



MURIEL BOWSER

MAYOR

September 29, 2022

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, NW, Suite 504
Washington, DC 20004

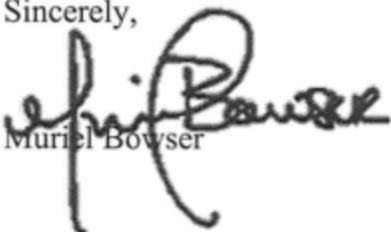
Dear Chairman Mendelson:

Enclosed for consideration and approval by the Council of the District of Columbia is the proposed resolution entitled the "Well Construction, Maintenance, and Abandonment Civil Penalty Schedule Approval Resolution of 2022".

The proposed resolution would approve a proposed final rulemaking that would establish a schedule of fines for violations of rules related to well construction, maintenance, and abandonment in Title 21 (Water and Sanitation), Chapter 18 (Well Construction, Maintenance, and Abandonment Standards) of the District of Columbia Municipal Regulations to ensure that the construction, maintenance, and abandonment of a well is undertaken in a manner that protects public health and safety and the environment.

If you have any questions on this matter, please contact Tommy Wells, Director, Department of Energy and Environment at (202) 671-2466.

Sincerely,


Muriel Bowser


Chairman Phil Mendelson
at the request of the Mayor

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6 A PROPOSED RESOLUTION
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11 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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16 To approve proposed final rules to establish a schedule of civil infractions for certain violations
17 of the District of Columbia Water Pollution Control Act of 1984.
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19 RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
20 resolution may be cited as the “Wells Construction, Maintenance, and Abandonment Infractions
21 Resolution of 2022”.

22 Sec. 2. Pursuant to section 104(a)(1) of the Department of Consumer and Regulatory
23 Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official
24 Code § 2-1801.04(a)(1)), the Council approves the proposed rulemaking adopted by the
25 Department of Energy and the Environment, which was published in the *D.C. Register* on June
26 24, 2022, at 69 DCR 7419, to establish a schedule of civil infractions for certain violations of the
27 District of Columbia Water Pollution Control Act of 1984, effective March 16, 1985 (D.C. Law
28 5-188; D.C. Official Code § 8-103.01 *et seq.*).

29 Sec. 3. Transmittal.

30 The Secretary to the Council shall transmit a copy of this resolution, upon its adoption, to
31 the Mayor, the Director of the Department of Energy and Environment, and the Administrator of
32 the Office of Documents and Administrative Issuances.

33 Sec. 4. Fiscal impact statement.

34 The Council adopts the fiscal impact statement in the committee report as the fiscal
35 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
36 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

37 Sec. 5. Effective date.

38 This resolution shall take effect immediately.

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF FINAL RULEMAKING

Well Construction, Maintenance, and Abandonment Infractions

The Director of the Department of Energy and Environment (DOEE), pursuant to the authority set forth in section 104(a)(1) of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985 (Civil Infractions Act), effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.04(a)(1) (2012 Repl.)); the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code § 8-151.01 *et seq.* (2013 Repl.)); the Water Pollution Control Act of 1984, effective March 16, 1985 (D.C. Law 5-188; D.C. Official Code § 8-103.01 *et seq.* (2017 Repl.)); and Mayor's Order 2006-61, dated June 14, 2006, hereby gives notice of the adoption the following amendments to Chapter 40 (Department of the Environment (DDOE) Infractions) of Title 16 (Consumers, Commercial Practices, and Civil Infractions) of the District of Columbia Municipal Regulations (DCMR).

This rulemaking establishes a schedule of fines for violations of rules related to well construction, maintenance, and abandonment in Title 21 (Water and Sanitation), Chapter 18 of the DCMR (Well Construction, Maintenance, and Abandonment Standards) to ensure that the construction, maintenance, and abandonment of a well is undertaken in a manner that protects public health and safety and the environment. A Notice of Proposed Rulemaking was published in the *D.C. Register* on June 24, 2022 at 69 DCR 007419, with a 30-day public comment period. No comments were received by DOEE in response to the Notice of Proposed Rulemaking, and no changes have been made to the text of the rules as proposed.

