

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

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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 “Closed loop geothermal well” means a boring drilled into the earth, which includes a closed pipe loop grouted in place for the purpose of transferring heat to or from the subsurface.

Source. #12075, eff 12-24-16

We 101.09 “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

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(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; renumbered by #12075 (formerly We 101.08)

We 101.10 “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); renumbered by #12075 (formerly We 101.09)

We 101.11 “Critical well location” means an actual or proposed well location delineated on state approved plans and specifications, pursuant to RSA 485-A:30-b, with a conditional approval requiring the location not be moved, usually a result of lot loading requirements.

Source. #12075, eff 12-24-16

We 101.12 “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); renumbered by #12075 (formerly We 101.10)

We 101.13 “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); renumbered by #12075 (formerly We 101.11)

We 101.14 “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); renumbered by #12075 (formerly We 101.12)

We 101.15 “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); renumbered by #12075 (formerly We 101.13)

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We 101.16 “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); renumbered by #12075 (formerly We 101.14)

We 101.17 “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); renumbered by #12075 (formerly We 101.15)

We 101.18 “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); renumbered by #12075 (formerly We 101.16)

We 101.19 “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); renumbered by #12075 (formerly We 101.17)

We 101.20 “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); renumbered by #12075 (formerly We 101.18)

We 101.21 “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); renumbered by #12075 (formerly We 101.19)

We 101.22 “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); renumbered by #12075 (formerly We 101.20)

We 101.23 “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); renumbered by #12075 (formerly We 101.21)

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We 101.24 “Listed” means equipment or materials included in a list published by an organization that is acceptable under the current National Electrical Code, adopted pursuant to RSA 155-A:1, IV, concerned with evaluation of products, that maintains periodic inspection of production of listed equipment or materials, and whose listing states that either the equipment or material meets appropriate designated standards or has been tested and found suitable for a specified purpose.

Source. #12075, eff 12-24-16

We 101.25 “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); renumbered by #12075 (formerly We 101.22)

We 101.26 “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); renumbered by #12075 (formerly We 101.23)

We 101.27 “Open loop geothermal well” means a water well constructed for the purpose of transferring heat to or from the subsurface.

Source. #12075, eff 12-24-16

We 101.28 “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); renumbered by #12075 (formerly We 101.24)

We 101.29 “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); renumbered by #12075 (formerly We 101.25)

We 101.30 “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); renumbered by #12075 (formerly We 101.26)

We 101.31 “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); renumbered by #12075 (formerly We 101.27)

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We 101.32 “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); renumbered by #12075 (formerly We 101.28)

We 101.33 “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); renumbered by #12075 (formerly We 101.29)

We 101.34 “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); renumbered by #12075 (formerly We 101.30)

We 101.35 “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); renumbered by #12075 (formerly We 101.31)

We 101.36 “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); renumbered by #12075 (formerly We 101.32)

We 101.37 “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); renumbered by #12075 (formerly We 101.33)

We 101.38 “Sewer” means a pipe or conduit used to convey sewage.

Source. #12075, eff 12-24-16

We 101.39 “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); renumbered by #12075 (formerly We 101.34)

We 101.40 “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); renumbered by #12075 (formerly We 101.35)

We 101.41 “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); renumbered by #12075 (formerly We 101.36)

We 101.42 “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); renumbered by #12075 (formerly We 101.37)

We 101.43 “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); renumbered by #12075 (formerly We 101.38)

We 101.44 “Well” means “well” as defined in RSA 482-B:2.

Source. #9177, eff 6-13-08 (from We 101.37); renumbered by #12075 (formerly We 101.39)

We 101.45 “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); renumbered by #12075 (formerly We 101.40)

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;

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- (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

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

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.

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(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.

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(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 REQUIREMENTS, QUALIFICATIONS, FEES, AND APPLICATION PROCEDURES

REVISION NOTE:

Document #12083, effective 3-1-17, readopted with amendments Chapters We 300 through We 900. Document #12083 replaces all prior filings for rules in the former Chapters We 300 through We 900.

The amendments in Document #12083 included extensive internal renumbering within Chapter We 300 and Chapter We 600. The prior filings for the former Chapter We 300 include the following documents:

- #2557, eff 12-27-83
- #4418, eff 5-2-88
- #4550, eff 1-1-89
- #4730, eff 1-15-90
- #4898, eff 8-13-90, EXPIRED 8-13-96
- #6327, INTERIM, eff 8-24-96, EXPIRED 12-22-96
- #6449, eff 1-29-97
- #7307, eff 6-13-00
- #9179, eff 6-13-08

The rules in the former Chapters We 300 through We 900 which had last been filed under Document #9179 did not expire on 6-13-16 since they were extended pursuant to RSA 541-A:14-a until replaced by the rules in Document #12083, effective 3-1-17.

PART We 301 PURPOSE AND APPLICABILITY

We 301.01 Purpose. The purpose of this part is to establish licensure requirements, qualifications, and application procedures for construction of water wells and installation of water well pumps.

