



**DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL
DIVISION OF WASTE AND HAZARDOUS SUBSTANCES**

Policy Addressing Private Potable Water Supply Well Detections

Issued: July 15, 2014

This Policy establishes the Division's process for addressing detections of regulated contaminants in **private residential potable water supply wells**, and applies only to contaminants regulated under 7 Del. C. Chapters 74, 74A and 91. To date, WHS does not have a policy to address these impacts, and as a result, there has been no defined or consistent pathway for resolution. Impacts to private water supply wells are sometimes identified during environmental investigations. Further, as anticipated in 2015, the "Regulations Governing the Construction and Use of Wells" will require that private wells be sampled for volatile organic compounds (VOCs), including methyl tert-butyl ether (MTBE), upon well construction, and prior to transfer of ownership of the well through property transfer. WHS anticipates that up to 20% of at least 1,500 wells sampled annually will have detectable VOCs. This policy is not to be applied retroactively prior to issue date.

The purpose of this Policy is to define the process for responding to such detections as noted above. Because WHS actions will take longer to complete than may be acceptable for property transfers, the initial response to any identified potable water impacts should be addressed in a manner similar to any other deficient item found during a home inspection (e.g. roof, building foundation, septic system), meaning that the issue will likely involve negotiations between the seller and the buyer to fix the problem as part of the property sale. Based upon the results of WHS investigations, the property owner/seller may be reimbursed for costs related to fixing the well water impacts (e.g. carbon treatment system, newly installed well or public water connection). However, any resulting maintenance costs of an installed treatment system will be the responsibility of the property owner unless an agreement is made with a responsible party(s).

Once private residential potable water supply well data indicating the presence of VOCs is obtained, WHS staff will track the data and evaluate if the Site Investigation and Restoration Section (SIRS) and/or the Tank Management Section (TMS) will take the lead role in any further action.

- If the detections are below threshold concentrations (e.g. EPA Maximum Contaminant Levels (MCLs) or other appropriate risk-based value), WHS will only manage the data and perform a review of WHS databases in an attempt to identify potential contaminant sources. Generally, WHS will not perform a response action at this point. Generally, the WHS will not monitor the impacts to their private water supply well over time to ensure that contaminant concentrations remain below threshold limits. Taste and odor issues related to compounds not addressed under this policy will be referred to the Delaware Division of Public Health. On a case-by-case basis, WHS may perform a more detailed review of available information to

determine whether contaminant trends necessitate a response before regulatory thresholds are reached.

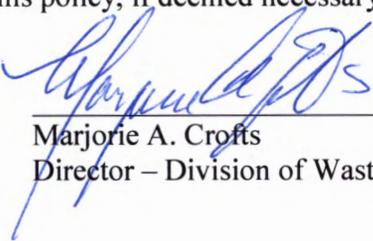
If the detections are at or above threshold concentrations, SIRS and/or TMS will coordinate resampling of the subject well, sampling of neighboring potable (or other) wells, and conduct a Site/area reconnaissance (which may include soil and/or groundwater sampling). The property owner will be advised to utilize an alternate source of drinking water or to install a carbon treatment system, install a new water supply well, or connect to a public water supply, and to contact Delaware's Division of Public Health for information related to health concerns. WHS may, based upon site specific variables and at its sole discretion, supply a carbon treatment system at the property. In such cases, the property owner will be responsible for maintenance/testing.

- If additional potable (or other) well sampling and Site reconnaissance does not identify an offsite source, but cannot confirm that activities at the Site itself are the cause of the impact, the property owner will be responsible for addressing the impacts to the water supply well and any associated maintenance if they wish to continue to treat their water supply. WHS will not attempt to recover any costs from the property owner related to Site reconnaissance or additional sampling activities.
- If additional potable (or other) well sampling and Site reconnaissance indicates that activities at the Site itself are the cause of the impact, then WHS will not investigate further and will attempt to recover all associated costs from the Responsible Party. If not already done, it will be the Responsible Party's responsibility to address the impact to the water supply well and any associated maintenance. In addition, the Responsible Party will be responsible for having an investigation performed by an approved consultant under the TMS or SIRS programs to determine the extent of contamination. If the Site activities have caused an impact above threshold values to neighboring potable (or other) wells, it will be the responsibility of the Responsible Party to also address the impacts to those wells. If the Responsible Party fails to perform the necessary investigation and/or remedial actions, then WHS will complete the investigation/remediation and reserve the right to recover applicable costs.
- If additional potable (or other) well sampling and Site reconnaissance indicates an offsite source, then WHS will ensure that the property receives potable water through installation of a carbon treatment system, public water connection, or new well at the impacted property(s). Further, WHS will attempt to identify the source of the contamination and/or a responsible party(s) through completion of a Hydro/Remedial Investigation in accordance with applicable Regulations.
- When a viable responsible party(s) is identified and engaged, WHS will provide regulatory oversight for any additional investigation and/or remedial action performed by the responsible party(s). In addition, WHS may attempt to recover any previously incurred costs associated with its investigation and/or well water treatment from the responsible party(s).

Maintenance and/or upkeep of any WHS installed treatment system on a private water supply well will become the responsibility of the property owner or responsible party once an investigation is completed. WHS will use appropriate authority to ensure that responsible parties pay for maintenance and upkeep of any treatment system installed on a private water supply well.

If a responsible party proves that they do not have the ability to pay for an investigation or remedial action, or if a viable responsible party cannot be identified, then the financial burden will fall to WHS, and Hazardous Substance Cleanup Act funds will be utilized to cover any associated costs.

On a case-by-case basis, and utilizing best professional judgment, WHS may alter the process outlined in this policy, if deemed necessary, at any time.

Approved:  _____ Date: 7.15.14 _____
Marjorie A. Crofts
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