Pursuant to section 104(a)(1) of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.04(a)(1) (2012 Repl.)), a proposed resolution approving the proposed final rules was submitted to the Council of the District of Columbia on ----- for a forty-five (45) day period of review. The 45-day period of review having expired on ----- with no Council action to approve or disapprove the proposed resolution, the proposed final rules were deemed approved by the Council.

These rules were adopted as final by the Director on [insert date], 2022 and will become effective upon publication of this Notice of Final Rulemaking in the *D.C. Register*.

Chapter 40, DEPARTMENT OF THE ENVIRONMENT (DDOE) INFRACTIONS, of Title 16 DCMR, CONSUMERS, COMMERCIAL PRACTICES, AND CIVIL INFRACTIONS, is amended as follows:

A new Section 4019 is added to read as follows:

**4019 WELL CONSTRUCTION, MAINTENANCE, AND ABANDONMENT
INFRACTIONS**

4019.1

In addition to §§ 4019.2, 4019.3, 4019.4, and 4019.5, violation of any of the following provisions shall be a Class 1 infraction:

- (a) 21 DCMR § 1801.2 (constructing, maintaining, or abandoning a well in a manner that may create a point source or non-point source of pollutants to waters of the District, impair the beneficial uses of waters of the District, or pose a hazard to public health and safety or the environment);
- (b) 21 DCMR §§ 1802.4(a)-(b) (failure to stop well construction and related activities, and notify the Department within twenty-four (24) hours of the discovery of field conditions or new information that would cause an imminent hazard to public health and safety or the environment);
- (c) 21 DCMR §§ 1803.1, 1807.3, 1813.5, 1820.8, 1825.4, and 1829.2 (failure to obtain a Department-approved workplan, a well construction building permit, or the applicable District and federal permits);
- (d) 21 DCMR §§ 1803.13, 1810.8, 1810.10(a), 1811.1, 1811.2, 1814.2(a), 1816.1, 1817.8, 1823.20, 1823.21, 1824.1, 1827.3, 1827.4, 1827.12, and 1829.1 (work or conditions exceeding the scope of the Department-approved workplan and well construction building permit);
- (e) 21 DCMR §§ 1806.2, 1807.1, and 1827.3 (failure to register or abandon a well);
- (f) 21 DCMR § 1807.2 (changing the use of a well without Department approval);
- (g) 21 DCMR §§ 1808.1, 1823.5, and 1824.3 (constructing, maintaining, or abandoning a well within the District with a non-licensed well driller);
- (h) 21 DCMR § 1809.1 (work or conditions exceeding the scope of the Department-approved well construction work plan);
- (i) 21 DCMR § 1809.3 (failure to obtain public utility clearance);
- (j) 21 DCMR § 1809.4 (failure to obtain clearance of underground facilities with non-utility operators, including the Washington Metropolitan Area Transit Authority (WMATA));
- (k) 21 DCMR § 1809.6 (failure to use materials that are free of contaminants, compatible with the intended well use and the surrounding surface and subsurface conditions, and to include required components);
- (l) 21 DCMR § 1809.7 (hydraulically connecting a well to a single aquifer or otherwise confined aquifers causing aquifer contamination);

