

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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1983 SEP 15 PM 1:28

SECRETARY OF STATE

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

AGENCY: Board of Health TITLE NUMBER: 64

CITE AUTHORITY §16-1-7

AMENDMENT TO AN EXISTING RULE: YES NO

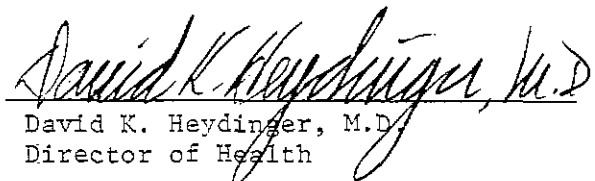
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 19

TITLE OF RULE BEING AMENDED: Water Well Regulations

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

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.


David K. Heydinger, M.D.
Director of Health

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.

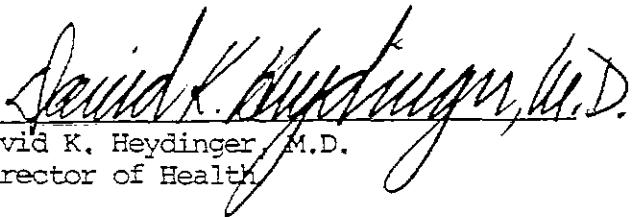
Cost to well drillers of performance bond.

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

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JUL 1 1987
HEALTH DEPARTMENT

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: NA

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

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.

1984
MAY 15 1984
11:12 AM

[PROPOSED]

TITLE 64

WEST VIRGINIA LEGISLATIVE RULES
DEPARTMENT OF HEALTH

Water Well Regulations

Series 19

198_

For filing with the
Legislative Rule-Making Review Committee

FILED
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SECRETARY OF STATE

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

64 CSR 19

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[PROPOSED]
TITLE 64
LEGISLATIVE RULES
DEPARTMENT OF HEALTH
SERIES 19
WATER WELL REGULATIONS

§64-19-1. General

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

1.2. Authority - W. Va. Code §16-1-7. Related W. Va. Code §16-1-9 and §16-1-9a.

1.3. Filing Date -

1.4. Effective Date -

1.5. Notice of Public Hearing - July 15, 1987

1.6. Public Hearing - August 14, 1987

1.7. Final Approval - This rule was approved by the State Board of Health on August 19, 1988.

~~1-5-~~ 1.8. Supersession and Repeal of Former Regulations- This rule supersedes and repeals Water Well Regulations, West Virginia Legislative Rules, 64 CSR 19, 1984.

§64-19-2. Application and Enforcement

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

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

§64-19-3. 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.

~~3-5-~~ 3.6. Person - Individual, partnership, association, syndicate, company, firm, trust, corporation, government corpora-

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

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 geologically, 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.

\$64-19-4. 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 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 or abandon a water well shall be obtained by either the water well driller contractor or owner. The permit shall be applied for at least fifteen (15) days prior to the actual well installation drilling, construction, alteration 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 or abandoning a water well.

4.4. Water wells shall be ~~installed, altered, or deepened drilled, constructed, altered or abandoned~~ in accordance with the ~~West--Virginia-department-of-health's 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 or 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 contractor and owner.

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 (15) 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.

§64-19-5. Bonding of Water Well Contractors

5.1. Effective January 1, 1990, each water well contractor shall have a current contractor's bond payable to the director upon forfeiture, and liability insurance coverage effective throughout West Virginia in a form determined by the director. The contractor's bond shall be in an amount determined by the director but not exceeding five thousand (\$5,000.00). Lack of a current contractor's bond shall be deemed sufficient grounds for denial of a water well permit.

5.2. Forfeiture of the contractor's bond shall be predicated upon a failure to construct, alter, or abandon a water well in accordance with this rule.

5.3. The surety shall have the option of forfeiting the contractor's bond or completing the well in accordance with rules and standards specified in Section 5.2. The entire proceeds of a forfeiture shall be expended by the director to alter or abandon the well in accordance with applicable rules and standards. Any excess therefrom shall be retained by the director and expended for the purpose of altering or abandoning water wells in accordance with applicable rules and standards.

5.4. The surety shall have the option of canceling a contractor's bond after providing notice to the director at least thirty (30) days prior to cancellation.

