

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

Form #1

Do Not Mark In this Box

FILED  
1997 JUL 15 11:03 34  
SECRETARY OF STATE

**NOTICE OF PUBLIC HEARING ON A PROPOSED RULE**

AGENCY: Department of Health TITLE NUMBER: 64

RULE TYPE: Legislative; CITE AUTHORITY Ch. 16, Art. 1, Sec. 7

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 NEW RULE BEING PROPOSED: \_\_\_\_\_

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

DATE OF PUBLIC HEARING: August 14, 1987 TIME: 11:00 A.M.

LOCATION OF PUBLIC HEARING: Department of Health

P&G Building, First Floor Conference Room

2019 Washington Street, East

Charleston, WV 25305

COMMENTS LIMITED TO: ORAL , WRITTEN , BOTH

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: Department of Health  
Regulatory Development Section

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.

Room 7, P&G Building  
2019 Washington Street, E.

Charleston, WV 25305

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

  
David K. Heydinger  
Director

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Water Well Regulations

Type of Rule:  Legislative  Interpretive  Procedural

Agency Health Address 1800 Washington Street, E.  
Charleston, WV 25305

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$ 0	\$ 0	\$ 0
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates.

The proposed rule is a revision of an existing rule. Changes will not alter existing workload.

3. Objectives of these rules:

Clarify those sections of the existing rule which have been recognized as confusing, difficult to interpret or ineffective.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

No change

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

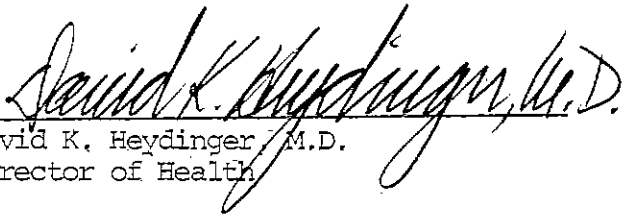
Cost to well drillers of performance bond.

C. Economic Impact on Citizens/Public at Large.

Indirect improvement due to improved water well construction.

Date July 1, 1987

Signature of Agency Head or Authorized Representative



David K. Heydinger M.D.  
Director of Health

FILED  
JUL 15 11 10 34  
SECRETARY OF STATE

WEST VIRGINIA BOARD OF HEALTH

RULE ABSTRACT

Rule Title: Water Well Regulations

CSR Title & Series: 64 CSR 19

Type: Legislative

Objective/Abstract: The proposed revisions correct problems which have arisen since the rule was promulgated in 1984 and make minor technical corrections. Most changes are for purposes of clarification.

For further information contact: Kay Howard, Regulatory Development Section, Telephone 348-3223 or Bob Paul, Environmental Engineering Division, Telephone 348-0578, Health Department, 1800 Washington Street, E., Charleston, WV 25305.

FILED  
1987 JUL 15 11 19 34  
STATE OF WEST VIRGINIA

[PROPOSED]

TITLE 64

WEST VIRGINIA LEGISLATIVE RULES  
DEPARTMENT OF HEALTH

Water Well Regulations

Series 19

198\_

---

For Public Hearing  
August 14, 1987

FILED  
1987 JUL 15 AM 10:35  
SECRETARIAT OF STATE

[PROPOSED]  
WEST VIRGINIA LEGISLATIVE RULES  
DEPARTMENT OF HEALTH  
Water Well Regulations

64 CSR 19

INDEX

	Page
Section 1. General	1
Section 2. Application and Enforcement	1
Section 3. Definitions	1
Section 4. Permit to Install	2
Section 5. Certification of Water Well Drillers	4
Section 6. Identification Numbers on Water Well Rigs and Well Head	5
Section 7. Records of Completed Water Wells	6
Section 8. Advisory Board	6
Section 9. Penalty	6
Section 10. Administrative Due Process	7
Section 11. Severability	7

[PROPOSED]  
TITLE 64  
WEST VIRGINIA LEGISLATIVE RULES  
DEPARTMENT OF HEALTH  
Series 19

Title: Water Well Regulations

Section 1. General

1.1. Scope - These ~~These~~ This legislative rules establishes the certification of water well drillers and the issuance of permits for water well installations and alterations.

1.2. Authority - These legislative ~~These~~ This rules are ~~is~~ issued under the authority of Chapter 16, Article 1, Section 7, and are ~~is~~ related to Chapter 16, Article 1, Section 9 and Section 9a of the West Virginia Code.

1.3. Filing Date -

1.4. Effective Date -

1.5. Supersession and Repeal of Former Regulations - This rule supersedes and repeals Water Well Regulations, West Virginia Legislative Rules, 64 CSR 19, 1984.

Section 2. Application and Enforcement

2.1. Application - ~~These legislative~~ This rules shall apply to all water well drillers and contractors.

2.2. Enforcement - The enforcement of ~~these legislative~~ this rules is vested with the director of the West Virginia department of health or his lawful designee.