- (m) 21 DCMR § 1810.1 (failure to construct a well so that it is accessible for cleaning, treatment, inspection, abandonment, or other work that may be necessary);
- (n) 21 DCMR § 1810.2 (construction of a well within or under any building other than a separate structure constructed specifically for the housing of pumping equipment, without written Department approval);
- (o) 21 DCMR § 1810.4 (construction of building or other structure on top of a registered and permitted well without approval by the Department);
- (p) 21 DCMR § 1810.6 (construction or maintenance of a well in a manner that interferes with or damages any pre-existing subsurface structures, including utility lines, long-term combined sewer control shafts, diversion structures, diversion sewers, diversion tunnels, and Washington Metropolitan Area Transit Authority (WMATA) transit tunnels);
- (q) 21 DCMR § 1810.9 (failure to site a domestic supply well at minimum of one hundred (100) feet from a recognized environmental condition);
- (r) 21 DCMR § 1810.10(b) (locating a closed-loop ground source heat pump well within twenty-five (25) feet of a water supply well);
- (s) 21 DCMR § 1810.10(c) (locating a closed-loop ground source heat pump well with a capacity of two (2) tons or less within eight (8) feet of the property boundary);
- (t) 21 DCMR § 1810.10(d) (locating a closed-loop ground source heat pump well with a capacity greater than two (2) tons but less than or equal to four (4) tons within ten (10) feet of the property boundary);
- (u) 21 DCMR § 1810.10(e) (locating a closed-loop ground source heat pump well with a capacity greater than four (4) tons within ten (10) feet of the property boundary);
- (v) 21 DCMR § 1810.10(e) (failure to site a commercial closed-loop ground source heat pump system at least ten (10) feet and the permissible distance away from the property boundary);
- (w) 21 DCMR § 1812.1 (failure to provide for sanitary protection (as defined) of the well during construction, maintenance or abandonment);
- (x) 21 DCMR § 1812.2 (failure to protect the well and any water-bearing formation against contaminants from any source, including surface water drainage, during well construction);

- (y) 21 DCMR § 1812.5 (failure to notify the Department and other applicable emergency personnel if contaminants not addressed in the well construction building permit are encountered during the construction, maintenance, or abandonment of a well); or
- (z) 21 DCMR § 1812.6 (failure to take necessary measures to contain and minimize the spread of contaminants if contaminants not addressed in the well construction building permit are encountered during the construction, maintenance, or abandonment of a well).

4019.2 In addition to §§ 4019.1, 4019.3, 4019.4, and 4019.5, violation of any of the following provisions shall be a Class 1 infraction:

- (a) 21 DCMR § 1812.7 (use of materials, including drilling fluids or muds, in the construction of a well that may cause the groundwater to become polluted in violation of District or federal laws or regulations);
- (b) 21 DCMR § 1813.1 (failure to properly manage or handle derived waste from the construction, maintenance, or abandonment of a well);
- (c) 21 DCMR § 1813.3 (placement, use, storage, or disposal of derived waste from the construction, maintenance, or abandonment of a well in a manner that the derived waste may come into contact with or leach into the waters of the District);
- (d) 21 DCMR § 1814.1 (using a water-based drilling fluid with non-potable water);
- (e) 21 DCMR § 1814.2(b) (use of a drilling fluid containing additive that is not being used in accordance with manufacturer's recommendations);
- (f) 21 DCMR § 1814.2(c) (use of a drilling fluid containing additive that poses a hazard to public health and safety or the environment);
- (g) 21 DCMR § 1815.1 (use of well casing materials, well fittings, or well equipment that creates a condition which poses a hazard to public health and safety or the environment or results in violation of District or federal laws or regulations);
- (h) 21 DCMR § 1818.4 (failure to create the annulus of a well to be grouted a minimum of one and one-half inches (1.5 in.) wide, or to create the diameter of the annulus a minimum of three inches (3 in.) greater than the outside diameter of a well casing);

