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NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

CHAPTER We 100 ORGANIZATIONAL RULES

Statutory Authority: RSA 482-B

PART We 101 DEFINITIONS

We 101.01 “Abandoned well” means a well which is inactive and is not maintained by the owner.

Source. #2557, eff 12-27-83; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08

We 101.02 “Active well” means a well which is used for water supply production.

Source. #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08

We 101.03 “Adjudicative proceeding” means “adjudicative proceeding” as defined in RSA 541-A:1, I.

Source. #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08

We 101.04 “Agency” means “agency” as defined in RSA 541-A:1, II.

Source. #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

We 101.05 “Bentonite” means a clay which consists of a majority of montmorillonite which expands by absorbing water and is designed to add viscosity to drilling fluids or to create a seal of low hydraulic conductivity.

Source. #4730, eff 1-15-90; ss by #4898, eff 8-13-90;
EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08

We 101.06 “Board” means “board” as defined in RSA 482-B:2.

Source. #4730, eff 1-15-90; ss by #4898, eff 8-13-90;
EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08

We 101.07 “Board clerk” means the person designated by the commissioner of the department pursuant to RSA 21-O:3, VIII as the appeals clerk for the board.

Source. #4730, eff 1-15-90; ss by #4898, eff 8-13-90;
EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08

We 101.08 “Competent bedrock” means bedrock which is structurally sound, and exhibits a minimum of fractures, joints, partings, faults, and chemical or physical weathering, that would degrade the structural integrity, or increase the hydraulic conductivity, of the parent rock. For the purposes of these rules, competent bedrock shall have the ability to:

- (a) Sustain an open borehole to accept the well casing;
- (b) Accommodate a hydraulic seal that will prevent the likelihood of groundwater from entering the well along or underneath the casing; and
- (c) Prevent groundwater from entering the well by way of enhanced permeability features such as fractures, joints, and cavities immediately below the casing.

Source. #4730, eff 1-15-90; ss by #4898, eff 8-13-90;
EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

We 101.09 “Contested case” means “contested case” as defined in RSA 541-A:1, IV.

Source. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08 (from We 101.08)

We 101.10 “Declaratory ruling” means “declaratory ruling” as defined in RSA 541-A:1, V.

Source. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08 (from We 101.09)

We 101.11 “Department” means the department of environmental services.

Source. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08 (from We 101.10)

We 101.12 “Director” means the director of the water division of the department of environmental services.

Source. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08 (from We 101.11)

We 101.13 “Division” means the division of water of the department of environmental services.

Source. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08 (from We 101.12)

We 101.14 “Drive shoe” means a hardened steel cylinder designed to be welded or threaded onto the end of the steel well casing and manufactured to provide a seal to the bedrock surface.

Source. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08 (from We 101.13)

We 101.15 “Fiscal impact statement” means “fiscal impact statement” as defined in RSA 541-A:1, VII.

Source. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08 (from We 101.14)

We 101.16 “Grout” means a fluid mixture of cement and water, bentonite and water or both, possibly with additives, of a consistency which can be forced through a pipe and which is designed to provide a seal.

Source. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08 (from We 101.15)

We 101.17 “Hydrofracturing” means a well development technique capable of utilizing a minimum water pressure of 2000 pounds per square inch and minimum pumping flow rate of 35 gallons per minute and one or more inflatable or mechanical packers to flush out or expand fractures within a well.

Source. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08 (from We 101.16)

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

We 101.18 “Inactive well” means a well which is not in use for water supply production.

Source. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08 (from We 101.17)

We 101.19 “Jaswell-type seal” means a flexible rubber like collar with circular rings designed to provide a water tight seal between the well casing and a larger diameter hole. The term includes such seals manufactured by the Jaswell Corporation, and any similar products of other manufacturers.

Source. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08 (from We 101.18)

We 101.20 “License” means “license” as defined in RSA 541-A:1, VIII.

Source. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08 (from We 101.19)

We 101.21 “Licensing” means “licensing” as defined in RSA 541-A:1, IX.

Source. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08 (from We 101.20)

We 101.22 “Monitoring well” means a well used to observe or sample groundwater.

Source. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08 (from We 101.21)

We 101.23 “Non adjudicative processes” means “non adjudicative processes” as defined in RSA 541-A:1, X.

Source. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08 (from We 101.22)

We 101.24 “Order” means “order” as defined in RSA 541-A:1, XI.

Source. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08 (from We 101.23)

We 101.25 “Party” means “party” as defined in RSA 541-A:1, XII.

Source. #6448, eff 1-29-97; ss by #7306, eff 6-13-0000; ss by #9177, eff 6-13-08 (from We 101.24)

We 101.26 “Person” means “person” as defined in RSA 482-B:2.

Source. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08 (from We 101.25)

We 101.27 “Pitless adapter” means a piece of metal hardware which allows the water supply to pass through the well casing below ground level and into the supply pipe which leads to the house and is designed to provide a sanitary connection.

Source. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08 (from We 101.26)

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

We 101.28 “Portland cement” means a hydraulic cement produced by pulverizing clinker consisting essentially of hydraulic calcium silicates and usually containing one or more of the forms of calcium sulfate as an interground addition.

Source. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08 (from We 101.27)

We 101.29 “Presiding officer” means “presiding officer” as defined in RSA 541-A:1, XIV.

Source. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08 (from We 101.28)

We 101.30 “Pump installer” means “pump installer” as defined in RSA 482-B:2.

Source. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08 (from We 101.29)

We 101.31 “Pump installations” means “pump installations” as defined in RSA 482-B:2.

Source. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08 (from We 101.30)

We 101.32 “Rule” means “rule” as defined in RSA 541-A:1, XV.

Source. #7306, eff 6-13-00; ss by #9177, eff 6-13-08 (from We 101.31)

We 101.33 “Schedule 40” means the American National Standards Institute (ANSI) designation schedule number 40 for pipes and fittings computed according to the following formula: Schedule Number = (1000)(P/S) where P = internal working pressure in psig; S = allowable stress of piping material at operating conditions in psi.

Source. #7306, eff 6-13-00; ss by #9177, eff 6-13-08

We 101.34 “Shale packer” means a flexible rubber-like cone collar designed to fit between a well casing and a larger diameter hole and designed to prevent material placed above it from passing by it and into the well below.

Source. #7306, eff 6-13-00; ss by #9177, eff 6-13-08 (from We 101.32)

We 101.35 “Sitting member” means an individual who has been appointed to the board and to whom the oath of office has been administered, or the designee of the commissioner of environmental services. The term includes any member of the board whose term has expired until such time as a replacement is appointed, but does not include any member who has resigned from the board, regardless of whether a replacement has been appointed.

Source. #7306, eff 6-13-00; ss by #9177, eff 6-13-08 (from We 101.33)

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

We 101.36 “Standard dimension ratio (SDR)” means the ratio of pipe diameter to pipe wall thickness.

Source. #7306, eff 6-13-00; ss by #9177, eff 6-13-08 (from We 101.34)

We 101.37 “Water well construction” means “water well construction” as defined in RSA 482-B:2.

Source. #7306, eff 6-13-00; ss by #9177, eff 6-13-08 (from We 101.35)

We 101.38 “Water well contractor” means “water well contractor” as defined in RSA 482-B:2.

Source. #7306, eff 6-13-00; ss by #9177, eff 6-13-08 (from We 101.36)

We 101.39 “Well” means “well” as defined in RSA 482-B:2.

Source. #9177, eff 6-13-08 (from We 101.37)

We 101.40 “Well log” means a written description of the unconsolidated earth materials, rock types, water bearing zones, and depth intervals encountered during the well drilling operation.

Source. #9177, eff 6-13-08 (from We 101.38)

PART We 102 STRUCTURE OF THE BOARD

We 102.01 Structure. The structure of the board shall be as described by the enabling statute RSA 482-B:3.

Source. #2557, eff 12-27-83; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08

PART We 103 ACCESS TO FILES

We 103.01 Access to Files. In accordance with RSA 91-A, the files of the board shall be open to public inspection upon request during normal working hours. Information which is available for public distribution may be copied. The fee charged for making copies of public records shall be that charged by the department of environmental services.

Source. #2557, eff 12-27-83; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08

PART We 104 SOURCES OF AUTHORITY

We 104.01 Statutes Granting Authority. RSA 482-B authorizes the water well board to regulate the construction of wells and installation of well pumps, to license water well contractors and well pump

installers, to provide well records, to charge fees, to provide for penalties, and to adopt rules pertaining to the implementation of these mandates.

Source. #2557, eff 12-27-83; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08

We 104.02 Previously Existing Wells. Pursuant to Chapter 359:2, Laws of 1983, wells constructed prior to August 17, 1983 shall not be required to conform to the provisions of the rules except that any well hereafter abandoned shall comply with the provisions of We 604.

Source. #2557, eff 12-27-83; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08

PART We 105 DUTIES OF THE BOARD

We 105.01 Summary of Duties. In accordance with RSA 482-B the board shall:

- (a) Protect the ground waters of the state;
- (b) Regulate the construction of water wells;
- (c) Regulate the installation of well pumps;
- (d) License water well contractors;
- (e) License well pump installers;
- (f) Keep records of wells;
- (g) Provide for penalties for violations;
- (h) Charge fees for licenses;
- (i) Promote cooperation among water well contractors, pump installers and governmental agencies;
- (j) Make available to the public information relative to ground water resources of the state; and
- (k) Adopt rules as necessary to implement the requirements of RSA 482-B.

Source. #2557, eff 12-27-83; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6448, eff 1-29-97; ss by #7306, eff 6-13-00; ss by #9177, eff 6-13-08

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

CHAPTER We 200 RULES OF PRACTICE AND PROCEDURE

PART We 201 PURPOSE AND APPLICABILITY

We 201.01 Purpose. These rules shall be construed to secure the just, efficient, and accurate resolution of board proceedings in accordance with recognized principles of due process and the requirements of RSA 541-A and RSA 482-B.

Source. #2557, eff 12-27-83; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 201.02 Applicability. The procedures set forth in this chapter shall apply to processing of complaints, petitions for rulemaking, waiver of procedural rules, declaratory rulings, exemption of rules and statutory requirements pursuant to RSA 482-B:13, and all adjudicative proceedings conducted by the board. These procedural rules shall apply to the water well board and all persons within the board's jurisdiction, including water well contractors, pump installers, license applicants and persons filing petitions, complaints and appeals.

Source. #2557, eff 12-27-83; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 201.03 Governing Statutes and Rules. The provisions of RSA 541-A, RSA 482-B and these rules shall govern proceedings before the board.

Source. #2557, eff 12-27-83; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

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PART We 202 QUORUM, COMPUTATION OF TIME, FILING OF DOCUMENTS AND DATES OF ISSUANCE OR FILING

We 202.01 Quorum. A quorum of the board shall be a simple majority of the total number of members.

Source. #4549, eff 1-1-89; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 202.02 Computation of Time.

- (a) All time periods referenced in these rules shall be calendar days.
- (b) Computation of any period of time referred to in these rules shall begin with the day after the action which sets the time period in motion, and shall include the last day of the period so computed.
- (c) If the last day of the period so computed falls on a Saturday, Sunday, or state legal holiday, then the time shall be extended to include the first business day following the Saturday, Sunday, or state legal holiday.

Source. #4549, eff 1-1-89; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 202.03 Filing of Documents.

- (a) Any document filed with the board shall be filed by mailing or delivering the original to the board's office at the following address:

Water Well Board
c/o DES, Water Division
PO Box 95
Concord, NH 03302-0095

- (b) Any document required or allowed by these rules to be filed in conjunction with an adjudicative proceeding shall be filed as specified in (a), above, together with the original and one copy of the document.

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(c) Copies of all documents shall be provided to all parties of record in a proceeding.

Source. #4549, eff 1-1-89; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 202.04 Date of Issuance or Filing.

(a) All orders, decisions, notices, or documents issued by or at the direction of the board shall be deemed by the board to have been issued on the date noted on the document.

(b) All orders, decisions, notices, or documents issued by or at the direction of the board in conjunction with an adjudicative proceeding and sent by certified mail, return receipt requested, to the last address of record or delivered by personal service, in accordance with the provisions of RSA 482-B:9, shall be deemed by the board to be adequate notice.

(c) All applications, petitions, motions, requests for findings and conclusions and any other written documents governed by these rules shall be deemed by the board to have been filed with or received on the actual date received by the board as indicated by the date stamped received on the document.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

PART We 203 COMPLAINTS AND INVESTIGATIONS

We 203.01 Preliminary Processing of Complaints. Prior to formal proceedings in a contested case, the following procedure shall apply in responding to a complaint against a licensee:

(a) The staff shall consider informal resolution through communication between the complainant and the licensee.

(b) If the complainant wishes to proceed further, the complainant shall submit a written complaint.

(c) Complaints shall be signed and dated by the person(s) filing the complaint.

(d) Upon receipt of the complaint, staff shall send copies to the members of the board and to the licensee.

(e) The licensee shall respond to the complaint, in writing, within 30 days.

(f) The licensee shall also provide a copy of the written response to the complainant(s).

Source. #7307, eff 6-13-00; ss by #9178-B, eff 6-13-08

We 203.02 Formal Processing of Complaints.

(a) The board shall consider the complaint and the response at the next available meeting, provided that, failure to respond to a complaint shall not preclude the board from considering the complaint.

(b) The board shall provide notice, in writing, and invite all parties to the meeting.

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(c) After considering the complaint and response and any other relevant information presented at the meeting, the board shall take one or more of the following actions:

- (1) Initiate formal adjudicative proceedings, upon its own motion, where the board determines that a reasonable basis exists to consider suspension, revocation or refusal of a license pursuant to RSA 482-B:8, I;
- (2) Appoint any member of the board, its staff, an attorney, or any other qualified person or committee of qualified persons, to further investigate the violations alleged in the complaint;
- (3) Dismiss the complaint in consideration of the following:
 - a. The complaint has no merit;
 - b. The complaint is not within the jurisdiction of the board; or
 - c. The complaint fails to establish grounds to consider suspension, revocation or refusal of a license;
- (4) Take no action in consideration of the following:
 - a. The complaint or violation has been resolved or remediated;
 - b. There is insufficient evidence to proceed with an action;
 - c. Pending a recommendation from the department; and
 - d. Pending disciplinary action by the department pursuant to RSA 482-B:8, II; and
- (5) Take any other action authorized by RSA 482-B or by law as justice may require.

