

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #3

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2007 JUL 27 PM 5: 09

SECRETARY OF STATE
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: DHHR - Bureau for Public Health TITLE NUMBER: 64

CITE AUTHORITY: §§16-1-4, 16-1-6, 16-1-9 and 16-1-9a

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 19

TITLE OF RULE BEING AMENDED: _____

WATER WELL REGULATIONS - 64CSR19

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

Martha Henger Walker
Authorized Signature

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 64CSR19 - Water Well Regulations

Type of Rule: x Legislative Interpretive Procedural

Agency: HEALTH AND HUMAN RESOURCES

Address: OFFICE OF ENVIRONMENTAL HEALTH SERVICES
CAPITOL & WASHINGTON STREETS, 1 DAVIS SQUARE, SUITE 200
CHARLESTON, WV 25301-1798

Phone Number: (304)558-2971 Email: annspaner@wvdhhr.org

Fiscal Note Summary

Summarize in a clear and concise manner what effect this measure will have on costs and revenues of state government.

Additional costs are expected with the adoption and implementation of these regulations due to the increased classification levels for the water well driller and the addition of the pump installer classification, enforcement efforts, outreach and educational programs, bonding requirements and the continuing education program. Revenues will be generated by annual fees from certification of well drillers and pump installers, examination applications, late renewal of certifications and the addition of a permit fee for geothermal wells. The proposed fees are necessary to ensure that the program has adequate resources to fulfill its obligations under the rules. Additional support will be required from state general revenue.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

Effect of Proposal	Fiscal Year		
	2008 Increase/Decrease (use "-")	2009 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	\$53,128.00	\$106,273.00	\$116,273.00
Personal Services	\$31,771.00	\$63,540.00	\$63,540.00
Current Expenses	\$21,357.00	\$42,733.00	\$52,733.00
Repairs and Alterations			
Equipment			
Other			
2. Estimated Total Revenues	Fees \$40,500	Fees \$52,500	Fees \$64,250

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

The full implementation costs reflect the preliminary costs of the proposed revisions to implement the provisions. The technical and support staff needed will amount to 1.3 FTEs and they are charged with conducting the daily administration of the certification program for well drillers and pump installers. Other activities include data entry of well records and well abandonment reports, support of site assessments, follow-up field enforcement on complaints from homeowners or stakeholders, coordination with county health departments and enforcement; and development and administration of the continuing education program.

The Department proposes an initial and yearly renewal fee for all certifications. The certification fees will be used to offset program costs incurred through application and test reviews, issuing, renewing certifications and tracking compliance of certified individuals. The fee will also allow the program to develop and establish training courses.

Memorandum

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

The Department has evaluated these rules, and has determined that they are necessary, reasonable, and proper for the purpose as proposed. West Virginia economic growth and welfare depend upon an adequate and safe water supply for potable, commercial, and agricultural uses. The proposed revisions are expected to have an indirect positive economic benefit for the general public.

Date

7/27/07

Agency

Department of Health and Human Resources

Authorized Representative

Martha Geason Walker
Martha Walker
Secretary

WATER WELL REGULATIONS

BRIEF SUMMARY OF PROPOSED RULE

The proposed rule amends the current Water Well Regulations developed in 1989 to accommodate new technologies. Certification requirements have been revised to increase knowledge and professionalism. This rule enhances a regulatory program that ensures protection of the State's ground water and protects public health. Well permitting allows an accounting of all active wells used throughout the state for potable and non-potable uses. The information obtained from well construction may be used by local officials, drillers, and consultants who utilize geologic information for that specific area or similar geologic settings. Review of construction information ensures protection is given to aquifers providing a safe adequate supply for all residents of the State. This proposed rule:

1. Protects human health and ground water, plus ensures fair and equitable regulation for private water wells.
2. Allows the commissioner to require advance notice of drilling in order to allow inspection of the site.
3. Authorizes the Commissioner to make inspections and sampling of well sites as necessary to ensure compliance with these rules and design standards. Requires owner or occupant of property where well is located to provide the commissioner access for inspection.
4. Requires a completion report to document pump installations in addition to the well completion report currently required.
5. Establishes three categories of driller certification – Master, Journeyman, and Apprentice – and establishes duties that may be performed under each category.
6. Creates a pump installer certification and establishes duties that may be performed.
7. Requires that well permit applications be signed by both the Master Well Driller/Pump Installer and the homeowner, and that the homeowner is responsible for informing the driller of the known location of existing or proposed on-site sewage systems.
8. Authorizes a certified driller or pump installer to run power and control wiring from the breaker panel and disconnect box to water well equipment without an electrician license.
9. Authorizes a certified or licensed plumber to install pressure switches, pressure tanks, and valves and pipes related to a pumping system without holding a certification from the Commissioner.
10. Prohibits a certified or licensed plumber from breaking the well seal or altering, cutting, or drilling into the well casing unless they are a certified driller or pump installer.

11. Authorizes a certified or licensed electrician to do electrical repair work, install pressure switches, control boxes, or other electrical components of the pumping equipment without holding a certification from the Commissioner.
12. Prohibits a certified or licensed electrician from breaking the well seal, or altering, cutting, or drilling into the well casing unless they are a certified pump installer.
13. Specifies the experience and educational requirements for an individual to obtain water well or pump installer's certification.
14. Allows persons actively engaged in pump installation on or before the effective date of the rule to be exempt from the minimum experience and testing requirements, but requires such persons to submit evidence of 10 pump installations preformed within the past 2 years.
15. Provides for all certified drillers actively engaged in well drilling on the effective date of the proposed rule to be grandfathered as master well drillers.
16. Requires drillers actively engaged in water well drilling obtaining experience required under the current rule for certification to become master well drillers with two (2) years experience, if they register within 180 days of the effective date of the proposed rule. Such persons are considered eligible to become master well drillers after meeting experience and testing requirements.
17. Establishes experience and testing requirements for drillers working in other states without comparable certification categories wishing to become certified to work in West Virginia.
18. Establishes a fee schedule for certification services.
19. Requires bonds for pump installers and allows for bond revocation if pump is not installed in accordance with the design standards.
20. Establishes a continuing education program for water well drillers and pump installers.
21. Increases the Advisory Board membership.

