

BER POLICY #BER-RS-VCP-002

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**BUREAU OF ENVIRONMENTAL REMEDIATION/REMEDIAL SECTION
POLICY
ELIGIBILITY DETERMINATIONS CONCERNING PUBLIC OR
PRIVATE DRINKING WATER WELL SITUATIONS**

Section Chief:  **Date:** 12/28/05
Bureau Manager:  **Date:** 12/30/05

REVISIONS

Revisor: _____ **Date of Revision:** _____

ORIGINATOR

Originator: Frank Arnwine

Date: October 19, 2000

REMEDIAL SECTION POLICY - VCP-002

Voluntary Cleanup and Property Redevelopment Program (VCPRP)
Eligibility Determinations Concerning Public or Private Well Situations

CONSIDERATIONS

- 1) K.S.A. 65-34, 164 (c): The provisions of this act shall not apply to: K.S.A. 65-34, 164 (c)(5) property that presents an immediate and significant risk of harm to human health and the environment; or K.S.A. 65-34, 164 (c)(6) property that the department determines to be a substantial threat to public or private drinking water wells.

- 2) For this policy the following definitions apply:

A. Drinking water wells can be deemed “active” or “inactive”. **Active** drinking water wells include those wells that are currently being used or may be used in the future for consumptive or human contact (household use including cooking, clothes washing, and/or bathing) supply. This designation also includes stand-by wells, wells used in emergency water shortages, wells used to fill swimming pools and wells used to provide drinking or human contact water to public use places or areas. **Inactive** drinking water wells are wells that are no longer being used for consumptive or human contact purposes, and will not be used in the future. Domestic wells that are inactive may be used for lawn and gardening purposes based on KDHE’s determination but **must be disconnected from the house.**

B. Alternative drinking water supplies can be deemed “permanent” or “non-permanent”. **Permanent** drinking water supplies include: Connection to a KDHE-deemed safe Public Water Supply or Rural Water District System; completion and connection of a new well, etc. **Non-permanent** drinking water supplies may include: bottled water, in-house filter systems, treatment systems (such as an air stripper), etc.

POLICY

Eligibility determinations concerning properties that have impacted or threaten to impact public or private wells will be made as followed:

- 1) At the time of application any property that currently impacts or threatens* (as determined by the department) public or private **active** wells **will not** be eligible.
- 2) Prior to application, if a voluntary party or other entity has connected the impacted or threatened users to a permanent drinking water supply and the impacted or threatened drinking water wells are deemed inactive (refer to the above definition) then the property **may be** eligible as determined by the department.
- 3) If, after being determined eligible to participate in the VCPRP, additional information becomes available which indicates that the eligible, participating property is impacting or threatening a **active public** water supply well, that property **will be** deemed ineligible and the Voluntary Agreement for the participating property will be terminated by KDHE.
- 4) If, after being determined eligible to participate in the VCPRP, additional information becomes available which indicates that the eligible, participating property is impacting or threatening an **active private** water supply well, that property **may be** deemed ineligible and the Voluntary Agreement for the participating property will be terminated by KDHE.

Determination is made by the department based on K.S.A. 65-34,165(h)(2), "...if the applicant fails to address an immediate and significant risk of harm to public health and the environment in an effective and timely manner." The department may allow the voluntary party an opportunity to remain in the VCPRP if the voluntary party can provide a **permanent** alternate drinking water supply to the threatened or impacted private water supply well users within a time frame acceptable to KDHE. VCPRP activities specific to the monitoring and or investigation of the property will be suspended pending resolution of the threatened or actual impact to public health.

The voluntary party must implement the following procedures, at a minimum, to continue participation in the VCPRP:

- A. All identified private drinking water supply well owners identified as threatened must be sampled by the voluntary party.
- B. Well owners must be notified of the sampling results in writing by the voluntary party within seven (7) days of receipt of the analytical results.
- C. All well owners must agree to be connected to a **permanent** drinking water supply. It must be made clear to all well owners that upon connection, the existing well must be disconnected from the household plumbing. Written documentation of each well owner's agreement to be connected to the permanent drinking water supply must be provided to KDHE by the voluntary party.
- D. The voluntary party must provide a **non-permanent** drinking water supply to the impacted private well owners for the period prior to completing the final connection to the permanent drinking water supply.
- E. The connections to the **permanent** drinking water supply must be completed within a time frame approved by the department.
- F. A final report documenting the actions must be submitted by the voluntary party to the department.

Failure to comply with any of the implementation procedures will result in the department's termination of the Voluntary Agreement as the property would be considered no longer eligible to participate.

* Threatened public or private wells for the purposes of eligibility determination are defined as **active** wells that are located hydrogeologically down gradient from the property or at a location where hydraulic influence of an operating well could enhance the migration of contamination to the well.