§64-19-5. §64-19-6. 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--shall-be-certified for-such-activity-by-the-director.~~

~~5-1-~~ 6.1. There shall be a certified water well driller on site in direct charge of drilling, construction, altering or abandonment of a water well.

~~5-2-~~ 6.2. 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.

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

~~§64-19-11.~~ §64-19-12. Severability - If any provisions of these rules this rule or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or the application of these rules this rule which can be given effect without the invalid provisions or application, and to this end the provisions of these rules this rule are declared to be severable.

Discussion and Response to
Public Comments Received
Regarding Proposed Rules

Title: Water Well Regulations, WV Department of Health
Legislative Rules, 64 CSR 19.

A public hearing regarding this rule was held on August 14, 1987. No one appeared at the public hearing. Written comments were received from Stan Walls, Beckley-Raleigh County Health Department; Edward L. Shaffer, Barbour County Health Department; and Keith Chapman, KC Drilling, Nettie, WV. Copies are attached. Double underlining indicates an addition to the item as it was proposed for public hearing.

(1) Comment (Mr. Shaffer): Section 4.3: A more definitive definition of Emergency is needed.

Response: The Board believes that the present language and examples provide adequate definition. Additional detail might well defeat the purpose of the provision, which is to allow a reasonably flexible approach to determining whether an emergency exists rather than attempting to list all or even a large set of examples.

Proposed: No Change.

(2) Comment (Mr. Chapman, Mr. Walls and Mr. Shaffer): Section 4.5. Three comments were received indicating that obtaining surety bonds for each job will not only be time consuming for the driller, but will create an added expense to the customer and delays in getting the job started. Commentors recommend that the State consider a blanket bond.

Response: We agree with these comments. The intent was to require a blanket bond. Blanket bonds are currently required in other states, and we believe this type of bond to be readily available and conducive to a high standard of construction. A new Section 5 has been added to clarify the requirements for bonding of water well contractors. All subsequent sections have been renumbered. Also, numbers used in referring to various parts of the rule for comment and discussion purposes in this document (but not in the written comments received) have been changed to the new section numbers where relevant.

Proposed: Section 4.5. Application for permit to install construct shall be made to the director ~~ex-his-designee~~ on forms prescribed by the director and shall be jointly signed by the water well ~~driller~~ contractor and owner.

§64-19-5. Bonding of Water Well Contractors

5.1. Effective January 1, 1990, each water well contractor

shall have a current contractor's bond payable to the Director
within thirty (30) days prior to cancellation.

5.2. The surety shall have the option of cancelling a permit
within thirty (30) days prior to cancellation.

5.3. The surety shall have the option of cancelling a permit
within thirty (30) days prior to cancellation.

5.4. The surety shall have the option of cancelling a permit
within thirty (30) days prior to cancellation.

(3) Comment: The Board has revised Section 6.1 for purposes of clarification.

As submitted for public hearing:

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

As revised following public hearing:

6.1. There shall be a certified water well driller on site in direct charge of drilling, installation, alteration, deepening or abandonment of a water well.

(4) Comment (Mr. Walls): Section 7.5 is now requiring the permit number and depth of the well to be included on a metal tag or embossed along with the contractor's name, address and date of construction. I think this is a good idea, but the more information that is required the harder it will be for the contractor to put the information on the tag.

Response: The Board believes that the additional information is worth the effort.

Proposed: No Change.

(5) Comment (Mr. Walls): Section 8.1 requires the contractor to complete a well completion log that includes the location by longitude and latitude. Unless maps are provided with this information, the contractors will not be providing this information.

Response: Latitude and longitude will be determined by county health departments and the information will be given to the contractors for their use as required. The Department of Health plans to provide training for county health department personnel.

Proposed: No Change.

(6) Comment (Mr. Shaffer): In general the Water Well Regulations will serve very little purpose as long as they conflict with the sewage regulations. Both sets of regulations should compliment each other and not create potential and very real future problems for the sanitarian. Regulations as presently stated, do not protect the public, they confuse the public. Without significant steps to coordinate public health objectives not confuse them, I would vote to throw them (Water Regulations) out entirely.

Response: The commentor does not provide specific examples or reasons for his opinion. The Board of course believes that the regulations are complimentary and appropriate.