Economic Impact

West Virginia growth and welfare depend upon an adequate and safe water supply for potable, commercial, and agricultural uses. Approximately 3,500 wells are permitted each year for domestic purposes. It is expected that any costs associated with these rules will not place an unwarranted financial burden on the majority of the public. It is anticipated that these rule changes will provide better health protection to the consumer. Any increase in cost is more than offset by better trained water well professionals more equipped to protect domestic water supplies and the State's groundwater.

The proposed rules will affect all persons who apply for or currently hold a valid West Virginia water well driller certification. Currently, approximately 150 certified West Virginia well drillers are responsible for renewing their certifications within West Virginia. The proposed rule will require an initial fee of \$150 and a renewal fee of \$150 per year for both the Master Driller and Pump installer and an initial fee of \$100 and a renewal fee of \$100 per year for the Journeyman Driller. However, it is believed the cost per year is reasonable and comparable to other registration fees for other West Virginia trades. For example, the cost to register for a Monitor Well driller in West Virginia is \$200 per year.

Jobs impact

The revised rules are not expected to have an adverse impact on jobs in the regulated industry since the permit and certification fees remain a relatively small portion of overall business cost. Costs are generally passed on to the customer at the time of service. Since no significant changes in the procedural requirements or permitting restrictions associated with the permitting program have been proposed, no significant gain or loss of jobs is anticipated. However, any job related changes are expected to be positive due to the improvement in the skills of water well professionals, and increase the quality of their workmanship. These changes are anticipated to increase the availability of new workers.

Environmental Impact

West Virginia relies heavily upon ground water supplies for drinking water, agricultural, industrial, and commercial processes. The State's water resources continue to be threatened by degradation and/or depletion by a variety of factors, including point and non-point source contamination. Therefore, the rules proposed will have a positive environmental impact by continuing to ensure proper drilling, construction, operation, and sealing of any well by an appropriately certified individual. This is vital in protecting West Virginia waters against these threats.

STATEMENT OF CIRCUMSTANCES

A public/private advisory committee has been working on the revisions to this rule for many years. This filing represents the best compromise and consensus that was reached by the group.

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 27, 2007

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: *(Agency Name, Address & Phone No.)* DHHR Bureau for Public Health,
Office of Environmental Health Services
1 Davis Square, Suite 200
Charleston, WV 25304-1978
(304) 558 2891

LEGISLATIVE RULE TITLE: _____
WATER WELL REGULATIONS, 64CSR19

1. Authorizing statute(s) citation §§16-1-4, 16-1-6(n), 16-1-9 and 16-1-9a

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 25, 2007

b. What other notice, including advertising, did you give of the hearing?
The proposed rule was shared with many interested parties and stakeholders at a series of meetings held during the public comment period to further discuss the changes and elicit comments from the regulated community.

c. Date of Public Hearing(s) *or* Public Comment Period ended:
July 25, 2007, at noon

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached X No comments received _____

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

NA

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Ann Spaner, Director, Public Health Regulations

250 Capitol Street, Room 702

Charleston, WV 25301

(304) 558-2971

(304) 558-1035 fax

annspaner@wvdhhr.org

- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

Scott Rodeheaver

Office of Environmental Health Services

1 Davis Square, Suite 200

Charleston, WV 25301-1798

tel 304-558-6713

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scottrodeheaver@wvdhhr.org

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

NA

b. Date of hearing or comment period:

From June 25, 2007 to July 25, 2007 at noon

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

NA

d. Attach findings and determinations and reasons:

Attached NA

64CSR19 WATER WELL REGULATIONS

COMMENTS AND RESPONSES

1.) Mike Jackson
Calhoun County Health Department
6/13/07

Comment

In reviewing the proposed well regulations and design standards I noticed a couple of things that may be of concern.

1. 64CSR19, 64-19-6-On homeowner installation of pumps - I don't believe it is enforceable. There would be no way to know if a homeowner installed the pump or not. The main concern, as I understand it, is that the pitless adapters are being installed incorrectly allowing surface water to contaminate the well. If this is in fact so, regulate the pitless adapter installation and exclude pump installation. This would be more in line with other homeowner repairs excluded by current law.

BPH Response

Well construction and installing pumps in wells requires the specialized knowledge of qualified well drillers or qualified well pump installers to safeguard well water sources and prevent situations where ground water may be adversely affected. This requirement does not prevent a property owner from making pump system installations, alterations, repairs, or replacements providing the installation, alteration, repair, or replacement conforms to the standards set forth in the rule. Note: no changes made to 64CSR19.

Comment

2. I saw no mention anywhere in regulations or design standards of springs or cisterns. I feel that these need to be included as they are in the existing regulations.

BPH Response

Cisterns and springs were not included in the existing regulations. We have a couple of recommended guidelines with these types of water supplies. Policy Memo H-12 states that springs and cisterns used as a water supply and being evaluated for a home loan request be chlorinated. Guidelines have no guidance on construction. Permits are not required for either. Note: no change made to 64CSR19.

Comment

The introduction of new drillers into the business is not going to happen. The most active drillers that I work with use cable tools (spudders) and the driller is the only one on site with no assistant. Since most work alone, they are not going to be willing to split the drilling fee with an apprentice. That is my two cents worth.

BPH Response

No change made to 64CSR19.

64CSR19 WATER WELL REGULATIONS

2.) Patty Rogers
WVDEP UST,
7/9/07, 1:36 PM

Comment

The experience requirements of 4500, 3000, and 1000 hours are excessive. In small counties, it will be nearly impossible for aspiring drillers and pump installers to obtain certification. There needs to be an alternative to the hours of installation experience or a significant reduction of hours required. Some counties are going to be left without any certified well drillers/pump installers if these requirements remain in effect.

