

John D. Rockefeller IV
Governor



L. Clark Hansbarger, M.D.
Director

State of West Virginia

DEPARTMENT OF HEALTH
CHARLESTON 25305

Notice

Legislative Rule: Water Well Regulations, Chapter 16-1, Series XIX
(1983)

The above titled legislative rule is hereby submitted to the
Legislative Rule-Making Review Committee.

A handwritten signature in cursive script, reading "L. Clark Hansbarger, M.D.", written over a horizontal line.

L. Clark Hansbarger, M. D.
Secretary
West Virginia Board of Health

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE

THIS DATE Sept 8, 1983
Administrative Law Division

Entered

John D. Rockefeller IV
Governor



L. Clark Hansbarger, M.D.
Director

State of West Virginia

DEPARTMENT OF HEALTH
CHARLESTON 25305

Certification

Legislative Rule: Water Well Regulations, Chapter 16-1, Series XIX
(1983)

The above titled legislative rule constitutes the official rule approved by the West Virginia Board of Health on August 19, 1983 and filed pursuant to law in the Office of the Secretary of State, State of West Virginia.

A handwritten signature in black ink, appearing to read "L. Clark Hansbarger, M.D.", written over a horizontal line.

L. Clark Hansbarger, M. D.
Secretary
West Virginia Board of Health

Entered

WEST VIRGINIA LEGISLATIVE RULES
BOARD OF HEALTH

Water Well Regulations

Chapter 16-1
Series XIX
(1983)

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WEST VIRGINIA LEGISLATIVE RULES
BOARD OF HEALTH

Chapter 16-1
Series XIX
(1983)

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE

THIS DATE Sept 8, 1983
Administrative Law Division

Subject: Water Well Regulations

Section 1. General

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

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

1.3. Filing Date - These rules were promulgated on the _____ day of _____, 19____, and were filed on the _____ day of _____ 19____, in the Secretary of State's office.

1.4. Effective Date - These legislative rules become effective on the _____ day of _____, 19____.

Section 2. Application and Enforcement

2.1. Application - These legislative rules shall apply to all water well drillers.

2.2. Enforcement - The enforcement of these legislative 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 certification permit or permit modification, including any additions, revisions or modifications to the form(s).

3.2. Certified Well Driller - A person granted a written certificate by the director to install and alter water wells who meets the requirements of these regulations.

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

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

3.5. 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. Public Water System or Supply - A public water system is any water supply or system 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. Water Well - Any excavation or penetration in the ground, whether drilled, bored, cored, driven, or jetted for a water supply, for the exploration of water, or for removal of water to dewater construction site(s).

3.8. Well Completion Report - An accurate report kept at the time of installation describing geological, hydraulic and construction details.

3.9. 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.

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 a water well without obtaining 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 4.4 of these regulations.

4.2. A permit to install, alter or deepen a water well shall be obtained by either the well driller or owner. The permit shall be applied for at least fifteen (15) days prior to the actual well installation, alteration or deepening. If emergency conditions or other unavoidable circumstances prohibit meeting the application deadline, the director may waive the fifteen (15) day period above. However, under no conditions shall submission of the permit application exceed thirty calendar days after completion of installation, alteration or deepening of a water well.

4.3. Water wells shall be installed, altered, or deepened in accordance with the West Virginia department of health's Water Well Design Standards and Design Standards for Public Water Supply Systems (Bulletin EW-99.) or plans which have been approved in writing by the director.

4.4. Application for permit to install shall be made to the director or his designee on forms prescribed by the director and shall be jointly signed by well driller and owner.

4.5. 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) days from receipt of application.

4.6. A permit to install, unless revoked, shall be valid for a period of one (1) year from date of issuance. In the event installation or alteration is not completed within that time, the director may extend the time limit upon written request by the permittee.

4.7. 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.

4.8. Any person whose application for permit to install 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 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 four (4) years of active, continuous 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 shall be exempt from 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 deny certification if the information on the application form is incomplete, inaccurate, false or misleading, or indicates that the provisions of these regulations can not be met.

5.6. Certification shall not be transferrable 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 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 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 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. 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 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 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 number shall be plainly legible.

6.4. Well drillers 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 Section 6.2 and 6.3 above.

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 name and address, and date of completion.

Section 7. Records of Completed Water Wells

7.1. Within thirty (30) days after the completion of a water well, the well driller 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, 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 advisory board and 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. Penalty

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 of 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 rules desiring a contested case hearing to determine any rights, duties, interests or privileges shall do so in a manner prescribed in the West Virginia Procedural Rules, Board of Health, Chapter 16-1, Series I, 1981, Rules of Procedure for Contested Case Hearings and Declaratory Rulings. The aforementioned procedural rules are incorporated herein by reference.

Section 11. Severability - If any provisions of these 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 rules which can be given effect without the invalid provisions or application, and to this end the provisions of these rules are declared to be severable.

Summary of Comments Received at
Public Hearing(s) in re

Title, Type and Number: Water Well Regulations, Legislative Rule, Chapter
16-1, Series XIX, (1983)

Date(s) and Location(s): July 12, 1983 in Morgantown and July 13, 1983 in
Charleston

1. Comment: We see no reason to provide a geological log of the well we drill.

Response: Agree, the rule only requires the material through which you drill (sandstone, shale etc.) not anything more specific.

Proposed: No change.

2. Comment: We can not accept the ten day permit period. It causes equipment to sit idle instead of earning money and providing drilling service. Also some people can't wait that long for water service.

Response: Agree.

Proposed: Refer to 4.2.

3. Comment: We want an apprenticeship program for well drillers.

Response: Agree, in part.

Proposed: Refer to 5.2.

4. Comment: We want the same number of drillers on the advisory board as state people.

Response: Agree

Proposed: Refer to 8.2.