

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

Form #4

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SECRETARY OF STATE

**NOTICE OF RULE MODIFICATION OF A PROPOSED RULE**

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

CITE AUTHORITY: §§16-1-4, 16-1-6(n), 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

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE PROPOSED LEGISLATIVE RULES, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE, IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

Margaret Yeager Walker  
Authorized Signature

#6.40

## **FISCAL NOTE FOR PROPOSED RULES**

Rule Title: 64CSR19 - Water Well Regulations

Type of Rule:                      x   Legislative                           Interpretive                           Procedural

Agency: Health and Human Resources

Address: Building 3, Room 206  
Capitol Complex  
Charleston, West Virginia 25305

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)
<b>1. Estimated Total Cost</b>	\$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			
<b>2. Estimated Total Revenues</b>	\$40,500.00	52,500.00	64,250.00

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

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

See attached sheet for details.

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. Revenue was estimated as follows:

Total revenue estimate for SFY2008 is \$40,500 with the following assumptions: 150 Master Well Drillers @ \$150/yr = \$22,500; 100 Pump Installers @ \$150/yr = \$15,000; Geothermal Permit Fees: 10 @ \$150/permit = \$1,500 and 5 @ \$300/permit = \$1,500.

Total revenue for SFY2009 is \$52,500 with the following assumptions: 160 Master Well Drillers @ \$150/yr = \$24,000; 135 Pump Installers @ \$150/yr = \$20,250; 10 Reinstatements @ \$350/each = \$3,500; 50 Examination fees @ \$25/each = \$1,250; 20 Duplicate Certificates @ \$25/each = \$500; Geothermal Permit Fees: 10 @ \$150/permit = \$1,500 and 5 @ \$300/permit = \$1,500.

Total revenue for SFY2010 is \$64,250 with the following assumptions: 175 Master Well Drillers @ \$150/yr = \$26,250; 52 Journeyman @ \$100/yr = \$5,200; 160 Pump Installers @ \$150/yr = \$24,000; 8 Reinstatements @ \$350/each = \$2,800; 100 Examination fees @ \$25/each = \$2,500; 20 Duplicate Certificates @ \$25/each = \$500; Geothermal Permit Fees: 10 @ \$150/permit = \$1,500 and 5 @ \$300/permit = \$1,500.

**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.

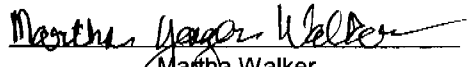
The Department has evaluated these rules, and has determined that they are necessary, reasonable, and proper for the purpose as proposed. West Virginia's economic growth and welfare depend upon an adequate and safe water supply for potable, commercial, and agricultural uses. The proposed revisions are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

Date

Agency

Authorized Representative

Department of Health and Human Resources

  
Martha Walker  
Secretary

DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
 Bureau for Public Health  
 Legislative Rule  
 Title 64, Series 19  
 Fiscal Note Details

<b>2008 (numbers represent ½ year)</b>	
<b>Personnel Services</b>	<b>(\$)</b>
0.40 FTE for ERS II (review training material, renewals, new applicant review, coordinate training, CEH program)	7,800.00
0.30 FTE for ERS II (onsite reviews, testing)	5,850.00
0.30 FTE for Geologist I (onsite reviews, testing)	5,100.00
0.30 FTE for OA II (filing, data entry, notifications)	3,000.00
Personnel Services Fee @ \$250/FTE	163.00
FICA, Retirement, and Workers' Compensation (20.04%)	4,359.00
Health Insurance @ \$8,460/FTE	5,499.00
<b>Personal Services Total</b>	<b>531,771.00</b>
<b>Current Expenses</b>	
Office space	844.00
Postage	63.00
Utilities	130.00
Printing and binding	2000.00
Marketing and Promotional	1250.00
Computer Equipment	1950.00
Office Supplies	425.00
Vehicle	8750.00
Travel in-state (Cost for Training, Costs for onsite Test Reviews) one night @ \$165*9 trips	1,485.00
Travel in-state (Cost for Training, Costs for onsite Test Reviews) two night @ 480 * 2 trips	960.00
Travel out-of -state training 1 trip @ \$1500	1,500.00
Other - Cost of Hearing Examiner	2,000.00
<b>Current Expenses Total</b>	<b>21,357.00</b>
<b>Total 2008 Expenses for ½ of year</b>	<b>553,128.00</b>

