

Technical Bulletin

Wells Regulation – Exempted Activities Performed on Wells, Including Test Holes & Dewatering Wells

This technical bulletin is one in a series of seventeen ¹ on well issues created for a person who:

- may have a new test hole ² or dewatering well ³ constructed in the future,
- is inspecting a well, including a test hole or dewatering well,
- is using testing, sampling and monitoring equipment in a well, including a test hole or dewatering well, or
- currently owns a test hole or dewatering well.

The purpose of this technical bulletin is to summarize the information found in the *Test Holes and Dewatering Wells – Requirements and Best Management Practices* manual published by the Ministry of the Environment, April 2014 (**hereon in referred to as the “Manual”**) regarding certain exempted activities performed on a well, including a test hole or dewatering well..

Understanding the Term Construct

“Construct” when used with respect to a well, means bore, dig, drill or otherwise make, extend or alter ⁴. “Construct” also means installing equipment in or connected to a well ⁵.

¹ A list of the seventeen technical bulletins is shown in the Additional Information Sources section near the end of this technical bulletin.

² A “test hole” means a well that, (a) is made to test or to obtain information in respect of ground water or an aquifer, and (b) is not used or intended for use as a source of water for agriculture or human consumption, subsection 1(1) of the Wells Regulation, e-laws: http://www.e-laws.gov.on.ca/html/regis/english/elaws_regs_900903_e.htm

³ A “dewatering well” means a well that is not used or intended for use as a source of water for agriculture or human consumption and that is made, (a) to lower or control the level of ground water in the area of the well, or (b) to remove materials that may be in the ground water, subsection 1(1) of the Wells Regulation, e-laws: http://www.e-laws.gov.on.ca/html/regis/english/elaws_regs_900903_e.htm

⁴ *Ontario Water Resources Act*, R.S.O. 1990, c. O. 40: ss. 35(1), e-laws: http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90o40_e.htm

⁵ *Ontario Water Resources Act*, R.S.O. 1990, c. O. 40: ss. 35(2), e-laws: http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90o40_e.htm

Many individuals install equipment in or connected to a well for sampling, testing and monitoring purposes.

Installing equipment in or connected to a well for inspecting, testing, sampling or monitoring purposes meets the definition of “construct” with respect to a well.

Licensing requirements are in place for constructing wells using equipment such as a drill or auger rig. Those requirements are found in the Wells Regulation and outlined in the *Wells Regulation – Test Hole and Dewatering Well Construction Licensing* and *Wells Regulation – Well Construction Licensing* technical bulletins.

There are some exemptions to licensing and construction requirements in the Wells Regulation and Ontario Water Resources Act for activities that are generally considered to pose a lower environmental risk; however, any construction activity on a well, including a test hole or dewatering well must not cause or have the potential to cause impairment to the quality of the water in the well or the groundwater as required under subsection 30(1) of the Ontario Water Resources Act.

Exempted Construction Activities for All Wells

The following well construction activities are exempt from the Wells Regulation requirements and the person doing these activities is exempt from the licensing requirements under the Ontario Water Resources Act (s. 36 to 50) ⁶:

- Inspecting the well using equipment (e.g. video camera) that is not left unattended in the well.
- Monitoring (e.g. water level indicator), sampling (e.g. small submersible pump, inertial pump), or testing (e.g. conductivity, dissolved oxygen and pH meters) the well using equipment that is not used to test the yield of the well or the aquifer and where:
 - the equipment is not left unattended in the well or
 - the equipment was previously installed in the well.

⁶ Sections 36 to 50 of the Ontario Water Resources Act, R.S.O. 1990, c. O. 40, e-laws: http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90o40_e.htm

Understanding What Activities Can Be Performed during an Inspection of any Well

If a person is performing an inspection on a well and needs to remove a well cap or any equipment from a well to perform the inspection, then the licensing requirements of the Ontario Water Resources Act (section 36 to 50) and Wells Regulation do not apply. This inspection activity exemption only applies if the equipment is not left unattended in the well.