- (i) 21 DCMR § 1818.5 (failure to place a low-permeability seal a minimum of two feet (2 ft.), but no greater than three feet (3 ft.) thick atop the filter pack to prevent surface water from entering the screened interval);
- (j) 21 DCMR § 1818.6 (failure to place a sodium-based bentonite slurry grout on top of the low-permeability seal and extend towards the ground surface with sufficient space to install the upper well terminus);
- (k) 21 DCMR § 1818.7 (deviating from the well grouting standards without a Department-approval);
- (l) 21 DCMR § 1818.8 (failure to grout a well as soon as feasible, but not later than twenty-four (24) hours after the well casing has been set in place);
- (m) 21 DCMR § 1818.10 (failure to grout a well in which a permanent outer casing is installed in a manner that will allow the grout to set prior to the top of the inner casing being terminated below ground surface);
- (n) 21 DCMR § 1818.11 (failure to create a low-permeability seal with a hydraulic conductivity equal to or less than 1×10^{-7} cm/s);
- (o) 21 DCMR § 1818.12(a) (failure to grout a well to provide a water-tight seal against downward fluid migration along the well annulus into the filter pack, well screen, and surrounding aquifer);
- (p) 21 DCMR § 1818.12(b) (failure to install a sodium-based bentonite slurry mixture by pumping the slurry mixture through a tremie pipe at least one inch (1 in.) in diameter using a positive placement technique);
- (q) 21 DCMR § 1818.12(d) (failure to use sodium-based bentonite chips and pellets sized according to the well diameter to be filled, such that the chips or pellets are less than one fifth (1/5) the radial thickness of the annulus into which they are to be placed);
- (r) 21 DCMR § 1818.12(e) (failure to prevent bridging of sodium-based bentonite chips or pellets during placement within a borehole);
- (s) 21 DCMR § 1818.12(f) (failure to use medium-size, sodium-based bentonite chips or pellets at a ratio of one (1) gallon of potable water to twelve and one-half pounds (12.5 lbs.) of medium-size, sodium-based bentonite chips or pellets);
- (t) 21 DCMR § 1818.12(g) (failure to pressure grout the space between the open borehole wall and the outer casing, if an outer casing is required for a well penetrating a confined or multi-layer aquifer with the potential for aquifer cross-contamination);
- (u) 21 DCMR § 1818.12(h) (failure to use grout materials that are free of contaminants in the borehole);

- (v) 21 DCMR § 1818.12(i) (placing sand or gravel that is not silica-based and inert in a borehole);
- (w) 21 DCMR § 1818.12(j) (use of the drill cutting or mud as fill material or grouting material);
- (x) 21 DCMR § 1818.12(k) (disturbing grout inserted into a well annulus for sealing purposes before the grout has fully set);
- (y) 21 DCMR § 1818.13 (failure to meet the requirements for grouting materials to be used in unconsolidated formations); or
- (z) 21 DCMR § 1818.14 (failure to use required grouting materials for consolidated formations).

4019.3

In addition to §§ 4019.1, 4019.2, 4019.4, and 4019.5, violation of any of the following provisions shall be a Class 1 infraction:

- (a) 21 DCMR § 1818.15(a) (failure to use approved sealing and filling materials);
- (b) 21 DCMR § 1818.15(b) (failure to use a grout to meet the manufacturer's specifications and the hydraulic conductivity of the low-permeability seal equal to or less than 1×10^{-7} cm/s);
- (c) 21 DCMR § 1818.15(c) (failure to derive the hydraulic conductivity value by using American Society for Testing and Materials (ASTM) D-5084 and verified by an independent testing facility certified by American Association of State Highway & Transportation Officials, Materials Reference Laboratory to perform ASTM D5084 at the time of verification);
- (d) 21 DCMR § 1818.15(d) (failure to grout the entire length of the borehole from bottom to top with sodium-based bentonite or thermally enhanced grout specifically designed to facilitate heat transfer and provide a low-permeability seal);
- (e) 21 DCMR § 1818.15(e) (failure to complete grouting immediately after installing the geothermal loop or in case of extenuating field conditions, no later than twenty-four (24) hours after installing the geothermal loop);
- (f) 21 DCMR § 1818.15(f) (failure to protect an open borehole as necessary to prevent the entry of surface water or pollutants);
- (g) 21 DCMR § 1818.15(g) (failure to grout a borehole with temporary casing during or before removal of casing depending on borehole stability);