(d) The board shall provide written notice to parties of record of its determination.

Source. #7307, eff 6-13-00; ss by #9178-B, eff 6-13-08

We 203.03 Investigations by the Board.

(a) The board, within the limits of its authority, and acting through its members, officers, staff, attorney or any other qualified person or a committee of qualified persons, shall upon motion of its members, make inquiry of any person and otherwise gather information, and prepare reports describing the information obtained, whenever:

- (1) It receives information, through complaints or other means, which leads it to believe that an applicant for or the holder of a license issued by the board has met the criteria established in RSA 482-B:8,I for refusal, suspension or revocation of a license or a person has violated the provisions of RSA 482-B:5; or
- (2) It desires to obtain information for any other lawful purpose.

(b) Investigations shall include all techniques and methods for gathering information which are appropriate to the circumstances of the case, including requests for additional information from the complainant, requests for information from the licensee and meetings with potential witnesses and interested persons.

(c) Investigations by the board shall be commenced by the issuance of an order of investigation containing:

- (1) The statutory or regulatory authority for the investigation;
- (2) The identity of the persons, or class of persons, which are the subject of the investigation;
- (3) The general nature of the conduct being investigated;
- (4) The identity of the investigating officer or committee; and
- (5) Any other provisions deemed desirable by the board.

(d) The issuance of an order of investigation shall not commence a disciplinary hearing and shall not constitute an allegation of misconduct against a license holder.

(e) The board shall appoint any one or more of its members, its staff, attorney, or any other qualified person or a committee of qualified persons to conduct an investigation.

(f) The investigator shall make a written report of the results of the investigation which includes a recommendation to the board as to whether there is a reasonable basis to consider suspension, revocation, or refusal of a license.

Source. #7307, eff 6-13-00; ss by #9178-B, eff 6-13-08

We 203.04 Investigations by the Department. Upon investigation and recommendation of the department, the board shall consider refusal, suspension or revocation as provided by RSA 482-B:8,I and We 203.02.

Source. #7307, eff 6-13-00; ss by #9178-B, eff 6-13-08

PART We 204 PETITIONS FOR WAIVER OR EXEMPTION OF RULES, EXEMPTIONS OF STATUTORY REQUIREMENTS AND DECLARATORY RULINGS.

We 204.01 Applicability. Any interested person may petition the board to waive a procedural rule, or request a declaratory ruling on the applicability of any statute, rule, or order administered or enforced by the board, or may request an exemption of a rule or one or more of the provisions of RSA 482-B. The rules in this part shall apply to any petition to waive a rule, petition for declaratory ruling, or request for an exemption pursuant to RSA 482-B:13. Petitions for waiver shall apply to procedural rules of this chapter. Petitions for an exemption shall apply to the provisions of RSA 482-B and rules adopted by the board.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 204.02 Undue Hardship. As used in these rules, "undue hardship" means a hardship which arises from a unique circumstance which unreasonably restricts the ability of a water well contractor or pump installer to obtain a license, or the ability of a water well contractor or land owner to construct a well or the ability of a pump installer or land owner to install a pump.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 204.03 Filing. The original and one copy of a petition for waiver of a rule, declaratory ruling or exemption shall be filed with the board in accordance with We 202.03.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 204.04 Format and Content of Petitions.

(a) Petitions for waiver or exemption of rules, exemptions of statutory requirements, and declaratory rulings, shall include the following:

- (1) The legal name of each person requesting the action, with a resident address or principal place of business of the person;
- (2) The chapter, part or section, or paragraph, by alphanumeric code, of the rule(s), statutory provision(s), or order(s) which is the subject of the request;
- (3) The petitioners signature and date signed;
- (4) Any other information as the person filing the petition deems pertinent and relevant, including attachments, exhibits, illustrations, and sworn written documents to the petition.

(b) A petition to waive a rule shall also include a concise and explicit statement of why good cause exists to waive the rule.

(c) A petition for an exemption of a rule or one or more of the provisions of RSA 482-B shall also include a concise and explicit statement of why adherence to the rule or statutory requirement will cause the petitioner or third person(s) undue hardship and why an exemption of the rule or statutory requirement will not adversely impact the public interest or the intent of the law.

(d) A petition for a declaratory ruling shall also include a concise and explicit statement of why the petitioner wants the board to rule on the statutory provision, rule or order.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 204.05 Processing of Petitions for Waiver or Exemption of Rules, Exemption of Statutory Requirements and Declaratory Rulings.

(a) If the board determines that the petition for waiver or exemption of a rule, exemption of a statutory requirement, or declaratory ruling is deficient, the board shall notify the petitioner within 30 days, in writing, of the specific deficiencies and allow the petitioner to amend the petition.

(b) The board shall take one of the following actions in response to a petition for waiver:

- (1) Grant the petition if:
 - a. Good cause exists for the requested action; and
 - b. The interest of the parties to the proceeding will not be prejudiced by the waiver; or
- (2) Deny the petition, in writing, stating fully the reasons for denial.

(c) For the purposes of this section, good cause shall exist when the requested action would be more likely to promote the fair, accurate and efficient resolution of issues pending before the board than would adherence to a particular rule or procedure.

(d) The board shall take one of the following actions in response to a petition for exemption:

- (1) Grant the petition if the requested action is:
 - a. Within the board's authority;

b. Consistent with state and federal law and policy; and

c. In the best interest of the petitioner or third person(s) to the extent necessary to ameliorate undue hardship and to the extent that the action can be granted without adversely impacting the public interest or the intent of the law; or

(2) Deny the petition, in writing, stating fully the reasons for denial.

(e) The board shall take one of the following actions in response to a petition for declaratory ruling:

(1) Issue a declaratory ruling responsive to the petition within 90 days; or

(2) If deemed necessary, request the opinion of the department of justice and issue a declaratory ruling within 90 days following receipt of the department of justice opinion.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 204.06 Exemptions. The board shall grant an exemption pursuant to RSA 482-B:13 where a person demonstrates that denial of an exemption would result in an undue hardship, the exemption would not be contrary to the spirit of the rules or RSA 482-B, and granting an exemption is in the public interest.

Source. #7307, eff 6-13-00; ss by #9178-B, eff 6-13-08

PART We 205 PETITIONS FOR RULEMAKING AND REQUESTS FOR EXPLANATION OF RULES

We 205.01 Applicability. Any interested person may petition the board to adopt, amend, or repeal a rule. The rules in this part shall apply to any rulemaking petition submitted pursuant to RSA 541-A:4.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 205.02 Filing. The original and one copy of a petition for rulemaking shall be filed with the board in accordance with We 202.03.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 205.03 Format and Content of Petitions.

(a) A petition to adopt, amend, or repeal a rule shall include the following information:

(1) The legal name of each person requesting the adoption, amendment, or repeal of the rule, with a resident address or principal place of business of the person;

(2) Whether the person is asking the board to adopt, amend, or repeal a rule; and

(3) A concise and explicit statement of why the petitioner wants the board to change the rule(s).

(b) Petitions to adopt, amend, or repeal a rule shall be signed and dated.

(c) A petition to adopt a rule shall also include:

(1) The chapter, part, or section, by alphanumeric code, where the person proposes the rule to be inserted; and

(2) The language that the person wants to have adopted as a rule.

(d) A petition to amend a rule shall also include:

- (1) The specific rule, by alphanumeric code, that is the subject of the petition; and
- (2) The language that the person wants to have adopted as a rule.

(e) A petition to repeal a rule shall also include the specific rule, by alphanumeric code, that is, the subject of the petition.

(f) A petition to adopt, amend, or repeal a rule may also include such other information as the person filing the petition deems pertinent and relevant, and the person may attach exhibits, illustrations, and sworn written documents to the petition.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 205.04 Processing of Rulemaking Petitions.

(a) Upon receipt of a petition to adopt, amend, or repeal a rule, if the board determines that the petition is deficient, the board shall notify the petitioner within 14 days, in writing, of the specific deficiencies and allow the petitioner to amend the petition.

(b) Within 30 days of receipt of a complete petition for adoption, amendment, or repeal of a rule, the board shall take one of the following actions:

- (1) Grant the petition if the requested action is:
 - a. Within the board's authority;
 - b. Consistent with state and federal law and policy; and
 - c. In the best interest of the citizens of the state and the water well industry; or
- (2) Deny the petition, in writing, stating fully the reasons for denial.

(c) If the petition is granted, the board shall initiate the requested procedure within 120 days of receipt of the petition in accordance with RSA 541-A:3.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 205.05 Requests for Explanation of Rules. If requested by an interested person at any time before 30 days after final adoption of a rule, the board shall issue an explanation of the rule. The explanation shall include:

- (a) A concise statement of the principal reasons for and against the adoption of the rule in its final form; and
- (b) An explanation of why the adopting authority overruled the arguments and considerations against the rule.

Source. #9178-B, eff 6-13-08

PART We 206 APPEALS PROCEDURES AND CONDUCT OF HEARINGS

We 206.01 Applicability. The procedures set forth in this part shall apply to all appeals of disciplinary actions proposed by the department pursuant to RSA 482-B:8, II and to all proceedings to consider refusal, suspension or revocation of a license by the board pursuant to RSA 482-B:8, I.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 206.02 Time for Filing of Appeals. Any appeal shall be filed within 30 days of the date the decision being appealed was issued. As specified in We 202.04, the appeal shall be deemed to have been filed on the date it is received by the board.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 206.03 Notice of Appeals.

(a) Adjudicative proceedings shall be commenced by filing a notice of appeal as specified by this section with the board.

(b) Persons filing a notice of appeal shall include the following:

- (1) The exact legal name of each person seeking the relief and the person's address;
- (2) A copy of the decision or order which is being appealed;
- (3) A clear and concise statement of the relief sought and the statutory provision(s) under which the relief is sought;
- (4) A concise and explicit statement of the facts upon which the board is expected to rely in granting relief; and
- (5) The appellants signature and date signed.

(c) A notice of appeal may also include such other information as the appellant deems pertinent and relevant, and there may be attached to said notice exhibits, illustrations, and documents.

(d) The appellant shall also provide a copy of the notice of appeal to the director and to the commissioner of the department.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 206.04 Supplemental Materials. Except as otherwise agreed upon at a pre-hearing conference, memoranda, briefs, and other written materials shall be filed with the board in accordance with We 202.03 and shall be received by the board no later than 2 weeks prior to a scheduled hearing.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 206.05 Communications with the Board.

(a) All documents shall be filed in accordance with We 202.03 and shall identify the name and address of the communicator and the subject matter of the communication. No person shall submit any documents or exhibits or otherwise communicate any other information pertaining either directly or indirectly to the subject matter of any pending adjudicative proceeding directly to any member of the board.

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(b) Any member of the board, who has not recused him or herself, receiving any communication from any person or party which pertains to the subject matter of any pending adjudicative proceeding shall, at the next board meeting, notify the presiding officer on the record of the communication and submit a copy of the same, or, if the communication was made orally, relate the substance of the communication to the presiding officer.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 206.06 Signatures. Every notice, motion, petition, complaint, brief, memorandum, or other document filed in connection with an adjudicative proceeding shall be signed by the filing party or by a duly-authorized representative of the filing party.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 206.07 Identification and Distribution of Notice of Appeal.

(a) Upon receipt of a notice of appeal, the board clerk shall assign a docket number to the notice of appeal and shall distribute a copy of the notice of appeal to each member of the board.

(b) The docket number assigned by the board clerk shall be used by all parties to identify all correspondence and other documents relating to the appeal, including any exhibits used at a hearing, subsequently submitted to the department and the board.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 206.08 Scheduling and Notice of Hearing.

(a) The date of the appeal hearing shall be scheduled no later than 90 days following receipt by the board of a notice of appeal that complies with We 206.03(b).

(b) Once a hearing date has been set, the board shall send written notice by certified mail or personal service, in accordance with We 202.04(b), of the hearing to the appellant, the department, and to all other parties to the proceeding.

(c) The notice of hearing shall contain the information required by RSA 541-A:31, III, namely:

- (1) A statement of the time, place and nature of the hearing;
- (2) A statement of the legal authority under which the hearing is to be held;
- (3) A reference to the particular statutes and rules involved;
- (4) A short and plain statement of the issues involved;
- (5) A statement that each party has the right to have an attorney present to represent the party at the party's expense; and
- (6) A statement that each party has the right to have the department or the board provide a certified shorthand court reporter at the party's expense and that any such request be submitted in writing at least 10 days prior to the proceeding.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 206.09 Calendar of Hearings. The board clerk shall maintain a record of all appeals pending before the board.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 206.10 Extensions of Time.

(a) Any party to a proceeding before the board may petition the board to extend any time limit established by these rules for good cause. A request for an extension shall be submitted in writing to the board prior to the expiration of the prescribed period and shall state the reason(s) for the extension request. A copy of any such request shall also be delivered in hand or by first class mail to all other parties of record.

(b) Any other party may object to the request for extension by filing a written objection with the board within 10 days of the request, stating the reasons why the request should not be granted.

(c) If the board determines that good cause exists to grant the request and that the delay would not unreasonably prejudice the interests of any other party or the board, the board shall grant the extension. Good cause shall include such contingencies as an accident, sudden illness, death of a family member, or other circumstance beyond the control of the party which prevents the party from meeting the time limit.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 206.11 Pre-hearing Conferences.

