

**WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION**

Form #1

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WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: DCL&ER, Division of Natural Resources TITLE NUMBER: 47

RULE TYPE: Legislative; CITE AUTHORITY § 20-5M-5(d)

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 59

TITLE OF RULE BEING PROPOSED: Monitor Well Regulations

DATE OF PUBLIC HEARING: July 28, 1992 TIME: 5:00 pm


LOCATION OF PUBLIC HEARING: Air Pollution Control Building, Conference Room, 1558 Washington Street, East,
Charleston, West Virginia

COMMENTS LIMITED TO: ORAL , WRITTEN , BOTH

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: Laidley Eli McCoy, Chief, DNR, Water
Resources Section, 1201 Greenbrier Street, Charleston, West Virginia 25311, Attention: Patrick Campbell

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments. The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL


J. Edward Hamrick III, Director
Division of Natural Resources

2.80



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES 4: 13
OFFICE OF THE SECRETARY
State Capitol, Room R-151
Charleston, West Virginia 25305-0310
Telephone: (304) 558-3255
Fax No.: (304) 558-4983

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1992 JUN 15

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

GASTON CAPERTON
Governor

JOHN M. RANSON
Cabinet Secretary

June 15, 1992

J. Edward Hamrick III, Director
Division of Natural Resources
Building 3, Room 669
Charleston, West Virginia 25305

RE: Proposed Rules - Title 47, Series 59 (Monitor Well Regulations)

Dear Ed:

Pursuant to West Virginia Code §5F-2-2(a)(12), I hereby consent to the proposal of the rules specified above.

You may attach a copy of this letter to your filing with the Secretary of State as evidence of my consent.

Sincerely yours,

John M. Ranson
John M. Ranson
Cabinet Secretary

JMR:cjb
B:RUL-DNR.CJB

FISCAL NOTE FOR PROPOSED RULE

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1002 JUN 10 PM 4:13

Rule Title: Monitor Well Regulations 47 C.S.R. 59

Type of Rule: Legislative Interpretive Procedural

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Agency: Division of Natural Resources

Address: Building 3, State Capitol Complex, Charleston, West Virginia

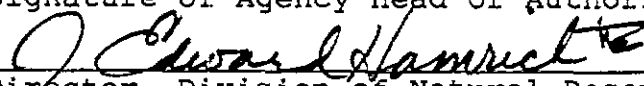
1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	N.A.	N.A.	N.A.	N.A.	N.A.
Personal Services					
Current Expenses					
Repairs & Alterations					
Equipment					
Other					

2. Explanation of above estimates: All costs related to implementation of this rule have been provided for through the Groundwater Protection Act Fee Schedule regulation, 47 C.S.R. 55.

3. Objectives of this rule: This rule provides for a certification program for monitor well drillers.

4. Explanation of Overall Economic Impact of Proposed Rule.
- A. Economic Impact on State Government. None, see item 2 above.
 - B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens. None, see item 2 above.
 - C. Economic Impact on Citizens/ Public at Large. None, see item 2 above.

Date:

Signature of Agency Head or Authorized Representative

 Director, Division of Natural Resources

PREAMBLE TO A PROPOSED RULE
CONCERNING
MONITOR WELL REGULATIONS

FILED
1992 JUN 10 PM 4:13

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

AGENCY: Department of Commerce, Labor, and Environmental Resources; Division of Natural Resources.

REGULATION: Title 47, Series 59, "Monitor Well Regulations."

ACTION: Filing of a Proposed Rule, Notice of a Public Hearing, and acceptance of written comments.

SUMMARY: This legislative rule establishes a certification program for well drillers that install and alter monitor wells.

A Public Hearing will be held on the date and at the location as follows:

July 28, 1992, 5:00 p.m.

Air Pollution Control Building
Conference Room
1558 Washington Street, East
Charleston, West Virginia

Written comments received on or before 4:00 pm July 29, 1992 will be accepted. Written comments should be sent to:

Laidley Eli McCoy, Chief
DNR, Water Resources Section
1201 Greenbrier Street
Charleston, West Virginia 25311
Attention: Patrick Campbell

**TITLE 47
LEGISLATIVE RULES
DIVISION OF NATURAL RESOURCES
DEPARTMENT OF COMMERCE, LABOR AND ENVIRONMENTAL RESOURCES**

**SERIES 59
MONITOR WELL REGULATIONS**

§ 47-59-1. General.

1.1. Scope - This legislative rule establishes the certification of monitor well drillers and monitor well installations and alterations.

1.2. Authority - W. Va. Code § 20-5M-5(d).

1.3. Filing Date -

1.4. Effective Date -

DEC 19 1983
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§ 47-59-2. Definitions.

2.1. "Application" - The state department of health's standard form(s) for applying for monitor well driller certification, including any additions, revisions or modifications to the form(s).

2.2. "Certified Monitor Well Driller" - An individual granted a written certificate by the commissioner to drill, construct, alter or abandon monitor wells and who meets the requirements of this rule.

