most of that activity).
- e. as long as it is constructed to the current code

4. Section 12703(1)(a) exempts dewatering wells 2 inches or less in diameter and 25 feet or less in depth from the statute. Should this continue?

70% Yes

20% No

10% No opinion

Comments:

- a. I would exempt these as long as they are temporary (and define "temporary")

5. Section 12707 requires the submittal of 2 paper copies of the well record to the Local Health Department. Should electronic submittal of well records be required?

70% Yes

30% No

0% No opinion

Comments:

- a. Paper well logs cost more to process and this cost should be covered by drillers who do not submit electronically
- b. Some drillers just are not tech enough to make this work. Still should be encouraged but not required.
- c. As long as the agency has an accessible and usable electronic filing format.
- d. As long as the LHD is OK w/paper

6. Should there be an incentive for contractors to submit their well records electronically?

40% Yes

40% No

20% No opinion

Comments:

- a. High fee should be charged for non-electronic well records
- b. I believe it should be required
- c. no incentive, just required.

7. Section 12707 requires well records to be submitted to the local health department within 60 days after completion of the well. Should the 60 day requirement be changed?

60% Yes

30% No

20% No opinion

Comments:

- a. add clarity to when a well is completed. A well log is to be submitted within 60 days of drilling the well should be the requirement
- b. Shorter period of time to provide well records to health department or to be placed on welllog.
- c. It should not be more than 60 days
- d. should e submittal be required, the 60 days requirement seems too long. It is actually too long without e filing.
- e. I would advocate less than 60 days
- f. Sometimes it is a long time between well completion and pump instillation
- g. But enforce it!

8. Additional Comments

- a. why a copy is sent to DNR? is this needed?

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Statute Survey #2

Inspection (Sec. 12708), Violation Enforcement (12709), Misdemeanor (Sec. 12715)

1. Section 12708 allows a local health department to enter property for the purpose of inspecting the development or abandonment of ground water supplies. Should this wording be expanded to include other reasons to inspect such as complaint investigation?

100% Yes

0% No

0% No opinion

Comments:

- a. complaint verbal or written as well as referral from other local and state agencies
- b. would be valuable especially with the groundwater withdrawel issues

2. Section 12709(1) requires the local health department to order the "responsible person" to make corrections when a well code violation has occurred. Should there be any changes to this process?

40% Yes

40% No

20% No opinion

Comments:

- a. There must be flexibility to address issues that are either a well drilling contractor issue and those that are homeowner issues.
- b. Should be a clear process when violations are sent to DEQ for further enforcement actions
- c. the only catch here is who is the "responsible person"? is it the owner? the driller? the general contractor?
- d. I believe that the responsible party needs to have the right to have the local health department show, or demonstrate, to the responsible party why they believe a violation has occurred. Perhaps allowing the driller to be present during the investigation of the "violation".
- e. clarify that the well drilling contractor must correct violations
- f. The responsible person shall be identified and notified before any threats or registration revocation are sent

3. Historically, monetary penalties may be an outcome of enforcement actions initiated by the DEQ. Should the maximum amount associated with a specific well code violation be detailed in the statute?

60% Yes

30% No

10% No opinion

Comments:

- a. If it is in the statute we are tied to it. Would make it less flexible.
- b. there may also be a need to allow for flexibility of changing this max at a given time in the future. something like this might be moved under the responsibility of the advisory board.
- c. That would clarify what a violation might cost a responsible person.
- d. The amount of the fine should set on a case by case by the advisory board and be levied by all party's inc the health dept
- e. I believe that the contractor cooperation/non-cooperation should be taken into consideration when determining the fines. Also the violation record/history of the contractor.

4. What should the penalties be for well code violations? Examples may include monetary penalties, suspensions, and revocations.