Source. (See Revision Note at chapter heading for We 300)
#12083 eff 3-1-17

We 301.02 Applicability. This chapter applies to any person who:

- (a) Constructs a water well or installs a water well pump;
- (b) Engages in the business of constructing water wells or installing water well pumps; and
- (c) Applies for a license to construct water wells or install water well pumps.

Source. (See Revision Note at chapter heading for We 300)
#12083 eff 3-1-17

PART We 302 LICENSE REQUIREMENTS AND QUALIFICATIONS; EXCEPTIONS

We 302.01 License Required.

(a) No person or business shall engage in the following activities without first having obtained a water well contractor license issued by the board:

- (1) Construction of wells for water supply;

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- (2) Construction of observation wells for monitoring ground water quantity, quality or movement;
- (3) Construction of closed loop or open loop geothermal wells;
- (4) Construction of wells greater than 20 feet in depth for dewatering of construction sites; and
- (5) Technical drilling, as defined in RSA 482-B:2, IV-b.

(b) Subject to We 302.02, no person or business shall engage in the following activities without first having obtained a pump installer license issued by the board:

- (1) Installation of new pump systems or replacement pumps, for any purpose, including conducting pumping tests; and
- (2) Maintenance and repair of existing pump systems.

Source. (See Revision Note at chapter heading for We 300)
#12083 eff 3-1-17

We 302.02 Exemptions. Notwithstanding We 302.01, above, a water well contractor license or a pump installer license shall not be required for the following activities:

- (a) Construction of wells less than or equal to 20 feet in depth for the temporary de-watering of construction sites;
- (b) Exploratory excavations analyzing foundation conditions related to the construction of a structure;
- (c) Pump installations used for the temporary de-watering of construction sites;
- (d) Maintenance and repair of existing pump systems as specified in RSA 482-B:15, when performed by:

- (1) A licensed plumber when engaged in the practice of plumbing as defined in RSA 153:27, XIV; or
- (2) A licensed electrician when performing electrical installations as defined in RSA 319-C:2, III; and

(e) Temporary pump installations for the purpose of conducting pumping tests on new wells, when performed by the following individuals, provided that after such testing is completed, the final pump installation shall only be performed by a licensed pump installer in accordance with We 302.01(b):

- (1) A water distribution system operator licensed in New Hampshire pursuant to RSA 332-E;
- (2) A professional engineer licensed in New Hampshire pursuant to RSA 310-A; or
- (3) A professional geologist licensed in New Hampshire pursuant to RSA 310-A.

Source. (See Revision Note at chapter heading for We 300)
#12083 eff 3-1-17

We 302.03 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 302.07.

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

Source. (See Revision Note at chapter heading for We 300)
#12083 eff 3-1-17

We 302.04 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. (See Revision Note at chapter heading for We 300)
#12083 eff 3-1-17

We 302.05 Minimum Experience Requirement.

(a) An applicant shall have been actively engaged in the water well construction or pump installation trade for a minimum of 3 years prior to the date of 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) A drilling contractor shall have one year of experience drilling water wells in crystalline rocks of the Appalachian Region, as required by RSA 482-B:5,III.

(d) One year of work experience shall be equal to a minimum of 1,600 hours of work experience per year.

Source. (See Revision Note at chapter heading for We 300)
#12083 eff 3-1-17

We 302.06 Proof of Experience.

(a) An applicant shall submit, together with the application, supporting documentation demonstrating that the experience required by We 302.05 and RSA 482-B:5, III, has been gained.

(b) An applicant shall provide a written statement of experience on the application, including the following information:

- (1) Name of employers;
- (2) Dates of employment;
- (3) Tasks performed, including types of wells constructed, if applicable; and
- (4) Types of equipment used for constructing wells.

(c) An applicant may provide additional information on the application regarding experience and how it has been gained, including, but not limited to:

- (1) Types of geologic formations penetrated, if applicable;
- (2) Workman's compensation insurance classification, by employer, if applicable;
- (3) Customer names, addresses, and the dates on which work was performed; and
- (4) Any other information the applicant deems pertinent and relevant, including attachments, licenses held in other states, or written statements from former employers.

(d) An applicant shall submit the name, address, and telephone number of at least 3 references who are 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; and
- (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.

(e) An applicant shall request a person making a reference to complete and submit directly to the board the reference form (2016) portion of the application; and

(f) References submitted to the board by the applicant shall not be accepted.

Source. (See Revision Note at chapter heading for We 300)
#12083 eff 3-1-17

We 302.07 Qualified Individual.

(a) No licensed water well construction or pump installation business shall engage in the business of water well construction or pump installation unless the business has designated a licensed water well contractor or licensed pump installer as its qualified individual.

(b) The qualified individual shall be an owner, partner, corporate officer, or employee directly in charge of the business affairs of the business.

(c) The qualified individual shall:

- (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. (See Revision Note at chapter heading for We 300)
#12083 eff 3-1-17

We 302.08 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 construct any water wells or install any pumps until another licensed individual takes the position of the withdrawn or deceased individual and is designated as the qualified individual for the business licensee.