- (h) 21 DCMR § 1818.15(h) (failure to grout and allow a borehole with permanent outer casing and to set before the top of the casing is terminated below ground level);
- (i) 21 DCMR § 1818.15(i) (failure to loop and grout a borehole with no casing immediately after drilling);
- (j) 21 DCMR § 1818.15(j) (failure to case the borehole from the void to the surface when voids are encountered, including fractures in bedrock and degraded bedrock);
- (k) 21 DCMR § 1818.15(k) (failure to loop and grout borehole with a mud rotary drilling system in unconsolidated formations immediately after drilling);
- (l) 21 DCMR § 1818.16 (failure to abandon wells in accordance with §§ 1830 and 1831 if the annulus cannot be grouted in accordance with this chapter);
- (m) 21 DCMR § 1820.1(a) (failure to cover a well with a secure and locking well cap);
- (n) 21 DCMR § 1820.1(c) (failure to install a protective metal casing with a locking cap around a well completed at or above ground surface, extending at least six (6) inches above the top of the well and cemented into place at least one (1) foot below ground surface);
- (o) 21 DCMR § 1820.2 (failure to fully protect a well sited within the 100-year floodplain or low-lying areas prone to flooding from surface water intrusion);
- (p) 21 DCMR § 1822.2 (failure to prevent a monitoring well, observation well, or piezometer's uncompleted borehole well from penetrating to a depth greater than the depth to be monitored without completely grouting any portion of the borehole that extends to a depth greater than the depth to be monitored);
- (q) 21 DCMR § 1823.6 (operating a closed-loop ground source heat pump well and system in a manner that allows system heating or cooling of soil, rock, or water beyond the property line where the well is sited);
- (r) 21 DCMR § 1823.7 (failure to use a permanent outer casing for a closed-loop ground source heat pump well sited on a property where a recognized environmental condition has been identified);

- (s) 21 DCMR § 1823.8 (failure to construct a closed-loop ground source heat pump wells with a permanent casing constructed of new steel where organic contaminants are present);
- (t) 21 DCMR § 1823.9 (failure to construct and grout a closed-loop ground source heat pump well with a high density polyethylene (HDPE) factory manufactured pipe forming a loop, in accordance with the approved standard);
- (u) 21 DCMR § 1823.10 (failure to socket or butt the pipe joints and fittings installed and buried by a thermally fused or electro-fused method according to the pipe manufacturer's specifications);
- (v) 21 DCMR § 1823.11 (using glued or clamped pipe joints below ground);
- (w) 21 DCMR § 1823.13 (failure to construct the closed-loop ground source heat pump boring diameter with a minimum of four inches (4 in.) to sufficiently allow the placement of grout using a tremie pipe);
- (x) 21 DCMR § 1823.14 (failure to test the flushing, purging, pressure, and flow for closed-loop ground source heat pump systems components);
- (y) 21 DCMR § 1823.15 (failure to mark all buried pipes and plumbing at a depth of twenty-four (24) inches with underground warning tape); or
- (z) 21 DCMR § 1823.16 (failure to cap and protect all closed-loop ground source heat pump system piping until the manifold piping is ready to be connected).

4019.4 In addition to §§ 4019.1, 4019.2, 4019.3, and 4019.5, violation of any of the following provisions shall be a Class 1 infraction:

- (a) 21 DCMR § 1823.17 (failure to connect all closed-loop ground source heat pump system piping to the building in accordance with the manufacturer's recommendations and all local building and plumbing codes);
- (b) 21 DCMR § 1823.18 (placing a solution that contains any substances that pose a hazard to the public health and safety or the environment in a closed-loop ground source heat pump well piping system);
- (c) 21 DCMR § 1823.19 (failure to conduct pressure testing of the closed-loop ground source heat pump system network prior to putting the system into operation);
- (d) 21 DCMR § 1823.22 (constructing an open-loop ground source heat pump system);