(a) Any party may request a pre-hearing conference in accordance with the provisions of RSA 541-A:31, V to consider:

- (1) Offers of settlement;
- (2) Simplification of issues;
- (3) Stipulations or admissions as to issues of fact or proof;
- (4) Limitations on the number of witnesses;
- (5) Changes to standard procedures desired during the hearing;
- (6) Consolidation of examination of witnesses; or
- (7) Any other matters which aid in the disposition of the proceeding.

(b) If the parties agree to a resolution of the matter at the meeting, then a stipulation or other settlement agreement or a withdrawal of the appeal shall be filed with the board prior to the board meeting for which the hearing had been scheduled.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 206.12 Requests for Information or Documents.

(a) Each party shall attempt in good faith to make complete and timely responses to requests for information or documents relevant to a hearing.

(b) Any party may file a motion requesting the presiding officer to order the parties to comply with requests for information. The motion shall be filed at least 30 days before the date scheduled for the hearing,

or as soon as possible after receiving the notice of hearing if such notice is issued less than 30 days before the hearing.

(c) The moving party's motion shall:

- (1) Set forth in detail those factors which the party believes justifies the request; and
- (2) List with specificity the information it is seeking to discover.

(d) The presiding officer shall grant the motion if the party has demonstrated that such requests for information are necessary for a full and fair presentation of the evidence at the hearing.

(e) Except as otherwise ordered by the board, at least 5 days before the hearing the parties shall exchange a list of all witnesses to be called at the hearing with a brief summary of their testimony, a list of all documents or exhibits to be offered as evidence at the hearing, and a copy of each document or exhibit.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 206.13 Appearance Before the Board. Any party to an adjudicative proceeding or that party's designated representative shall be entitled to generally participate in the conduct of the adjudicative proceeding. Appearances shall be entered either in writing or into the record of the hearing.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 206.14 Failure to Appear.

(a) If any party to whom notice of a hearing has been given in accordance with these rules fails to appear and fails to advise the board of such non-appearance in advance of the hearing, and the presiding officer determines that delaying the hearing to a later date would cause inconvenience or prejudice to the party or parties present, the board shall hear the evidence and testimony of the parties present.

(b) If a hearing is held in a party's absence, the party may file a motion to reconvene the hearing within 10 days after the date of the hearing.

(c) The motion shall:

- (1) State the reason(s) why the party was absent from the hearing;
- (2) State the reason(s) why the board was not notified of the absence in advance of the hearing; and
- (3) Be supported by affidavits or other evidence.

(d) If the board determines that good cause exists to explain the party's failure to appear at the hearing and to explain the party's failure to notify the board in advance of the hearing, the board shall reconvene the hearing by scheduling another hearing. For the purposes of this section, good cause shall include accident, sudden illness, death of a family member or other circumstance beyond the control of the party which prevents the party from attending the hearing and from notifying the board.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 206.15 Parties, Intervenors, and Complainants.

(a) License applicants requesting a hearing in response to a notice of license refusal and licensees who are the subject of a pending board action against a license held, pursuant to RSA 482-B:8,I, and

appellants to a decision or order of the department, pursuant to RSA 482-B:8,II, shall be parties to the adjudicative proceeding.

(b) Any person may intervene in a matter pending before the board under the provisions of RSA 541-A:32.

(c) The presiding officer shall grant petitions for intervention, if, in accordance with the provisions of RSA 541-A:32:

(1) The petition is submitted in writing to the presiding officer, with copies mailed to all parties named in the notice of hearing, at least 3 days prior to the hearing;

(2) The petition demonstrates that the petitioner's rights, duties, privileges immunities or other substantial interests may be affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of law, and

(3) The presiding officer determines that the interests of justice and the orderly and prompt conduct of the proceedings would not be impaired by allowing the intervention.

(d) Unless granted intervenor status, witnesses or person(s) filing complaints to the board or the department about the conduct of a party under the board's jurisdiction, shall not be parties to any enforcement or disciplinary hearings.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 206.16 Representatives.

(a) Any party to a hearing before the board may be represented by an attorney licensed to practice law in New Hampshire or such other individual as the party may designate.

(b) All representatives shall obtain and become familiar with these procedural rules prior to appearing before the board.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 206.17 Removal of Representatives. The board shall, upon a finding of misconduct by any representative appearing before the board, prohibit that individual from acting as a representative before the board. For purposes of this section, misconduct means behavior that is disruptive to the orderly conduct of the board's business.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 206.18 Presiding Officer.

(a) The presiding officer at a hearing shall be the chairman of the board if present and willing to preside. If the chairman is unavailable for any reason, the presiding officer shall be a member of the board selected by those members present at the hearing.

(b) The presiding officer shall as necessary:

(1) Regulate the course of the hearing;

(2) Rule upon issues of procedure;

(3) Administer oaths or affirmations;

- (4) Rule on issues of evidence;
- (5) Question any person who testifies; and
- (6) Take such other action that is necessary for the efficient and orderly conduct of the hearing, consistent with these rules and any other applicable state law.

(c) The presiding officer shall open the hearing by describing in general terms the purpose of the hearing and the general procedures governing its conduct, and shall then proceed in accordance with this part.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 206.19 Withdrawal of Presiding Officer or Member of the Board.

(a) Upon individual initiative or upon request of any party, the presiding officer or member of the board shall, for good cause, withdraw from any hearing.

(b) Good cause shall exist if the presiding officer or member of the board:

- (1) Has a direct interest in the outcome of the hearing; or
- (2) Has a direct connection with or knowledge of the parties that would be likely to influence his or her judgment.

(c) Mere knowledge of the issues, the parties or any witness shall not constitute good cause for withdrawal.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 206.20 Testimony.

(a) All testimony in an adjudicative proceeding shall be made under oath or affirmation.

(b) Any person offering testimony, evidence or arguments before the board shall state his or her name and address on the record. If the person is representing another party, the party being represented shall also be identified by name and address.

(c) Any person testifying before the board shall be subject to cross-examination as provided in (f), below.

(d) Whenever it appears that testimony to be offered at the hearing would be more readily understood if presented in written form, the presiding officer shall require the party offering such testimony to submit the testimony in written form, provided such requirement will not substantially prejudice the interests of any party to the hearing. All persons offering testimony in written form shall be present at the hearing and shall be subject to cross-examination as provided in (f), below. This paragraph shall not be construed to prevent oral testimony at a scheduled hearing by any member of the public who requests and is granted time to testify at a hearing pursuant to We 206.15(b).

(e) Direct testimony shall be offered in the following order:

- (1) Board or department and such witnesses as the board or department calls;

(2) The person who is the subject of the adjudicative proceeding and such witnesses as the person calls; and

(3) Any other party to the proceeding and such witnesses as the party calls;

(f) The presiding officer shall allow members of the board, legal counsel to the board, and other parties or their representatives an opportunity to cross-examine each witness. Cross-examination shall be by asking questions directly of the witness, so long as such direct questioning is not disruptive to the orderly conduct of the hearing. If the presiding officer determines that such cross-examination is disruptive to the orderly conduct of the hearing, then the presiding officer shall require the cross-examination to be conducted indirectly, by addressing questions to the witness through the presiding officer.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 206.21 Exhibits.

(a) Where evidence to be presented consists of numerical or graphic data and such evidence would make oral presentation difficult to follow, such evidence shall be presented in exhibit form.

(b) Space shall be provided in the upper right hand corner of each exhibit for the insertion of the number of the exhibit and the name of the witness through whom it is presented.

(c) The party offering an exhibit shall supply the original and one copy thereof to the board and shall provide a copy to all other parties of record, unless exempted under We 206.24(d).

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 206.22 Motions.

(a) Motions shall be in written form, unless made in response to a matter asserted for the first time at the hearing. All motions shall contain a clear and concise statement of the facts and law which support the motion and shall state the specific relief or ruling requested. The moving party shall have the burden of persuasion on all matters raised in the motion.

(b) Written motions shall be included in the record of the proceeding. Oral motions shall be recorded in full on the tape of the hearing. All parties who would be adversely affected by the ruling sought in a motion shall have an opportunity to respond to the motion. For written motions, responses shall be in writing and shall be filed no later than 10 days after receipt of the motion by the board. For oral motions, responses shall be made during the hearing at which the oral motion was made.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 206.23 Requests for Finding and Conclusions.

(a) Any party or party's representative may submit requests for findings of fact and conclusions of law, provided that, such requests are submitted before the close of the record.

(b) In any case where proposed findings of fact and conclusions of law are submitted, the decision shall include rulings on the proposal(s).

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 206.24 Evidence.

(a) Pursuant to RSA 541-A:33,II, the rules of evidence shall not apply.

(b) Evidence which is relevant and material to the subject matter of the hearing shall be admissible. Evidence which is irrelevant, immaterial, or unduly repetitious shall be excluded. The experience, technical competence, and specialized knowledge of the members of the board, if relevant, can be used in the evaluation of all evidence submitted to the board.

(c) Whenever necessary for a full and fair consideration of the appeal or hearing, the presiding officer shall take official notice of the following:

- (1) Relevant laws and rules;
- (2) The record of other proceedings before the board;
- (3) Any fact which could be judicially noticed in the courts of this state;
- (4) Generally recognized facts of common knowledge to the general public; and
- (5) Physical, technical or scientific facts within the board's specialized knowledge.

(d) All documents, materials, and objects offered in evidence shall be marked by the offering party with the docket number and shall, if accepted, be numbered or otherwise identified in a sequential manner. Documentary evidence shall be received in the form of copies or excerpts if the original is not readily available. Any person offering any documentary evidence shall provide each member of the board and each party with a copy of such documents, unless such documents are of such form, size or character as not to be suitable for reproduction.

(e) All written testimony and documents, materials, and objects admitted into evidence shall be made available during the course of the hearing for public examination. Following the hearing, all such evidence shall be available at the department's offices in Concord during normal business hours.

(f) In a proceeding involving an application, the application filed with the board, including exhibits and amendments thereto, shall be placed into evidence by the board.

(g) All objections to rulings of the presiding officer regarding evidence or procedure and the grounds therefor shall be stated during the course of the hearing. Nothing herein shall be construed as independent authorization for interlocutory appeals of rulings of the presiding officer.

(h) No information shall be considered as evidence or made part of the record in any adjudicative proceeding before the board that is not introduced as evidence in accordance with this part.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 206.25 Standard of Proof. The standard of proof at hearings shall be proof by a preponderance of the evidence. For purposes of these rules, proof by a preponderance of the evidence means that what is sought to be proved is more probable than not.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 206.26 Burden of Proof.

(a) In all adjudicative hearings, the party asserting a proposition shall bear the burden of proving the truth of the proposition by a preponderance of the evidence.

(b) In a hearing held to determine whether a license should be refused, pursuant to RSA 482-B:8,I, the applicant shall bear the overall burden of proof by a preponderance of the evidence.

(c) In a hearing held to determine whether a license should be suspended, revoked, or not renewed, pursuant to RSA 482-B:8,I, the board shall bear the overall burden of proof by a preponderance of the evidence.

(d) In an appeal of a disciplinary action which has been taken by the department pursuant to RSA 482-B:8,II, the appellant shall bear the burden of proving, by a preponderance of the evidence, that the decision is unjust, unreasonable, or unlawful.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 206.27 Hearing Record.

(a) The record of the hearing shall include:

(1) Notice(s) of the hearing;

(2) The tape recording of the hearing;

(3) All exhibits, motions, requests for findings and conclusions, and other written materials submitted by the parties;

(4) Any other item(s) specified by RSA 541-A:31,VI, that are applicable in the proceeding; and

(5) The transcript provided by a certified shorthand court reporter if the board or department has provided one, pursuant to RSA 541-A:31, VII-a.

(b) All testimony shall be recorded. The board, upon request of a party, shall provide, at cost, a duplicate tape of the hearing.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 206.28 Recess and Adjournment. The board shall, from time to time, at the request of any party or on its own initiative, recess or adjourn any hearings as might be necessary for the orderly conduct of the proceeding.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 206.29 Continuance.

(a) Any party may request that a hearing conducted pursuant to this part be continued for reasonable cause and reconvened or rescheduled. Reasonable cause shall include, but not be limited to, unavailability of an individual party, a representative or critical witness, or that the parties believe that an informal resolution is possible and need more time to resolve the matter.

(b) A request for a continuance of a hearing made in advance of the hearing shall be in writing, shall state the reason(s) for the request, and shall be filed at least one week prior to the scheduled hearing date.

Requests for a continuance made at a hearing may be made orally and shall be entered in the record of the hearing.

(c) If the board determines that reasonable cause exists and that no other party will be prejudiced by the delay, the board shall grant the request. All orders for continuance shall specify the time and place at which such hearing shall be reconvened. The presiding officer shall notify the parties and the public, if applicable, in such a manner as is appropriate to ensure that reasonable notice shall be given of the time and place of such continued hearing.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 206.30 Close of the Record.

(a) After the conclusion of the hearing, no other evidence or argument shall be allowed into the record, except as allowed pursuant to (b), below.

(b) Prior to the conclusion of the hearing a party may request that the record be left open for a specified period of time in which to file evidence or arguments not available at the hearing. If the board determines that such evidence or arguments is necessary to a full consideration of the issues raised in the appeal, and the party was not at fault for failing to submit the evidence or arguments, and there is a likelihood that a different result would occur, the presiding officer shall set a date by which the additional material shall be filed.

(c) The party filing such additional material shall also deliver or send copies of all items filed to all other parties of record.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 206.31 Reopening of the Record.

(a) The board may, on its own motion or that of any party, for good cause shown, order reopening of the record or rehearing where, through accident, mistake or misfortune, justice has not been done and a further hearing would be equitable.

(b) If the presiding officer determines that evidence or arguments, not previously considered, are necessary to a full consideration of the issues raised by the appeal and the party was not at fault for failing to submit the evidence or arguments and there is a likelihood that a different result would occur, the record shall be reopened to accept the offered items.

(c) The presiding officer shall give written notice of the acceptance into the record of the offered items to all parties of record if the parties are no longer present. The presiding officer shall also set a time within which other parties may respond to or rebut the items made part of the record.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 206.32 Decisions.