Source. (See Revision Note at chapter heading for We 300)
#12083 eff 3-1-17

PART We 303 LICENSES; LICENSE APPLICATION PROCEDURE

We 303.01 Type of Construction or Installation to be Specified on License.

- (a) A water well contractor license shall specify the type of construction for which the licensee is qualified, as specified in (b), below.
 - (b) A water well contractor shall be licensed 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) A pump installer license shall specify the type of installation for which the licensee is qualified, as specified in (d), below.

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

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

Source. (See Revision Note at chapter heading for We 300)
#12083 eff 3-1-17

We 303.02 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;
- (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. (See Revision Note at chapter heading for We 300)
#12083 eff 3-1-17

We 303.03 Application Forms.

(a) An applicant for a license shall apply to the board in writing on an “Application For Water Well Contractor License” or “Application For Pump Installer License” form provided by the board.

(b) A license application shall include all of the information specified in RSA 482-B:5, II, and the following:

- (1) The type of construction the applicant is qualified to perform;

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- (2) The type of equipment to be used for constructing wells;
- (3) The name, address, and date of birth of the applicant;
- (4) If the applicant is a business entity, the name of the business entity and the qualified individual for that business entity;
- (5) The state in which the applicant is incorporated, if applicable;
- (6) The total fee enclosed with the application;
- (7) Licenses held in others states, if applicable;
- (8) The written statement of experience as described in We 302.05;
- (9) References as described in We 302.06; and
- (10) Proof of registration with the NH secretary of state in accordance with RSA 349, if applicable;
- (11) A statement that the applicant agrees to comply with the ethical and professional standards specified in these rules; and
- (12) For a pump installer license, the applicant's plumber's license number, if a registered licensed plumber.

(c) A license application shall be signed by the license applicant and acknowledged before a notarial officer in accordance with RSA 456-B.

Source. (See Revision Note at chapter heading for We 300)
#12083 eff 3-1-17

PART We 304 EXAMINATIONS

We 304.01 Examination Required.

(a) An applicant shall not be issued a license unless the applicant has passed an examination administered by the board.

(b) No person shall sit for an examination administered by the board unless:

- (1) The person has first submitted an application to the board, together with all required documentation and fees, as specified in We 303, above; and
- (2) The application has been approved by the board.

Source. (See Revision Note at chapter heading for We 300)
#12083 eff 3-1-17

We 304.02 Schedule.

(a) Examinations shall be offered within 30 days after any regularly scheduled board meeting.

(b) An applicant who fails to achieve a passing grade of 70% on an examination shall not be permitted to retake the examination until the next scheduled examination date.

Source. (See Revision Note at chapter heading for We 300)
#12083 eff 3-1-17

We 304.03 Exemptions. An applicant shall not be required to take an examination if:

(a) The applicant is licensed in another state and the board determines that the requirements for granting reciprocity in RSA 482-B:5, IV and We 305 are satisfied; or

(b) An exemption is necessary to ameliorate undue hardship, as specified in RSA 482-B:13 and We 204.

Source. (See Revision Note at chapter heading for We 300)
#12083 eff 3-1-17

PART We 305 RECIPROCITY

We 305.01 Statutory Authority. Subject to We 305.02 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. (See Revision Note at chapter heading for We 300)
#12083 eff 3-1-17

We 305.02 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. (See Revision Note at chapter heading for We 300)
#12083 eff 3-1-17

We 305.03 Procedure.

(a) An applicant for a reciprocal license shall follow the application procedure in We 303.

(b) In addition to the requirements of We 303, an applicant shall submit a certified copy of the license held in the state 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 305 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. (See Revision Note at chapter heading for We 300)
#12083 eff 3-1-17

CHAPTER We 400 LICENSE RENEWAL

PART We 401 LICENSE RENEWAL PROCEDURE

We 401.01 Application for Renewal.

(a) A persons holding a valid water well contractor or pump installer license who wishes to renew such license shall submit an application for license renewal, on a “License Renewal Form” or a “Late License Renewal Form” obtained from the board, together with the required fee prior to June 30 of any given year.

(b) A pump installer applying for renewal shall provide, together with the renewal application:

- (1) A signed written statement of compliance with the continuing education requirements of We 402; and
- (2) Proof of attendance at all approved continuing education programs.

(c) A completed “License Renewal Form” shall include the following:

- (1) The license types held and the renewal fee;
- (2) The license number;
- (3) The name and address of the licensee;
- (4) If the licensee is a business entity, the name and address of the business entity and the name of the qualified individual;
- (5) The licensee’s telephone number and, if applicable, e-mail address;
- (6) The number of well construction machines or pump service trucks used;
- (7) The total fee enclosed with the application; and
- (8) The licensee’s signature.

(d) A “Late license Renewal Form” shall include:

- (1) The information required in (c) above;
- (2) A \$20 late fee per license in addition to the license renewal fee; and
- (3) The licensee 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; ss by #12083, eff 3-1-17 (See Revision Notes at Chapter headings for We 300 and We 600)

We 401.02 Renewal of License.

