



Guideline 2005-1: Determining the Validity of Non-Exempt Permits

Amended August 2025

Purpose

Statutory requirements to prevent non-exempt well permits from expiring have changed over time, as has internal guidance on what documentation is acceptable to satisfy those requirements. The objective of this guideline is to provide for consistency and accuracy in resolving questions regarding the validity of non-exempt well permits. This guidance is only applicable to non-exempt well permits for outside the designated ground water basins, and does not apply to large-capacity well permits issued for inside the designated ground water basins.

Legislative History

Beginning April 21, 1967, a Statement of Beneficial Use (“SBU”) was required in order to prevent well permits issued pursuant to section 37-90-137(2) or 37-90-137(4) of the Colorado Revised Statutes (“C.R.S.”) from expiring. Senate Bill 85-5 was passed on June 6, 1985, and replaced the requirement for timely submittal of a SBU for well permits issued pursuant to 37-90-137(4) with the requirement for timely submittal of a Notice of Well Completion (“NWC”).

The passage of Senate Bill 04-185 (“SB-185”) on May 27, 2004 removed the statutory requirement that proof that the water had been put to beneficial use or notice that the well was completed prior to the expiration date be submitted to prevent all non-exempt well permits issued on or after April 21, 1967 from expiring. Instead, SB-185 created a new statutory requirement stating that a non-exempt well permit would expire unless the applicant or the well construction contractor submitted “evidence that the well was constructed and that the pump was installed” before the expiration date. SB-185 included language stating that it applied to non-exempt well permits issued before, on, or after the effective date of the act, which was May 27, 2004. Although the new statute applied to all non-exempt well permits, including those issued before the enactment of SB-185, the objective of the State Engineer’s Office in initiating the new legislation was not to

change the status of well permits that were previously in good standing; therefore, the guidelines below allow well owners alternatives for keeping well permits valid.

House Bill 25-1014 subsequently removed the requirement that the pump be installed prior to the permit expiration date in order for the permit to remain valid. House Bill 25-1014 also changed the process for expiring non-exempt well permits to allow permits to be automatically expired if evidence that the well was constructed within two years was not provided to the state engineer timely, but allowed permits that were expired due to lack of evidence of well construction to be reinstated upon submittal of sufficient evidence and a \$30 filing fee. House Bill 25-1014 included language indicating that it applies to all valid well permits in existence before, on, or after the effective date of the act, which was August 6, 2025. Therefore, any non-exempt well permit that has not formally been expired only requires evidence of timely well construction in order for the permit to be valid.

Administrative History

Under Policy 2002-1, various types of documentation that provided reasonable evidence and assurance that the well was constructed properly and timely were accepted in place of a well construction report. Policy 2002-1 was revoked on January 2, 2003. Guideline 2003-1, dated January 14, 2003, and Revised Guideline 2003-2, dated September 23, 2004, accepted an Existing Well Information and Inspection Form completed and signed by the well owner as sufficient evidence of well construction to issue a permit to use an existing well and reinstate an exempt or small-capacity well permit, respectively. Guideline 2005-1 accepted additional documentation for Pre-SB-185 wells. Guideline 2003-1 and Revised Guideline 2003-2 were revoked and superseded by Guideline 2017-1, approved August 31, 2017. Guideline 2017-1 requires either a Well Construction Report or a Post-Construction Well Inspection Report (GWS-68) signed by a licensed contractor or authorized individual to reinstate a well permit.

Determining the Validity of Non-Exempt Permits

Well Permits Formally Expired by Order

Any well permit issued pursuant to section 37-90-137(2) or 37-90-137(4) that was formally expired through an Order issued prior to September 1, 2025 is expired and cannot be reinstated, even if the well permit was expired due to the failure to submit a Statement of Beneficial Use, Notice of Well Completion, or Pump Installation Report.

If the subject well was constructed, either a new permit must be applied for and issued for the use of the existing well or the well must be plugged and abandoned. Guideline 2017-1 contains details about the evaluation process for applications to obtain a permit to use an existing well.

