

WEST VIRGINIA  
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #4

FILED

1988 NOV 3 3 PM 31:239

SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Board of Health TITLE NUMBER: 64

CITE AUTHORITY §16-1-7

AMENDMENT TO AN EXISTING RULE: YES X 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, 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.

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

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OCT 31 PM 3:23

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OCT 31 1988

Legislative Rule Making  
Review Committee

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1988 NOV -3 PM 1:39  
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SEAL

[PROPOSED]

TITLE 64

WEST VIRGINIA LEGISLATIVE RULES  
DEPARTMENT OF HEALTH

Water Well Regulations

Series 19

198\_

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Modifications Requested by the  
Legislative Rule-Making Review Committee

[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

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**\$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 - 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.

3-6- 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, groundwater 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.

## §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 alteration or the deepening drilling, construction, alteration or abandonment 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 of this rule. 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.

5.5. In lieu of the bond required by §5.1 of this rule, the director may accept an irrevocable letter of credit issued by a bank chartered by the State of West Virginia or a member bank of the federal reserve system. Confirmation of such irrevocable letter of credit shall be in writing and shall be signed by the issuing or confirming bank.

#### §64-19-5: §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.

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 11, Administrative Due Process, of this rule. 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, driller's 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 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-1,--1983 64 CSR 1. ~~The aforementioned 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.



WEST VIRGINIA LEGISLATURE  
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Room M-438, State Capitol  
Charleston, West Virginia 25305  
(304) 340-3286

FILED

1988 OCT 21 AM 10:15

OFFICE OF THE WEST VIRGINIA  
SECRETARY OF STATE

Senator Larry A. Tucker, Co-Chairman  
Delegate Thomas A. Knight, Co-Chairman

October 18, 1988

M. E. Mowery, Counsel  
Debra A. Graham, Associate Counsel  
Marie Nickerson, Receiving Clerk

NOTICE OF ACTIONS TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: David K. Heydinger, M.D.  
Director of Health  
Department of Health  
1800 Washington Street, E.  
Charleston, WV 25305

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Water Well Regulations

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
  - (a) as originally filed
  - (b) as modified by the agency X
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. \_\_\_\_\_
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. \_\_\_\_\_
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached. \_\_\_\_\_
5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached. \_\_\_\_\_

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

cc: Kay Howard  
Regulatory Development Section  
Bob Paul  
Environmental Engr. Div.