

PROPOSED

WEST VIRGINIA LEGISLATIVE RULES  
BOARD OF HEALTH

Water Well Regulations

July 1, 1982

WEST VIRGINIA LEGISLATIVE RULES  
BOARD OF HEALTH

Chapter 16-1  
Series XIX  
(1983)

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BOARD OF HEALTH

Chapter 16-1  
Series XIX  
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FILED IN THE OFFICE OF  
A. JAMES MANCHIN  
SECRETARY OF STATE  
THIS DATE 7/19/82  
Administrative Law Division

Subject: Water Well Regulations

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Section 1. General

1.01. Scope - These legislative rules establish the registration of water well drillers and the permitting of water well drilling.

1.02. Authority - These legislative rules are issued under the authority of and related to Chapter 16, Article 1, Section 7(2) of the West Virginia Code of 1931, as amended.

1.03. 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.

1.04. Effective Date - These legislative rules became effective on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

Section 2. Application and Enforcement

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

2.02. Enforcement - Enforcement of these legislative rules is vested with the director of the West Virginia department of health or his lawful designee.

Section 3. Definitions

3.01. Annular Space - The space between casings or between casing and excavation.

3.02. Application - The state department of health's standard form(s) for applying for a permit or permit modification, including any additions,

revisions or modifications to the form(s).

3.03. Aquifer - A geological formation, group of formations, or part of a formation that is capable of yielding a usable amount of water to a well.

3.04. Bedrock - Solid rock underlying soil, unconsolidated or weathered material. Bedrock is defined in absolute terms as materials that a six-inch auger, equipped with carbide cutting teeth, penetrates at a rate of less than one inch in three minutes.

3.05. Certified Well Driller - A person who has been granted a written certificate by the director to construct wells who meet the requirements of these regulations.

3.06. Confined Aquifer - A aquifer bounded above and below by beds of distinctly lower permeability than that of the aquifer itself and which contains groundwater under pressure greater than that of the atmosphere. This term is synonymous with the term "artesian aquifer".

3.07. Confining Bed - A body of relatively impermeable material stratigraphically adjacent to one or more aquifers.

3.08. Design Standards - Those specification, drawings and other details promulgated by the director to ensure proper location, construction, and completion of water wells.

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

3.10. Drinking Water - Water free from biological, chemical, physical and radiological contaminants in quantities which cause disease or harmful physiological effects.

3.11. Formation - A body of rock characterized by a degree of lithologic homogeneity which is mappable on the earth's surface or traceable in the subsurface.

3.12. Groundwater - Water below the land surface in a zone of saturation.

3.13. Permeability - The capability of a rock, aquifer or confining bed to transmit water.

3.14. 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.

3.15. Pollutant - Any man-induced physical, chemical, biological or radiological substance or matter in groundwater.

3.16. Unconfined Aquifer - An aquifer not bounded above by a bed of distinctly lower permeability than that of the aquifer itself and containing groundwater under pressure approximately equal to that of the atmosphere. This term is synonymous with the term "water table aquifer".

3.17. Water Well - Any excavation or penetration in the ground, whether drilled, bored, cored, driven, jetted or dug, for a water supply, for the exploration of water, or for removal of water to dewater construction site(s).

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

3.19. Well Driller - An individual, firm, partnership, or corporation qualified to engage in well construction or who supervises the construction of water wells, and owns, rents or leases equipment used in the construction of water wells.

Section 4. Permit to Construct

4.01. On and after the effective date of these regulations, no well driller shall construct a well or award a contract for any construction or alteration of a well without obtaining a permit to do so from the director. The requirements for application and for permit issuance are set forth in Sections 4.02, 4.03 and 4.04 of these regulations.

4.02. No driller shall begin construction or alteration of a water well without first submitting an application for review and approval at least ten (10) days prior to the date on which approval by the director is desired.

4.03. The well shall be constructed or altered in accordance with the West Virginia department of health's Design Standards for Water Well Construction or plans which have been approved in writing by the director.

4.04. Application for Permit to Construct shall be made to the director or his designee or forms prescribed by the director.

4.05. After reviewing the permit application, the director shall have the authority to issue an order requiring a change in location of the well or in the manner of construction.