Section 3. Definitions

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

3.2. Certified Well Driller - ~~A person~~ An individual granted a written certificate by the director to ~~install and alter drill, construct, alter or abandon~~ water wells and who meets the requirements of ~~these regulations~~ this rule.

3.3. Design Standards - Those specifications, drawings and other details promulgated by the director to ensure proper location, design, ~~installation~~ construction, and completion and abandonment of water wells.

3.4. Director - Director of the state department of health or his lawful designee.

3.5. Performance Bond - A surety bond, the forfeiture of which is contingent upon the completion of the well(s) in accordance with the specific contract and this rule.

~~3-5-~~ 3.6. Person - Individual, partnership, association, syndicate, company, firm, trust, corporation, government corporation, institution, department, division, bureau, agency, federal agency or any other entity recognized by law.

~~3-6-~~ 3.7. Public Water System or Supply - A public water system is any water system or supply which regularly supplies or offers to supply piped water to the public for human consumption, 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 shall include: (1) any collection, treatment, storage, and distribution facilities under the control of the owner or operator of such system and used primarily in connection with such system, and (2) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. A public water system shall not include a system which meets all of the following conditions: (1) which consists only of distribution and storage facilities (and does not have any collection and treatment facilities); (2) which obtains all of its water from, but is not owned or operated by a public water system which otherwise meets the definition; (3) which does not sell water to any person; and (4) which is not a carrier conveying passengers in interstate commerce.

~~3-7-~~ 3.8. Water Well - Any excavation or penetration in the ground, whether drilled, bored, cored, driven, or jetted, ~~for a water supply, for the exploration for water, or for removal of water to dewater construction site(s)~~ that enters or passes through an aquifer for purposes that may include, but are not limited to: a water supply, exploration for water, ground water monitoring, dewatering or heat pump wells.

3.9. 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.

~~3-8-~~ 3.10. Well Completion Report - An accurate report kept at the time of installation describing geological, hydraulic and construction details. 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, date well was completed and any other information required by the director.

~~3-9-~~ 3.11. Well Driller - An individual, firm, partnership, or corporation qualified to engage in water well installation or alteration, or who supervises the installation or alteration of water wells, and owns, rents or leases equipment used in the installation of water wells. An individual that engages in water well drilling, construction, alteration, or abandonment or who supervises these activities.

Section 4. Permit to Install

4.1. ~~On and after the effective date of these regulations, no well-driller shall install a well or award a contract for any installation, alteration or deepening of this rule no water well contractor shall drill, construct, alter, deepen or abandon a~~ water well without applying for a permit to do so from the director. The requirements for application and for permit issuance are set forth in Sections 4.2, 4.3, and 4.5 of these regulations this rule.

4.2. A permit to ~~install, alter or deepen~~ drill, construct, alter, deepen or abandon a water well shall be obtained by either the ~~water well driller~~ water well contractor or owner. The permit shall be applied for at least fifteen ~~(15)~~ days prior to the actual well ~~installation~~ drilling, construction, alteration, or deepening or abandonment unless emergency conditions prevail as noted under Section 4.3.

4.3. If emergency conditions or other unavoidable circumstances prohibit meeting the application requirements, the ~~director may waive the fifteen (15) day period~~ will be waived above. Emergency conditions and unavoidable circumstances are those conditions involving acts of God, water outages or disruption of water service, unsatisfactory water quality or quantity, or public health threats. However, under no conditions shall submission of the permit application be made in excess of thirty ~~(30)~~ calendar days after completion of ~~installation, alteration or deepening of~~ drilling, constructing, altering, deepening or abandoning a water well.

4.4. Water wells shall be ~~installed, altered, or deepened~~ drilled, constructed, altered, deepened or abandoned in accordance with the ~~West Virginia department of health's~~ West Virginia Department of Health Water Well Design Standards, West Virginia Department of Health Interpretive Rules, 64 CSR 46, and Design Standards for Public Water Supply Systems, (Bulletin EW-99-) West Virginia Department of Health Interpretive Rules, 64 CSR 42 or plans which have been approved in writing by the director. Such standards shall constitute the minimum standards for the ~~installation, the~~ drilling, construction, alteration or the deepening of water wells. Any plans approved by the director pursuant to these ~~regulations this rule~~ shall be in substantial compliance with the heretofore mentioned standards.

4.5. Application for permit to ~~install~~ construct shall be made to the director ~~or his designee~~ on forms prescribed by the director and shall be jointly signed by ~~the water well driller~~ the water well contractor and owner. A copy of the water well contractor's current performance bond, in an amount determined by the director, shall accompany the application.

4.6. In the event the permit application is denied, the director shall state, in writing, the reason(s) for denial and furnish same to applicant within ten ~~(10)~~ fifteen days from receipt of application.

4.7. A permit, ~~to install,~~ unless revoked, shall be valid

for a period of one (1) year from date of issuance. In the event ~~installation~~ construction or alteration is not completed within that time, the director may extend the time limit upon written request by the permittee. Permits are not transferable.