Comments:

- a. No opinion at this time. Benchmarking other statutes is needed.
- b. I think volunteer compliance is/has been working but when that does not work on completing required corrections. When this does not work then monetary penalties, suspensions, and revocations would be the escalated enforcement measures.
- c. Repeated violations with monetary penalties should be followed up with suspensions and revocations.
- d. monetary penalty, suspension of operations, and possibly revocations after proper notice and opportunity to show compliance
- e. a combination of all 3 will work best. there should also be a consumer protection clause which will allow for compensation by the well drilling contractor to the home owner or business impacted by these violations.
- f. Initially, monetary penalties should be a deterrent, however, suspension and revocation needs to be on the table for acts of gross negligence and/or repeated offenses.
- g. All of the above depending on the number, severity and repetitive violation history.
- h. Supervisory role first put a representative on site supervising actions for a set time at a set cost our first goal should be to educate then punish
- i. Anyone can make a mistake, I believe that the repeat offenders should be treated the same way as they are in the courts.
- j. Monetary penalties should be awarded to the property owner to make them whole and to cover the department for costs incurred. Suspensions and revocations should be covered as well.

5. Should contractors be required to be bonded to help ensure serious deficiencies are corrected?

60% Yes

30% No

10% No opinion

Comments:

- a. bonded and insured - DEQ might want to set min liability insurance/ bond amount to those who have x number of violations per a defined period of time prior to registration -
- b. That would likely add significant cost to installing a new well.
- c. On large projects may be

6. In general, the statute addresses contractor registration, well records, inspections, advisory board, and violations. Are there other items/issues you would like to see addressed here in the Statute?

The is very little if anything about well abandonment in the statute. Well abandonment requirements should be clarified and strengthened. All wells should be abandoned by a registered well drilling contractor.

- a. The is very little if anything about well abandonment in the statute. Well abandonment requirements should be clarified and strengthened. All wells should be abandoned by a registered well drilling contractor.
- b. None at this time.
- c. None, other than stricter enforcement of the rules on contractors.
- d. nothing specific
- e. Can the statute include a statement about gross negligent polluting the water of the States?
- f. None at this time.
- g. unknown
- h. Yes
- i. Not at this time
- j. no

7. Additional Comments

- a. There is nothing about water quality in the statute. Language should be included that sets minimum standards and allows LHDs to have more restrictive standards based on local groundwater issues related to public health protection. There should be an ability for LHDs to file civil actions or seek court ordered injunctive relief when it is determined that a public health hazard exists. There is currently no state requirement for water supply approval in order to occupy a newly constructed home - should this be considered to force building inspection agencies to collaborate with LHDs.

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Statute Survey #3

Certificate of Registration (Sec. 12704, 12705, 12706), Advisory Board (Sec. 12711, 12712, 12713)

1. Section 12704(1)(2) requires a Certificate of Registration be obtained prior to engaging in the business of well drilling or pump installation. Should this continue to be the requirement?

90% Yes

0% No

5% No opinion

Comments:

- a. The current system works. There is a high level of compliance with the state well construction code.
- b. unless there is a net benefit to the regulatory community and the citizens, then yet. if it just a formality, then no.
- c. Unless licenses are required

2. Should other options such as Licensure be explored?

60% Yes

20% No

20% No opinion

Comments:

- a. There must be a continued ability to tie needed corrective action on an improperly constructed or abandoned well with registration or licensure. Not in favor of establishing a licensing board that would have membership that is made up of primarily well drilling contractors. Not in favor of licensing moving to LARA..
- b. Licensing is a better option because well drilling is more than just drilling it involves electrical, plumbing work. then requiring these installers to be licensed would have a great benefit.
- c. Too complex and would likely need to be regulated under LARA.

3. Should continuing education be explored as a requirement for contractors?

90% Yes

0% No

10% No opinion

Comments:

- a. this is a very practical way to reach out and ensure contractors are aware of new technologies and understand the regulatory part of the business. this should be based on years of experience. the more experience, the less CE should be required.
- b. Staying current with regulations, operational methods, and any "new" science is very important.

4. Section 12705(1) requires the DEQ to issue certificates of registration to well drillers and pump installers. Should there be additional registration categories? Examples may include rig operator, business, apprentice, etc.

40% Yes

40% No

20% No opinion

Comments:

- a. This would coincide with changing "supervision".
- b. see commenst in question # 3 about speciality work done as part of well drilling operation.

