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310 CMR: DEPARTMENT OF ENVIRONMENTAL PROTECTION

310 CMR 46.00: CERTIFICATION OF WELL DRILLERS AND FILING OF WELL COMPLETION REPORTS

Section

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46.01: General

(1) Authority and Purpose. The Department of Environmental Protection (Department) promulgates 310 CMR 46.00 pursuant to the authority granted to it under M.G.L. c. 21G, §§ 14 and 20. 310 CMR 46.00, among other things, establish the qualifications for certification, information to be filed upon well completion, certification responsibilities, and criteria whereby a certification can be revoked.

(2) Definitions.

Abandoned Well means productive or non productive well, use of which has been permanently discontinued or has been out of service at least three years, is no longer suitable or used for monitoring purposes, or is a potential hazard to public health or safety and the situation cannot be corrected, such as well construction terminated before completion.

Alteration means changing the structural or hydraulic characteristics of a well, including well deepening, hydrofracturing, well casing extension, replacement, or repair.

Business of Well Drilling means charging a fee or advertising for hire the availability to drill productive or nonproductive wells in Massachusetts. The term drilling shall include both digging and drilling.

Casing means impervious durable pipe placed in a boring to prevent the walls from caving and to serve as a vertical conduit for water in the well.

Certified Well Driller means an individual authorized by certification with the Department, or under the predecessor regulations, 313 CMR 3.00, by registration with the Department of Conservation and Recreation, to engage in the business and supervise the drilling, altering, or decommissioning of wells in Massachusetts, and who signs and submits the well completion report to the Department and the municipal board of health.

Commissioner means the Commissioner of the Department of Environmental Protection.

Decommissioning means plugging of an abandoned well so that it will not serve as a conduit for movement of water to or from the well or between water bearing zones.

Department means the Department of Environmental Protection.

Drawdown means extent of lowering of the water surface in a well resulting from discharge of water in the well.

Engage in the Business means having a principal financial interest in the firm doing business.

Hydrofracturing means the science of entering a dry or low yield water well with special mechanical or inflatable well packers, used in conjunction with high pressure volume pumps to inject water for cleaning out existing seams and breaking into new aquifers.

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Immediate Field Supervision means providing sufficient onsite direction to the drilling crew and oversight of the drilling operation to ensure compliance with state regulations, municipal codes, and permit requirements on well location, drilling operation, use of equipment, materials, personnel, and quality of workmanship. For productive wells, this includes making certain that any required municipal permit has been obtained and state dig-safe regulations are complied with before starting the drilling operation, as well as performing onsite supervision of drilling startup, setting of casing, installing the protective well seal, and testing for well yield. For nonproductive wells, this includes the certified well driller inquiring with the municipality about regulations, and either obtaining or ensuring that any required municipal permit is obtained before starting the drilling operation, making certain that state dig-safe regulations are complied with, and providing sufficient technical oversight to ensure that guidelines contained in the Department's Standard References for Monitoring Wells are followed.

Municipal Board of Health means the municipal board established in compliance with M.G.L. c. 41, § 21 and M.G.L. c. 111, § 26. For purposes of 310 CMR 46.00, board of health includes a department of health established pursuant to M.G.L. c. 111, §§ 26A through 26E.

Nonproductive Well means either a well not having sufficient water available for its intended use or a well used for groundwater monitoring purposes or any well installation tool which is left in the ground for more than 48 hours after the installation. Guidelines for locating, drilling, installing, sampling, and decommissioning monitoring wells are contained in the Department's Standard References for Monitoring Wells.

Productive Well means a well having sufficient water available for its intended use.

Protective Well Seal means device or arrangement which seals the annular space between casing and rock, or between casing and unconsolidated formations, to prevent pollutants from entering the well.

Recovery means the time required after well pumping ceases for the water level in the well to rise to pre-pumping level.

Static Water Level means the distance from established ground surface to the stabilized water surface in a well which is neither being pumped nor under the influence of pumping.