- (e) 21 DCMR § 1824.2 (failure to weld the subsurface connections of steel freeze pipes installed in a ground freeze well);
- (f) 21 DCMR § 1824.4 (failure to test the flushing, purging, pressure, and flow for a ground freeze well and system components);
- (g) 21 DCMR § 1824.5 (use of a substances that poses a hazard to the public health and safety or the environment in coolant fluid or refrigerant circulated within the ground freeze downhole piping or ground freeze distribution manifold);
- (h) 21 DCMR § 1824.6 (failure to conduct pressure testing of a ground freeze well system, and to maintain operating pressures in accordance with the manufacturer's specifications prior to putting the system into operation);
- (i) 21 DCMR § 1825.1 (using materials and the methods to construct, maintain, and abandon a recovery well that are not compatible with the chemical and physical properties of the pollutants known to exist or potentially exist where a well is sited);
- (j) 21 DCMR § 1825.2 (penetrating a recovery well borehole to a depth greater than the depth from which contaminants are to be recovered);
- (k) 21 DCMR § 1825.3 (failure to grout the well or borehole to prevent vertical migration of contaminants if the well or borehole extends to a depth greater than the depth from which contaminants are to be recovered);
- (l) 21 DCMR § 1827.1 (maintaining a well in a manner that poses a hazard to public health and safety or the environment);
- (m) 21 DCMR § 1827.2 (failure to use and maintain a well in accordance with the well construction building permit, the well construction work plan, the well registration conditions, and all applicable District and federal laws and regulations);
- (n) 21 DCMR § 1827.6 (using or maintaining a well that may significantly deplete or degrade groundwater resources or that significantly interfere with groundwater recharge);
- (o) 21 DCMR § 1827.7 (discharging fluids withdrawn from a well to a separate stormwater sewer or waters of the District that may cause a violation of the District Water Quality Standards in Chapter 11 of Title 21 of the District of Columbia Municipal Regulations (DCMR), result in acute or chronic exposure to aquatic biota, or pose a hazard to the public health and safety

or the environment, without obtaining applicable District and federal permits);

- (p) 21 DCMR § 1827.13 (failure to repair broken, punctured, or otherwise defective or unserviceable well casing, well screen, fixtures, seals, or any part of the well head. or to properly abandon and seal the well);
- (q) 21 DCMR § 1828.5 (failure to comply with the data collection requirements of the District's Water Quality Monitoring Regulations in Chapter 19 of Title 21 DCMR if the results are to be submitted to the Department for regulatory and applicable decision-making purposes);
- (r) 21 DCMR § 1829.3 (failure to prevent the migration of a hazardous substance, a hazardous waste, or a pollutant beyond the boundary of the property where the well is sited, to a human or ecological receptor, or to the waters of the District, when injecting a fluid into a well by active or passive means);
- (s) 21 DCMR § 1829.4 (failure to minimize any negative impact to the natural degradation of a contaminant not targeted for treatment by the injection system when injecting a fluid into a well);
- (t) 21 DCMR § 1829.5 (failure to ensure that water injected into a well for testing purposes is clean, potable, and meets the District Water Quality Standards in Chapter 11 of Title 21 of the District of Columbia Municipal Regulations);
- (u) 21 DCMR § 1830.6 (failure to permanently abandon a dewatering well as soon as the dewatering period ends, but no later than seven (7) calendar days following the termination of pumping);
- (v) 21 DCMR § 1831.1 (failure to remove all obstructions that may interfere with the effective sealing operations by cleaning out the borehole or re-drilling);
- (w) 21 DCMR § 1831.2 (failure to remove all well upper terminus completion structures and well casing when abandoning a well);
- (x) 21 DCMR § 1831.4 (failure to prevent the vertical fluid migration within the well by completely filling and sealing the well after the well is abandoned);
- (y) 21 DCMR § 1831.5 (failure to use the approved materials for filling and sealing a well for abandonment); or

- (z) 21 DCMR § 1831.9 (failure to furnish the abandoned well with suitable materials to create a final cover similar to that of the surrounding area, such as a cold patch, or a non-coal tar based hot patch, or native soils or a combination of these materials).