- c. Just be sure that the registered well driller is responsible for lower categories of employees work activities
- d. Certification testing in sub categories
- e. it would be great to develop a process that allowed for those learning the field and operating on-site without the driller to have some level of certification.

5. Section 12704(4) exempts local government entities from paying the contractor registration fee when they perform work on only their own wells. Should this continue?

30% Yes

70% No

0% No opinion

Comments:

- a. Only if thier staff is a registered contractor.
- b. all treated the same
- c. If they want to perform their own work, they should have to comply with ALL parts of the regulations, the same as private industry.

6. Section 12705(3) requires each firm to have at least 1 person take the exam and be registered. If a contractor wants to represent more than 1 firm, they must take the exam and obtain a separate registration. Should a contractor continue to be allowed to obtain multiple registrations for the purpose of representing multiple firms?

10% Yes

40% No

50% No opinion

Comments:

- a. The holder of the two registrations must be able to provide proper supervision.
- b. Registering for multiple firms suggests that the individual isn't actively involved with all aspects of the work being done under their registration. The exception might be where a two firms have the same owner(s) and are essentially operated as a single entity.
- c. I feel this is a invitation to "freelance" the registration
- d. There should be a person on responsible charge on each drilling site.

7. Section 12711 created an Advisory Board, which was disbanded in 1994 by the Governor. If the Advisory Board is re-instituted, should the format (number of members, length of term, number of meetings) listed in Sections 12711-12713 remain the same?

50% Yes

40% No

10% No opinion

Comments:

- a. No Governor appointments to the board. Keep the politics out of it. Have organizations such as our group of stakeholders make the appointments.
- b. the advisory board should be appointed by the director to advise him/ her in carrying out the administrative duty of part 127. there maybe benefits in increasing the number to have a wider representation. increase the term length to 5 . regional representation should be based on weighted average of permits issued in the respective counties in this region.
- c. titles and departments need to be updated. How about a rep from the well construction unit and environmental assistance division.
- d. Every board in all trades are made up of licensed contractors
- e. Needs to be updated to reflect current format of state government. Should include representatives from other agencies such as MDARD

8. What do you feel would be the role of the Advisory Board?

Comments:

- a. Advise MDEQ in code interpretation. It should not have a role in variances. Assist in the development and monitoring of continuing education requirements. Discuss technology changes that effects the contraction of water wells and protects groundwater quality.
- b. Well driller education, development of well drilling apprentice program.
- c. Try to make sure that the rules and regulations keep pace with the ever changing technical developments.
- d. advisory only, a stakeholder sounding board
- e. to advise the director to administer act 127
- f. The Advisory Board should have the responsibility for advising the DEQ on issues related to water well construction, should review well driller/pump installer applications, and provide other advice to the Department, as requested.
- g. Review and examine candidates for registration. Review and make recommendation on the promulgation of rules related to well construction.
- h. Provide guidance to the DEQ and have the soal responsibility of enforcement of the rules
- i. To help DEQ w/questions of contractor violations & to evaluate new applicants, etc.
- j. Unsure. Candidates for registration should not have to wait for a year for the meeting to occur nor would it be reasonable to convene a meeting every time someone applied.

9. Should the statute include a requirement for obtaining a well permit prior to constructing a well? All local health departments currently issue permits.

80% Yes

20% No

0% No opinion

Comments:

- a. Should include a requirement to have the permit onsite during drilling operations.
- b. however there should be an exception to this when an "out of water" situation is encountered, the well driller should be allowed to drill a well without a permit and then apply and obtain a permit on the 1st business day the LHD is open for business after the drilling has occurred. Well water should not be used for drinking until safe water samples are obtained. Well water can be used for other purposes such as washing, showering, watering etc. Bottled water should be used until the well has received final approval from the LHD.
- c. As long as the local health departments can continue the programs with the funding and. Man power it takes

10. Additional Comments

- a. Any changes must include a consideration on what the benefit to the overall program is, costs to administer both at the state and local level, and potential costs to homeowners. Also changes should not conflict with local regulations already in place at the LHD level. The state well code should still be considered the minimum standard with provision for LHDs to have more restrictive standards. The advisory board should have a membership that is made up of science and regulatory personnel and not have a majority that is politically appointed. Continuing education should be required for master plumbers doing well work.
- b. The advisory Board, in my opinion, provides input to the Department from a group of professionals with many years of experience and experience from the industry's perspective, not solely the regulators perspective.