(a) Members of the board shall make a decision only after personally hearing the testimony in the case unless the matter's disposition does not depend on the credibility of any witness and the record provides a reasonable basis for evaluating the testimony.

(b) The board shall keep a decision on file in its records for at least 5 years following the date of the final decision or the date of the decision on any appeal, unless the director of the division of records

management and archives of the department of state sets a different retention period pursuant to rules adopted under RSA 5:40.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 206.33 Motion for Rehearing or Reconsideration.

(a) Any party seeking rehearing or reconsideration of a decision by the board shall file a motion for rehearing or reconsideration within 30 days of the decision. Copies of the motion shall also be delivered or sent to all other parties of record.

(b) A motion for rehearing or reconsideration shall:

- (1) Specify the finding(s), conclusion(s), or conditions(s) to which the moving party objects;
- (2) Identify each error of fact, error of reasoning, or error of law which the moving party wishes to have reconsidered;
- (3) State whether the moving party seeks to present new or additional evidence, and if so, the nature of such evidence to be offered; and
- (4) Concisely state the factual findings, reasoning or legal conclusion urged by the moving party.

(c) The board shall, at its first available meeting following the receipt of such a motion, grant or deny the motion.

(d) A motion for rehearing or reconsideration shall be granted only if:

- (1) Material evidence is presented with the motion which, despite due diligence, was not available at the time of the hearing; or
- (2) The party making the motion demonstrates that the board's decision is based on a legal error concerning the interpretation or application of any statute, administrative rule or case law.

(e) Any hearing held under this section shall be limited to the issues raised in the motion for rehearing or reconsideration. The board shall send notice to all parties of record of the rehearing.

(f) A board decision shall become final if no motion for rehearing or reconsideration is filed within the period specified in (a), above.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

PART We 207 NON-ADJUDICATIVE PUBLIC HEARINGS

We 207.01 Applicability. These rules shall apply to the conduct of hearings held by the board to provide information and receive public comment in any matter that is not a contested case as defined by RSA 541-A:1, IV.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 207.02 Non-Adjudicative Public Hearings. A non-adjudicative public hearing shall be held:

(a) When proposing to adopt, readopt, amend, or repeal rules;

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(b) For any matter for which the board is required by law or by these rules to hold a hearing that is not a contested case; and

(c) For any matter for which the law does not require the board to hold a hearing but for which the board believes a public hearing would be of benefit.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 207.03 Notice. Notice of the date, time, and place of the hearing shall be given as follows:

(a) For a rulemaking hearing held pursuant to RSA 541-A:

(1) By publication in the rulemaking register pursuant to RSA 541-A; and

(2) By U.S. Mail, agency bulletin or newsletter, or public notice advertisement in a publication of daily statewide circulation.

(b) For all other public hearings, by such means as the board determines will provide notice to those persons likely to be interested in the most cost-effective manner.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 207.04 Record.

(a) A record of the hearing shall be kept by tape recording or other method which will provide a verbatim record.

(b) Copies of the recording shall be provided to any person upon request and payment of the costs of the tape(s).

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 207.05 Opening the Hearing.

(a) The presiding officer shall open the hearing by describing in general terms the purpose of the hearing and procedures governing its conduct.

(b) If the purpose of the hearing is to provide information to the public, the presiding officer, staff, or such other person as the presiding officer designates shall then present such information.

(c) After the opening statement and presentation of information, if any, the presiding officer shall open the hearing to receive comments and/or questions from the persons attending the hearing.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 207.06 Testimony.

(a) Any individual wishing to submit written testimony or exhibit(s) at a non-adjudicative public hearing shall do so to the presiding officer, provided the individual signs and dates such testimony or exhibit(s).

(b) Any individual wishing to testify at a non-adjudicative public hearing shall submit his/her name, address, and whom the person represents, if anyone, in writing to the presiding officer. The presiding officer shall call each individual to present testimony.

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(c) At the conclusion of testimony of each individual, the presiding officer shall ask such questions as are necessary to clarify the testimony given.

(d) The presiding officer shall terminate any comments, questions, or discussions that are not relevant to the subject of the hearing.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

We 207.07 Closing of the Hearing and the Record.

(a) The presiding officer shall close the hearing when he/she determines that no one has further questions or comments that are relevant to the subject of the hearing.

(b) For rulemaking hearings, the record shall remain open until the date specified in the rulemaking register.

Source. #7307, eff 6-13-00; ss by 9178-A, eff 6-13-08

We 207.08 Continuances.

(a) Hearings on proposed rules shall be continued only in accordance with RSA 541-A.

(b) At any non-adjudicative public hearing other than a hearing on proposed rules, if anyone requests a continuance and the presiding officer determines that the public will be best served by continuing the hearing and that any prejudice caused to any person as a result of the continuance is out weighed by the benefit to the public of granting the continuance, the presiding officer shall order that the hearing be continued to a later date, time, and place.

(c) If such later date, time, and place are known at the time of the hearing that is being continued, the presiding officer shall state the date, time, and place on the record.

(d) If such later date, time, and place are not known at the time of the hearing that is being continued, the presiding officer shall state how notice will be given of the date, time, and place of the continued hearing.

Source. #7307, eff 6-13-00; ss by #9178-A, eff 6-13-08

CHAPTER We 300 LICENSE APPLICATION PROCEDURE AND REQUIREMENTS

PART We 301 LICENSE APPLICATION PROCEDURE

We 301.01 Type of Construction or Installation.

(a) Licenses for water well contractors shall designate the type of construction for which the licensee is qualified.

(b) A contractor shall be qualified for one or more of the following types of construction:

- (1) Drilled wells which shall include wells in unconsolidated material and/or bedrock constructed by use of a cable tool rig or rotary drilling machine;
- (2) Washed wells which shall include wells in unconsolidated material constructed by jetting, washing or driving of well points;
- (3) Dug wells which shall include wells in unconsolidated material constructed by boring, augering or digging; or
- (4) Monitoring wells which shall include wells in unconsolidated materials or bedrock constructed by use of a rotary machine, auger rig, cable tool rig or percussion hammer.

(c) Licenses for pump installers shall designate the type of installation for which the licensee is qualified.

(d) A pump installer shall be qualified for one or both of the following type of installations:

- (1) Domestic installations shall be for pumps up to 3 horsepower; and
- (2) Commercial, industrial and municipal installations shall be for pumps of any horsepower.

Source. #2557, eff 12-27-83; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 301.02 Fees.

(a) There shall be an annual license fee for water well contractors based on the type of equipment used in installing a well.

(b) When a contractor owns different types of equipment, the fee shall be the highest applicable fee as follows:

- (1) An annual license fee of \$100 for contractors using a backhoe or similar equipment for installing dug wells;
- (2) An annual license fee of \$150 for contractors using a wash well machine or percussion hammer for installing washed wells or using a cable tool machine for installing drilled wells;

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- (3) An annual license fee of \$225 for contractors using a rotary drilling machine for installing drilled wells; and
- (c) There shall be an annual license fee of \$225 for technical drilling contractors.
- (d) There shall be an annual license fee of \$100 for pump installers.
- (e) There shall be an application fee of \$25 for new license applicants.
- (f) There shall be an examination fee of \$10 for each license category.
- (g) The application fee and the annual license fee shall accompany the application and no action shall be taken on an application unless it is accompanied by the required fees.
- (h) License fees submitted with an application shall be refunded if the applicant fails to pass the examination.
- (i) Application fees and exam fees shall not be refundable.

Source. #2557, eff 12-27-83; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 301.03 Application Forms.

- (a) All applicants for a license shall apply in writing on a form furnished by the board, and shall supply all information required by RSA 482-B:5, II.
- (b) An application shall be typed or printed in ink or it shall be returned to the applicant by the board.
- (c) License applications shall also include the following information:
 - (1) The type of construction the applicant is qualified to perform;
 - (2) The type of equipment used for constructing wells;
 - (3) The name and address of the qualified individual and business entity to be licensed;
 - (4) The state in which the applicant is incorporated, if applicable;
 - (5) The amount of fee enclosed with the application;
 - (6) Licenses held in others states, if applicable;
 - (7) The written statement of experience as described in We 302.05;
 - (8) References as described in We 302.05; and
 - (9) Proof of registration with the NH Secretary of State in accordance with RSA 349;
- (d) Applicants for pump installer license shall include identification of the applicants plumber's license number, if a registered licensed plumber.

(e) License applications shall be signed by the license applicant and acknowledged before a notarial officer in accordance with RSA 456-B.

Source. #2557, eff 12-27-83; amd by #4550, eff 1-1-89; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

PART We 302 QUALIFICATIONS

We 302.01 Businesses Shall Be Licensed.

(a) Water well contractor and pump installer's licenses shall be issued to a corporation or other business entity in conjunction with a named qualified individual, as defined in We 302.06.

(b) Employees of a licensed water well contractor or pump installer shall not be required to be licensed.

Source. #2557, eff 12-27-83; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 302.02 Individual May Be Licensed.

(a) More than one individual of a partnership may be licensed.

(b) Individual employees of a licensed corporation may be licensed.

(c) Each licensed individual shall pay an annual license fee.

Source. #2557, eff 12-27-83; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 302.03 Soil Exploration, Pump Installations and Other Well Drilling Operations.

(a) Any business engaged in the following activities shall be a licensed water well contractor:

(1) Construction of observation wells for monitoring ground water quantity, quality or movement; and

(2) Construction of boreholes or wells for the purposes of transferring heat to or from the subsurface.

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(b) Any business engaged in the installation of new pump systems or pump replacement shall be a licensed pump installer, as required by RSA 482-B:5.

(c) The following activities shall be exempt from the licensing and reporting provisions of these rules:

- (1) Constructing wells for the temporary de-watering of construction sites;
- (2) Exploratory excavations analyzing foundation conditions related to the construction of a structure; and
- (3) Pump installations used for the temporary de-watering of construction sites.

(d) Businesses performing maintenance and repair work on existing pump systems shall be one of the following, as required by RSA 482-B:15:

- (1) A licensed pump installer;
- (2) A licensed plumber; or
- (3) A licensed electrician.

Source. #2557, eff 12-27-83; amd by #4418, eff 5-2-88; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 302.04 Minimum Experience Requirement.

(a) Applicants shall “have been actively engaged in their trade for a minimum of 3 years prior to the date of their application” as required by RSA 482-B:5,III.

(b) An applicant’s experience shall be directly related to the type of license to be issued as required by RSA 482-B:5,III.

(c) Drilling contractors shall have one year of experience in drilling water wells in crystalline rocks of the Appalachian Region as required by RSA 482-B:5,III.

(d) For the purposes of these rules, one year of work experience shall be equal to a minimum of 1,600 hours of work experience per year.

Source. #4550, eff 1-1-89; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 302.05 Proof of Experience.

(a) Applicants shall provide supporting documentation with their application demonstrating where the 3 years experience, as required in RSA 482-B:5, III, has been gained.

(b) Applicants shall provide a written statement of experience on their application including, but not limited to, the following information:

- (1) Name of employer(s);
- (2) Dates of employment;
- (3) Tasks performed, including type(s) of wells constructed, if applicable;
- (4) Types of equipment used for constructing wells, and types of geologic formations penetrated, if applicable;
- (5) Workman's compensation insurance classification, by employer, if applicable;
- (6) Customer names, addresses, and dates; and
- (7) Any other information as the person filing the application deems pertinent and relevant, including attachments, licenses held in other states, or written statements from former employers.

(c) Applicants shall have references from at least 3 citizens of the United States, as follows:

- (1) If the application is for a water well contractor license:
 - a. At least 2 of the 3 references shall be from individuals in the well construction industry with personal knowledge of the applicant's experience;
 - b. One of the references shall be from a current or former employer licensed to construct wells in the state of New Hampshire or another state; and
 - c. No more than one reference shall be from an applicant's co-worker or employee;
- (2) If the application is for a pump installer license:
 - a. At least 2 of the 3 references shall be from individuals in the pump installation industry with personal knowledge of the applicant's experience; and
 - b. One of the references shall be from a current or former employer licensed to install pumps in the state of New Hampshire or another state; and
 - c. No more than one reference shall be from an applicant's co-worker or employee;
- (3) Reference forms shall be submitted directly to the board by the person making the reference; and
- (4) Reference forms submitted by the applicant shall not be accepted.

Source. #9179, eff 6-13-08

We 302.06 Qualified Individual.

(a) A qualified individual shall be an owner, partner or employee in the case of a business entity or a corporate officer or employee directly in charge of the business affairs of the corporation, if incorporated.

(b) The qualified individual shall also:

- (1) Be directly in charge of the daily well construction operations and pump installation operations, and shall assure that all wells and pump systems meet the requirements of these rules;
- (2) Review and sign all well completion reports and ensure all reports are complete, accurate and filed within 90 days of well completion, as required by RSA 482-B:10;
- (3) Keep complete and accurate records of all wells attempted, drilled, and decommissioned;
- (4) Notify the board of any change in information provided on the license application(s);
- (5) Notify the board within 30 days of change of employment or withdrawal of a partner, corporate officer, or managing member of a limited liability company; and
- (6) Promptly respond to and investigate, where appropriate, client complaints and notify the board of suspected public health or environmental threats, if encountered.

Source. #9179, eff 6-13-08

We 302.07 Loss of Qualified Individual. A licensed water well construction or pump installation business shall:

(a) Notify the Board within 30 days of the death, withdrawal, or change of employment of a qualified individual; and

(b) Not act as a licensed water well contractor or pump installer until another licensed individual takes the position of the withdrawn or deceased individual.

Source. #9179, eff 6-13-08

PART We 303 EXAMINATIONS

We 303.01 Given to Applicants Only. All license applicants shall pass an examination given by the board. Examinations shall be given to license applicants only.

Source. #2557, eff 12-27-83; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 303.02 Schedule.

(a) Examinations shall be offered at intervals no less than 90 days.