BPH Response

Well construction cannot be considered a routine process. The variability of geologic conditions and that of ground water occurrence within the geologic framework are so extensive as to make each drilling operation in some degree an exploratory undertaking. Thus the skill (experience, education, etc.) of the water well driller that enables him to handle unforeseen situations is basic to successful ground water development.

After discussing this with water well work group members, the experience (hours) have been reduced to the following: Master Driller (two years experience, 3,000 hours as a journeyman driller)—modifies 64CSR19 Section 7.1.a.1.

Journeyman Driller (two years experience, 3,000 hours as an Apprentice)—modifies 64CSR19 Section 7.2.a.1.

Pump installer (two years experience with 1000 hours)—No change.

Comment

Consider allowing a person to re-take the driller/pump installer exam to renew their license instead of obtaining CEUs.

BPH Response

CEUs are courses intended to be opportunities for drillers and pump installers to learn about new techniques or equipment as well as improve skills and knowledge. Retaking the exam would not provide the person additional information, new techniques, equipment, skills or knowledge. No change made to 64CSR19.

Comment

Also, I strongly recommend that certified sewage system installers and/or homeowners be permitted to abandon their own wells. The state could require a homeowner test just for this purpose.

64CSR19 WATER WELL REGULATIONS

BPH Response

Abandoning water wells requires the specialized knowledge of qualified well drillers to safeguard well water sources and prevent situations where ground water may be adversely affected. No change made to 64CSR19.

3.) Tim Brannon

Tim Brannon Well Drilling

July 11, 2007

Comment

This letter is in response to the meetings on proposed changes of water well regulations and designs. I am going to list each item along with my concerns associated with each of them. I would appreciate your time in reviewing my concerns and your response to them.

64CSR19- 7.8

I am against the apprentice program for these reasons:

1. Seven years is not a good number for years, because it will not work!

BPH Response

The seven years was required for individuals from a state that does not have the comparable certification classes has been reduced to six years. Section 7.10.a. has been changed.

Comment

2. I can train someone to run a rig and drill a well in six months, if not, I am going to look for someone else. Why not have a class like septic installers. Have a day class with rules and regulations so more people would be knowledgeable, and at the end of the class, have a test. This system that you are proposing will set up a monopoly for drillers and journeymen. An employee can come to you and say I quit or pay me more. I don't have a problem with that but say this employee has seven years of training and takes a walk and takes two or three others with them over money. Then it will not work. I can see it to be okay for a father and son team or someone who has be grandfathered in. In this situation the owner of the drilling firm will have to hire a person, any person, qualified or not to help with everyday drilling operations. This would not help keep trained people drilling. Water well drilling is not a 9 to 5 job. It's cold, it's hot, and it's loud, muddy, dirty, and wet. I can stand all of this. I am not sure how many other people would find this an attractive job for seven years or more. I don't want an employee to be a common law wife with seven years. I just want them to be able to provide properly constructed water wells.

64CSR19 WATER WELL REGULATIONS

BPH Response

We agree the actual operation and practices of the drill rig should take a relative short time to learn. However, well construction is not a routine process. The variability of geologic conditions and that of ground water occurrence within the geologic framework are so extensive as to make each drilling operation in some degree an exploratory undertaking. Thus the skill (experience, education, etc.) of the water well driller that enables him to handle unforeseen situations is basic to successful ground water development and to the protection of human health and the environment.

The rule states an apprentice can operate a drill rig if a journeyman or master drillers are on-site supervising. After two years the apprentice can become a journeyman after passing the tests. At that point they can do anything but sign permit applications and completion reports without on-site supervision. We have changed section 7.1.a.1, reducing from three years to two years experience required for a journeyman to qualify to become as master driller.

Comment

64SCR19-6.2

Proposed changes in pump installation will not work for the same reasons listed above. It would be worse than prohibition where you would have bootleg pump installers. You will never stop someone who is out of water from pulling their own pump to restore service for their family. It will only be for people to pay fees for certification. Again, it will not work unless you stop the sale of over the counter water pumps. Good Luck!

BPH Response

These rules will not prohibit someone who is out of water from pulling their own pump to restore service for their family. The hope is that the certification will provide professionalism for pump installation and that proper pump installation certification and design standards will increase pump efficiency, minimizes maintenance, prolong the life of piping and the protection of human health and the environment. No change made to 64CSR19.

4.)Nathaniel R. Porter Cooper Water Well Drilling July 16, 2007

Comment

1. If I have my drilling license and I don't own my own business will I still get my masters drilling license and pump installed.

BPH Response

Yes, if you pay the fee. No change made to 64CSR19.

64CSR19 WATER WELL REGULATIONS

Comment

2. If well is drilled and completion report is done what should be done if pump is not installed at time of completion of well, is there a separate completion report for pump installation.

BPH Response

If a well is drilled and a pump is not installed, mark the completion report "pump not installed" and the person who does install the pump shall submit a separate completion report. No change made to 64CSR19.

5.) Clayton Harmon and Tim Harmon Harman Drilling July 16, 2007

Comment

1. \$150.00 certification fee per year is high compared to 5 years for free. What benefits do the \$150.00 fee give us & what is it used for (100 drillers x 150=15,000 per year).

BPH Response

The fee will be used to manage the program. The program was amended because of complaints from various stakeholders. One of the most significant was the complaint from drillers that the Bureau was certifying drillers that did not know enough experience. The proposed system was developed by the water well work group over several years. Our overarching goal is to protect public health. Part of that is to protect groundwater. No change made to 64CSR19.

TITLE 64
LEGISLATIVE RULE
DEPARTMENT OF HEALTH

SERIES 19
WATER WELL REGULATIONS

FILED
2007 JUL 27 PM 5:09
OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

§64-19-1. General.