Proposed: No Change.

(7) Comment: The Board has added 9.4 as follows:

~~9.4. The director may establish other boards, committees and commissions to assist in carrying out the provisions of this rule.~~

It is anticipated that such committees will be needed in the future. Past experience and consultation with the Department of Finance and Administration indicates that expenses of committee members cannot be paid unless the committee is mentioned in regulation or statute.

NOTE: The Board has deleted the word "deepen" (in various forms) in several places since it is redundant when it occurs with the word "alter" (in various corresponding forms).

5-3- 6.3. 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- 6.4. 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- 6.5. 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- 6.6. Certification shall not be transferable or assignable and shall automatically become invalid upon suspension or revocation.

5-7- 6.7. Certification shall expire five (5) years after date of issuance and may be renewed thirty days (30) before such expiration date.

5-8- 6.8. When certification has been denied, suspended or revoked, the person thereby affected shall immediately discontinue the ~~installation, alteration and deepening~~ drilling, altering, constructing and abandonment of water wells.

5-9- 6.9. 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- 6.10. 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- 6.11. 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- 6.12. In addition to filing an application for becoming certified to ~~install, alter or deepen~~ drill, construct, alter 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.

~~§64-19-6~~ §64-19-7. Identification Numbers of Water Well Rigs and Well Head

~~6-1~~ 7.1. 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~~ 7.2. 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~~ 7.3. 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~~ 7.4. 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~~ 7.5. 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.

~~§64-19-7~~ §64-19-8. Records of Completed Water Wells

~~7-1~~ 8.1. 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.

~~§64-19-8~~ §64-19-9. Advisory Board

~~8-1~~ 9.1. 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~~ 9.2. 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- 9.3. The duties of the advisory board shall be assigned by the director.

8-4- 9.4. The director may establish other boards, committees and commissions to assist in carrying out the provisions of this rule.

§64-19-9. §64-19-10. Penalties

9-1- 10.1. 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- 10.2. 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.

§64-19-10. §64-19-11. Administrative Due Process - Those persons

PUBLIC HEARING

Water Use Regulations

8/14/87

DO YOU WISH TO COMMENT
(YES/NO)

GROUP REPRESENTED
(IF ANY)

ADDRESS

NAME

right & day of entry
Don Hunt, Chad Fleury
1700 Paul Bill Stewart

Comments Received By Mail
Regarding Proposed
Amendments to Water Well Regulations

Edward L. Shaffer
Barboursville County Health Department

Keith Chapman
K C Drilling

Stan Walls
Beckley-Raleigh County Health Department

 WEST VIRGINIA
MANUFACTURERS ASSOCIATION

SUITE 503
405 CAPITOL STREET
CHARLESTON, WV 25301
TELEPHONE (304) 342-2123

January 14, 1991

*John Cumming
PO Box 1791
Char 25326*

The Honorable Ken Hechler
Secretary of State
State Capitol Complex
Charleston, WV 25305

Dear Mr. Secretary:

On behalf of the West Virginia Manufacturers Association ("WVMA"), I want to bring to your attention a significant error that is contained in the water well regulations filed with your office by the Board of Health in 1989. As approved by the Legislature on April 8, 1989, and subsequently signed by the Governor, H.B. 2853 amended the language of the definition of the term "water well" found at 64 C.S.R. §3-3.8 to include the following:

Any excavation or penetration in the ground, whether drilled, bored, cored, driven or jetted that enters or passes through an aquifer for purposes that may include bur are not limited to: a water supply, exploration for water, dewatering or heat pump wells, except that 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 chapter 22, 22a or 22b of the code.

1989 W.Va. Acts C. 110.

In contrast, the regulations filed by the Board of Health with the Secretary of State define the term "water well" as including groundwater monitoring wells. The regulations filed by the Board of Health also fail to incorporate the above-quoted exclusion from the definition of the term "water well" for activities involving the exploration, development, production, storage and recovery of coal, oil, gas and other mineral resources.