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(b) An applicant who fails to achieve a passing grade of 70% on the examination shall be required to wait a minimum of 90 days before re-examination.

Source. #2557, eff 12-27-83; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 303.03 Exemptions. Exemptions from the examination shall be granted as provided herein:

(a) For persons licensed in another state, as specified in RSA 482-B:5, IV and in accordance with the requirements for granting reciprocity in Part We 304; or

(b) To ameliorate undue hardship, as specified in RSA 482-B:13 and We 204 of these rules.

Source. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

PART We 304 RECIPROCITY

We 304.01 Statutory Authority. The board shall issue a water well contractor license or a pump installer license without examination, in accordance with the requirements of RSA 482-B:5, IV, to a person licensed in another jurisdiction.

Source. #2557, eff 12-27-83; EXPIRED: 12-27-89

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 304.02 Required Agreement. A license issued by an authority of another jurisdiction shall not be recognized unless a reciprocal agreement exists between the board and that jurisdiction.

Source. #2557, eff 12-27-83; EXPIRED: 12-27-89

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 304.03 Applicability. Such license shall be applicable only to the residents of the state to which the reciprocal agreement has been developed.

Source. #2557, eff 12-27-83; EXPIRED: 12-27-89

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 304.04 Procedure.

(a) Applicants for a reciprocal license shall follow the application procedure in accordance with We 301.

(b) In addition to the requirements of We 301, applicants shall submit the following along with their license application:

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(1) A certified copy of their license held in the jurisdiction in which the reciprocal agreement exists; and

(2) Proof of residency within the jurisdiction in which the reciprocal agreement exists.

(c) If the board finds that the required information is insufficient to issue the license, the board shall request additional information from the applicant in order to show proof to the board that all of the requirements under RSA 482-B:5, IV and We 304 have been met.

(d) The board shall not issue a water well contractor license or pump installer license under RSA 482-B:5, IV if the applicant does not show proof to the board that all of the requirements for reciprocity have been met.

Source. #2557, eff 12-27-83; EXPIRED: 12-27-89

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

CHAPTER We 400 CONTINUED STATUS

PART We 401 LICENSE RENEWAL PROCEDURE

We 401.01 Request for Renewal.

- (a) Persons holding a valid water well contractor or pump installer license shall submit a request in writing for license renewal, including the required fee prior to June 30 of any given year.
- (b) Pump installers shall provide a signed written statement indicating compliance with the requirements of We 402 along with the request for license renewal.
- (c) Pump installers shall provide proof of attendance at all approved continuing education programs.

Source. #2557, eff 12-27-83; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 401.02 Renewal of License.

- (a) Upon receipt of a written request for renewal, the required fee and proof of compliance with the requirements of We 402, the board shall renew the license and send the licensee written notice and a minimum of 2 renewal decals for each well drilling rig or well construction machine and each pump service truck.
- (b) The board shall issue additional decals, upon request of the licensee, as required by RSA 482-B:6, as follows:
 - (1) Up to 4 additional 4 x 6 inch license decals per license without an additional fee; or
 - (2) Greater than 4 additional 4 x 6 inch license decals, provided that the licensee pays the actual cost of any decals issued in excess of 6 per license.
- (c) An expired license may be renewed within one year following expiration by submitting the information required in We 401.01 and a \$20 late fee.
- (d) Licensees who apply for a license renewal in accordance with this part, within one year following expiration of the license, shall not be required to take an examination as a condition of license renewal.

Source. #2557, eff 12-27-83; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 401.03 Notice of Invalidation.

- (a) On or after August 1st, the board shall send a notice, by first class mail to the last known address, to any previously licensed water well contractor or pump installer who has not renewed a license.

(b) The notice shall include the following information:

- (1) That the license expired on June 30th;
- (2) That a late fee of \$20 as required by RSA 482-B:5, I, shall be filed in addition to the regular license fee; and
- (3) That if no reply is received within one year from the expiration date, the licensee shall be required to reapply and meet all of the requirements of a new applicant, including examination.

Source. #2557, eff 12-27-83; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

PART We 402 CONTINUING EDUCATION

We 402.01 Purpose. These rules are intended to implement the requirements of RSA 482-B:5,V., which provides the mechanism for licensed pump installers to maintain standards of practice in their trade which includes periodic amendments to the national electrical code, the international plumbing code and these rules.

Source. #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 402.02 Applicability. These rules shall apply to licensed pump installers, pursuant to RSA 482-B:5, V.

Source. #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 402.03 Requirements.

- (a) Licensed pump installers shall complete a minimum of 2 hours of continuing education annually.
- (b) The qualified individual named on the license application shall be responsible for meeting the requirements of this section.
- (c) Licensed pump installers shall not be required to meet the requirements of this section, if the initial license was issued less than one year prior to the renewal request.

Source. #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 402.04 Continuing Education.

- (a) Continuing education shall relate to water wells, water pumps, or water conditioning and treatment systems.
- (b) Continuing education may include, but not be limited to:
 - (1) Course work, seminars, workshops, or lectures given by:
 - a. The department;

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- b. Other state agencies including the electricians licensing board and the plumbers licensing board;
 - c. National, state, and local trade associations;
 - d. Product vendors or manufacturers; and
 - e. Any accredited educational facilities;
- (2) Attendance at conferences and conventions sponsored by national, state, and local trade associations or the department; and
- (3) Correspondence courses.

Source. #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 402.05 Refusal of License Renewal. The board shall deny a request for license renewal if the licensee fails to comply with the requirements of We 401.01 and We 402.03.

Source. #7307, eff 6-13-00; ss by #9179, eff 6-13-08

CHAPTER 500 ETHICAL STANDARDS

PART We 501 CODE OF ETHICS

We 501.01 Purpose. These rules are written to provide guidance, direction and minimum standards of performance. Such rules serve as a legal instrument to protect the rights of consumers, investors and industries living or doing business in the state of New Hampshire. The rules are categorically related to professional performance and are the basis for establishing ethical standards.

Source. #2557, eff 12-27-83; EXPIRED: 12-27-89

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 501.02 Ethical Practices.

(a) When well drilling or pump installations are practiced as a profession, the privilege of practice shall require ethical conduct and professional responsibility as specified in (b) and (c) below.

(b) A water well contractor or pump installer shall not engage in false or deceptive advertising, or make false, misleading or deceptive representations or claims in regard to the profession.

(c) The water well contractor or pump installer shall provide a level of competent service in keeping with the standards of practice in those fields in which the water well or pump contractor customarily engages and in which the consumer has the right to expect.

Source. #2557, eff 12-27-83; EXPIRED: 12-27-89

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

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CHAPTER We 600 STANDARDS FOR THE CONSTRUCTION, MAINTENANCE AND ABANDONMENT OF WELLS

PART We 601 PURPOSE AND APPLICABILITY

We 601.01 Purpose.

(a) These standards are designed to protect the groundwaters of the state from contamination resulting from improper well construction, maintenance or abandonment.

(b) These standards are also designed to protect the consuming public from hardship, resulting from improper well construction, maintenance or abandonment.

Source. #3046, eff 7-2-85; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 601.02 Applicability.

(a) These rules shall apply to all construction, maintenance, or abandonment of water wells.

(b) With the exception of We 602.13 and We 603.01(e), observation wells constructed for investigating groundwater shall be exempt from the provisions of We 602, We 603 and We 604.

Source. #3046, eff 7-2-85; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

PART We 602 NEW WELL CONSTRUCTION

We 602.01 Public Water Systems. Wells constructed as part of a public water system as defined by RSA 485:1-a, XV shall be subject to the requirements of Env-Ws 372, Env-Ws 373, Env-Ws 378, and Env-Ws 379, or successor rules in Env-Dw, in addition to these rules.

Source. #3046, eff 7-2-85; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

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We 602.02 Reports. Well completion reports including reports for decommissioned wells shall be submitted in accordance with We 800 and RSA 482-B:10.

Source. #3046, eff 7-2-85; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 602.03 Chlorination. All persons shall chlorinate new wells to a minimum concentration of 50 parts per million for a minimum of 4 hours upon completion of the well construction and completion of the pump installation or reinstallation of an existing pump.

Source. #3046, eff 7-2-85; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 602.04 Discharge of Chlorinated Water. Chlorinated water flushed or pumped from wells following disinfection shall not be discharged into any surface water of the state.

Source. #3046, eff 7-2-85; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 602.05 Well Location.

(a) Wells shall be located in a manner to reduce the likelihood of contamination from sources of pollution at or near the ground surface.

(b) Wells shall be located a minimum of 75 feet from septic system leach fields. The water well contractor shall determine the location of existing leach fields. The water well contractor may reasonably rely on information provided by the property owner.

(c) Wells shall be located a minimum of 75 feet from septic tanks. This distance may be reduced to 50 feet if the soil line is SDR 26 or its equivalent and the tank is sealed and grouted. The water well contractor shall determine the location of existing septic tanks. The water well contractor may reasonably rely on information provided by the property owner.

(d) Wells shall be located a minimum of 75 feet from property boundaries for lots with design flows for structures up to 5 bedrooms and in accordance with the provisions of RSA 485-A:30-b and Env-Wq 1008.06 et seq.

(e) Wells shall be located a minimum of 50 feet from state highway rights-of-way.

(f) Wells shall not be located in livestock pens and shall be located uphill from livestock pens and grazing areas wherever possible.

(g) A 20 foot wide buffer strip shall be maintained between a drilled well and a livestock pen. Wells located between 20 feet and 75 feet of a livestock pen shall comply with the provisions of We 602.05(j).

(h) Shallow wells constructed in unconsolidated materials by excavation shall not be located closer than 100 feet from a livestock pen.

(i) Wells constructed by excavation, drawing water from unconsolidated materials, shall not be located in areas subject to standing water.

(j) Where site conditions prevent compliance with the above requirements or where a well is located closer than 75 feet from an observed source of contamination, the water well contractor shall:

(1) Alert the property owner of the potential for contamination at the proposed location;

(2) Obtain a written acknowledgement from the property owner, prior to construction of the well and using the non-conforming well location form, that the potential consequences of the location are understood; and

(3) Utilize special methods of construction to provide additional protection from potential pollution.

(k) Special methods of construction shall include but not be limited to:

(1) Installing no less than 40 feet of casing into competent bedrock where bedrock is less than 20 feet from the ground surface; and

(2) Grouting the casing.

(l) Non-conforming well location forms shall contain the following:

(1) Name of property owner;

(2) Location of property;

(3) Reason for alternate location;

(4) Special method(s) of construction used, in accordance with this part;

(5) A sketch map of the on lot well location indicating exact distances to at least 3 permanent reference points;

(6) The property owner's signature and date; and

(7) The water well contractor name and license number.

(m) Pursuant to Env-Wm 1401.28(ac), on lots with underground storage tanks the following setbacks shall apply:

(1) All gasoline underground storage tank systems shall be located at least 500 feet from a public water supply well and at least 250 feet from a non-public water supply well; and

(2) All regulated substances except gasoline underground storage tank systems shall be located at least 400 feet from a public water supply well and at least 75 feet from a non-public water supply well.

(n) Before construction begins wells constructed as part of a public water system as defined by RSA 485:1-a, XV shall have the location approved pursuant to Env-Ws 372, Env-Ws 373, Env-Ws 378, and Env-Ws 379, or successor rules in Env-Dw.

(o) Private wells shall not be constructed on lots serviced by a public water system as defined by RSA 485:1a, XV, when the provisions of RSA 485-A:30-b cannot be met, or when the construction of the well would violate subdivision approval, pursuant to RSA 485-A:29.

(p) Pursuant to RSA 362:4, IV and V, when the provisions of RSA 485-A:29 and RSA 485-A:30-b are satisfied, no property owner shall be required to connect to a public water system.

(q) Paragraph (o) above shall not apply to closed loop geothermal wells.

Source. #3046, eff 7-2-85; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 602.06 Standard Practice for the Construction of Wells Drilled in Bedrock.

(a) Persons constructing wells shall collect information during well construction, enter it onto a well completion report, and submit the well completion report to the board in accordance with We 801.

(b) Care shall be taken to observe and record the following:

- (1) Types of unconsolidated materials overlying the bedrock and the thickness of the layers;
- (2) Characteristics of the bedrock and noticeable changes in bedrock and depths at which changes occur;
- (3) Depths to fractures yielding readily observable amounts of water;
- (4) Depth to static water level prior to pump installation; and
- (5) Special circumstances encountered in the construction of the well including but not limited to:
 - a. Soft bedrock;
 - b. Caving conditions; or
 - c. Turbid or cloudy water.

(c) Well casings shall be made of a material and weight appropriate to assure adequate performance of the functions for which casing is used.

(d) The major functions and characteristics of the well casing shall be as follows:

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- (1) Casings shall provide access for withdrawal of ground water;
 - (2) Casings shall prevent intrusion of contaminants from the ground surface or from unconsolidated surficial deposits into the well;
 - (3) Casings shall prevent entrance of soil particles into the well;
 - (4) Casings shall provide a reference for locating the well;
 - (5) Casing materials shall not be a source of pollution;
 - (6) Steel well casing shall have a minimum wall thickness of .23 inches; and
 - (7) Plastic well casing shall be Schedule 40 or better and National Sanitation Foundation approved including but not limited to Polyvinyl chloride (PVC), Chlorinated polyvinyl chloride (CPVC), or Acrylonitrile butadiene styrene (ABS).
- (e) Well casing placement shall be as follows:
- (1) Well casings shall extend above the ground surface a minimum of 8 inches. Additional height shall be required to prevent entrance of surface water in areas prone to flooding;
 - (2) Well casings shall have a cover which provides an o-ring, gasket, or other seal to prevent the entrance of insects or other foreign matter into the well;
 - (3) Well casings shall be placed in such manner as to create a seal which prevents ground water or contaminants from entering the well at the bottom or anywhere along the length of the casing; and
 - (4) A minimum of 20 feet of well casing shall be installed.
- (f) The following techniques shall apply to well casing placement:
- (1) Drilling a hole into the bedrock for an appropriate depth to accept the casing and provide a seat for the drive shoe on the end of the casing;
 - (2) Notwithstanding We 602.06(f)(1) above, well casings shall be installed to a minimum depth of 10 feet into competent bedrock;
 - (3) A drive shoe shall be used to assist in sealing the casing into the bedrock when steel casing is used;
 - (4) When plastic casing is used the seal shall be created by using a “jaswell” type seal tip, shale packer or equal;
 - (5) “Jaswell” type seal tips, shale packers or their equal may be used on steel casing when the casing is placed in an open hole cased with a larger diameter temporary casing to bedrock;
 - (6) For cable tool wells, a tapered hole with ledge drillings or cement-bentonite grout shall be an acceptable substitute for a drive shoe;
 - (7) The void area outside the casing shall be filled with cement grout, bentonite or ledge drillings or cuttings; and

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(8) For all wells constructed on known active hazardous waste remediation sites, petroleum spill remediation sites, and sites with unlined solid waste landfills, as identified in the department's remediation and initial response spill sites database, the void area outside the casing shall be filled with cement grout, bentonite grout, or a cement-bentonite grout mixture to prevent surface water from migrating along the well casing.

