

Chapter 43
WELL ABANDONMENT LAW
Tsi? Kahne·kóte Kayanláhsla
our laws of the wells

43.1-1 Purpose and Policy
43.2-1 Adoption, Amendment, Repeal
43.3-1 Definitions
43.4-1 Abandonment Required

43.5-1 Well Operation Permit
43.6-1 Abandonment Procedures
43.7-1 Penalties
43.8-1 Conflict with Federal

43.1-1. Purpose and Policy. The purpose of this law is to require the abandonment or upgrading of all unused, unsafe or noncomplying wells located within the exterior Reservation boundaries of the Oneida Tribe of Indians to prevent contamination of groundwater.

43.1-2. The proper abandonment of wells protects public health, safety and welfare by assuring that unused, unsafe or noncomplying wells, or wells which may serve as conduits for contamination, or wells which may be illegally cross-connected to the municipal water system, are properly abandoned.

43.2-1. Adoption, Amendment, Repeal. This law may be adopted by the Oneida Business Committee or the Oneida General Tribal Council and effective ten (10) working days after date of adoption.

43.2-2. This law may be amended pursuant to the procedures set out in the Oneida Administrative Procedures Act by the Oneida Business Committee or the Oneida General Tribal Council, regardless of where the original adoption took place.

43.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

43.2-4. All other Oneida laws, policies, regulations, rules, resolutions, motions and all other similar actions which are inconsistent with this policy are hereby repealed unless specifically re-enacted after adoption of this policy.

43.2-5. This law shall apply to all Oneida Tribal entities, the Oneida Tribe, members of the Oneida Tribe of Indians of Wisconsin who own land within the exterior boundaries of the Reservation of the Oneida Tribe of Indians, residents and all entities within the Oneida Utility District and is adopted and implemented by authority of the Oneida Tribe of Indians of Wisconsin Constitution.

43.3-1. Definitions. All words used herein shall have their ordinary meaning unless specifically defined within this section.

43.3-2. Unless otherwise stated within this law, the following specific definitions shall apply:

(a) "Municipal water system" means a system for the provision to the public of piped water for human consumption when such system has at least 15 service connections or regularly serves at least 25 year-round residents owned or operated by a city, village, county, town, town sanitary district or public institution, or a privately owned water utility serving any of the above.

(b) "Noncomplying" means a well or a pump installation which does not meet the provisions of NR 112, Wis. Admin. Code.

- (c) "Pump installation" means the pump and related equipment used for withdrawing water from a well including the discharge piping, the underground connections, pitless adapters, pressure tanks, pits, sampling faucets and well seals or caps.
- (d) "Unsafe" means a well or pump installation which produces water which is bacteriologically contaminated or contaminated with substances exceeding the standards of chs. NR 809 or 140, Wis. Admin. Code, or for which a Health Advisory has been issued.
- (e) "Unused" means a well or pump installation which has not been in use for three (3) months prior to the date of the adoption of this Law or has not had a functional pumping system for three consecutive months.
- (f) "Well" means an excavation or opening into the ground made by digging, boring, drilling, driving, or other methods for the purpose of obtaining groundwater for consumption or other use.
- (g) "Well Abandonment" means the filling and sealing of a well according to the provisions set out herein or by adoption within this code of §NR 112.26, Wis. Admin. Code.

43.4-1. Abandonment Required. All wells located on premises served by a municipal water system or, regardless of location, are unused or of noncomplying construction, shall be abandoned in accordance with the terms of this law and §NR 112.26, Wis. Admin. Code, unless a well operation permit has been obtained from the Oneida Environmental Health Program within three (3) months of adoption of this law, prior to opening a well after adoption of this law, or a renewal permit was granted within three months of expiration of prior permits.

43.5-1. Well Operation Permit. The Oneida Environmental Health Program may grant a yearly well operation permit to a private well owner to operate a well for a period not to exceed five (5) years, providing the conditions of this section are met. An owner may request renewal of a well operation permit by submitting information verifying that the conditions of this section are met.

43.5-2. The following requirements must be met prior to granting a permit

- (a) A yearly water quality test is performed at the owner's expense.
- (b) The Oneida Environmental Health Program or its agent, may conduct inspections or have water quality tests conducted to obtain or verify information necessary for consideration of a permit application, on an annual basis for reverification, or upon request for permit renewal.
- (c) Permit applications and renewals shall be made on forms provided by the Oneida Environmental Health Program.

43.5-3. The following conditions must be met for issuance or renewal of a well operation permit.

- (a) The well and pump installation meet or are upgraded to meet the requirements of ch. NR 112, Wis. Admin. Code; and
- (b) The well construction and pump installation have a history of producing bacteriologically safe water as verified by sampling histories. No exception to this condition may be made for unsafe well, unless the Oneida Environmental Health Program provides the appropriate form for the continued use of the well; and
- (c) There are no cross-connections between the well and pump installation and the municipal

water system; and

(d) The proposed use of the well and pump installation will be reviewed on a case by case basis.

43.6-1. Abandonment Procedures. All wells abandoned under the jurisdiction of the Oneida Tribe of Indians of Wisconsin shall be abandoned according the procedures and methods set out herein and supplemented in §NR 112.26, Wis. Admin. Code. Provided that, any notification within the state regulation shall be superseded and integrated as reasonable with the notification procedures herein.

43.6-2. The owner of the well, or the owner's agent, shall notify the Oneida Environmental Health Program at least 48 hours prior to the commencement of any well abandonment activities. The abandonment of the well may be observed by the Oneida Environmental Health Program, or its designated agent.

43.6-3. A well abandonment report will be completed and submitted by the owner's agent, to the Oneida Environmental Health Program within 10 days of the completion of the well abandonment. The well abandonment report form is available from the Oneida Environmental Health Program.

43.6-4. All debris, pump, piping, unsealed liners and any other obstructions which may interfere with sealing operations shall be removed prior to abandonment.

43.7-1. Penalties. Any well owner or agent violating any provision of this law shall be subject to forfeiture of not less that \$100 nor more than \$1,000. Each day of violation is a separate forfeiture. Provided that each forfeiture be proven individually.

43.7-2. Failure to comply with this law within ten (10) working days after receiving written notice of this violation, the Oneida Tribe may impose a penalty and cause the well abandonment to be performed at the expense of the well owner.

43.7-3. The Oneida Environmental Health Program is authorized to bring all civil forfeiture hearings before the Oneida Environmental resource Board as the Original Hearing Body. Provided that notice and hearing procedures are conducted as directed by the Oneida Administrative Procedures Act.

43.7-4. It shall be a valid defense to any continuing forfeiture that the well owner has begun procedures to abandon the well and shall be by sworn affidavit that notice has been presented to the Oneida Environmental Health Program of approved well abandonment procedure.

43.7-5. Appeal from any final, written, judgment shall be made within five (5) working days of notice and may be made by either party.

43.7-6. No forfeitures accumulate after a civil hearing is begun by filing a request for forfeiture with the Environmental Resource Board.

43.7-7. Forfeiture collected under this law are to forwarded to the Accounts Receivable Office for placement in the General Tribal Funds.

43.8-1. Conflict with Federal. Should any part of this law be found to be in conflict with federal requirements which are required in order that the Oneida Tribe of Indians receive federal funds, the conflicting section of this law is to be considered inoperative only for the purpose of the particular funding and that particular conflict. Provided that any consideration in regards to federal funding does not undermine the purposes and policies of this law. Such conflict shall not affect the operation of the remainder of this law in its application to those agencies or department directly affected.

Adopted - BC-8-31-94-A