(a) Subject to RSA 482-B:8 and 9, upon receipt of an application 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) The first 4 additional 4 x 6 inch license decal per license, without an additional fee; or
- (2) Any additional 4 inch by 6 inch license decals upon receipt of a fee of \$25 per pair.

(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) A licensee 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; ss by #12083, eff 3-1-17 (See Revision Notes at Chapter headings for We 300 and We 600)

We 401.03 Notice of Invalidation. On or after August 1st of each year, the board shall send a notice, by first class mail, to the last known address of any previously licensed water well contractor or pump installer whose license expired on June 30th of that year, informing the previous licensee that:|

(a) The license expired on June 30th;

(b) The late fee of \$20 required by RSA 482-B:5, I, shall be filed in addition to the regular license fee; and

(c) If a renewal application, together with the required fees, is not 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; ss by #12083, eff 3-1-17 (See Revision Notes at Chapter headings for We 300 and We 600)

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We 401.04 Refusal of License Renewal. The board shall deny an application for license renewal if the licensee fails to comply with this section and We 402, or if the board otherwise has good and sufficient reason to refuse to renew the license, as specified in RSA 482-B:8.

Source. #7307, eff 6-13-00; ss by #9179, eff 6-13-08; ss by #12083, eff 3-1-17 (formerly We 402.05) See Revision Notes at Chapter headings for We 300 and We 600

PART We 402 CONTINUING EDUCATION

We 402.01 Purpose. The purpose of We 402 is 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, including 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; ss by #12083, eff 3-1-17 (See Revision Notes at Chapter headings for We 300 and We 600)

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; ss by #12083, eff 3-1-17 (See Revision Notes at Chapter headings for We 300 and We 600)

We 402.03 Requirements.

- (a) A licensed pump installer shall complete a minimum of 2 hours of continuing education annually.
- (b) Compliance with this part by the qualified individual for a business licensee shall satisfy the requirements of this part for the business licensee.
- (c) A licensed pump installer applying for renewal less than one year after the initial license was issued shall not be required to comply with this section.

Source. #7307, eff 6-13-00; ss by #9179, eff 6-13-08; ss by #12083, eff 3-1-17 (See Revision Notes at Chapter headings for We 300 and We 600)

We 402.04 Continuing Education; Subject Matter.

- (a) Continuing education in the following subjects shall satisfy the requirements of this part:
 - (1) Water wells;
 - (2) Water pumps;
 - (3) Water conditioning and treatment systems;
 - (4) Occupational safety;
 - (5) Business management;
 - (6) Hydrogeology; and

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(7) Water resources management and protection.

(b) The following types of continuing education courses, conferences, and seminars shall satisfy the requirements of this part:

(1) Course work, seminars, workshops, or lectures given by:

- a. The department;
- b. Other state agencies including the electricians' board and the mechanical 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; ss by #12083, eff 3-1-17 (See Revision Notes at Chapter headings for We 300 and We 600)

CHAPTER 500 ETHICAL STANDARDS

PART We 501 CODE OF ETHICS

We 501.01 Purpose. The purpose of We 500 is to establish minimum standards of ethical conduct and professional performance and to protect the rights of consumers, investors and industries living or doing business in the state of New Hampshire.

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; ss by #12083, eff 3-1-17 (See Revision Notes at Chapter headings for We 300 and We 600)

We 501.02 Ethical Practices.

(a) The professional practice of well drilling and pump installation 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) A water well contractor or pump installer shall provide competent service and maintain the standards of practice in the fields in which the licensee customarily engages and 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; ss by #12083, eff 3-1-17 (See Revision Notes at Chapter headings for We 300 and We 600)

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

REVISION NOTE:

Document #12083, effective 3-1-17, readopted with amendments Chapters We 300 through We 900. Document #12083 replaces all prior filings for rules in the former Chapters We 300 through We 900.

The amendments in Document #12083 included extensive internal renumbering within Chapter We 300 and Chapter We 600. The prior filings for the former Chapter We 600 include the following documents:

- #3046, eff 7-2-85
- #4730, eff 1-15-90
- #4898, eff 8-13-90, EXPIRED 8-13-96
- #6327, INTERIM, eff 8-24-96, EXPIRED 12-22-96
- #6449, eff 1-29-97
- #7307, eff 6-13-00
- #9179, eff 6-13-08

The rules in the former Chapters We 300 through We 900 which had last been filed under Document #9179 did not expire on 6-13-16 since they were extended pursuant to RSA 541-A:14-a until replaced by the rules in Document #12083, effective 3-1-17.

PART We 601 PURPOSE AND APPLICABILITY

We 601.01 Purpose. The purpose of We 600 is to protect:

- (a) The groundwaters of the state from contamination resulting from improper well construction, maintenance, or abandonment; and
- (b) The consuming public from hardship, resulting from improper well construction, maintenance, or abandonment.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 601.02 Applicability.