(g) The above requirements shall not preclude the use of additional protective measures.

(h) "Jaswell" type seal tips, shale packers or their equal shall not be used to remedy a failed drive shoe seal, or to remedy an inadequately cased well, in new well construction.

(i) When air rotary drilling drinking water wells in bedrock, water shall be injected on a continuous basis at a rate sufficient to clean the well and prevent dust production during the drilling process.

(j) Overflow discharge water lines installed to vent flowing artesian wells shall meet the following standards:

(1) Overflow discharge water lines shall be equipped with a swing type check valve;

(2) The end of the water line shall be equipped with a ¼ inch mesh screen, or woven hardware cloth;

(3) The end of the water line shall be terminated with an air gap, if practicable. If termination with an air gap is not practicable, the water line may be terminated in a bed of ¾ inch or 1 ½ inch crushed stone; and

(4) Overflow discharge water lines shall not terminate directly into any surface water of the state.

(k) For wells constructed as part of a public water system as defined by RSA 485:1-a, XV, the following additional construction methods shall apply:

(1) The void area outside the casing shall be filled with cement grout, bentonite grout, or a cement-bentonite grout mixture to prevent surface water from channeling along the well casing;

(2) One of the following techniques shall be used to set the grout material in place:

a. By pumping grout through a tremie pipe inserted on the outside of the casing to the bottom of the pilot hole, and raising the pipe in a continuous operation, as the void area is filled, to the ground surface; or

b. By securing the casing approximately 12 inches above the bottom of the pilot hole drilled into the bedrock, and pumping the grout inside the casing under sufficient pressure to force the grout out of the bottom of the casing into the void area on the outside of the casing, filling the annulus from the bottom to the ground surface; and

(3) Following placement of the grout, the casing shall be firmly driven to the bottom of the hole.

Source. #3046, eff 7-2-85; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 602.07 Standard Practice for the Construction of Shallow Wells in Unconsolidated Materials by Excavation.

- (a) This section shall apply to wells commonly known as dug wells and constructed by excavation.
- (b) Persons constructing wells shall collect information during well construction, enter it onto a well completion report, and submit the well completion report to the board in accordance with We 801.
- (c) Care shall be taken to observe and record the following:
 - (1) Types of materials encountered during construction and the thickness of the layers; and
 - (2) The location of the water level at the time of construction and any springs that are encountered.
- (d) Well casings shall be made of a material and weight appropriate to assure adequate performance of the functions for which casing is used and shall not be a source of pollution.
- (e) The major functions and characteristics of the well casing shall be as follows:
 - (1) To provide access for withdrawal of ground water;
 - (2) To provide a storage area for water prior to withdrawal;
 - (3) To prevent intrusion of contaminants or soil particles into the well;
 - (4) To provide a reference for locating the well;
 - (5) Acceptable materials for casings shall include:
 - a. Concrete tile;
 - b. Steel; and
 - c. Plastic;
 - (6) Concrete tile sections shall be the interlocking type; and
 - (7) Plastic well casing shall be Schedule 40 or better and National Sanitation Foundation approved including but not limited to Polyvinyl chloride (PVC), Chlorinated polyvinyl chloride (CPVC), or Acrylonitrile butadiene styrene (ABS).
- (f) Well casing placement shall be as follows:
 - (1) Well casings shall extend above the ground surface a minimum of 18 inches. Additional height shall be required to prevent the entrance of surface water in areas prone to flooding;
 - (2) Well casings shall have a secure cover which provides a seal to prevent the entrance of insects or other foreign matter into the well. Wooden covers shall not be acceptable;
 - (3) Upper joints in well casings within 6 feet from land surface shall be sealed to exclude surface and near surface water from entering the well;
 - (4) The bottom of the casing shall be set on a bed of clean crushed stone or naturally occurring coarse gravel, if present;

(5) Crushed stone shall be placed around the exterior casing at the bottom section(s) to promote infiltration of water and provide additional storage, if appropriate for the soil conditions at the site; and

(6) Well casing sections shall be installed in proper alignment.

(g) Backfill shall:

(1) Be of an appropriate material and placed in a manner which will deter intrusion of soil into the well and reduce the likelihood of surface waters percolating directly into the well through the backfill; and

(2) Meet the following specific additional requirements:

a. Organic material shall not be used in the backfill including but not limited to loam, peat, building paper, hay or soil with organic matter;

b. Pea stone or other non-polluting barrier shall be used over the crushed stone to prevent fine soils from entering the crushed stone;

c. Backfill shall be compacted to reduce settlement;

d. The top of the backfill shall be covered with at least 2 feet of impervious material such as clay or hardpan; and

e. The ground surface at the well shall be raised and graded to drain away from the well taking into consideration future settlement of the backfill and shall have a minimum slope of 2 inches per foot.

Source. #3046, eff 7-2-85; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 602.08 Standard Practice for the Construction of Deep Wells in Unconsolidated Materials.

(a) This section shall apply to wells commonly known as gravel wells and constructed by drilling or washing into unconsolidated materials.

(b) The provisions of this section shall pertain to domestic, industrial and public supply wells.

(c) Persons constructing wells shall collect information during well construction, enter it onto a well completion report, and submit the well completion report to the board in accordance with We 801.

(d) Care shall be taken to observe and record the following:

(1) Types of materials encountered during construction and the thickness of the layers; and

(2) The location of the water level at the time of construction.

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(e) Well casing shall be made of a material and weight appropriate to assure adequate performance of the functions for which casing is used and shall not be a source of pollution.

(f) The major functions and characteristics of the well casing shall be:

- (1) To provide access for withdrawal of ground water;
- (2) To prevent intrusion of contaminants at or near the surface into the well;
- (3) To provide a reference for locating the well;
- (4) Steel well casing shall have a minimum wall thickness of .23 inches; and
- (5) Plastic well casing shall be Schedule 40 or better and National Sanitation Foundation approved, including but not limited to Polyvinyl chloride (PVC), Chlorinated polyvinyl chloride (CPVC), or Acrylonitrile butadiene styrene (ABS).

(g) Well casing placement shall be as follows:

- (1) Well casings shall extend above the ground surface a minimum of 8 inches. In areas prone to flooding additional height shall be required to prevent entrance of surface water;
- (2) Well casings shall have a cover which provides an o-ring, gasket, or other seal to prevent the entrance of insects or other foreign matter into the well;
- (3) The water well contractor shall determine the appropriate manner to terminate the well casing for the conditions present and the uses of the well;
- (4) Acceptable treatments include but shall not be limited to:
 - a. Open end casing;
 - b. Well screen;
 - c. Gravel packs; or
 - d. Perforated casings; and
- (5) The void area outside the casing shall be filled with cement or bentonite grout or a cement-bentonite grout mixture to prevent surface water from channeling along the well casing.

(h) Drilled or washed wells, constructed for household use, shall not be constructed in unconsolidated materials unless an adequate quantity of clear water can be withdrawn.

Source. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 602.09 Standard Practice for the Construction of Driven Wells.

(a) This section shall apply to wells commonly known as well points and constructed by driving into unconsolidated materials.

(b) Persons constructing wells shall collect information during well construction, enter it onto a well completion report, and submit the well completion report to the board in accordance with We 801.

- (c) Care shall be taken to measure and record the water level at the time of construction.
- (d) Well casing shall be made of a material and weight appropriate to assure adequate performance of the functions for which casing is used and shall not be a source of pollution.
- (e) The major functions of the well casing shall be:
 - (1) To provide access for withdrawal of ground water;
 - (2) To prevent intrusion of contaminants at or near the surface into the well;
 - (3) To provide a reference for locating the well; and
 - (4) To transmit the driving force to the well point.
- (f) Well casing placement shall be as follows:
 - (1) Well casings shall have a cover to prevent the entrance of foreign matter into the well; and
 - (2) The top of well casings shall be accessible to facilitate periodic disinfection or well maintenance.
- (g) Driven wells, constructed for household use, shall not be constructed in unconsolidated materials unless an adequate quantity of clear water can be withdrawn.

Source. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 602.10 Standard Practice in the Development of Well Yield.

- (a) Well yield shall be measured periodically during well construction when there is a readily observable increase in yield.
- (b) Wells shall be flushed or surged to remove debris and by-products of the construction process.
- (c) Wells constructed in unconsolidated materials shall be surged or pumped to develop yield and remove fine soil particles.
- (d) The final yield shall be measured for all new wells, after development, and indicated on the well completion report.
- (e) For wells yielding more than 5 gallons per minute (GPM), yield measurement shall be for a minimum of 15 minutes.
- (f) For wells yielding 5 gallons per minute or less, yield measurement shall be for a minimum of 30 minutes after dewatering the hole and until the flow has stabilized.

Source. #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 602.11 Well Development by Hydrofracturing and Other Yield Improvement Methods.

- (a) Hydrofracturing shall be an optional well development method used to potentially increase the yield of a water well.

(b) Injection water used for hydrofracturing shall be drawn from a potable source if immediately available, otherwise, the following procedure shall be followed:

- (1) Water shall not be drawn from stagnant water sources such as beaver ponds;
- (2) A water source free of visible sediment shall be obtained; and
- (3) Non-potable injection water shall be chlorinated to a minimum concentration of 50 parts per million and allowed to stand for a minimum of 1/2 hour to allow contact-time prior to use.

(c) Packer settings shall be no less than 40 feet below the bottom of the casing and at least 60 feet below ground surface.

(d) Wells developed by hydrofracturing shall produce not less than 600 gallons of water in a 2-hour period, at least once each day unless otherwise stipulated in a written contract.

(e) The minimum water supply capacity required in We 602.11(d) above shall be sustained for at least one year.

(f) For wells yielding 5 gallons per minute or less, yield measurement shall be for a minimum of 30 minutes after dewatering the hole and until the flow has stabilized.

(g) Dewatering the hole shall be accomplished by removing, either by pumping or by air lift method, no less than a quantity of water equal to the volume of water in the well.

(h) For the purposes of (g) above, dewatering a 6 inch diameter, 500 foot well, shall require removing a minimum of 1 1/2 gallons of water per linear foot of water column from the well, prior to taking the first yield measurement.

(i) The use of dry ice shall not be used as a means of hydrofracturing or well development in bedrock well construction.

Source. #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 602.12 Termination of Well Casings Below Ground Surface.

(a) Notwithstanding We 602.06(e)(1) and We 602.08(g)(1) which stipulate that well casings shall be terminated a minimum of 8 inches above the ground surface, a well casing may be terminated below the ground surface if the following requirements are met:

- (1) The location of the well poses a hazard;
- (2) The well contractor shall advise the well owner of the advantages of leaving the well casing above ground including but not limited to:
 - a. Ease of locating the well should maintenance be needed;
 - b. Ease of access to the pump in all seasons should maintenance be needed;
 - c. Protection against entrance of unwanted surface or ground waters; and
 - d. The additional construction requirements should the top of the well be left below the land surface;
- (3) Once advised, the well owner requests that the top of the well be left below the land surface;

(4) The water well contractor shall apply the following construction requirements to wells terminated below the land surface:

- a. The top of the well shall be terminated in a drained, cased well pit with a secure cover finished at ground surface;
- b. The top of the well shall be completely sealed to prevent the entrance of surface water, ground water, soil, or other matter;
- c. The well shall be properly vented to avoid the creation of a vacuum; and
- d. Vents shall be constructed in a manner such that they shall not become blocked or allow contamination to enter the well;

(5) Wells left below grade shall be referenced by exact distances to at least 3 permanent references including the following:

- a. If the house has been built, at least 2 reference distances shall be to 2 corners of the foundation; and
- b. If the well is greater than 100 feet from the house, at least one reference shall be the house foundation and another shall be the closest permanent reference within the property boundaries;

(6) Reference distances shall be included on the well completion report; and

(7) Reference distances shall also be given to the well owner.

(b) For the purposes of (a) above:

- (1) Well locations in driveways and parking lots shall be considered potentially hazardous; and
- (2) Well locations in lawn or yard areas shall not be considered hazardous.

Source. #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 602.13 Standard Practice for the Construction of Monitoring Wells. Monitoring wells shall be designed, installed, developed, maintained and decommissioned in a manner consistent with the provisions of Env-Or 704.02 Groundwater Monitoring Wells.

Source. #7307, eff 6-13-00; ss by 7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 602.14 Standard Practice for the Construction of Closed Loop Geothermal Wells.