WEST VIRGINIA
MANUFACTURERS ASSOCIATION

The Honorable Ken Hechler
January 14, 1991
Page 2

As you are aware, W.Va. Code §29A-3-13(a) requires State agencies to promulgate final rules "only in conformity with the provisions of law authorizing and directing the promulgation of such rules (emphasis added)." To correct the error in the definition of the term "water well," the WVMA respectfully requests that 64 C.S.R. §3-3.8 be immediately corrected to reflect the language adopted by the 1989 State Legislature.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in cursive script, reading "R. L. Foster".

Robert L. Foster
Chairman, Environment, Safety and
Health Committee

RLF/sbm

cc: Taunja Willis Miller, Secretary
Dept. of Health and Human Resources

William T. Wallace, Jr., Commissioner
Bureau of Public Health

Patrick M. Gallagher, President

BARBOUR COUNTY HEALTH DEPARTMENT

HU MYERS HEALTH CENTER
209 SOUTH MAIN STREET
PHILIPPI, WEST VIRGINIA 26416

TO: West Virginia Department of Health
Regulatory Division Section
Room 7 - P & G Building
2019 Washington Street, East
Charleston, WV 25305

RECEIVED

AUG 5 1987

REGULATORY DEVELOPMENT
SECTION

FROM: Edward L. Shaffer
Sanitarian III

DATE: August 3, 1987

The following are my comments concerning Chapter 16, Article 1, Section 7, Water Well Regulations:

In general the "Water Well Regulations" will serve very little purpose as long as they conflict with the Sewage Regulations. Both sets of Regulations should compliment each other and not create potential and very real future problems for the Sanitarian.

Regulations as presently stated, do not protect the public, they confuse the public. Without significant steps to co-ordinate Public Health objectives not confuse them, I would vote to throw them (Water Regulations) out entirely.

Section 4.3: A more definitive definition of Emergency is needed.

Section 3.5 and 4.5: Bonding of Sewage Performance was a fiasco. Sanitarians are not in the bond business. Said practice smacks of the "closed shop" syndrome. How can we expect well drillers to find bonding sources when septic tank installers could not.

Thank you for an opportunity to cite my thoughts and objections.

BECKLEY-RALEIGH COUNTY HEALTH DEPARTMENT

1802 HARPER ROAD
BECKLEY, WEST VIRGINIA 25801

MEMORANDUM

TO: Donald Kuntz, Director
Environmental Engineering Division
WV State Department of Health

DATE: August 4, 1987

FROM: Stan Walls, Program Manager *SW*
Environmental Health Program

RE: Proposed Water Well Regulations

I have reviewed the proposed Water Well Regulations and submit the following comments:

Section 3.5 requiring a performance bond has been added to the new regulations. I do not feel that this should be a requirement of these regulations. When septic tank contractors were required to obtain bonding for commercial establishments, they were not able to find anyone that would issue the bond. I, also, feel that the contractor and homeowner enter into an agreement; and that if the agreement is not fulfilled, either party may take the other one to court for relief.

Section 4.5 requires a copy of the performance bond to be submitted with the application for permit. The amount of the bond would be determined by the director. Well drillers charge by the foot and do not give flat rates for drilling wells; therefore, they do not know what a well will cost until it is completed. I feel that this bond is not necessary and would only cause a delay in local health departments issuing permits.

Section 6.5 is now requiring the permit number and depth of the well to be included on a metal tag or embossed along with the contractor's name, address and date of construction. I think this is a good idea, but the more information that is required the harder it will be for the contractor to put the information on the tag.

Section 7.1 requires the contractor to complete a well completion log that includes the location by longitude and latitude. Unless maps are provided with this information, the contractors will not be providing this information.

SW:kmw

Star Rt. 1, Box 138
Nettie, WV 26681
August 10, 1987

Department of Health
Regulatory Development Section
P & G Building, Room 7
2019 Washington Street, E.
Charleston, WV 25305

Dear Sirs:

Re: Water Well Regulations

I am writing to express my opposition to the proposed new administrative changes concerning water well regulations.

Obtaining surety bonds for each job will not only be time consuming for the driller, but will create an added expense to the customer and delays in getting the job started.

I would recommend that the State consider a blanket bond that would be effective for 1-5 years, as is done with notary public bonds. This would be less time consuming and the cost could be absorbed during that commissioned time.

Your consideration will be greatly appreciated.

Sincerely,

Keith Chapman
K C Drilling

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REGULATORY DEVELOPMENT
SECTION