4.06. A Permit to Construct, 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.

4.07. One year after the effective date of these regulations, the director will issue a well construction permit only to a person licensed by the West Virginia state health department as per Section 4 of these regulations.

4.08. A Permit to Construct 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.

4.09. 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.

4.10. Emergency/Mobilization Permits - Permission to begin construction or alteration on any well may be applied for by telephone when emergency conditions or drilling rig mobilization conditions exist which would justify such a request. The director may grant such emergency/mobilization permits at his discretion. However, a set of unforeseen circumstances must exist to create need for telephone permitting process. Mere carelessness, or lack of planning on the part of applicant shall not be sufficient grounds to warrant the granting of an emergency/mobilization permit. The applicant for an emergency/mobilization permit shall reduce his application to writing in accordance with the provisions of Sections 4.02, 4.03 and 4.04 above. All other provisions of these regulations shall remain applicable and be complied with.

4.11. Permits for Reworked Wells - A well construction permit is not required if an old well requires only reworking or repairing, and not deepening. If an existing well requires deepening, and the well driller submits to the director, upon completion, the well identification number and an updated completion report in accordance with regulations, a well construction permit is not required. If a well requires deepening and the well driller can not provide the well identification number, he shall apply for a well construction permit.

Section 5. Certification of Water Well Drillers

5.01. Within one (1) year after the date these regulations become effective, all water well drillers and their employees in direct charge of drilling and construction shall be certified for such activity by the director.

5.02. An Application for Certification as a well driller shall be made in writing to the West Virginia department of health on a form prescribed by the West Virginia department of health. Information required on the form may include but not limited to name, age, address, education, experience, business name and references.

5.03. The West Virginia department of health shall 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.

5.04. Certification shall not be transferrable or assignable and shall automatically become invalid upon suspension or revocation.

5.05. Certification shall expire five (5) years after date of issuance

and may be renewed before such expiration date.

5.06. When certification has been denied, suspended or revoked, the person thereby affected shall immediately discontinue the construction or alteration of wells.

5.07. 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. Applicant must submit written request for hearing within thirty (30) days from receipt of denial, suspension or revocation of certification.

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

5.09. Suspension or revocation of certification shall be preceded by "Notice of Intent to Revoke or Suspend" from director, at least ten (10) days prior to revocation or suspension.

5.10. In addition to filing an application for becoming certified to drill wells, the applicant must pass an examination to assure the West Virginia department of health that the applicant is thoroughly familiar with all requirements of the laws of the State of West Virginia and these water well regulations. Examinations shall be administered by personnel of the West Virginia department of health. A passing grade of seventy (70%) per cent must be obtained before becoming certified. Any applicant who has failed an examination must wait thirty (30) days before again taking the examination.

5.11. When any groundwater system or any modification thereof is being

constructed, installed, extended, altered or located, the person in responsible charge of such work shall hold a current certification as a well contractor.

Section 6. Identification Numbers on Water Well Rigs and Well Head

6.01. It shall be the duty of all certified 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.

6.02. The identification number to be used on water well rigs shall be the certification number of the water well driller responsible for the water well drilling operations.

6.03. 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.

6.04. A driller shall have thirty (30) days from the date a license is issued to him to see that all water well rigs used by him or his employees in the water well drilling business are marked as provided in Section 6.02 and 6.03 above.

6.05. 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, depth of well, depth to static water level, amount of casing, yield of well and date of completion.

Section 7. Records of Completed Wells

7.01. Within fifteen (15) days after the completion of a well, a well

drilling 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, drillers name, well depth, geological materials and thicknesses of material penetrated, amount of casing, static water levels, date of completion, and any other information which may be required by the director.

Section 8. Adivsory Board

8.01. The director may appoint a Well Dirlller's Advisory Board and chairman of said board.

8.02. The Advisory Board membership shall consist of, but not necessarily be limited to, the following members:

Certified well drillers: 2 to 3 members

State Health Department: 1 member

Local Health Department: 1 member

West Virginia Geological Survey: 1 member

West Virginia Soil Conservation Commission: 1 member

8.03. Duties of Advisory Board shall consist of the following functions: Review of applications for certification of water well drillers; review of water well Design Standards; review of water well regulations; and, make recommendations for revisions of regulations and design standards, if deemed necessary.

Section 9. Penalty - 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 the violation occurred. 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.

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.