4019.5 In addition to §§ 4019.1, 4019.2, 4019.3, and 4019.4, violation of any of the following provisions shall be a Class 1 infraction:

- (a) 21 DCMR § 1831.10 (failure to place all abandonment sealing material in one continuous operation using methods that prevent free fall, bridging, dilution, or separation of aggregates from cementing materials);
- (b) 21 DCMR § 1831.11 (failure to fill a well in a consolidated formation by placing gravel in the water producing zones, and cement or cement-grout in the non-water producing zones to the ground surface and failure to place a suitable packer between the gravel and the sealing material in accordance with approved procedures);
- (c) 21 DCMR § 1831.13 (failure to use only cement or cement-grout in accordance with the approved procedure to seal and abandon a well in a well penetrating a consolidated formation where known contaminants exist);
- (d) 21 DCMR § 1831.14 (failure to fill and seal the well in a multiple aquifer in such a way that exchange of water from one aquifer to another is prevented and all fluids are permanently confined to the specific strata in which they were first encountered);
- (e) 21 DCMR § 1831.15 (failure to abandon a closed-loop ground source heat pump well or ground freeze well in accordance with the approved procedure);
- (f) 21 DCMR § 1832.2 (failure to immediately stop all work and immediately notify the Department, if the construction, maintenance, or abandonment of a well is conducted contrary to the approved well construction building permit or work plan or in a manner that poses or causes a hazard to the public health and safety or the environment); or
- (g) 21 DCMR § 1833.3 (continuing any work related to the construction, maintenance, or abandonment of a well for which a stop work order has been served, unless such work has been directed by the Department to perform to correct a violation).

4019.6 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) 21 DCMR § 1806.6 (failure to timely renew a well's registration);

- (b) 21 DCMR § 1808.2 (failure to ensure that the construction, maintenance, and abandonment of a well is performed under the direct supervision of a licensed well driller);
- (c) 21 DCMR § 1812.3 (failure to cover and protect a well annulus or open borehole from surface water drainage and the vertical migration of contaminants and other materials, or to cap the well casing while well construction is suspended);
- (d) 21 DCMR § 1812.4 (failure to cover and protect a soil boring or well that is not in use from surface water drainage and the vertical migration of contaminants and other materials);
- (e) 21 DCMR § 1813.2 (failure to containerize all derived waste from the construction, maintenance, or abandonment of a well sited on a property where a recognized environmental condition has been identified);
- (f) 21 DCMR §§ 1816.2-1816.8 (failure to use a well screen that meets regulatory requirements);
- (g) 21 DCMR § 1817.3 (failure to use a filter pack comprised of sand or gravel that has been washed with water and is free of clay, silt, and organic material);
- (h) 21 DCMR § 1817.4 (use of a filter pack containing iron or manganese in concentrations greater than that in the ground when the well is installed or that may adversely affect the quality of water withdrawn from the well or the groundwater that comes into contact with the filter pack);
- (i) 21 DCMR § 1817.5 (failure to store a filter pack on a clean surface or in a clean container to prevent any on-site contaminants from mixing with the filter pack materials);
- (j) 21 DCMR § 1817.6 (failure to insert a filter pack in accordance with the approved methods);
- (k) 21 DCMR § 1817.7 (failure to use of a pre-packed well screen in accordance with the approved procedure);
- (l) 21 DCMR § 1820.1(b) (failure to set the surface completion in a cement well pad with minimum dimensions of two (2) feet by two (2) feet and domed to prevent water from entering the well);