1.1. Scope. -- This legislative rule establishes the certification requirements for water well drillers; pump installers and the issuance of permits for water wells. The purpose is to protect the public health, protect and prevent contamination in groundwater and ensure fair and equitable rules for the construction of water wells and installing pumps and pumping equipment in the State of West Virginia.

1.2. Authority. -- WV Code §§16-1-4, 16-1-6(n), 16-1-9, and 16-1-9a.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Repeal and Replacement of Former Rules -- This legislative rule repeals and replaces Department of Health rule, Water Well Regulations, West Virginia Legislative Rules, 64 CSR 19, 1989.

§64-19-2. Application and Enforcement.

2.1. Application -- This rule shall apply to all water well drillers, pump installers where the pump is situated in a water well or pulls water from a well.

2.2. Enforcement -- This rule shall be enforced by the commissioner.

§64-19-3. Definitions.

3.1. Application -- The bureau's standard form(s) for applying for well driller

certifications, water well, and permit or permit modification, including any additions, revisions, or modifications to the form.

3.2. Apprentice -- A person working under the direction of a master or journeyman well driller or a pump installer.

3.3. Bureau -- The Bureau for Public Health of the West Virginia Department of Health and Human Resources.

3.4. Casing -- Pipe or tubing, constructed of specific materials with specified dimensions and weights, that is installed in a borehole during or after completion of the borehole to support the side of the hole and thereby prevent caving, to allow completion of the well, to prevent formation material from entering the well and to prevent entry of undesirable water into the well.

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

3.6. Commercial Well -- A well that serves small businesses and facilities in which water is the prime ingredient of the service rendered.

3.7. Commissioner -- Commissioner of the West Virginia Bureau for Public Health or his or her designee.

3.8. Continuing Education Hour -- One hour of participation in an organized

continuing education experience under the direction of a sponsor approved by the commissioner for renewal of a certification. One Continuing Education Hour is equal to one point.

3.9. Design Standards -- Those specifications, drawings, and other details promulgated by the commissioner to ensure proper location, design, construction, completion and abandonment of water wells and installation or removal of water pumps as referenced in regulations 64CSR46 and 64CSR77.

3.10. Dewatering Well -- A well used to lower groundwater levels to allow for construction of footings, sewer lines, building foundations, dams, etc.

3.11. Hand Dug Well -- A manually excavated well of permanent nature installed for water supply.

3.12. Heat Pump or Geothermal Well -- Any well constructed to utilize the heat exchange properties of either groundwater or of geologic material penetrated by the well.

3.13. Industrial Well -- A well used in industrial processing, fire protection, or similar non-potable uses, washing, packing, or manufacturing of a product excluding food and beverages.

3.14. Irrigation Well -- A well that is used to provide water for plants, livestock or other agricultural processes or used for the watering of lands or crops.

3.15. Journeyman Well Driller -- A person certified by the commissioner to practice well drilling under the general supervision of a master well driller.

3.16. Master Well Driller -- A person certified by the commissioner to practice well drilling including pump and pumping

equipment installation, and removal, when maintenance or repair is required.

3.17. 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.

3.18. Potable Water -- Water free from impurities in amounts sufficient to cause disease or harmful physiological effects, with bacteriological, chemical, physical and radiological quality conforming to applicable regulations and standards of the Bureau for Public Health.

3.19. Potable Water Well -- Any water well that provides potable water, other than a public water supply for the provision of water for human consumption.

3.20. Public Water System -- A public water system is any water supply or system that regularly supplies or offers to supply water for human consumption through pipes or other constructed conveyances, if serving at least an average of twenty-five individuals per day for at least sixty days per year, or which has at least fifteen service connections Provided: That a public water system shall include: any collection, treatment, storage, and distribution facilities under the control of the owner or operator of the system and used primarily in connection with the system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with the system. Provided further: That a public water system does not include a system which meets all of the following conditions: (1) Consists only of distribution and storage facilities (and does not have any collection and treatment facilities); (2) Obtains all of its water from, but is not owned or operated by a public water system that otherwise meets the definition;

(3) Does not sell water to any person; and (4) Is not a carrier conveying passengers in interstate commerce.

3.21. Pump -- a mechanical equipment or device used to transfer water to and from a well.

3.22. Pump Installation Contractor -- An entity that contracts or agrees to perform a service or function related to any portion of installing a pump or pumping equipment into a water well or public water supply in exchange for money or comparable compensation.

3.23. Pump Installer -- Any person who engages for compensation in pump or pumping equipment installation, removal, alteration or repair and who is certified by the commissioner to practice pump and pumping equipment installation to withdraw water from a well.

3.24. Pumping Equipment -- Equipment or related materials that are used or intended to assist withdrawing groundwater from a well shall include, but not be limited to: seals and other safeguards to protect the water from contamination; associated fittings; intake and discharge piping; controls to provide sanitary water storage facilities; and deliver water to a distribution piping system.

3.25. Water Return Well -- A well constructed for the purpose of returning water that has passed through a heat pump system.

3.26. Water Well -- Any excavation or penetration in the ground, whether drilled, bored, cored, driven, washed, jetted or dug for the exploration of water or for removal of water, to dewater construction site(s), or otherwise constructed that enters or passes through an aquifer for purposes that may include, but are not limited to: a potable water supply, exploration for water, industrial, irrigation, commercial, dewatering or

geothermal heat pump wells, and water return wells. This definition shall not include ground water monitoring activities, and all activities for the exploration, development, production, storage and recovery of coal, oil and gas and other mineral resources which are regulated under Chapters 22, 22A and 22B of West Virginia Code.

3.27. Water Well Contractor -- Any individual, partnership, syndicate, association, company, firm, trust, corporation or any other entity that contracts to drill, construct, alter, or abandon water wells in the State of West Virginia.