- (a) We 600 shall apply to all construction, maintenance, and repair of wells, and sealing of abandoned wells.
- (b) With the exception of We 602.33, We 603.01(e), and We 604.02(b), observation wells constructed for investigating groundwater shall be exempt from the provisions of We 602, We 603 and We 604.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

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 Env-Dw 301, 302, 404, 405, and 406, or successor rules in Env-Dw, in addition to these rules.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.02 Reports. A water well contractor shall submit a "Well Completion Report" for each well constructed or decommissioned, in accordance with We 800 and RSA 482-B:10.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.03 Chlorination. A person who completes construction of a new well, installs a new pump in a well, or reinstalls an existing pump in a well shall chlorinate the well to a minimum concentration of 50 parts per million for a minimum of 4 hours upon completion of such construction or installation.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

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

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.05 Grouting of Well Casings.

(a) Subject to (b), below, for wells that are required to have grouted well casings, as specified in We 602.14, We 602.16, We 602.22, and We 602.25, the following construction methods shall be used:

- (1) The void area outside the well casing shall be filled with:
 - a. Neat cement;
 - b. Cement-sand grout;
 - c. Cement bentonite grout containing no more than 5 percent bentonite; or
 - d. High solids bentonite grout;
- (2) For bedrock wells:
 - a. One of the following techniques shall be used to set grout material in place:
 - i. Grout shall be pumped through a tremie pipe inserted on the outside of the casing to the bottom of the pilot hole while the pipe is raised in a continuous operation, as the void area is filled, to the ground surface; or
 - ii. The casing shall be secured approximately 12 inches above the bottom of a pilot hole, drilled into bedrock, and grout shall be pumped into the casing with sufficient pressure to force the grout out of the bottom of the casing into the void area outside of the casing and to fill the annulus from the bottom up to the ground surface; and

b. After grout has been set as specified in a.ii, above, the casing shall be firmly driven to the bottom of the hole; and

(3) For wells constructed in gravel, grout shall extend from 5 feet below the pitless adapter to a depth, based on well design, sufficient to prevent surface water from channeling along the casing to groundwater.

(b) This section shall not apply to:

(1) Excavated wells constructed as specified in We 602.31; and

(2) Driven and drive-and-wash wells constructed as specified in We 602.28.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.06 Well Location: Protective Well Radii, Generally.

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

(b) As specified in Env-Wq 1008.06, a protective area designated as the protective well radius shall be maintained around every private commercial or non-commercial drinking water well.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.07 Well Location: Setbacks from Septic Systems.

(a) For purposes of this section, the setback distance from any septic system effluent disposal area or septic tank shall be determined in accordance with Table 1008-4 in Env-Wq 1008.06(b); as reprinted below in Appendix C.

(b) A well shall be located no less than 75 feet from an effluent disposal area or tank of a septic system having a design flow of up to 750 gallons per day.

(c) The setback to a septic tank specified in (b), above, may be reduced to 50 feet if the soil line is SDR 26 or its equivalent and the tank is sealed and grouted.

(d) A water well contractor shall determine the location of existing septic tanks and effluent disposal areas. If the location of existing septic tanks and effluent disposal areas cannot be determined visually, the water well contractor may reasonably rely on information provided by the property owner.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.08 Well Location: Protective Well Radii and Setbacks from Property Boundaries.

(a) For purposes of this section, the setback distance from any property boundary shall be determined in accordance with Table 1008-4 in Env-Wq 1008.06(b), as reprinted below in Appendix C.

(b) As specified in RSA 485-A:30(b) and (c), a protective well radius, shall be contained:

(1) Wholly on-lot;

(2) On a recorded easement for the purpose of wellhead protection, including a cross-easement to facilitate overlapping well radii, as specified in Env-Wq 1009.09;

(3) On land which is permanently dedicated to a use which precludes development; or

(4) Within state and locally mandated property line setbacks to septic systems, including the 10-foot setback to property lines established for septic systems in Env-Wq 1008.04(a).

(c) For the purposes of (b)(3) above, the term “lands precluded from development” includes, but is not limited to:

(1) State forests identified in RSA 227-H:5;

(2) Protected lands held under the terms of RSA 227-M, where the deed precludes development of buildings or subsurface waste disposal systems within the affected area;

(3) Conservation lands held under the terms of RSA 477:45-47, where the deed precludes development of buildings or subsurface waste disposal systems within the affected area.

(4) Any surface water;

(5) Any wetland as defined in RSA 482-A:2, X; and

(6) Any public road, subject to the requirements of We 602.08 (d) and We 602.09(b).

(d) A protective well radius shall not extend across a property line onto a public road unless use of other lands listed in We 602.08(c) above, is not available, or not practicable.

(e) Wells constructed in subdivisions with overlapping protective well radii with recorded easements shall not have to meet the special methods of construction specified in We 602.16.