- (m) 21 DCMR § 1820.1(d) (failure to install a metal housing to prevent the inflow or surface water, or provide with drains to keep water out of the well and below the well cap);
- (n) 21 DCMR § 1820.3(a) (failure to site the well within a secured perimeter not accessible to the public for temporary construction applications of a dewatering well or a ground freeze well);
- (o) 21 DCMR § 1820.5 (failure to meet the standard requirements of the upper terminus of an industrial supply well, irrigation supply well, or a domestic supply well);
- (p) 21 DCMR § 1821 (failure to comply with the requirements of well labeling in accordance with the approved procedure);
- (q) 21 DCMR § 1822.1 (failure to construct a monitoring well, observation well, or piezometer by a method that allows for the determination of characteristics of the geologic materials);
- (r) 21 DCMR § 1823.3 (failure to comply with the applicable American Society for Testing and Materials (ASTM) standard stencil for all closed-loop ground source heat pump well exchanger pipe and fitting materials);
- (s) 21 DCMR § 1827.8 (failure to use sampling equipment that is free of contaminants and perform EPA-approved decontamination procedures);
- (t) 21 DCMR § 1827.9 (failure to maintain dedicated sampling equipment used in a well in accordance with the manufacturer's specifications);
- (u) 21 DCMR § 1827.10 (failure to use materials for the maintenance of a well that meets the requirements for new construction);
- (v) 21 DCMR § 1827.11 (failure to notify the Department within twenty-four (24) hours of discovery of damage to a well or a well not operating in accordance with its approved use);
- (w) 21 DCMR § 1831.3 (failure to ensure that the well casing and annulus or voids are filled with sealing or fill materials in accordance with approved standards);
- (x) 21 DCMR § 1831.7 (failure to use clay, silt, sand, gravel, crushed stone, and mixtures of these materials as a fill material in accordance with approved conditions);
- (y) 21 DCMR § 1831.8 (failure to abandon a well by filling it with the appropriate sealing materials introduced at the bottom of the well by using

a tremie pipe and placed progressively upward to at least two (2) feet below ground surface); or

- (z) 21 DCMR § 1831.12 (failure to abandon a well penetrating a confined and multiple aquifer formation by placing sealing materials throughout the confining horizon and water producing zone(s)).

4019.7

Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 21 DCMR § 1809.2 (failure to provide at least two (2) business days' notice to the Department prior to commencing the construction of a well);
- (b) 21 DCMR § 1810.3 (failure to mark the well housed in a separate structure to indicate the category of the well and the well registration number);
- (c) 21 DCMR § 1826.1 (failure to provide a well completion report to the Department within sixty (60) calendar days of construction of a new well);
- (d) 21 DCMR § 1826.3(d) (failure to submit the well construction as-built schematic detailing the well construction);
- (e) 21 DCMR § 1826.3(i) (failure to submit the horizontal location of the well using either the Maryland State Plane Coordinate System or latitude and longitude);
- (f) 21 DCMR § 1826.3(l) (failure to submit the geological boring logs);
- (g) 21 DCMR § 1828.1 (failure to allow groundwater flow conditions to equilibrate prior to purging the well, when conducting the development of a monitoring or observation well);
- (h) 21 DCMR § 1828.2 (failure to allow the well to rest at least seven (7) days prior to purging and sampling, if the well construction or well development methods introduced fluids, following the development of the well);
- (i) 21 DCMR § 1828.4 (failure to maintain the monitoring or observation well to ensure that any testing procedures are appropriate for the intended use as stated on the well construction building permit and in the well construction work plan);
- (j) 21 DCMR § 1830.1 (failure to submit an abandonment work plan at least thirty (30) days prior to abandoning a well for Department's review and approval);

- (k) 21 DCMR § 1830.4(c) (failure to submit a well abandonment report to the Department detailing the modifications or revisions to the well abandonment work plan); or
- (l) 21 DCMR § 1832.3 (failure to ensure that the Department-approved well construction work plan is present at the site during well construction activities and available to the Department's site inspector upon request).

4019.8 A violation of any provision of the Well Construction, Maintenance, and Abandonment Standards, 21 DCMR Chapter 18, which is not cited elsewhere in this section, shall be a Class 4 infraction.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL

ATTORNEY GENERAL
KARL A. RACINE



Legal Counsel Division

MEMORANDUM

TO: Bryan Hum
Interim Director
Office of Policy and Legislative Affairs

FROM: Brian K. Flowers
Deputy Attorney General
Legal Counsel Division

DATE: March 24, 2022

SUBJECT: Legal Sufficiency Review of Draft Resolution, the “Wells
Construction, Maintenance, and Abandonment Infractions Resolution
of 2022”.
(AE-22-043)

This is to Certify that this Office has reviewed the above-referenced legislation and has found it to be legally sufficient. If you have any questions regarding this certification, please do not hesitate to contact me at 724-5524.

Brian K. Flowers

Brian K. Flowers