3.28. Well Completion Report -- A record accurately kept, at the time of drilling, showing the depth, thickness, character of the different strata penetrated, location of water-bearing strata, water level, depth, size, type and amount of casing installed, location of the well, owner, driller, pump installer, date well was completed, information on any permanent well pumping equipment installed by the well driller or pump installer and any other information required by the commissioner.

3.28.a. For geothermal and dewatering wells, one completion form, indicating well locations, is required for a system regardless of the number wells.

3.28.b. If wells vary in depth or geology, a single representative geologic log for each type is required. Water bearing zones, any voids, and coal seams or voids, or both penetrated shall be documented on the geologic log indicating appropriate depths.

3.29. Well Driller -- An individual who engages in water well drilling, construction, alteration, or abandonment, or who supervises these activities.

§4-19-4. Permits to Install.

4.1. After the effective date of this rule,

no person shall drill, construct, alter or abandon a water well unless the commissioner, pursuant to this rule, has issued a valid permit, except where the emergency procedures set forth in section 4.3. of this rule apply.

4.2. A permit to drill, construct, alter or abandon a water well is obtained jointly by the water well contractor and property owner. Application for the permit must be made at least fifteen calendar days prior to the actual well drilling, construction, alteration or abandonment unless emergency conditions prevail as set forth in section 4.3 of this rule.

4.3. Emergency water well permit.

4.3.a. The commissioner may issue an emergency water well permit to minimize actual or potential harm to human health, the environment or property.

4.3.b. A certified well driller requesting an emergency permit under this section shall contact the commissioner no later than the next business day after the emergency occurs. The certified well driller shall submit a completed water well permit application and a well completion report to the commissioner within five calendar days after the initial contact is made.

4.3.b.1. The application shall include a clear and concise factual description of the nature and scope of the emergency.

4.3.c. The commissioner, upon issuance of an emergency permit, shall assign to the well driller an emergency permit number and specify the date of approval. The well driller shall make the approved permit available for any on-site inspection by authorized representatives.

4.4. Water wells are drilled, constructed, altered or abandoned in accordance with West

Virginia Department of Health and Human Resources legislative rule, Water Well Design Standards, 64CSR46, and West Virginia Department of Health and Human Resources legislative rule, 64CSR42, Design Standards for Public Water Supply Systems. Such standards shall constitute the minimum standards for the drilling, construction, alteration or abandonment of a water well, pump and pumping equipment. Any plans approved by the commissioner pursuant to this rule shall be in substantial compliance with this rule. Where applicable, an underground injection control permit shall be obtained from the West Virginia Department of Environmental Protection in compliance with DEP legislative rule, 47CSR13, Underground Injection Control, prior to construction for a water well.

4.5. Application for a permit to construct, alter and abandon water wells shall be made to the commissioner on forms prescribed by the commissioner. The master water well driller and property owner shall jointly sign this application. By signing the application, the property owner acknowledges that the information provided on the application is true; the property owner is responsible for informing the certified well driller of the location of any known existing or proposed on-site sewage systems and these systems are in compliance with all applicable state rules.

4.6. In cases where a water well contractor is changed, the applicable permits are reissued to reflect these changes prior to construction with no additional permit fee required.

4.7. In the event the permit application is denied, the commissioner shall state, in writing, the one or more reasons for denial and furnish it to the applicant within fifteen calendar days from receipt of the permit application.

4.8. A permit, unless revoked, is valid for a period of one year from date of issuance. In the event construction or alteration is not completed within that time, the commissioner may extend the time limit upon written request by the permittee. If the water well is not constructed within the appropriate period, a new well permit shall be obtained from the commissioner prior to the start of any well drilling activity pursuant to section 4.5. of this rule.

4.9. A permit to install may be revoked or denied by the commissioner for failure to comply with the provisions of the permit, any applicable provision of the rules or orders issued pursuant thereto. Such revocation shall be in writing and shall state the reasons for revocation or denial.

4.10. Any person whose application for permit to construct a water well system has been revoked or denied may, within thirty calendar days from receipt of permit denial or revocation, request a hearing in accordance with section 14 of this rule.

4.11. The following activities may be conducted by a certified well driller without an individual permit issued by the commissioner:

4.11.a. The repair of any well, including redevelopment, cleaning or screen replacements: Provided: That this does not include deepening of the well.

4.11.b. Acidizing a well.

4.12. The commissioner may the well site, well logging, grouting and providing for taking of geologic or water samples, or both.

4.13. The commissioner may charge a fee for each permitting service listed in Appendix A of this rule.

4.14. Upon issuance of a permit, the

commissioner shall provide the owner and contractor with information prepared by the commissioner explaining the importance of water well sampling, procedures for sampling, and how the water can be tested to assure a safe supply of water.

§64-19-5. Records of Completed Water Wells.

5.1. Within thirty (30) calendar days after the water well has been constructed, altered, or abandoned, the certified well driller shall submit a completion report to the commissioner. The date of construction and time of completion is the date and time the rig is removed or pulled off the borehole or well. The certified well driller who actually performed the construction, alteration or abandonment of the well or provided the on-site supervision of the well construction, alteration or abandonment shall sign the completion report. A master well driller is required to sign the completion report when a journeyman well driller conducts the on-site supervision and drilling.

5.2. Completion reports shall be filed for pump installation. When the pumping equipment is installed after the record of completion has been submitted, the record shall be amended by the certified well driller or pump installer and resubmitted to the commissioner within thirty calendar days of installation of the pumping equipment. The certified well driller or pump installer who actually performed the installation of the pump system shall sign the amended record of completion.

5.2.a. A completion report is not required for repair of pumps or replacement of pumps or pumping equipment provided; the depth of the setting and efficiency are not affected.

5.3. The contractor shall provide two

copies of the completion report to the commissioner and one copy of the completion report to the owner.

§64-19-6 General Provisions for well driller certifications of the proper class and pump installer certifications.

6.1. No person shall drill, construct, alter or abandon any water well without possessing a valid West Virginia certification of the proper class issued by the commissioner and complying with the applicable sections of the rule.