(f) Wells constructed with protective well radii overlapping onto land within a state or locally mandated property line setback shall not have to meet the special methods of construction specified in We 602.16.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.09 Well Location: Other Potential Sources of Contamination. Except as specified in We 602.14, below, a well shall not be located less than:

(a) Fifty feet from a:

(1) State highway right-of-way;

(2) Surface water; or

(3) Sewer or any component thereof;

(b) Seventy five feet from a:

(1) Livestock pen subject to (c), below;

(2) Automotive salvage yard;

- (3) Solid waste disposal site;
- (4) Fertilizer, manure, or salt storage pile or other source of contamination; or
- (5) Public road surface; or

(c) One hundred feet from a livestock pen for wells constructed in unconsolidated materials by excavation.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.10 Well Location: Dug Wells in Areas Prone to Flooding or Standing Water. A wells constructed in unconsolidated materials by excavation shall not be located in an area prone to flooding or subject to standing water.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.11 Well Location: Underground Storage Tanks. Pursuant to Env-Or 407.06(e), on lots with underground storage tanks the following setbacks shall apply:

(a) 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

(b) 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.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.12 Well Location: State Approved Septic Plans.

(a) Prior to constructing a new well on a lot on which a septic system is proposed or has been constructed, a water well contractor shall review the state-approved septic plan to confirm the approved well location.

(b) For any new well on a lot on which a septic system is proposed or has been constructed, a water well contractor shall install the well in the location shown on the state approved septic plan.

(c) If a well cannot be installed in the location shown on the approved plan, a water well contractor shall consult with the property owner, or the property owner's agent, to determine an acceptable location for the well, and construct the well in an alternate location in accordance with RSA 485-A:30-b, and We 602.06 through We 602.15.

(d) For lots with site conditions requiring a critical well location, as defined in We 101.11, the following criteria shall apply:

- (1) If the well cannot be installed in the location shown on the approved plan, the water well contractor shall consult with the permitted designer of the individual sewage disposal system and property owner, or the property owner's agent, to determine an acceptable location for the well; and

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(2) The water well contractor shall not construct the well in an alternate location prior to the issuance by the department of an approved amended plan, pursuant to RSA 485-A:29 and Env-Wq 1003.14(b).

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.13 Setback Reductions: General Requirements. Where site conditions prevent compliance with We 602.06 through We 602.09, a water well contractor shall:

- (a) In consultation with the property owner, identify an alternate well location that maximizes setback distances to the greatest extent possible;
- (b) Alert the property owner of the potential for contamination at the proposed alternate location;
- (c) Except as specified in We 602.14, below, obtain a written acknowledgement from the property owner, prior to construction of the well, using the setback reduction form obtained from the board, that the property owner understands and accepts the potential consequences of constructing a well in the proposed alternate location; and
- (d) Submit a copy of the signed "Setback Reduction Form" to the board together with the "Well Completion Report".

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.14 Setback Reductions: Bedrock Wells.

(a) For bedrock wells that do not meet the setback requirements specified in We 602.06 through We 602.09, a water well contractor shall use special methods of construction to provide additional protection from potential pollution, as specified in We 602.16.

(b) For bedrock wells that do not meet the setback requirements specified in We 602.08, a water well contractor shall either:

- (1) Use special methods of construction to provide additional protection from potential pollution, as specified in We 602.16; or
- (2) Obtain a completed and signed "Setback Reduction Form" from the property owner, as specified in We 602.13(c), and submit a copy to the board as specified in We 602.13(d); and
 - a. Install no less than 40 feet of casing in the well, with no less than 10 feet of casing into competent bedrock; and
 - b. Grout the casing as specified in We 602.05.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.15 Setback Reductions: Septic Systems.

(a) Subject to (c), below, no reduction to the setback to an effluent disposal system, as specified in Table 1008-4 in Env-Wq 1008.06(b), shall be permitted except on:

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- (1) A lot of record that existed prior to July 1, 1967; or
- (2) Any other lot on which there is an existing structure and an existing septic system for which an approval to operate has been granted in accordance with RSA 485-A and Env-Wq 1004.07, or predecessor rules.

(b) Setback reductions for wells on lots specified in (a), above, shall not be permitted unless:

- (1) Due to the size, geography, or location of existing structures, there is no practicable alternative location that complies with the required setbacks; and
- (2) The water well contractor complies with We 602.16.

(c) A water well contractor shall not commence construction of any well with a proposed setback to an effluent disposal area of less than 25 feet except after inspection by the department, in accordance with (d), below, and receipt of written confirmation that no practicable alternative location for the well exists.

(d) An inspection by the department shall be conducted within 7 business days following receipt of a request for inspection. Written requests may be made by electronic mail.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.16 Setback Reductions: Special Methods of Construction for Bedrock Wells.