Well or Waterwell means any hole or shaft constructed into the ground for the purpose of injecting or extracting water and other fluids, or to monitor groundwater levels and water quality. Not included are wells used on a temporary basis for the purpose of dewatering excavations, stabilizing hillsides or earth embankments, sampling soil vapors, or sampling groundwater if the installation tool is left in the ground less than 48 hours.

Well Completion means a well for which well data required for the well completion report has been obtained and the drilling rig is moved off the site at the end of the drilling operation.

Well Driller means any individual, corporation, company, association, trust, or partnership that drills, constructs, alters, or decommissions a well for a fee, or advertises for hire to provide such services in Massachusetts.

Well Drilling Rig means any power driven, percussion, rotary, digging, jetting, direct push, vibrating, hydrofracturing, or augering machine used in the construction, alteration or decommissioning of a well.

Well Yield means the smaller of two well test measurements to determine:

- (a) gallons per minute of water discharged while being pumped over a four hour period; and
- (b) gallons per minute of water discharged after a minimum of 1½ hours of well recovery.

46.02: Certification Requirements

- (1) Certification Required. Unless a holder of a certificate in accordance with 310 CMR 46.02, or a registration in accordance with the predecessor regulations, 313 CMR 3.00, no person shall engage in the business of well drilling in the Commonwealth. This certification requirement does not include wells used on a temporary basis for the purpose of dewatering excavations, stabilizing hillsides or earth embankments, sampling soil gases, or sampling groundwater if the installation tool is left in the ground less than 48 hours.
- (2) Requirements for Certification. To obtain a certificate, an applicant must show satisfactory evidence that the applicant has attained:
  - (a) experience in drilling wells in Massachusetts by being actively engaged in drilling of productive wells in Massachusetts under the immediate field supervision of a Massachusetts certified well driller for at least 36 months prior to application date;
  - (b) knowledge of well drilling by passing a written general examination, prepared and administered by the National Ground Water Association (NGWA), or by the Department; and
  - (c) competency in the drilling of wells sufficient to assume the function and duties of a certified well driller, attested to in a sworn affidavit by a Massachusetts certified well driller who supervised the applicant's work.
- (3) Waiver. The Department may waive certain requirements set forth in 310 CMR 46.02(2) when the Department receives satisfactory evidence under one of the following options that the applicant:
  - (a) is certified in another state with comparable certification requirements and well drilling conditions, has been certified in that state for a period of at least three years, and is in good standing. If certification requirements are not comparable, the Department shall require at least one year additional experience of being actively engaged in the drilling of productive wells in Massachusetts under the immediate field supervision of a Massachusetts certified well driller.
  - (b) was previously certified in Massachusetts within two years of receipt of application for reinstatement, and submits payment of fees in arrears as determined by the Department.
  - (c) is certified by NGWA as a Certified Well Driller, and beyond NGWA certification requirement, has at least one year additional experience of being actively engaged in drilling productive wells in Massachusetts under the immediate field supervision of a Massachusetts certified well driller.
- (4) Special Certification for Drilling Monitoring Wells Only. An applicant may apply for a special certificate for drilling monitoring wells only if the applicant has either:
  - (a) certification as a NGWA Certified Well Driller, including having passed the specialty examination on monitoring well construction; or
  - (b) equivalent certification from National Drilling Contractors Association (NDCA) and meets equivalent qualification requirements.
- (5) Temporary Certification. The Department may issue a temporary certificate for administrative purposes, provided the applicant has met qualifications set forth in 310 CMR 46.02(2), 310 CMR 46.02(3) or 310 CMR 46.02(4). A temporary certificate shall be valid for up to 90 days. The fee for a temporary certificate shall be the same as for an annual certification.

46.03: Certification Contents and Responsibilities

- (1) Certified Well Driller Identification.
  - (a) Certificate. To provide documentation of valid well driller certification, following the applicant's payment of the applicable fee, the Department will issue a Certificate to qualified applicants containing the name, address, and certification number of the certified well driller, type of well drilling for which the certification is valid, annual period of validation, and the signature of the Commissioner, or the Commissioner's designee. The Certificate is nontransferable, and the certification number shall not be re-assigned if a certification is not renewed.