The remainder of this document pertains to non-exempt well permits that may have a status of “permit expired”, but that were not formally expired through an Order.

Well permits issued prior to May 27, 2003

For well permits issued prior to January 2, 2003, the date Policy 2002-1 was revoked, the following information, consistent with the list provided in [Policy 2002-1](#), may be accepted as evidence of timely well construction if it was provided to this office prior to January 2, 2003 and shows that the well was constructed prior to the expiration date of the permit:

- An absolute water right decree.
- A dated Certificate of Final Occupancy or Final Inspection. These documents must contain information that the well existed or a statement from the county that the well had to exist prior to issuing Certificate of Final Occupancy or Final Inspection.
- Notarized affidavits from prior owners or neighbors who can attest to the date of construction of the well.
- Dated copy of electrical inspection for pump installation for well (most counties require a permit prior to this type of installation).
- Dated invoice from the driller of the well.
- Dated copy or receipt of payment for the construction of the well.
- Photo of date of manufacture of pump installed in well or pressure tank setup.
- Other documentation that provides reasonable evidence and assurance that the well was constructed properly and timely (e.g., Statement of Beneficial Use or Pump Installation Report).

For well permits issued prior to May 27, 2003, a Statement of Beneficial Use or Notice of Well Completion that was received timely may be accepted if the forms show the necessary information. This is true even if the Statement of Beneficial Use or Notice of Well Completion was never formally accepted.

An Existing Well Information and Inspection Form completed and signed by the well owner may also be accepted if it was provided to this office prior to August 31, 2017 and shows evidence of timely

well construction.

If the well permit file contains the above evidence, the information from the document or photo providing evidence of timely well completion may be entered by staff as the Construction Report Received and Date Completed dates in the Construction Report Editor in HBDMC (DWR's well permitting database). This will satisfy the requirement of evidence of timely well construction and the permit will be considered valid. Since the information must have been previously received by the State Engineer's Office in order to be accepted, a request for reinstatement and filing fee are not required.

Well permits issued on or after May 27, 2003

For well permits issued on or after May 27, 2003, which would have expiration dates on or after the enactment of SB-185 on May 27, 2004, evidence of well construction must be provided on either the Well Construction Report (GWS-31) or a Post-Construction Well Inspection Report (GWS-68) signed by a licensed contractor or authorized individual. An Existing Well Information and Inspection Form completed and signed by the well owner, which is the previous version of form GWS-68, may also be accepted if it was provided to this office prior to August 31, 2017 and shows evidence of timely well construction.

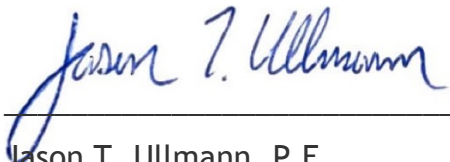
If either of these documents are in the well permit file but did not get entered into our database, which may have occurred if the permit was issued to use an existing well, the information from the Report will be entered by staff into the Construction Report Editor in HBDMC. This will satisfy the requirement of evidence of timely well construction and the permit will be considered valid. Since the documents were already in the well permit file, a request for reinstatement and filing fee are not required.

If a Well Construction Report or Post-Construction Well Inspection Report is not on file for the well permit, the permit is expired but may be able to be reinstated in accordance with the provisions of section 37-90-137(3)(e). A \$30 filing fee will be required. See State Engineer Guideline 2017-1 for additional information regarding reinstatement of expired permits.

Approval

This guideline may be modified or revoked only in writing by the State Engineer. This guideline originally became effective March 8, 2005. It was amended on August 6, 2025 to reflect statutory

changes due to the passage of House Bill 25-1014 and updates to administrative guidance.

A handwritten signature in blue ink that reads "Jason T. Ullmann". The signature is written in a cursive style with a horizontal line underneath it.

Jason T. Ullmann, P.E
State Engineer/Director