Department of Health and Human Resources  
 Bureau for Public Health  
 Legislative Rule  
 Title 64, Series 19  
 Fiscal Note Details

<b>2009 (1.0 Full Year)</b>	<b>(\$)</b>
<b><u>Personnel Services</u></b>	
0.40 FTE for ERS II (review training material, renewals, new applicant review, coordinate training, CEH program)	15,600.00
0.30 FTE for ERS II (onsite reviews, testing)	11,700.00
0.30 FTE for Geologist I (onsite reviews, testing)	10,200.00
0.30 FTE for OA II (filing, data entry, notifications)	6,000.00
Personnel Services Fee @ \$250/FTE	325.00
FICA, Retirement, and Workers' Compensation (20.04%)	8,717.00
Health Insurance @ \$8,460/FTE	10,998.00
<b>Personal Services Total</b>	<b>\$63,540.00</b>
<b><u>Current Expenses</u></b>	
Office space	1,688.00
Postage	125.00
Utilities	280.00
Printing and binding	4,000.00
Marketing and Promotional	2,500.00
Computer Equipment	3,900.00
Office Supplies	850.00
Vehicle	17,500.00
Travel in-state (Cost for Training, Costs for onsite Test Reviews) one night @ \$165*18 trips	2,970.00
Travel in-state (Cost for Training, Costs for onsite Test Reviews) two night @ 480 * 4 trips	1,920.00
Travel out-of-state training 2 trips @ \$1500	3,000.00
Other - Cost of Hearing Examiner	4,000.00
<b>Current Expenses Total</b>	<b>\$42,733.00</b>
<b>Total 2009 Expenses</b>	<b>\$106,273.00</b>

Department of Health and Human Resources  
 Bureau for Public Health  
 Legislative Rule  
 Title 64, Series 19  
 Fiscal Note Details

<b>2010 Fiscal Year for Full Implementation (1.0 Year)</b>	<b>(\$)</b>
<b><u>Personnel Services</u></b>	
0.40 FTE for ERS II (review training material, renewals, new applicant review, coordinate training, CEH program)	15,600.00
0.30 FTE for ERS II (onsite reviews, testing)	11,700.00
0.30 FTE for Geologist I (onsite reviews, testing)	10,200.00
0.30 FTE for OA II (filing, data entry, notifications)	6,000.00
Personnel Services Fee @ \$250/FTE	325.00
FICA, Retirement, and Workers' Compensation (20.04%)	8,717.00
Health Insurance @ \$8,460/FTE	10,998.00
<b>Personal Services Total</b>	<b>\$63,540.00</b>
<b><u>Current Expenses</u></b>	
Office space	1,688.00
Postage	125.00
Utilities	280.00
Printing and binding	4,000.00
Marketing and Promotional	2,500.00
Computer Equipment	3,900.00
Office Supplies	850.00
Vehicle	1,750.00
Travel in-state (Cost for Training, Costs for onsite Test Reviews) one night @ \$165*18 trips	2,970.00
Travel in-state (Cost for Training, Costs for onsite Test Reviews) two night @ 480 * 4 trips	1,920.00
Travel out-of-state training 2 trip planned @ \$1500	3,000.00
Other - Cost of Hearing Examiner	4,000.00
Other - Water Well Drilling and Pump Training Classes	10,000.00
<b>Current Expenses Total</b>	<b>\$52,733.00</b>
<b>Total 2010 Expenses</b>	<b>\$116,273.00</b>

Department of Health and Human Resources  
Bureau for Public Health  
Legislative Rule  
Title 64, Series 19  
Fiscal Note Details

<b>Estimated Total Revenues (\$)</b>			
	<u>2008</u>	<u>2009</u>	<u>2010</u>
Fees Certification	37,500.00	49,500.00	61,250.00
Geothermal Permit Fees	3,000.00	3,000.00	3,000.00
Totals	\$40,500.00	\$52,500.00	\$64,250.00

**TITLE 64  
LEGISLATIVE RULE  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
BUREAU FOR PUBLIC HEALTH**

**SERIES 19**

**WATER WELL REGULATIONS**

**§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, 64CSR19, 1989.

**§64-19-2. Application and Enforcement.**

2.1. Application -- This rule applies to all water well drillers and 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 forms for applying for well driller and pump installer certification, water well 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 in 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 -- The 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 the Bureau's rules, Water Well Design Standards, 64CSR46, and Public Water System Design Standards, 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 a permanent nature installed for water supply.