2.3. "Chief" - Chief of the Water Resources Section, Division of Natural Resources or his lawful designee.

2.4. "Commissioner" - Commissioner of the West Virginia Bureau of Public Health or his lawful designee.

2.5. "Design Standards" - Those specifications, drawings and other details promulgated by the chief to ensure proper location, design, construction, completion and abandonment of monitor wells.

2.6. "Person" - An individual, partnership, association, syndicate, company, firm, trust, corporation, government corporation, institution, department, division, bureau, agency, federal agency or any other entity recognized by law.

2.7. "Monitor Well" - Reserved.

2.8. — "Monitor Well Driller" - An individual that engages in monitor well drilling, construction, alteration, or abandonment or who supervises these activities.

§ 47-59-3. Application and Enforcement.

3.1. Application - This rule shall apply to all monitor well drillers.

3.2. Enforcement - The enforcement of this rule is vested with the chief of the West Virginia Division of Natural Resources, Water Resources Section or his lawful designee.

§ 47-59-4. Certification of Monitor Well Drillers.

4.1. There shall be a certified monitor well driller on site in direct charge of drilling, construction, altering or abandonment of a monitor well.

4.2. To be eligible for certification, the applicant must be able to demonstrate a minimum of two (2) years of monitor well drilling experience under the supervision of a certified monitor well driller.

4.3. Monitor well drillers actively engaged in a monitor well drilling business as a monitor well driller on or before the effective date of this rule shall be exempt from the minimum experience requirements.

4.4. An application for certification as a monitor well driller shall be made in writing to the commissioner on a form prescribed by the commissioner. Information required on the form may include, but not be limited to: name, address, education, experience, business name and references.

4.5. The commissioner may suspend, revoke or deny certification if the information on the application form is incomplete, inaccurate, false or misleading, or indicates that the provisions of this rule cannot be met.

4.6. Certification shall not be transferable or assignable and shall automatically become invalid upon suspension or revocation.

4.7. Certification shall expire one (1) year after date of issuance and may be renewed thirty days (30) before such expiration date.

4.8. When certification has been denied, suspended or revoked, the person thereby affected shall immediately discontinue the drilling, altering, constructing and abandonment of monitor wells.

4.9. Any person whose application for certification has been denied, or whose certification has been suspended or revoked, may request a hearing in accordance with Section 7, Administrative Due Process, of this rule. The applicant must submit a written request for hearing within thirty (30) days from receipt of denial, suspension, or revocation of certification.

4.10. Denial, suspension or revocation of certification shall be in writing from the commissioner and shall state specific reasons for the denial, suspension or revocation.

4.11. Suspension or revocation of certification shall be preceded by a written notice from the commissioner, at least ten (10) days prior to actual revocation or suspension.

4.12. In addition to filing an application for becoming certified to drill, construct, alter or abandon monitoring wells, the applicant must pass an oral or written examination to assure the commissioner that the applicant is thoroughly familiar with all requirements of applicable laws, regulations and design standards pertaining to monitor well drilling and construction. Examinations shall be administered by personnel of the West Virginia department of health. A passing grade of seventy per cent (70%) must be obtained before becoming certified. An applicant who has failed an examination must wait thirty (30) days before again taking the examination.

§ 47-59-5. Identification Numbers of Monitor Well Rigs and Monitor Well Head.

5.1. It shall be the duty of all monitor well contractors to see that all monitor well rigs used by them or their employees in the monitor well drilling business are marked with legible and plainly visible identification numbers at all times.

5.2. The identification number to be used on monitor well rigs shall be the certification number of the monitor well driller at the well site who is responsible for the monitor well drilling operations.

5.3. Certification numbers shall be printed upon each side of every monitor well rig in numerals of not less than two inches high and such numerals shall be in a color sufficiently different from the color of the vehicle or equipment so that the certification number shall be plainly legible.

5.4. Monitor well contractors shall see that all monitor well rigs used by them or their employees in the monitor well drilling business are marked as provided in Sections 5.2 and 5.3 of this rule.

§ 47-59-6. Advisory Board.

6.1. The chief may establish an advisory board and designate the chairman of said board.

6.2. The advisory board membership shall consist of, but not necessarily be limited to, the following members:

Certified monitor well drillers:	3 members
State health department:	1 member
Water resources section:	1 member
West Virginia geological survey:	1 member.

6.3. The duties of the advisory board shall be assigned by the chief.

6.4. The chief may establish other boards, committees and commissions to assist in carrying out the provisions of this rule.

§ 47-59-7. Administrative Due Process.

Those persons adversely affected by the enforcement of this rule desiring a contested case hearing to determine any rights, duties, interests or privileges shall do so in a manner prescribed in the **Rules of Procedure for Contested Case Hearings and Declaratory Rulings**, West Virginia Department of Health Procedural Rules, 64 C.S.R. 1.

§ 47-59-8. Severability.

If any provisions of this rule or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or the application of this rule which can be given effect without the invalid provisions or application, and to this end the provisions of this rule are declared to be severable.