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

4.9. Any person whose application for permit to ~~install~~ construct a water well has been revoked or denied may, within thirty (30) days from receipt of permit denial or revocation, request a hearing in accordance with Section 10, Administrative Due Process.

### Section 5. Certification of Water Well Drillers

5.1. ~~Within one (1) year after the date these regulations become effective,~~ All water well drillers and their employees in direct charge of drilling, and ~~installation~~ constructing, altering, deepening or abandonment of a water well shall be certified for such activity by the director.

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

5.3. Well drillers actively engaged in a water well drilling business ~~prior to the effective date of these regulations~~ as a water well driller on or before June 8, 1984 shall be exempt from the minimum experience requirements.

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

5.5. The director may suspend, revoke or deny certification if the information on the application form is incomplete, inaccurate, false or misleading, or indicates that the provisions of these regulations this rule cannot be met. The director may revoke or suspend the certification of a driller who knowingly violates either this rule or the provisions of a water well permit.

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

5.7. Certification shall expire five (5) years after date of issuance and may be renewed thirty days before such expiration date.

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

5.9. Any person whose application for certification has been denied, or whose certification has been suspended or revoked, may request a hearing in accordance with Section 10, Administrative Due Process. The applicant must submit a written request for hearing within thirty (30) days from receipt of denial, suspension, or revocation of certification.

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

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

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

#### Section 6. Identification Numbers of Water Well Rigs and Well Head

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

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

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

6.4. Water well drillers contractors shall have thirty (30) days from the date a license is issued to see that all water well rigs used by them or their employees in the water well drilling business are marked as provided in Sections 6.2 and 6.3 above of

this rule.

6.5. Each well drilling contractor shall securely attach a metal tag or embossed well cap to the well head containing the following information: ~~driller's~~ contractor's name and address, ~~and date of completion, permit number,~~ depth of well and date of construction or alteration.

#### Section 7. Records of Completed Water Wells

7.1. Within thirty (30) days after the completion of a water well, the water well driller contractor shall provide the owner with one (1) copy and the director with two (2) copies of a record indicating the well owner's name, location of the well to include longitude and latitude, drillers name, well depth, geological materials and thicknesses of material penetrated, type/size, and amount of casing, water levels, date of completion, and any other information which may be required by the director. This information shall be provided on forms prescribed by the director.

#### Section 8. Advisory Board

8.1. The director may ~~appoint and set terms of a well driller's~~ establish an advisory board and designate the chairman of said board.

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

Certified well drillers:	3 members
State health department:	1 member
Local health department:	1 member
West Virginia geological survey:	1 member.

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

#### Section 9. Penalties

9.1. For a Public Water System - Any individual, partnership, association, syndicate, company, firm, trust, corporation, government corporation, institution, department, division, bureau, agency, federal agency, or any entity recognized by law who shall violate any provision of this section, or any of the regulations or orders issued pursuant thereto, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty-five dollars (\$25) nor more than two hundred (\$200), and each day's violation shall constitute a separate offense. In addition thereto, the state director of health, or his authorized representative, may seek injunctive relief in the circuit court of the county in which all or part of the public water system is situated for threatened or continuing violations. For a willful violation of this section, or of any of the regulations or orders issued thereunder, an individual, partnership, association, syndicate, company, firm, trust,

corporation, government corporation, institution, department, division, bureau, agency, federal agency, or other entity recognized by law, upon a finding thereof by the circuit court of the county in which the violation occurs, shall be subject to a civil penalty of not more than five thousand dollars (\$5000), and each day's violation shall be grounds for a separate penalty.

9.2. For all Other Water Systems - Any person, firm, company, corporation, institution, whether public or private, county or municipal, who shall violate any provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than twenty-five (\$25) dollars nor more than five hundred (\$500) dollars. The continued failure or refusal of such convicted person, firm, company, corporation, institution, whether public or private, county or municipal, to make the alterations necessary to protect the public health required by the state director of health or his duly authorized representative shall constitute a separate, distinct and additional offense for each twenty-four-hour period of such failure or refusal, and upon conviction thereof, the violator shall be fined not less than twenty-five (\$25) dollars nor more than five hundred (\$500) dollars for each such conviction.

Section 10. Administrative Due Process - Those persons adversely affected by the enforcement of these legislative this rules desiring a contested case hearing to determine any rights, duties, interests or privileges shall do so in a manner prescribed in the Rules of Procedure for Contested Case Hearings and Declaratory Rulings, West Virginia Department of Health Procedural Rules, Series-17-1983 64 CSR 1. ~~The-aforementioned procedural-rules-are-incorporated-herein-by-reference.~~

Section 11. Severability - If any provisions of these this rules or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or the application of these this rules which can be given effect without the invalid provisions or application, and to this end the provisions of these this rules are declared to be severable.