(a) For a bedrock well that does not comply with the setback requirements of We 602.06 through We 602.12, as applicable, a water well contractor shall:

- (1) For a bedrock well with a minimum setback requirement of 75 feet, install casing in accordance with the Table 602-1:

Table 602-1 Minimum Casing Length Where a 75-foot Setback is Required

Horizontal Setback (ft.)	Minimum Length of Casing (ft.)
75 or greater	20
70-74	27
65-69	37
60-64	45
55-59	51
50-54	56
45-49	60
40-44	63
35-39	66
30-34	69
25-29	71

- (2) For a bedrock well with a minimum setback requirement of 50 feet, install casing in accordance with the Table 602-2:

Table 602-2 Minimum Casing Length Where a 50-foot Setback is Required

Horizontal Setback (ft.)	Minimum Length of Casing (ft.)
50 or greater	20
45-49	22
40-44	30
35-39	36
30-34	40
25-29	43

(3) Grout the casing as specified in We 602.05; and

(4) Seal the casing to a minimum depth of 10 feet into competent bedrock.

(b) For purposes of determining minimum casing length for setbacks to effluent disposal areas or septic tanks, in accordance with Table 602-1, if a well is located at a higher elevation than the effluent disposal area, the difference in elevation shall be added to the minimum required casing length.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.17 Setback Reductions: Setback Reduction Form. A “Setback Reduction Form” shall contain the following:

(a) Name of property owner;

(b) Location of property, including, as applicable; and

(1) Street address;

(2) Subdivision name and lot number; and

(3) Town tax map number and lot number;

(c) Reason for alternate location;

(d) If applicable, methods of construction used for construction of wells with reduced setbacks, as specified in We 602.14;

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

(f) The actual setback distances from the alternate location to potential observed sources of contamination, including but not limited to:

(1) On-site and off-site septic system tanks and effluent disposal areas; and

(2) Property boundaries;

(g) The property owner’s signature and date; and

(h) The water well contractor's name and license number.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.18 Wells for Public Water Systems. A well constructed as part of a public water system as defined by RSA 485:1-a, XV shall have the location approved by the department pursuant to Env-Dw 301, Env-Dw 302, Env-Dw 404, Env-Dw 405, and Env-Dw 406, or successor rules in Env-Dw.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.19 Private Wells on Lots Served by a Public Water System.

(a) A private well shall not be constructed on a lot served 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.

(b) 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.

(c) Paragraph (a), above, shall not apply to closed loop geothermal wells.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.20 Wells Drilled in Bedrock: Recordkeeping and Reporting.

(a) A person constructing a bedrock well shall complete a "Well Completion Report" and submit the well completion report to the board in accordance with We 801.

(b) A person constructing a bedrock well shall observe and record the following information:

- (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.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.21 Wells Drilled in Bedrock: Casing Function and Materials.

- (a) A well casing for a bedrock well shall be made of a material and weight appropriate to assure adequate performance of the functions for which casing is used.
- (b) A well casing for a bedrock well shall:
 - (1) Provide access for withdrawal of ground water;
 - (2) Prevent intrusion of contaminants from the ground surface or from_unconsolidated surficial deposits into the well;
 - (3) Prevent entrance of soil particles into the well;
 - (4) Provide a reference for locating the well;
 - (5) Not be made of or contain materials that are a source of pollution;
 - (6) If made of steel, have a minimum wall thickness of 0.23 inches; and
 - (7) If made of plastic, 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).

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.22 Wells Drilled in Bedrock: Installation and Placement of Casing.

- (a) A bedrock well shall have no less than 20 feet of casing.
- (b) A well casing for a bedrock well shall:
 - (1) Extend above the ground surface:
 - a. A minimum of 8 inches or, in areas prone to flooding, to a greater height sufficient to prevent entrance of surface water into the well; or
 - b. For a well that is part of a public water system as defined in RSA 485:1-a, XV, a minimum of 18 inches.
 - (2) Have a secure cover with an o-ring, gasket, or other seal to prevent the entrance of insects or other foreign matter into the well; and
 - (3) Be placed 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.
- (c) The following techniques shall apply to well casing placement:
 - (1) A hole shall be drilled into the bedrock to a depth sufficient to allow the casing to be installed to a minimum depth of 10 feet into competent bedrock or to a greater depth, if necessary to accept the casing and provide a seat for the drive shoe on the end of the casing;
 - (2) A well casing 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) A "Jaswell" type seal tip, shale packer or functionally equivalent equipment may be used on steel casing if the casing is placed in an open hole cased with a larger diameter temporary casing to bedrock;
 - (6) For a well that requires additional casing, as specified in We 602.14 and We 602.16, a water well contractor using cable tool drilling methods may use a "Jaswell" type seal tip, shale packer, or functionally equivalent equipment;
 - (7) When cable tool drilling methods are used, a drive shoe shall not be required if a tapered hole with ledge drillings is used or the casing is grouted as specified in We 602.05;
 - (8) The void area outside the casing shall be filled with cement grout, bentonite or ledge drillings or cuttings; and
 - (9) For a well constructed on a known active hazardous waste remediation site, petroleum spill remediation site, or a site with unlined solid waste landfill, 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.
- (d) The above requirements shall not preclude the use of additional protective measures.
- (e) A "Jaswell" type seal tip, shale packer or functionally equivalent equipment shall not be used to remedy a failed drive shoe seal, or to remedy an inadequately cased well, in new well construction.
- (f) When drilling water wells in bedrock using air rotary drilling methods, water shall be injected into the well on a continuous basis at a rate sufficient to clean the well and prevent dust production during the drilling process.
- (g) 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.