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(b) Advertisement. Any advertising of availability for hire to drill wells in Massachusetts shall include the name and certification number of the certified well driller engaged in the business being advertised.

(c) Rig Permit and Rig Markings for Field Identification. For each well drilling rig used to engage in the well drilling business in Massachusetts, a certified well driller shall apply to the Department for a rig permit. Following the applicant's payment of the applicable fee, the Department will issue a rig decal designating the annual period for which the permit is valid. The decal shall be affixed to the well drilling rig for which it is issued; in no case shall a well drilling rig be operated without the decal affixed. For field identification, the certified well driller shall display in a conspicuous location on both sides of each well drilling rig the words "Massachusetts Certified Well Driller" or "Massachusetts Certified Monitoring Well Driller" (as specified on the Certificate), as well as the certification number. Letters in these words shall be at least two inches high. If a certification is not renewed or is suspended or revoked, or if a well drilling rig is no longer used by the certified driller, all rig markings referring to Massachusetts certification shall be removed.

(2) Immediate Field Supervision. A certified well driller engaged in, or assigned to the business of drilling a well, shall provide immediate field supervision as defined in 310 CMR 46.01(2), and as specified by the municipal board of health.

(3) Well Completion Report. The certified well driller who provided immediate field supervision on drilling of a well shall submit a report to the Department, with a copy to the municipal board of health, within 30 days of well completion. The report shall be on a form furnished by the Department, and shall contain information on, at minimum, well location; well owner name and address; municipal board of health permit; well use; well completion date; casing type, size, length, and depth into bedrock; protective well seal; well depth; depth to bedrock and water bearing zones; well screen and setting; static water level; well yield from productive wells, including drawdown, recovery, and testing method used; drilling log describing materials penetrated; hydrofracturing; well abandonment; and well driller business. The certified well driller who provided immediate field supervision shall sign the report, thereby attesting to information accuracy and completeness. For installation of groups of monitoring wells, the certified well driller shall submit one well completion report containing data on a typical well and noting the number of wells installed in the group, unless individual well completion reports are required by the municipality.

(4) Annual Renewal. A certified well driller shall submit annually to the Department an application for certification and rig permit renewal at least 30 days prior to the expiration of the certification, accompanied by the applicable certification fee. The application shall contain, at minimum, the applicant's current address, name of the business for which the applicant is engaged in drilling wells, number of wells drilled under the applicant's supervision during the current certification period, and the applicant's signature. If a certification renewal application is received subsequent to expiration of the annual certification period, the certification fee shall then be twice the established certification fee. Subsequent to renewal, a certified well driller shall notify the Department of any changes in address or business entity.

46.04: Criteria for Suspension or Revocation of Certification, Penalties and Other Actions

(1) Any failure to comply with 310 CMR 46.00, or any act or failure to act which endangers public health or safety, shall be considered sufficient criterion for the suspension or revocation of certification and for other action by the Department and the Commonwealth, pursuant to applicable law, including, but not limited to, civil, administrative and other penalties and fines.

(2) Any well driller who fails to certify with the Department and offers services for hire, or any certified well driller who either fails to submit a well completion report in accordance with 310 CMR 46.03(3), submits a report that includes false, misleading or inaccurate statements, or falsifies a certification application, is subject to suspension or revocation of certification by the Department and to other action by the Department and the Commonwealth, pursuant to applicable law, including, but not limited to, civil, administrative and other penalties and fines.

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(3) The Department may require any person to provide information as the Department deems necessary to determine whether such person is subject to, in violation of, or has violated M.G.L. c. 21G, § 14, M.G.L. c. 21G, § 20 or 310 CMR 46.00.

46.05: Severability

If any provision of 310 CMR 46.00 or its application is held to be invalid, such invalidity shall not affect any provisions of 310 CMR 46.00 not specifically held invalid.

REGULATORY AUTHORITY

310 CMR 46.00: M.G.L. c. 21G, §§ 14 and 20.

NON-TEXT PAGE