Other States' Well Code Requirements

State	Date of Last Revision	Well Permit Program Administered by ____	Continuing Education	Licensing vs. Registration Experience	Contractor Fees	Bonding/ Amount	Advisory Board/ Membership	Permit/ Fees	Well Records/ # Days to Submit	Property Owners Can Drill Wells
Michigan	1994	Local Health Departments	No	Registration 2 years 20 wells	\$40/yr. WD \$25/yr. PI \$10/yr. Rig	No	No	Yes LHD Varies	Wellogic or Paper 60 days	Yes
Minnesota	2008	Local Health Departments Delegated Departments	Yes 6 hrs/yr.WD 2 hrs/yr. PI	Licensure 4 years 10 wells	\$250/yr. WD \$75/yr. Rig	Yes \$25,000	Yes 18 members 6 WD	Yes LHD Varies	Paper 30 days	Yes Notification Required
Wisconsin	2011	State Designated Counties	Yes 6 hrs/yr.	Registration 2 years 30 wells	\$50/yr. WD \$25/yr. PI \$25/yr. Rig op No Rig fees	No	No	Yes Counties Vary	Paper 30 days	No
Illinois	2011	Counties	Yes 6 hrs/2yrs. WD =6 PI=6	Licensure 2 years 10 wells	\$100/yr. (covers both WD & PI)	No	No	Yes Counties Varies	Paper 30 days	No
Indiana	2011	Counties	Yes 6 hrs/2yrs.	Licensure 3 references \$25 test fee	\$100/yr. WD Pump Installation is not regulated	No	No	Yes \$125/well	State database or Paper 30 days	No
Ohio	2011	State Designated Counties	No	Registration Application Surety Bond	\$250/yr. WD \$65/yr. PI No Rig fees	Yes \$10,000 \$500,000 Liability Insurance	Yes 9 members 2 WD 1 PI	Yes \$74 to State – rest to County	Paper \$20/log	Yes - but owner must become registered

Summary of Other States' Well Code Requirements

Well Code Revision:

4 of 5 states revised their water well drilling regulations in 2011.

Minnesota updated their water well installation requirements in 2008 and their geothermal requirements this year (2013).

State vs. County:

Most have their well code implemented through counties that have to meet statewide administrative standards.

Ohio, Minnesota, and Wisconsin, provide direct service permit administration.

Continuing Education:

4 of 5 states require annual continuing education for well drilling contractors. 6 hours per year or 6 hours per 2 years is the average. Minnesota and Illinois, where pump installation requires a separate registration, additional continuing education credits are required.

Ohio recently proposed a continuing education requirement, but it was not authorized by their state legislature.

Experience:

Michigan's registration experience requirements are similar to other states, except for Ohio, who has no specific experience requirements.

Fees:

Registration fees run from \$40 (Michigan) to \$250 (Ohio & Minnesota). Some states also have rig fees.

Bonding:

Contractor bonding is required only in Minnesota and Ohio.

Advisory Boards:

"Advisory Boards" are identified as part of the well construction statute for two states: Minnesota and Ohio.

Both serve in an advisory role to the State.

Permit Fees:

State permit fees are used to partially support the well drilling regulation program in Ohio (\$74/well) and Indiana (\$125/well).

Well Records:

Well records must be submitted within 30 days in 4 of 5 states.

All of the records are electronic documents provided by the state and printed by the driller. Indiana has an electronic well records database.

Property Owners:

Property owners may drill their own wells only in Ohio and Minnesota. Ohio requires the property owner to become registered, and Minnesota requires the property owner to notify the State or LHD so an onsite inspection can be performed.

Plugging of abandoned wells larger in diameter than 1 1/4 inches, by anyone other than well driller, is prohibited in all 5 states.