

47CSR59

**DIVISION ENVIRONMENTAL PROTECTION
OFFICE OF WATER RESOURCES**

“Beginning on page 1, and continuing throughout the text of the rule, by replacing text breakdown numbering to conform with Secretary of State’s Rule 153CSR6, Table 153-A;

On page 1, in the title, insert ‘Bureau of Environment’ and strike ‘Department of Commerce, Labor, and Environmental Resources’, and insert ‘Office of’ in front of ‘ Water Resources’ and by striking ‘Waste Management’;

On page 1, in the title, by striking the word ‘regulations’ and inserting in lieu thereof the word ‘rules’;

On page 1, subsection 1.2, by striking the code reference ‘§20-5M-59(d)’ and inserting in lieu thereof ‘§22-12-5(d)’;

On page 1, subsection 1.3., strike the existing ‘filing date’ and leave it blank;

On page 1, subsection 1.4., strike the existing ‘effective date’ and leave it blank;

On page 1, subsection 2.4., by striking ‘division of environmental protection’ and inserting in lieu thereof ‘Division of Environmental Protection of the Bureau of Environment’;

On page 3, subsection 7.5., by striking the code reference ‘§20-5M-11’ and inserting in lieu thereof ‘§22-12-11’;

AND

On page 3, section 8.0., by striking the code reference ‘§20-5M-11’ and inserting in lieu thereof ‘§22-12-11’;

TITLE 47
LEGISLATIVE RULES
DIVISION OF ENVIRONMENTAL PROTECTION
~~DEPARTMENT OF COMMERCE, LABOR AND ENVIRONMENTAL RESOURCES~~
BUREAU OF ENVIRONMENT
~~WATER RESOURCES-WASTE MANAGEMENT~~

SERIES 59
MONITORING WELL REGULATIONS RULES

§ 47-59-1. General.

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

1.2. Authority - ~~W. Va. Code § 20-5M-5(d)~~ W.Va. Code §22-12-5(d).

1.3. Filing Date - ~~May 13, 1994.~~

1.4. Effective Date - ~~June 1, 1994.~~

1.4.1. Compliance with section 4 and 5 of this rule is not required until such time as 47 C.S.R. 60 (Monitoring Well Design Standards) becomes effective.

§ 47-59-2. Definitions.

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

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

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

2.4. "Director" means the director of the ~~division of environmental protection~~ Division of Environmental Protection of the Bureau of Environment or his or her lawful designee.

2.5. "Groundwater" means the water occurring in the zone of saturation beneath the seasonal high water table, or any perched water zones.

2.6. "Person" means an individual, partnership, association, syndicate, company, firm, trust, corporation, government corpora-

tion, institution, department, division, bureau, agency, federal agency or any other entity recognized by law.

2.7. "Monitoring Well" means any cased excavation or opening into the ground made by digging, boring, drilling, driving, jetting or other methods for the purpose of determining the physical, chemical, biological or radiological properties of groundwater. The term 'monitoring well' includes piezometers and observation wells which were installed for purposes other than those listed above, but does not include wells whose primary purpose is to provide a supply of potable water.

2.8. "Monitoring Well Driller" means the individual operating the drilling rig when drilling, constructing, altering or abandoning (i.e., properly or improperly closing) a monitoring well.

2.9. "Piezometer" means a groundwater monitoring well sealed below the water table and which is installed for the specific purpose of determining the potentiometric surface or the physical, chemical, biological or radiological properties of groundwater, or both.

§ 47-59-3. Application and Enforcement.

3.1. Application - This rule applies to all monitoring well drillers.

3.2. Enforcement - The enforcement of this rule is vested with the director of the West Virginia Division of Environmental Protection, or his or her lawful designee.

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

4.1. There shall be a certified monitoring well driller on site in direct charge of actively drilling, constructing, altering, testing or abandoning any monitoring well.

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

4.3. Monitoring well drillers actively engaged in monitoring well drilling on or before the effective date of this rule are exempt from the minimum experience requirements.

4.4. An application for certification as a monitoring well driller shall be made in writing to the director on a form prescribed by the director. Information required on the form may include, but not be limited to: the applicants name, address,

education, experience, business name and references.

4.5. 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 director that the applicant is thoroughly familiar with all requirements of applicable laws, regulations and design standards pertaining to monitoring well drilling and construction. Examinations shall be administered by personnel of the West Virginia Division of Environmental protection or their appointees. An applicant must obtain a passing grade of seventy per cent (70%) before becoming certified. An applicant who has failed an examination must wait thirty (30) days before again taking the examination.

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

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

§ 47-59-5. Monitoring Well Driller Identification.

All monitoring well drillers shall have proof of certification available for inspection at all times when actively engaged in drilling, constructing, altering, or closing/abandoning a monitoring well(s).

§ 47-59-6. Advisory Board.

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

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

Certified monitoring well drillers:	3 members
State health department:	1 member
Office of Water Resources:	1 member
West Virginia Geological Survey:	1 member.

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

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

~~§20~~ §47-59-7. Denial, Suspension, Revocation of Certification.

7.1. The director may suspend, revoke or deny certification if the information on the application form is incomplete,

inaccurate, false or misleading, or if the provisions of this rule, or any other rule pertaining to monitoring wells are willfully or negligently violated.

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

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

7.4. When certification has been denied, suspended or revoked, the individual thereby affected shall immediately discontinue the drilling, altering, constructing and abandonment of monitoring wells.

7.5. Any individual whose application for certification has been denied, or whose certification has been suspended or revoked, may request a hearing in accordance with the provisions of ~~W-Va Code §20-5M-11~~ W.Va. Code §22-12-11.

§ 47-59-8. 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 the manner prescribed in ~~W-Va Code § 20-5M-11~~ W.Va. Code §22-12-11.

§ 47-59-9. Severability.

If any provisions of this rule or the application thereof to any person or circumstance are held invalid, the 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.

Technical Changes

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

JAN CASTO
Deputy Secretary of State



WILLIAM H. HARRINGTON
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(Plus all the volunteer help we can get)

TO: CARRIE CHAMBERS

AGENCY: DEP - OFFICE OF WATER RESOURCES

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: August 7, 1997

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 59 TITLE: 47 DEP - OFFICE OF WATER RESOURCES

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: [Signature]

TITLE OF PERSON SIGNING: Ground Water Program Leader

DATE: 8-25-97

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.