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

3.13. Inactive Well -- A well that is no longer actively used. It shall have a sanitary well cap and remain in a state of repair to prevent contamination from entering the well. It may be used in the future or be properly abandoned.

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

3.15. Irrigation Well -- A well used to

provide water for plants, livestock, or other agricultural processes.

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

3.17. 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 of a well is required.

3.18. 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.

3.19. 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 rules and standards of the Bureau for Public Health.

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

3.21. Public Water System -- 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, and includes:

3.21.1. 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

3.21.2. Any collection or pretreatment storage facilities not under such control which are used primarily in connection with the system.

3.21.3. A public water system does not include a system which meets all of the following conditions:

3.21.3.a. It consists only of distribution and storage facilities and does not have any collection and treatment facilities;

3.21.3.b. It obtains all of its water from, but is not owned or operated by a public water system that otherwise meets the definition;

3.21.3.c. It does not sell water to any person; and

3.21.3.d. It is not a carrier conveying passengers in interstate commerce.

3.22. Pump -- Any mechanical equipment or device used to transfer water from a well.

3.23. 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.

3.24. 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.

3.25. Pumping Equipment -- Equipment or related materials that are used or intended to assist withdrawing groundwater from a well, including 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.

3.26 Test Wells (Exploratory/Observation) -- A well that is used to obtain information on groundwater quantity; quality; aquifer characteristics; and availability of production water supply for manufacturing, commercial, and industrial facilities.

3.27. Water Return Well -- A well constructed for returning water that has passed through the heat pump system to the subsurface.

3.28. Water Well -- Any excavation or penetration in the ground, whether drilled, bored, cored, driven, washed, jetted, hand dug 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 regulated under Chapters 22, 22a, or 22b of the WV Code.

3.29. 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.

3.30. Well Completion Report -- A record, accurately kept at the time of drilling, showing the depth; thickness and 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 the 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.

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

3.30.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.

3.31. 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 subsection 4.3. of this rule apply.

4.2. A permit to drill, construct, alter or abandon a water well shall be obtained jointly by the water well contractor and property owner. Application for the permit shall 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 subsection 4.3 of this rule.

4.3. The following applies to emergency water well permits:

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; and

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 shall be drilled, constructed, altered or abandoned in accordance with the Bureau's rules, Water Well Design Standards, 64CSR46, and Design Standards for Public Water Supply Systems, 64CSR42. These standards 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's rule, Underground Injection Control, 47CSR13, 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 ensuring that these systems are in compliance with all applicable state rules.

4.6. In cases where a water well contractor is changed, the applicable permits shall be reissued to reflect these changes prior to construction. No additional permit fee is 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 the date of issuance. In the event the 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 subsection 4.5. of this rule.

4.9. The Commissioner may revoke or deny a permit to install if the applicant or permittee fails to comply with the provisions of the permit, any applicable provision of the rules or orders issued pursuant thereto. The revocation or denial shall be in writing and shall state the reasons for revocation or denial.

4.10. Any person, whose application for a permit to construct a water well system that

has been revoked or denied, may, within thirty calendar days from receipt of the 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; and

4.11.b. Acidizing a well.

4.12. The Commissioner may inspect the well site, well logging, grouting and provide 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, the 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 the repair of pumps or the replacement of pumps or pumping equipment if 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 this rule.

6.2. No person shall install, repair or replace a well pump or well pumping equipment or engage in that business without possessing a valid West Virginia certification of the proper class issued by the Commissioner and complying with applicable sections of this rule. A property owner may

install the pump system and sign the completion record if, prior to the installation the property owner passes an examination administered by the Commissioner with a minimum score of seventy percent. This examination shall demonstrate the individual's knowledge of the 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 subsection 9.2 of this rule, may:

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; and supervise journeymen well drillers and apprentices;

6.3.a.4. Sign permit applications and certify that a well has been drilled, constructed, installed, repaired, modified, altered, or 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; and

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 subsection 9.2 of this rule, may:

6.3.b.1. Drill, construct, install, repair, replace, alter or abandon a well, except a public water system's 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 may 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 classes, a certified pump installer or an apprentice.

6.4.a. A certified pump installer, after meeting the requirements of subsection 9.2 of this rule, may:

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 may perform pump installations, and replace 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 a valid certification for 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 may 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 or alter, cut or drill into the casing, unless he or she is certified as a pump installer.