Understanding the Term “Unattended”

For clarification, “unattended” refers to the circumstance when a person working on a well is no longer in control of or watching the specific well. Examples of leaving the well unattended can include leaving the property, working on another well while not being present at the original well or not being in control of the well site.

Understanding the Term “Previously Installed”

For clarification, some monitoring equipment is allowed to be left unattended in a well because the equipment has been “previously installed” in the well. Equipment found to have already been installed in the well is considered to be equipment that has been previously installed. For example, when arriving at the well site a person can use the “previously installed” pump and pumping equipment to sample water from the well and be exempt from the licensing requirements in the Ontario Water Resources Act (sections 36 to 50) and the Wells Regulation.

Examples of Exempted Activities on any Well

If a person uses a water level meter solely to measure the water level in the well or the depth of the well and does not leave the equipment unattended at the well site, then the licensing requirements of the Ontario Water Resources Act (section 36 to 50) and Wells Regulation do not apply.

The licensing and construction requirements of the Ontario Water Resources Act (sections 36 to 50) and Wells Regulation apply to the use of a water level meter when conducting a test of the well yield.

If a person collects water samples and water level data using sampling and monitoring equipment in a well and does not leave the equipment unattended at the well site, then:

- s/he may take samples and measurements on the well without holding a well technician licence, and
- the licensing requirements of the Ontario Water Resources Act (sections 36 to 50) and the Wells Regulation do not apply.

If a person installs an inertial lift pump in a well that is not a test hole or dewatering well, samples the water in the well and leaves the pump in the well for future sampling, then the licensing and construction requirements of the Ontario Water Resources Act (sections 36 to 50) and Wells Regulation apply.

There are additional exemptions for a person who performs a well construction activity on a test hole or dewatering well. See the section “Exempted Construction Activities for Test Holes and Dewatering Wells Only”, including examples, for further information.

Exempted Construction Activities for Test Holes and Dewatering Wells Only

A person is exempt from the Wells Regulation requirements and licensing requirements under the Ontario Water Resources Act (s. 36 to 50) when installing equipment for monitoring, sampling or testing a test hole or dewatering well, unless,

- the installation of the equipment involves an alteration of the well, other than notching the top of the casing, or
- the equipment is used to test the yield of the well or the aquifer.

Performing a pumping test is considered testing the yield of a well or an aquifer. A slug test used to determine the hydraulic conductivity of the well is not considered testing the yield of a well or the aquifer.

Any equipment installed in a test hole or dewatering well must not cause or have the potential to cause impairment to the water in the well or the groundwater as required under Subsection 30(1) of the Ontario Water Resources Act.

Examples for a Test Hole or Dewatering Well

Examples of exempted construction activities include the installation of:

- monitoring equipment such as a water level probe or a pressure transducer;
- sampling equipment such as a small submersible pump or an inertial lift pump;
- testing equipment such as conductivity, dissolved oxygen or pH meters.

If a person installs an inertial lift pump in a test hole, samples the water in the test hole and leaves the pump in the test hole for future sampling, then the licensing and construction requirements of the Ontario Water Resources Act (sections 36 to 50) and Wells Regulation do not apply.

This exemption does not apply if the installation of the above equipment causes an alteration to the well structure (e.g. cutting or extending the top of the well casing, drilling a hole through the side of the casing) except if the alteration consists only of creating a notch on the top of the well casing to allow for the removal of a well cap.

Exempted Wells & Shallow Works

The Wells Regulation exempts certain types of wells, such as a pond or trench, from the Wells Regulation and from the sections on licensing of the Ontario Water Resources Act that pertain to wells ⁷.

There are also exemptions and special considerations that apply to wells that meet the conditions set out in the shallow works section (section 1.1) of the Wells Regulation.

See the *Wells Regulation – Understanding a Well, Test Hole and Dewatering Well* and *Wells Regulation – Shallow Works* technical bulletin for further information.

Best Management Practice ⁸ – Retaining Properly Qualified Professionals to Perform All Well Construction Activities

Although there are exemptions from the licensing requirements in the Ontario Water Resources Act (sections 36 to 50) and the Wells Regulation for certain well construction activities provided in this technical bulletin, the equipment, materials and expertise needed to properly and safely inspect, test, sample or monitor a well can exceed the average person's abilities and resources.