6.2. No person shall install, repair or replace a well pump or well pumping equipment or engage in such business without possessing a valid West Virginia certification of the proper class issued by the commissioner and complying with applicable sections of the rule. A property owner is allowed to install the pump system and sign the completion record if, prior to the installation the individual passes an examination administered by the commissioner with a minimum score of seventy percent. This examination shall demonstrate the individual's knowledge of applicable rules.

6.3. Well drillers shall be classified into one of three classes: master well driller, journeyman well driller or an apprentice well driller.

6.3.a. A certified master well driller, after meeting the requirements of section 9.2 of this rule, is authorized to:

6.3.a.1. Drill, construct, install, repair, replace, alter or abandon water wells, including public water supply wells;

6.3.a.2. Install or replace well pumping equipment and appurtenances, storage tanks and connecting lines between a well and storage tank;

6.3.a.3. Perform yield and drawdown testing of wells; supervise journeymen well drillers and apprentice;

6.3.a.4. Sign permit applications and certify that a well has been drilled, constructed, installed, repaired, modified, altered, and abandoned in conformance with all applicable state and well drill and pump installation standards;

6.3.a.5. Qualify as a candidate to be appointed to the Advisory Board;

6.3.a.6. Supervise journeymen and apprentices;

6.3.a.7. Perform field observations to verify qualifications of applicants for all certifications covered by this rule.

6.3.b. A certified journeymen well driller, after meeting all of the requirements of section 9.2, is authorized to:

6.3.b.1. Drill, construct, install, repair, replace, alter or abandon a well; except a public water system supply wells;

6.3.b.2. Install or replace well pumping equipment and appurtenances, storage tanks, and connecting lines between a well and storage tank;

6.3.b.3. Perform yield and drawdown testing of wells; and

6.3.b.4. Supervise apprentices.

6.3.c. An apprentice is authorized to perform well drilling as a well driller only under the immediate on-site supervision of a master or journeyman well driller.

6.3.d. A journeyman or master well

driller shall be on-site in direct charge of drilling, constructing, altering or abandoning a water well.

6.4. Pump installers shall be classified into two (2) classes: a certified pump installer or an apprentice.

6.4.a. A certified pump installer, after meeting the requirements of section 9.2, is authorized to:

6.4.a.1. Install or replace well pumping equipment and appurtenances, pressure tanks and connecting lines between a well and storage tank;

6.4.a.2. Qualify as a candidate for appointment to the Advisory Board; and

6.4.a.3 Perform yield and drawdown testing of wells.

6.4.b. An apprentice is authorized to perform pump installations, replacement of appurtenances, pressure tanks and connecting lines while under the immediate on-site supervision of a master or journeyman well driller, or pump installer.

6.5. A certified person shall have in her or his possession the valid certification of the proper class at all times during any operations.

6.6. A certified pump installer or water well driller may run power and control wiring from the disconnect box and breaker panel to water well equipment without obtaining an electrician's license. A certification issued pursuant to this rule does not authorize the certificate holder to alter the existing electrical service to any building or structure or perform any other electrical work covered by any national, state, or local codes and ordinances, if the latter are more restrictive.

6.7. A certified or licensed plumber is

authorized to provide plumbing services as a plumbing contractor to install pressure switches, pressure tanks, valves and pipes without holding certifications from the commissioner. The certified or licensed plumber shall not break the well seal, alter, cut or drill into the casing, unless he or she is certified as a pump installer.

6.8. A certified or licensed electrician is authorized to do electrical contracting, repair or install pressure switches, control boxes and other electrical component of the pumping equipment without holding certifications issued by the commissioner. The electrician shall adhere to these rules for the installation and is not authorized to break the well seal, alter, cut or drill into the casing, unless the certified or licensed electrician is certified as a pump installer.

§64-19-7. Application and Certification Examination Procedures and Fee Requirements.

7.1. An applicant for a West Virginia master well drilling certification shall:

7.1.a. Submit an application on the form(s) prescribed by the commissioner, pursuant to satisfying all experience and other requirements specified, and provide evidence of the following:

7.1.a.1. The applicant shall demonstrate two (2) years of relevant work experience with a minimum of three thousand (3,000) hours as a journeyman. To demonstrate relevant experience the applicant shall specify dates, description of work and the name of the supervising certified well driller.

7.1.a.2. The applicant shall demonstrate that he or she has resolved any revocation or suspension of a previously issued well drilling certification or of any outstanding violation or fine pursuant to the

rule.

7.1.a.3. The applicant shall obtain a minimum grade of seventy percent on each portion of the written examination(s) and a possible field test demonstrating expertise.

7.1.a.4. The applicant shall be at least eighteen years of age.

7.2. An applicant for a West Virginia journeyman well drilling certification shall:

7.2.a. Submit an application on the form(s) prescribed by the commissioner, pursuant to satisfying all experience and other requirements specified, and provide evidence of the following:

7.2.a.1. The applicant shall demonstrate relevant work experience of two years with a minimum of three thousand hours as an apprentice under the supervision of a master or journeyman well driller. To demonstrate relevant experience, the applicant shall specify dates, description of work and the name of the supervising certified well driller.

7.2.a.2. The applicant shall obtain a minimum grade of seventy percent on each portion of the written examination(s) and a possible field test demonstrating expertise.

7.2.a.3. The applicant shall demonstrate he or she has resolved any revocation or suspension of a previously issued well drilling certification or of any outstanding violation or fine pursuant to the rule.

7.2.a.4. The applicant shall be at least eighteen year of age.

7.3. An applicant for a West Virginia pump installer certification shall:

7.3.a. Submit an application on the

form prescribed by the commissioner, pursuant to satisfying all experience and other requirements specified, and provide evidence of the following:

7.3.a.1. The applicant shall demonstrate relevant work experience of two years experience with a minimum of one thousand hours as an apprentice under the supervision of a pump installer or a master or journeyman well driller. To demonstrate relevant experience the applicant shall specify dates, description of work and the name of the supervising certified well driller or pump installer;

7.3.a.2. The applicant shall obtain a minimum grade of seventy percent on each portion of the written examination(s).