6.8. A certified or licensed electrician may 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 may not break the well seal or 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 forms 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 years of relevant work experience with a minimum of three thousand hours as a journeyman. To demonstrate relevant experience, the applicant shall specify the dates of employment, description of the work and provide 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 examinations and perform a possible field test demonstrating the applicant's expertise; and

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 forms 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 the dates of employment, description of the work and provide 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 examinations and a possible field test demonstrating the applicant's 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; and

7.2.a.4. The applicant shall be at least eighteen year of age. Provided, That the Commissioner may waive the eighteen year age requirement if requested to do so, in writing, by the applicant, to a minimum age of sixteen and completion of the 10<sup>th</sup> grade. The minimum age requirements are verified 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 this requirement is grounds for revocation of the certificate.

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 the dates of employment, description of the work and provide 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 examinations.

7.3.a.3. The applicant shall be at least eighteen years of age. Provided, That, the Commissioner may waive the eighteen year age requirement if requested to do so, in writing, by the applicant, to a minimum age of sixteen and completion of the 10<sup>th</sup> grade. The minimum age requirements are verified 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 this requirement is 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, within one year of the effective date of the rule, submit evidence on the prescribed forms, of ten pump installations completed within the past two years.

7.4. The Commissioner shall review each application upon receipt of 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 are not 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 classified as master well drillers. The Commissioner shall issue master well driller certification for these individuals as of the effective date of this rule and the certification shall be valid for one year from the date of issuance.

7.9. An individual 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. The applicant is eligible to become a master water well driller if he or she has two years of experience, obtain a minimum grade of seventy percent on each portion of one or more written examination for the certified master well driller and passes a possible field test demonstrating his or her 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;

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 determined necessary by the Commissioner.

7.11. The Commissioner may review applications from individuals who hold a legal certification for well drilling in another state with comparable certification classes. The Commissioner may grant a comparable certification for the applicant if appropriate.

7.12. All certifications expire one year from the date of issuance and shall be renewed thirty days prior to expiration. The applicant shall submit a completed renewal on forms provided by the Commissioner. Applicants shall provide evidence of bonding and insurance as required by section 8 of this rule. Applicants shall supply evidence of continuing education requirements in accordance with section 9 of this rule for certification 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 examinations 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 sixty 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 Commissioner shall determine the amount of the contractor's bond, which may not exceed five thousand dollars. Lack of a current contractor's bond is considered 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 and the Bureau's rule, Water Well Design Standards, 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 subsection 8.2 of this rule. The Commissioner shall expend all proceeds from a forfeiture to alter or abandon the well in accordance with applicable rules and standards. The Commissioner shall retain and expend any excess funds 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 subsection 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 the 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 shall be a formal offering of instruction or information to certificate holders and registrants for the purpose of maintaining, enhancing and developing the skills necessary for the protection of groundwater and the health and general welfare of the citizens and to increase the competence of well drillers and pump installers.

9.2. Beginning two years after the effective date of this rule, a certified master well driller shall 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 shall show proof of two hours of continuing education related to pump installation every year. A certified journeyman driller shall show proof of two hours of continuing education every year. For a certified journeyman driller to install pumps, the journeyman driller shall show proof of one hour of continuing education related to pump installation every year. The certified pump installer shall 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. To obtain pre-approval of a course the sponsor or attendee shall submit the following information to the Commissioner: a written course description, which includes the names and qualifications of the presenters; the time and location of the course; 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. All water well contractors shall ensure 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 the numerals shall be 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 ensure that all water well rigs they use or those used by their employees are clearly marked as provided in subsections 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: the contractor's name, address and permit number, the depth of the well and the 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;

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. The Water Well Advisory Board may exercise the following duties:

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 tests required for certification and assist in the 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 and the Bureau's rule, Water Well Design Standards, 64CSR46. An inspection may include, 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. The Commissioner shall record the findings of inspections on forms prescribed for the purpose.

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.

**§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. A 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. The Commissioner shall send a written notice of the suspension or revocation of a certification at least ten calendar days prior to the actual revocation or suspension.

**§64-19-14. Administrative Due Process.**

Administrative Due Process. -- Any person adversely affected by the enforcement

**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 system \$150; over fifty ton system \$300.

Permitting fees for water well permits are located in the Bureau's rule, Fees for Permits, 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