For instance, there may be explosive gas or pressurized groundwater within the well. If the person, including the well owner, does not have the necessary equipment or cannot employ proper safety procedures, then s/he should consider retaining a properly qualified person to perform the construction activity on a well.

Properly qualified persons, such as a licensed well technician or qualified professional, should be retained to perform the exempted well construction activity on any well.

⁷ Sections 36 to 50 of the Ontario Water Resources Act, R.S.O. 1990, c. O. 40, e-laws: http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90o40_e.htm

⁸ Best management practices are recommended actions or steps that exceed the minimum regulatory requirements to better protect the groundwater and the natural environment but are not enforceable.

Water Supply Wells

Certain licensing and construction requirements for water supply wells are different from the requirements for test holes and dewatering wells, as defined by the Wells Regulation. For further information on the requirements for water supply wells see the *Water Supply Wells – Requirements and Best Management Practices* Manual, published by the Ministry of the Environment, December 2009 and the Wells Regulation.

Additional Information Sources

The seventeen technical bulletins on test holes and dewatering wells are:

- Wells Regulation – Understanding the Meaning of Well, Test Hole and Dewatering Well
- Wells Regulation – Shallow Works Test Holes & Dewatering Wells
- Wells Regulation – Exempted Activities Performed on Wells, Including Test Holes & Dewatering Wells
- Wells Regulation – Test Hole and Dewatering Well Licensing
- Wells Regulation – Licensing (Class 5) for Individuals who Perform Tests on Wells
- Wells Regulation – Site Considerations & Initial Planning for Test Holes & Dewatering Wells
- Wells Regulation – Constructing New Uncased Test Holes & Dewatering Wells in Operation for No Longer than 30 Days
- Wells Regulation – Constructing New Test Holes & Dewatering Wells in Operation for No Longer than 180 Days
- Wells Regulation – Constructing New Test Holes & Dewatering Wells
- Wells Regulation – Constructing New Multi-level Monitoring Test Holes
- Wells Regulation – Completing the Structure of the New Test Hole or Dewatering Well
- Wells Regulation – Flowing Test Holes & Dewatering Wells
- Wells Regulation – Test Hole & Dewatering Well Maintenance
- Wells Regulation – Well Record, Reporting & Tagging for a Test Hole & Dewatering Well
- Wells Regulation – Test Hole & Dewatering Well Repairs & Alterations
- Wells Regulation – Well Abandonment - When to Plug & Seal a Test Hole or Dewatering Well
- Wells Regulation – Well Abandonment - How to Plug & Seal a Test Hole or Dewatering Well

These technical bulletins are available on Ontario.ca.

Further information on exemptions for activities performed on wells can be found in Chapter 2: *Definitions and Clarifications* and Chapter 3: *Exemptions: Wells, Activities & Experienced Professionals of the Manual*.

A copy of the *Test Holes and Dewatering Wells – Requirements and Best Management Practices* manual can be obtained on Ontario.ca.

A copy of the Ontario Water Resources Act, Regulation 903 as amended made under the Ontario Water Resources Act (Wells Regulation) and other regulations can be obtained from the e-Laws website at www.e-laws.gov.on.ca.

The publications are also available by calling the Publications Information Centre at 1-800-565-4923 or (416) 325-4000.

For further information about wells, contact the Wells Help Desk at 1-888-396-9355 (Well) or the nearest Ministry of the Environment office listed in the blue pages of the telephone directory.

Notice: This bulletin is being provided for information purposes only and is not intended, nor should it be construed as providing legal advice in any circumstances. The applicable environmental legislation, including the following, should be consulted.

- ***Ontario Water Resources Act, R.S.O. 1990, c. O. 40***
- ***R.R.O. 1990, Regulation 903 (Wells) as amended made under the Ontario Water Resources Act, R.S.O. 1990, c. O. 40***

Legislation and regulations change from time to time so it is essential that the most current versions be used.