7.3.a.3. The applicant shall be at least eighteen years of age. Minimum age may be waived by the commissioner, in writing, to a minimum age of sixteen (16) and completion of the 10th grade. Minimum requirements are verification each semester that the student is currently attending school and maintaining a 2.0 average on a 4.0 scale towards graduation requirements. Failure to meet the above requirement will be grounds for revocation of the certificate.

7.3.b. Pump installers actively engaged in pump installation on or before the effective date of this rule are exempt from the minimum experience and testing requirements. Pump installers seeking to qualify under this provision shall submit evidence of ten pump installations completed within the past two years on the prescribed forms within one year of the effective date of the rule.

7.4. The commissioner shall review each application upon receipt of the all the information required and either notify the applicant of any deficiencies or notify the applicant of her or his eligibility to take the

appropriate examination.

7.5. The commissioner shall notify in writing, all applicants of the results of their examinations.

7.6. The commissioner shall issue the appropriate certification to successful applicants upon receipt of full payment of the appropriate initial certification fee.

7.7. Certifications shall not be transferable or assignable and shall automatically become invalid upon suspension or revocation.

7.8. Water well drillers with a valid current West Virginia water well certification actively engaged in well drilling on or before the effective date of this rule shall be considered as master well drillers. The master well driller certification for these individuals is issued on the effective date of this rule and is valid for one year from the date of issuance.

7.9. Individuals working to obtain the current West Virginia driller certification shall register with the commissioner, on the prescribed forms, within one hundred and eighty calendar days from the effective date of the rule. All such applicants are eligible to become a master water well driller with two years of experience and obtain a minimum grade of seventy percent on each portion of one or more written examination for the certified master well driller and a possible field test demonstrating expertise.

7.10. For an individual who holds a legal certification or who has practiced well drilling in accordance with all laws and rules in a state that does not have comparable certification classes; the applicant shall have acquired the following experience:

7.10.a. For a master well driller –

Six years of well drilling experience; or

7.10.b. For a journeyman driller -
Four years of well drilling experience; or

7.10.c. For a pump installer - Three years of pump installation experience; and

7.10.d. For all classes each individual shall have passed any written examination requirements and obtained a minimum grade of seventy percent on each portion of the one or more written examination and any other requirements deemed necessary by the commissioner.

7.11. For an individual who holds a legal certification for well drilling, in accordance with all laws and rules from a state with comparable certification classes the applicant shall be reviewed individually by the commissioner.

7.12. All certifications shall expire one year from date of issuance and shall be renewed thirty days prior to expiration. Renewals are made by submitting the completed renewal form provided by the commissioner. Applicants must provide evidence of bonding and insurance as required by section 8 of this rule. Evidence of continuing education requirements as required by section 9 of this rule shall be supplied for renewal.

7.12.a. A certificate holder who fails to renew his or her certification within six months following the renewal date of the certification shall not have the certification reinstated until he or she successfully passes the written examination(s) or field test prescribed by the commissioner for applicants for a new certificate.

7.14. A certificate holder may place his or her certification on inactive status for a two year period if the certificate holder has submitted an application for inactive status

within 60 days before the expiration date of the certificate. Before the commissioner reactivates the certificate of an inactive-status certificate, that certificate holder shall satisfy any renewal requirements.

7.15. A certificate holder may obtain a duplicate certificate to replace a certificate that has been lost, destroyed or mutilated if the certificate holder makes a written, notarized request to the commissioner, stating the reason for the request.

7.16. The commissioner may charge a fee for each certification service provided as listed in Appendix B of this rule.

§64-19-8. Bonding of Water Well and Pump Installation Contractors.

8.1. Each water well and pump installation contractor shall have a current contractor's bond payable to the commissioner upon forfeiture and liability insurance coverage effective throughout West Virginia in a form determined by the commissioner. The contractor's bond is in an amount determined by the commissioner but not exceeding five thousand dollars. Lack of a current contractor's bond is deemed sufficient grounds for denial of a water well or pump installation permit.

8.2. Forfeiture of the contractor's bond is predicated upon a failure to drill, construct, repair, replace, alter or abandon a well or upon installation of a pump in a water well in accordance with this rule or Water Well Design Standards rule, 64CSR46.

8.3. The surety shall have the option of forfeiting the contractor's bond or completing the well in accordance with this rule and standards specified in section 8.2 of this rule. All proceeds of a forfeiture shall be expended by the commissioner to alter or abandon the well in accordance with applicable rules and standards. Any excess funds shall be retained

by the commissioner and expended for the purpose of altering or abandoning water wells in accordance with applicable rules and standards.

8.4. The surety shall have the option of canceling a contractor's bond after providing notice to the commissioner at least thirty days prior to cancellation.

8.5. In lieu of the bond required by section 8.1 of this rule, the commissioner may accept an irrevocable letter of credit issued by a bank chartered by the State of West Virginia or a member bank of the federal reserve system. Confirmation of such irrevocable letter of credit shall be in writing and shall be signed by the issuing or confirming bank.

§64-19-9. Continuing Education Program and Requirements.

9.1. The continuing education program is a formal offering of instruction or information to certificate holders and registrants for the purpose of maintaining, enhancing or developing skills necessary for the protection of groundwater and the health and general welfare of the citizens and to increase the competence of drillers who construct water wells and the certified installers of pumps, or pumping equipment. The commissioner shall approve such programs prior to their offering.

9.2. Beginning two years after the effective date of this rule, a certified master well driller shall be required to show proof of three hours of continuing education related to water well drilling every year. Additionally, for a certified master well driller to install pumps, he or she will be required to show proof of two hours of continuing education related to pump installation every year. A certified journeyman driller is required to show proof of two hours of continuing education every year. For a certified journeyman driller to install pumps, the

journeyman driller will be required to show proof of one hour of continuing education related to pump installation every year. The certified pump installer will be required to show proof of two hours of continuing education every year to maintain the certification. Each certificate holder shall submit a copy of the certificates of completion as proof of meeting the continuing education requirements.