- (a) The well shall be located no less than 50 feet from a well used for potable water supply.
- (b) During advancement of the borehole, the licensed contractor shall follow the observation and record keeping requirements of We 602.06 (a) and (b).
- (c) The thermal loop used in the borehole shall be:
 - (1) Constructed of high-density polyethylene (HDPE) with heat fused couplings; or

- (2) An equivalent loop material and couplings that can be demonstrated to reduce the potential for groundwater contamination by resisting degradation and leakage.
- (d) The borehole shall be grouted in accordance with the following:
 - (1) The entire length of the borehole shall be grouted;
 - (2) The borehole shall be grouted in one, continuous effort from the bottom of the borehole using a tremie line; and
 - (3) The grout used in the borehole shall be:
 - a. A high-solids bentonite grout;
 - b. A cement-sand based grout;
 - c. A bentonite-sand based grout; or
 - d. Any other grout that has been demonstrated to reduce shrinkage and cracking during multiple heating and cooling cycles.
 - (4) The following materials shall be prohibited for use as backfill in the borehole when used alone:
 - a. Sand,
 - b. Gravel,
 - c. Pea-stone,
 - d. Drilling by-products; or
 - e. Other non-cemented or non-grouted, heterogeneous or homogenous mixture of aggregates.

Source. #9179, eff 6-13-08

We 602.15 Standard Practice for the Construction of Open Loop Geothermal Wells.

- (a) The withdrawal, return or standing column well shall be located:
 - (1) In accordance with the setback requirements of We 602.05 Well Locations; and
 - (2) No less than 200 feet from a known active hazardous waste remediation site, a petroleum spill remediation site, and an unlined solid waste landfill, as identified in the department's remediation and initial response spill sites database.
- (b) During advancement of the borehole, the licensed contractor shall follow the observation and record keeping requirements of We 602.06 (a) and (b).
- (c) Open-loop geothermal wells shall be cased in accordance with the following:
 - (1) No less than 20 feet of casing shall be extended into competent bedrock; and
 - (2) The annular space between the casing and the formation shall be grouted using a cement bentonite grout.

(d) For system designs with separate return and withdrawal wells, the return water shall be re-injected into the same aquifer as the withdrawal well.

(e) For the purposes of (d) above:

(1) Withdrawal water obtained from a bedrock well shall be returned to a bedrock well; and

(2) Withdrawal water obtained from a well constructed in saturated unconsolidated deposits shall be returned to a well constructed in saturated unconsolidated deposits.

(f) Return water shall be discharged below the static water level in return wells or below the draw down level in standing column wells.

(g) Owners of open loop geothermal wells shall register in accordance with the groundwater discharge requirements of Env-Wq 402.33.

Source. #9179, eff 6-13-08

PART We 603 WELL MAINTENANCE

We 603.01 Active Wells. Wells shall be maintained as follows:

(a) Well casings shall not be cut off below ground surface, except that wells may be terminated below ground surface if the requirements of We 602.12 are met.

(b) Wells with a casing inside diameter of 4 to 12 inches shall be equipped with a well cover which provides an o-ring, gasket or other seal to prevent the entrance of insects or other foreign matter into the well.

(c) Wells with a casing inside diameter less than 4 inches shall be fitted with a secure cap or plug.

(d) Dug wells shall be equipped with a concrete cover or shall be enclosed in a locked structure specifically designed to house the well. Where a well house is provided, covers other than concrete shall be permitted.

(e) All monitoring wells shall be fitted with a secured tamper proof well cover.

Source. #3046, eff 7-2-85; EXPIRED: 7-2-91

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 603.02 Inactive Wells. Wells that are no longer in use and have not been abandoned shall be maintained in accordance with We 603.01 above, except that wells shall not be terminated below ground surface.

Source. #3046, eff 7-2-85; EXPIRED: 7-2-91

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 603.03 Well Casing Extensions.

(a) Well casing extensions shall be used to upgrade existing water well installations finished below the surface of the ground.

(b) Well casing extensions shall be water tight.

(c) Well casing extensions shall be constructed of the same materials as the existing casing and shall be of sufficient mechanical strength and weight to insure adequate performance of the functions for which casing is used, as specified in We 602.06(d).

(d) Acceptable methods for joining steel casing extensions to existing steel casing shall include the following:

- (1) Threaded steel coupling;
- (2) Welded pipe joint;
- (3) Weld to threaded steel slip coupling; and
- (4) Mechanical steel bolted restraining pipe coupling.

(e) Plastic well casing extensions shall be joined to existing plastic casing by either solvent type or threaded couplings.

(f) Plastic well casing extensions shall be schedule 40 or better and in accordance with We 602.06(d)(7).

Source. #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 603.04 Abandoned Wells. Wells that are abandoned shall be sealed in accordance with We 604.

Source. #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 603.05 Responsibility. It shall be the responsibility of the well owner to maintain a well in accordance with the provisions of this part, pursuant to RSA 482-B:15.

Source. #7307, eff 6-13-00; ss by #9179, eff 6-13-08

PART We 604 ABANDONMENT OF WELLS

We 604.01 Purpose. These rules are intended to prevent the possibility of abandoned wells providing a means for contaminants to enter the ground water and to prevent the transport of contaminants to or from discrete water bearing geologic formations.

Source. #3046, eff 7-2-85; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 604.02 Applicability.

(a) These provisions shall apply to all wells.

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(b) Wells shall be decommissioned only by licensed New Hampshire water well contractors holding a valid water well contractor license under RSA 482-B.

(c) Private wells constructed for noncommercial farming or domestic supply may be decommissioned by the well owner on the owner's permanent residence pursuant to RSA 482-B:12, provided that the well is sealed in accordance with these rules.

Source. #3046, eff 7-2-85; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 604.03 Determination of Abandonment.

(a) Determination of abandonment shall be by the well owner or by the board in response to supporting evidence.

(b) Supporting evidence shall include but not be limited to a condition where the well is not maintained in accordance with We 603 and one or more of the following additional conditions exist:

- (1) The well is inactive;
- (2) The well is contaminated;
- (3) The well poses a hazard by threatening to be a source of contamination to the groundwaters of the state; or
- (4) The well poses a hazard to the citizens of the state.

Source. #3046, eff 7-2-85; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 604.04 Removal of Pumping Equipment and Debris. All pumping equipment, piping and wire, and any debris observed in the well, shall be removed from the well prior to sealing.

Source. #3046, eff 7-2-85; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 604.05 Sealing. Abandoned wells shall be sealed according to the following procedures:

(a) Abandoned dug wells shall be filled and sealed by placing clean fill material free of organic matter into the well. The upper 2 feet shall be filled with impervious material such as clay or hardpan.

(b) Abandoned drilled wells penetrating bedrock or unconsolidated materials shall be sealed by grouting the entire length of the well.

(c) Abandoned drilled wells that have been contaminated due to a construction deficiency or continue to cause an environmental hazard including salt contaminated wells shall be sealed by the pressure grout method with the use of a conductor pipe, otherwise known as a tremie pipe, from the bottom of the well to the top with a grout mixture of Portland cement with 2 to 10 percent high solids bentonite clay mixed according to the water-to-cement ratio in Table 604-1 below:

Table 604-1 Water-to-cement ratio for mixing cement bentonite grout applicable for use with portland cement class A or B

Percent Bentonite (by weight)	Maximum Mix-Water Requirements Gallons/Sack	Slurry Weight (Density) Pounds/Gallon
0	5.2	15.6
2	6.5	14.7
4	7.8	14.1
6	9.1	13.5
8	10.4	13.1
10	11.7	

(d) In addition to the requirements of We 604.05(c) above, commercially available premixed bentonite grouts designed for sealing wells may be used.

(e) Commercially available premixed bentonite grouts shall be mixed with water according to the manufacturers specifications.

(f) Acceptable sealing materials for non-contaminated drilled wells shall include:

- (1) Portland cement otherwise known as neat cement, mixed with 5 to 6 gallons of clean water per 94 pound bag;
- (2) Portland cement with 2 to 10 percent high solids bentonite clay mixed according to the water-to-cement ratio in Table 604-1;
- (3) Bentonite chips; and
- (4) Commercially available premixed grouts mixed with water according to the manufacturers specifications.

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(g) Bentonite chips used for sealing 6 inch diameter or larger wells shall be a minimum of 3/8 inch diameter and shall be applied at a rate no greater than the manufacturer's specification.

Source. #3046, eff 7-2-85; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 604.06 Responsibility.

(a) The well owner shall be responsible to have an abandoned well sealed.

(b) The licensed water well contractor shall inform the well owner of the requirements of We 603 and We 604, pertaining to well maintenance and abandonment.

(c) The licensed water well contractor shall be responsible for sealing a failed borehole, or an abandoned well if the cause for abandonment was the result of improper well construction, and occurs within 12 months of the date of construction.

Source. #9179, eff 6-13-08 (from We 604.05)

CHAPTER We 700 STANDARDS FOR THE INSTALLATION, MAINTENANCE, REPAIR OR REPLACEMENT OF PUMPS

PART We 701 PURPOSE AND APPLICABILITY

We 701.01 Purpose.

(a) These standards are designed to protect the groundwater of the state and supplied groundwater of the state from contamination resulting from improper pump installation or repair.

(b) These standards are also designed to protect the consuming public from hardship, resulting from improper pump installation or repair.

Source. #4198, eff 1-5-87; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 701.02 Applicability.

(a) These rules shall apply to all installation, maintenance, repair and replacement of pumps for water supply wells.

(b) Pumps installed temporarily shall be exempt from these rules.

(c) Temporary pump installations shall include but are not limited to:

(1) Obtaining water quality samples from wells;

(2) Testing well yield; and

(3) Developing well yield.

Source. #4198, eff 1-5-87; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

PART We 702 INSTALLATION, MAINTENANCE, REPAIR OR REPLACEMENT REQUIREMENTS

We 702.01 Public Water System Requirements under RSA 485:1. Pumps installed as part of a public water system as defined by RSA 485:1 shall be subject to the requirements of Env-Ws 372 and Env-Ws 373, or successor rules in Env-Dw, in addition to these rules.

Source. #4198, eff 1-5-87; amd by #4550, eff 1-1-89; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 702.02 Chlorination. At the time of new pump installation or reinstallation of an existing pump, all wells shall be chlorinated to a minimum concentration of 50 parts per million for a minimum of 4 hours.

Source. #4198, eff 1-5-87; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 702.03 Discharge of Chlorinated Water. Chlorinated water pumped from wells following disinfection shall not be discharged into any surface water of the state.

Source. #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 702.04 Electrical Requirements.

(a) The electrical wire between the well and the building shall be encased in conduit from the well to the inside of the foundation wall.

(b) Acceptable conduit shall include:

- (1) PVC schedule 40 or equivalent;
- (2) Metal conduit;
- (3) Flexible plastic pipe rated for 100 pounds per square inch pressure or better; and
- (4) National Electrical Code approved conduit.

(c) An electrical conduit shall be mechanically secured to the well cover to prevent the entrance of insects or other foreign matter.

(d) All electrical wiring installations from the point of entry into the building to the power source shall conform to the current National Electrical Code adopted by the electricians board under administrative rules Elec 404.01.

(e) Electrical installation within the house shall meet the following requirements:

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- (1) Electrical cable shall be secured at a maximum interval of 4 1/2 feet and within one foot of each cabinet box, fitting or pressure switch unless the cable is within an approved raceway;
 - (2) Electrical cable shall not be directly secured to cold water piping;
 - (3) If no other suitable anchorage is available, a board shall be secured to the structure, upon which the electrical cable shall be secured;
 - (4) Alternatively, installations may utilize approved electrical conduit and be subject to the appropriate anchorage provisions for conduit; and
 - (5) A protective conduit shall be used to pass the cable through the foundation wall.
- (f) All wire shall be sized in accordance with the pump or motor manufacturer's specifications.
- (g) All domestic pump installations shall have controls sufficient to regulate operation of the water system.
- (h) The wire in the well shall be secured to the drop pipe with tape in a manner which will support the weight of the wire and keep the wire close to the pipe. In order to perform this function the wire shall be secured to the drop pipe at intervals between 5 and 20 feet.
- (i) Submersible pump motors shall be grounded as specified in the National Electrical Code adopted by the electricians board under Elec 404.01.
- (j) The pump circuit equipment grounding conductor shall be bonded to the well casing in all wells where metal casing is used.
- (k) All wire connections in the well, with the exception of the grounding conductor, shall be water tight.

Source. #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 702.05 Mechanical Requirements.

- (a) All submersible pump installations shall have a minimum of 2 check valves.
- (b) Well casing shall extend above the ground surface a minimum of 8 inches except as provided by We 602.12. Additional casing height shall, however, be required to prevent entrance of surface water in areas prone to seasonal flooding.
- (c) All wells shall be vented and all vents shall be covered with screen to prevent the entrance of insects or other foreign matter.
- (d) All wells shall be equipped with a cover which provides an o-ring, gasket, or other seal to prevent the entrance of insects or other foreign matter.
- (e) Plastic water supply pipe when used in a well shall be installed in accordance with the manufacturers specifications.
- (f) All water service pipe installed underground, between the building and the well, shall have a minimum working pressure of 160 pounds per square inch (psi).
- (g) No plastic or nylon fitting shall be used in the well in submersible pump installations unless they are cement type fittings for use with rigid or semi-rigid plastic pipe.

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(h) All connections to flexible plastic pipe in the well or under ground outside the building foundation shall be double clamped with all stainless steel clamps.

(i) All domestic wells with a casing inside diameter of 4 to 12 inches shall be fitted with a pitless adaptor to allow for the delivery of water from the well to the building.

(j) Pitless adaptors shall be installed in a manner to exclude the entrance of water or other material into the well.

(k) The water supply line shall be buried a minimum of 4 feet below grade for protection from freezing. If burial to 4 feet is not feasible due to the presence of bedrock or ledge, burial at a lesser depth shall be permitted provided that additional protection from freezing is provided.

(l) Torque arrestors shall be used on all nominal 6 inch or larger drilled well submersible pump installations.

(m) Notwithstanding We 702.05(1), torque arrestors shall not be required under the following conditions:

(1) If the pump is installed on steel pipe; or

(2) If a caving condition exists within the well.

(n) If a torque arrestor is not installed due to a caving condition, a double jacketed wire or a wire sleeved from the pump to the pitless adapter, shall be used in lieu of a torque arrestor.

