

WEST VIRGINIA  
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #6

FILED  
1989 JUN 27 AM 10:15  
OFFICE OF THE SECRETARY OF STATE  
WEST VIRGINIA

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED  
BY THE WEST VIRGINIA LEGISLATURE.

AGENCY: Board of Health TITLE NUMBER: 64

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: \_\_\_\_\_

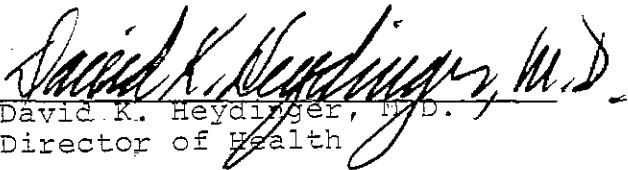
TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) HB 2853

SECTION 64-2-1 (ii), PASSED ON April 8, 1989

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON  
THE FOLLOWING DATE: July 1, 1989

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

[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.

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

<sup>3.5.</sup>  
3-5. ~~WVBA~~ 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.

<sup>3.6.</sup>  
3-6. ~~WVBA~~ 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.

<sup>3.7.</sup>  
3-7. ~~WVBA~~ 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.

<sup>3.8.</sup>  
3-8. 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.

<sup>3.9.</sup>  
3-8. <sup>9</sup>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.

<sup>3.10.</sup>  
3-9. <sup>10</sup>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.

KEN HECHLER  
Secretary of State

MARY P. RATLIFF  
Deputy Secretary of State

ROBERT E. WILKINSON  
Deputy Secretary of State

CATHERINE FREROTTE  
Executive Assistant

Telephone: (304) 345-4000  
Corporations: 342-8000



STATE OF WEST VIRGINIA

SECRETARY OF STATE

Charleston 25305

WILLIAM H. HARRINGTON  
Chief of Staff

JUDY COOPER  
Director, Administrative Law

DONALD R. WILKES  
Director, Corporations

SHEREE COHEN  
Special Assistant

(Plus all the volunteer  
help we can get)

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

1992 APR 13 AM 7:54

FILED

TO: Kay Howard

AGENCY: Board of Health

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: January 13, 1992

THE ATTACHED RULE RECENTLY FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 19 TITLE: Water Well Regulations

\* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: \_\_\_\_\_

TITLE OF PERSON SIGNING: \_\_\_\_\_

DATE: \_\_\_\_\_

\*\*\*\*\*

\* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: Kay Howard

TITLE OF PERSON SIGNING: Director, Regulatory Development Section

DATE: 4/9/92

TITLE 64  
LEGISLATIVE RULES  
DEPARTMENT OF HEALTH

SERIES 19  
WATER WELL REGULATIONS

§64-19-1. General.

1.1. Scope. -- 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, §16-1-9 and §16-1-9a

1.3. Filing Date. -- June 27, 1989

1.4. Effective Date. -- July 1, 1989

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.

1.8. 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 -- This rule shall apply to all water well drillers and contractors.

2.2. Enforcement -- The enforcement of 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 -- An individual granted a written certificate by the director to drill, construct, alter or abandon water wells and who meets the requirements of this rule.

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

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

3.5. 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. 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 (25) individuals per day for at least sixty (60) 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. Water Well -- 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, but are not limited to: A water supply, exploration for water, groundwater monitoring, 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.

3.8. 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.

3.9. Well Completion Report -- A record accurately kept, at the time of drilling, showing the depth, thickness, character of the different strata penetrated, location of water-bearing strata, water level, depth, size, type and amount of casing installed, location of the well, owner, driller, date well was completed and any other information required by the director.

3.10. Well Driller -- 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 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 this rule.

4.2. A permit to drill, construct, alter or abandon a water well shall be obtained by either the water well contractor or owner. The permit shall be applied for at least fifteen (15) days prior to the actual well drilling, construction, alteration 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 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 drilling, constructing, altering or abandoning a water well.

4.4. Water wells shall be drilled, constructed, altered or abandoned in accordance with Water Well Design Standards, West Virginia Department of Health Interpretive Rules, 64 CSR 46, and Design Standards for Public Water Supply Systems, 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 drilling, construction, alteration or abandonment of water wells. Any plans approved by the director pursuant to this rule shall be in substantial compliance with the heretofore mentioned standards.

4.5. Application for permit to construct shall be made to the director on forms prescribed by the director and shall be jointly signed by the water well 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 fifteen (15) days from receipt of application.

4.7. A permit, unless revoked, shall be valid for a period of one (1) year from date of issuance. In the event 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 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 Section 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.

#### §64-19-6. Certification of Water Well Drillers.

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.

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.

6.3. Well drillers actively engaged in a water well drilling business as a water well driller on or before June 8, 1984 shall be exempt from the minimum experience requirements.

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.

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 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.

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

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

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

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 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.

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.

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.

6.12. In addition to filing an application for becoming certified to 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 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.

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

7.1. It shall be the duty of all water well 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.

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.

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 certification number shall be plainly legible.

7.4. Water well contractors shall see that all water well rigs used by them or their employees in the well drilling business are marked as provided in Section 6.2 and 6.3 of this rule.

7.5. Each well drilling contractor shall securely attach a metal tag or embossed well cap to the well head containing the following information:

Contractor's name and address, permit number, depth of well and date of construction or alteration.

**§64-19-8. Records of Completed Water Wells.**

8.1. Within thirty (30) days after the completion of a water well, the water well 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.

**§64-19-9. Advisory Board.**

9.1. The director may establish an advisory board and designate the chairman of said board.

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.

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

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

**§64-19-10. Penalties.**

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 (\$5,000), and each day's violation shall be grounds for a separate penalty.

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 dollars (\$25) nor more than five hundred dollars (\$500). 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 (24) hour period of such failure or refusal, and upon conviction thereof, the violator shall be fined not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500) for each such conviction.

#### §64-19-11. Administrative Due Process.

Administrative Due Process. -- Those persons adversely affected by the enforcement of this rule desiring a contested case hearing to determine any rights, duties, interests or privileges shall do so in a manner prescribed in the Rules of Procedure for Contested Case Hearings and Declaratory Rulings, West Virginia Department of Health Procedural Rules, 64 CSR 1.

#### §64-19-12. Severability.

Severability. -- If any provisions of 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 this rule which can be given effect without the invalid provisions or application, and to this end the provisions of this rule are declared to be severable.