9.3. Only courses or programs designated or approved by the commissioner are acceptable for continuing education.

9.4. Courses submitted for pre-approval are considered by the commissioner only upon submission, by the sponsor or attendee, of a written description, which includes the names and qualifications of the presenters, the time and location, the proposed number of hours, and the program objectives.

9.5. Programs for continuing education units may be held in state or out of state.

9.6. Program sponsors shall provide proof of attendance to attendees.

§64-19-10. Identification Numbers of Water Well Rigs and Well Head.

10.1. It shall be the duty of all water well contractors to see that all water well rigs they use or those used by their employees are clearly marked with legible and plainly visible identification numbers at all times.

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

10.3. Certification numbers shall be printed on each side of every water well drilling rig in numerals of not less than two inches high and such numerals are in a color

sufficiently different from the color of the vehicle or equipment so that the certification number is plainly legible.

10.4. Water well contractors shall see that all water well rigs they use or those used by their employees are clearly marked as provided in sections 10.2 and 10.3 of this rule.

10.5. Each well drilling contractor shall securely attach a metal tag or engraved well cap to the wellhead containing the following information: Contractor's name and address, permit number, depth of well and date of construction or alteration.

§64-19-11. Advisory Board.

11.1. The commissioner may establish an advisory board and designate the chairman of the board.

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

11.2.a. Three certified master well drillers;

11.2.a.1. These three members may represent and have actual experience from the various geologic areas of the state and be familiar with the various appropriate drilling methods used in different regions of West Virginia.

11.2.b. One certified pump installer;

11.2.c. One employee of the West Virginia Bureau for Public Health;

11.2.d. One representative from a local health department;

11.2.e. One employee of the West Virginia Department of Environmental Protection;

11.2.f. One individual who is not employed by the state and who has no commercial or economic involvement in well drilling or pump installation;

11.2.g. One academic or technical expert who is either:

11.2.g.1. Employed by the West Virginia geological survey or the United States Geological Survey; or

11.2.g.2. A professional hydrologist or hydrogeologist; or

11.2.g.3. A geology or hydrogeology professor from a college or university in West Virginia.

11.3. Duties of the Advisory Board. The Water Well Advisory Board may:

11.3.a. Recommend changes in the certification program as needed to the commissioner;

11.3.b. Receive complaints regarding certification issues and appeals of certification decisions and recommend follow up actions to the commissioner;

11.3.c. Recommend written tests and field test required for certification and assist in preparation and administration of written tests, as appropriate;

11.3.d. Recommend continuing education classes and instructors; and

11.3.e. Perform other duties that may be assigned by the commissioner.

§64-19-12. Inspections and Water Sampling.

The commissioner may make as many inspections as necessary, during the construction, installation, modification or

operation of a water well, pump and pumping equipment to determine compliance with the applicable provisions of this rule or Water Well Design Standards rule, 64CSR46. This includes without limitation, water sampling for the detection of any contaminants, the documentation of a violation of construction standards, technical procedures, or any other requirements established under the rule. The owner or occupant of a dwelling, establishment, or land where a water well is located shall provide the commissioner access for making the inspection. Findings of inspections shall be recorded on forms prescribed by the commissioner.

§64-19-13. Penalties, Suspension and Revocation of certifications.

13.1. Persons who violate the provisions of this rule are subject to the civil and administrative penalties of West Virginia Code §16-1-9a and to potential civil or criminal penalties under West Virginia Code §§16-1-9, 16-1-9a and 16-1-18.

13.2. The commissioner may suspend, revoke or deny certification of a driller or pump installer if the information on the application form is incomplete, inaccurate, false, misleading or indicates that the provisions of this rule cannot be met. The commissioner may revoke or suspend the certification of a driller or pump installer who knowingly violates this rule.

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

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

13.5. Suspension or revocation of

certification is preceded by a written notice from the commissioner, at least ten calendar days prior to actual revocation or suspension.

§64-19-14. Administrative Due Process.

Administrative Due Process. -- Any person 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 the West Virginia Department of Health Procedural Rule, "Rules of Procedure for Contested Case Hearings and Declaratory Rulings", 64CSR1.

Appendix A. Permitting Fees

1. Construction /Installation Permits

A. Heat exchange wells: Permit Fee is determined by the ton rating of the heat pump machine. When more than one heat pump machine is hooked together, the cumulative total of the ton rating is used to determine the fee. One to fifty ton heat pump unit is \$150 and over fifty ton is \$300.

Permitting fees for a water well permit are located in the Fees for Permits rule, 64CSR30.

Appendix B. Certification Fees

1. Master Well Driller: Initial and Renewal Fee for Certification - \$150
2. Journeyman Well Driller: Initial and Renewal Fee for Certification - \$100
3. Pump Installer: Initial and Renewal Fee for Certification - \$150
4. Reactivation of Status Fee - \$350
5. Examination Fee - \$25
6. Duplicate Certificate - \$25

64 CSR 19

From: Scott Rodeheaver
To: Spaner, Ann
Date: 7/27/2007 2:51:09 PM
Subject: Re: ~~Deadline for comments to 64CSR46~~ has passed with no additional comments

The only change to the updated copy would be add inspect--The commissioner may inspect the well site...

The rest of 64CSR 19 looks fine.

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>>> Ann Spaner 07/27/07 1:36 PM >>>
scott,

question on WWDS change to section 6.6.

pls. call me asap

>>> Scott Rodeheaver 07/27/07 12:06 PM >>>
No additional comments/questions have been received today. The responses and the changes to 64CSR46 I sent yesterday afternoon are now final.

Thank you!
Thank you!
Thank you!

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errata

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