(o) Hydro-pneumatic pressure tanks shall be sized and installed in accordance with the submersible pump assembly manufacturer's recommendations for minimum run time.

Source. #7307, eff 6-13-00; ss by #9179, eff 6-13-08

CHAPTER We 800 REPORTS

PART We 801 WELL COMPLETION REPORT

We 801.01 Required Information and Entry Format.

(a) Well completion reports shall include the following information:

- (1) Property owner name;
- (2) Building contractor name, if applicable;
- (3) Location of well, located by:
 - a. Geographic coordinates provided by global positioning technology;
 - b. Enhanced 911 street address, if available;
 - c. Tax map and lot number of the property; and
 - d. A hand drawing or site map, if more than one well is located on the property;
- (4) A statement identifying whether the well site requires a non-conforming well location form;
- (5) Date well was completed;
- (6) Proposed use of well;
- (7) Reason for constructing well;
- (8) Type of well;
- (9) Total depth of well;
- (10) Depth to bedrock, if encountered;
- (11) Casing details;
- (12) Method of sealing casing to bedrock, if applicable;
- (13) Screen details, if applicable;
- (14) Results, method, and duration of yield test(s) conducted;
- (15) Static water level, if encountered;
- (16) A statement specifying whether a water quality sample was collected;
- (17) A description and depth intervals of unconsolidated surficial deposits encountered;
- (18) Description of competent bedrock type, if encountered;
- (19) Yield test at various depths, if performed;
- (20) Hydro-fracturing or other well development details, if applicable;
- (21) Additional well seals installed, if applicable;

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- (22) Special notes, if any;
 - (23) Company name;
 - (24) Date of report; and
 - (25) License number.
- (b) Well completion report entries shall be typed or printed.
- (c) Well completion reports shall also include the licensed water well contractor signature.

Source. #2557, eff 12-27-83; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 801.02 Location, Accuracy, Method of Reference, Street Address and Attachments.

- (a) Well locations shall be geographically referenced using the World Geodetic System 1984 (WGS 84) datum or its successor, in degrees, decimal minutes (hddd°mm.mmm) of latitude and longitude with at least three decimal places of precision, and recorded on the well completion report.
- (b) Location coordinates shall be obtained from a United States global positioning systems receiver.
- (c) Location accuracy shall be equal to or greater than that obtained from a single global positioning systems receiver in autonomous mode.
- (d) Street address of the property shall be provided as listed on the enhanced 911 street address guide to the extent it is publicly available on the date of submission of the report.
- (e) When more than one well is located on a property, a hand drawing or site map shall be attached to the well completion report indicating the position of each well relative to significant permanent man-made or natural features on the property.

Source. #2557, eff 12-27-83; amd by #4549, eff 1-1-89; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 801.03 Submission Procedure.

- (a) Well completion reports shall be submitted to the board at the following address:

Water Well Board
P.O. Box 95
Concord, New Hampshire 03302-0095.

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- (b) Well completion reports shall be submitted by first class mail or in person.
- (c) Well completion reports shall be submitted no later than 90 days after completion of the well.
- (d) Well completion reports shall be considered submitted on the date stamped received by the department or the board.
- (e) Failure to submit well completion reports within 90 days shall subject the licensee to the possibility of an administrative fine in accordance with RSA 482-B:16 and Env-C 616.
- (f) Well completion reports filed later than 90 days after completion of the well, which are not associated with an impending disciplinary action, shall be accompanied by a written statement signed by the licensee, explaining why the reports were submitted late.
- (g) The board shall accept the late reports without the imposition of a disciplinary action upon the following findings:
 - (1) Good faith efforts to comply with the requirements of RSA 482-B and the rules of the board;
 - (2) No previous history of non-compliance with the reporting requirement within a calendar year;
 - (3) The reports were submitted late due to a circumstance which was out of the control of the licensee; or
 - (4) Any other unique or especially compelling circumstances clearly stated in the written statement.
- (h) Well completion reports received without the information required in We 801.01 and We 801.02 shall be returned to the licensee, shall not satisfy the requirement of RSA 482-B:10 and shall subject the licensee to the potential for an administrative fines in accordance with RSA 482-B:16 and Env-C 616.

Source. #7307, eff 6-13-00; ss by #9179, eff 6-13-08

PART We 802 MONITORING WELL COMPLETION REPORT

We 802.01 Applicability.

- (a) Well completion reports shall be submitted to the water well board in accordance with the provisions of We 801 for all test or exploration wells associated with the development of drinking water supplies.

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(b) Well completion reports shall be submitted to the water well board for the deepest monitoring well constructed at each property or place of business, and for each monitoring well constructed into bedrock at each property or place of business.

Source. #4418, eff 5-2-88; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 802.02 Required Information and Entry Format.

(a) Well completion reports shall include the following information:

- (1) Property owner name;
- (2) Client name, if applicable;
- (3) Location of well(s), located by:
 - a. Geographic coordinates provided by global positioning technology;
 - b. Enhanced 911 street address, if available;
 - c. Tax map and lot number of the property; and
 - d. A hand drawing or site map, if only one report is submitted for a well network;
- (4) Date well or network completed;
- (5) Proposed use of well;
- (6) Reason for constructing well;
- (7) Type of well;
- (8) Total depth of well;
- (9) Depth to bedrock, if encountered;
- (10) Casing details;
- (11) Method of sealing casing to bedrock, if applicable;
- (12) Screen details, if applicable;
- (13) Results, method, and duration of yield test(s) conducted, if performed;
- (14) Static water level, if encountered;
- (15) A description and depth intervals of unconsolidated surficial deposits encountered;
- (16) Description of competent bedrock type, if encountered;
- (17) Special notes, if any;

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- (18) Company name;
 - (19) Date of report; and
 - (20) License number.
- (b) Well completion report entries shall be typed or printed.
- (c) Well completion reports shall also include the licensed water well contractor signature.

Source. #4418, eff 5-2-88; amd by #4549, eff 1-1-89; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 802.03 Location Accuracy, Method of Reference, Street Address and Attachments.

- (a) Well locations shall be geographically referenced using the World Geodetic System 1984 (WGS 84) datum or its successor, in degrees, decimal minutes (hddd°mm.mmm) of latitude and longitude with at least three decimal places of precision, and recorded on the well completion report.
- (b) Location coordinates shall be obtained from a United States global positioning systems receiver.
- (c) Location accuracy shall be equal to or greater than that obtained from a single global positioning systems receiver in autonomous mode.
- (d) Street address of the property shall be provided as listed on the enhanced 911 street address guide to the extent it is publicly available on the date of submission of the report.
- (e) When a technical driller files only one well completion report for the deepest well in a well network, a hand drawing or site map shall be attached to the well completion report indicating the location of each monitoring well installed by the technical driller relative to significant permanent man-made or natural features at the site and relative to wells located with GPS coordinates.
- (f) If a technical driller submits well completion reports to the water well board for all monitoring wells constructed at each property or place of business, the technical driller shall not be subject to the site map submission requirements set forth in subsection (e) of this section.

Source. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 802.04 Submission Procedure.

- (a) Well completion reports shall be submitted to the board at the following address:

Water Well Board
P.O. Box 95
Concord, New Hampshire 03302-0095.

- (b) Well completion reports shall be submitted by first class mail or in person.

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(c) Well completion reports shall be submitted no later than 90 days after completion of the well.

(d) Well completion reports shall be considered submitted on the date stamped received by the department or the board.

(e) Failure to submit well completion reports within 90 days shall subject the licensee to the possibility of an administrative fine in accordance with RSA 482-B:16 and Env-C 616, subject to the criteria established in We 801.03(f) and (g).

(f) Well completion reports received without the information required in We 802.02 and We 802.03 shall be returned to the licensee, shall not satisfy the requirement of RSA 482-B:10 and shall subject the licensee to the potential for an administrative fine in accordance with RSA 482-B:16 and Env-C 616.

Source. #7307, eff 6-13-00; ss by #9179, eff 6-13-08

CHAPTER We 900 ADMINISTRATIVE FINES

Statutory Authority: RSA 482-B:16, II

PART We 901 DETERMINATION OF FINE AMOUNT

We 901.01 Administrative Fine Amount. Except as provided by We 901.02 administrative fines shall be assessed in accordance with the provisions of Env-C 610 or Env-C 616.

Source. #4549, eff 1-1-89; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 901.02 Administrative Fine Adjustments. Following an appeal hearing pursuant to RSA 482-B:8, II, before the board, the board shall take one of the following actions:

- (a) Affirm the commissioner's decision;
- (b) Overturn the commissioner's decision based upon testimony presented at the hearing establishing the existence of one or more of the following criteria:
 - (1) The decision was contrary to statute or rules;
 - (2) The decision was arbitrary or capricious;
 - (3) Good faith efforts were made to comply with the requirements of RSA 482-B and the rules of the board; or
 - (4) Any other unique or especially compelling circumstances clearly stated in the record of the hearing.
- (c) Increase the fine based upon testimony presented at the hearing establishing the existence of one or more of the following criteria:
 - (1) The willfulness and/or negligence involved in the violation;
 - (2) The number of previous violations; or
 - (3) Any other unique or especially compelling circumstances clearly stated in the record of the hearing.
- (d) Decrease the fine based upon testimony presented at the hearing establishing the existence of one or more of the following criteria:
 - (1) Good faith efforts to comply with the requirements of RSA 482-B and the rules of the board;
 - (2) No previous history of non-compliance;
 - (3) The proposed fine amount would result in undue hardship pursuant to RSA 482-B:13; or

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(4) Any other unique or especially compelling circumstances clearly stated in the record of the hearing.

Source. #4549, eff 1-1-89; ss by #4730, eff 1-15-90; ss by #4898, eff 8-13-90; EXPIRED: 8-13-96

New. #6327, INTERIM, eff 8-24-96, EXPIRED: 12-22-96

New. #6449, eff 1-29-97; ss by #7307, eff 6-13-00; ss by #9179, eff 6-13-08

CHAPTER We 1000 REGISTRY OF COMPLAINTS

Statutory Authority: RSA 482-B:18

PART We 1001 PURPOSE AND APPLICABILITY

We 1001.01 Purpose. These rules establish the information to be contained in the registry of complaints and the procedure for providing information contained in the registry to the public.

Source. #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 1001.02 Applicability. Water well contractors and pump installers shall be subject to the provisions of this chapter.

Source. #7307, eff 6-13-00; ss by #9179, eff 6-13-08

PART We 1002 MAINTAIN A REGISTRY

We 1002.01 Registry. The board shall maintain a registry of complaints which have been validated by the board or the department.

Source. #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 1002.02 Contents of the Registry.

(a) The registry shall contain the following information:

- (1) The date the board received the complaint;
- (2) The name of the water well contractor or pump installer;
- (3) The name of the person(s) filing the complaint;
- (4) A brief and concise description of the subject of the complaint;
- (5) Any formal actions taken by the department or the board in response to the complaint; and
- (6) The date on which the board heard the complaint, if heard by the board.

(b) Complaints that have been dismissed by the board shall not be validated and shall not become part of the registry.

(c) Complaints which have been withdrawn by the person(s) filing the complaint shall not become part of the registry.

Source. #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 1002.03 Public Access.

(a) Persons may request information from the registry either by telephone or in writing.

(b) Requests received by the board for information from the registry shall be processed within 10 working days of the date of receipt by the agency.

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(c) Nothing herein shall preclude any person from requesting a review of the complete record of complaints in the board’s files in accordance with the right to know law, RSA 91-A.

Source. #7307, eff 6-13-00; ss by #9179, eff 6-13-08

We 1002.04 Requests for Removal from the Registry. Licensees may request the board to remove the record of complaints filed against their company from the registry.

- (a) All requests for removal shall be submitted to the board in writing and shall be signed and dated.
- (b) Upon receipt of a request, the board shall take one of the following actions:
 - (1) Grant the request if the board has not received a complaint against the licensee within 3 consecutive years prior to the date of the request; or
 - (2) Deny the request, in writing, stating fully the reasons for denial.

Source. #7307, eff 6-13-00; ss by #9179, eff 6-13-08

APPENDIX

Rule	Statute the Rule Intends to Implement
We 100	RSA 482-B:3, I and RSA 541-A:16, I(a)
We 201 - We 202	RSA 541-A:16; II RSA 541-A:29
We 203	RSA 482-B :8, I & II; RSA 482-B :16; RSA 541-A:16, I
We 204	RSA 482-B :13; RSA 541-A:16, I; RSA 541-A:29
We 205	RSA 541-A:16, I(c); RSA 541-A:4
We 206	RSA 482-B :4, VIII; RSA 482-B :9; RSA 482-B :16, I & II; RSA 541-A:16, I; RSA 541-A:30, II; RSA 541-A:31; RSA 541-A:32; RSA 541-A:33; RSA 541-A:34; RSA 541-A:35; RSA 541-A:36
We 207	RSA 541-A:6 RSA 541-A:11, I – V; RSA 541-A:16, I(b)
We 301	RSA 482-B :1; RSA 482-B :4, I & III & VI; RSA 482-B :5, II
We 302	RSA 482-B :4, II; RSA 482-B :5, III
We 303	RSA 482-B :4, IV
We 304	RSA 482-B :4, VII; RSA 482-B :5, IV
We 401	RSA 482-B :1; RSA 482-B :4, V; RSA 482-B :5, I & V; RSA 482-B :6
We 402	RSA 482-B :4, V; RSA 482-B :5, V
We 500	RSA 482-B :1; RSA 482-B :8
We 600	RSA 482-B :1; RSA 482-B :4, X; RSA 482-B :15
We 700	RSA 482-B :1; RSA 482-B :4, X; RSA 482-B :15
We 800	RSA 482-B :1; RSA 482-B :3, II; RSA 482-B :4, IX; RSA 482-B :10
We 900	RSA 482-B :1; RSA 482-B :16, II
We 1000	RSA 482-B :1; RSA 482-B :18