(h) For wells constructed as part of a public water system as defined by RSA 485:1-a, XV, the void area outside the casing shall grouted in accordance with We 602.05 to prevent surface water from channeling along the well casing.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.23 Wells Constructed in Unconsolidated Materials: Applicability, Recordkeeping, and Reporting.

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

(b) A person constructing a well in unconsolidated materials shall complete a “Well Completion Report”, and submit the well completion report to the board in accordance with We 801.

(c) A person constructing a well in unconsolidated materials shall 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.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.24 Wells Constructed in Unconsolidated Materials: Casing Function and Materials.

(a) A well casing for a well constructed in unconsolidated materials shall be made of a material and weight appropriate to assure adequate performance of the functions for which casing is used.

(b) A well casing for a well constructed in unconsolidated materials shall:

- (1) Provide access for withdrawal of ground water;
- (2) Provide a storage area for water prior to withdrawal;
- (3) Prevent intrusion of contaminants at or near the surface into the well;
- (4) Provide a reference for locating the well;
- (5) Not be made of or contain materials that are a source of pollution;
- (6) If made of steel, have a minimum wall thickness of 0.23 inches; and
- (7) If made of plastic, 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).

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.25 Wells Constructed in Unconsolidated Materials: Installation and Placement of Casing. A well casing for a well constructed in unconsolidated materials shall:

(a) Extend above the ground surface as follows:

(1) A minimum of 8 inches, or in areas prone to flooding, to a greater height sufficient to prevent entrance of surface water into the well; and

(2) For a well that is part of a public water system as defined in RSA 485:1-a, XV, a minimum of 18 inches.

(b) Have a cover with an o-ring, gasket, or other seal to prevent the entrance of insects or other foreign matter into the well;

(c) Be terminated using one of the following methods, as determined by the water well contractor based on conditions present and the uses of the well;

(1) Open end casing;

(2) Well screen;

(3) Gravel pack; or

(4) Perforated casing;

(d) Have the void area outside the casing grouted in accordance with We 602.05; and

(e) When constructed for household use, produce a volume of clear water to meet the demands of the household which the well serves.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.26 Driven Wells: Applicability, Recordkeeping, and Reporting.

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

(b) A person constructing a driven well shall complete a “Well Completion Report”, and submit the well completion report to the board in accordance with We 801.

(c) A person constructing a driven well shall measure and record the water level at the time of construction.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.27 Driven Wells: Casing Function and Materials.

(a) A well casing for a driven well shall be made of a material and weight appropriate to assure adequate performance of the functions for which the casing is used.

(b) A well casing for a driven well shall:

(1) Provide access for withdrawal of ground water;

(2) Prevent intrusion of contaminants or soil particles into the well;

(3) Provide a reference for locating the well;

- (4) Not be made of or contain materials that are a source of pollution; and
- (5) Transmit the driving force to the well point.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.28 Driven Wells: Installation and Placement of Casings. A well casing for a driven well shall:

- (a) Have a cover to prevent the entrance of insects or other foreign matter into the well;
- (b) Be accessible to facilitate periodic disinfection or well maintenance; and
- (c) When constructed for household use in unconsolidated materials produce a volume of clear water to meet the demands of the household which the well serves.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.29 Wells Constructed by Excavation: Applicability Recordkeeping, and Reporting.

- (a) This section shall apply to wells commonly known as dug wells and constructed by excavation.
- (b) A person constructing a well by excavation shall complete a “Well Completion Report”, and submit the “Well Completion Report” to the board in accordance with We 801.
- (c) A person constructing well by excavation shall observe and record the following information:
 - (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.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.30 Wells Constructed by Excavation: Casing Function and Materials.

- (a) A well casing for a well constructed by excavation shall be made of a material and weight appropriate to assure adequate performance of the functions for which the casing is used.
- (b) A well casing for a well constructed by excavation shall:
 - (1) Provide access for withdrawal of ground water;
 - (2) Provide a storage area for water prior to withdrawal;
 - (3) Prevent intrusion of contaminants or soil particles into the well;
 - (4) Provide a reference for locating the well;
 - (5) Not be made of or contain materials that are a source of pollution;
 - (6) Be made of the following materials:

- a. Interlocking concrete tile;
- b. Steel; or
- c. Plastic; and

(7) If made of plastic, 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).

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.31 Wells Constructed by Excavation: Installation and Placement of Casing. A well casing for a well constructed by excavation shall:

- (a) Extend above the ground surface a minimum of 18 inches or, in areas prone to flooding, to a greater height sufficient to prevent the entrance of surface water into the well;
- (b) Have a secure cover with a seal to prevent the entrance of insects or other foreign matter into the well. Wooden covers shall not be used;
- (c) Have joints sealed to exclude surface water from entering the well, if the joints are within 6 feet of the ground surface;
- (d) Be set on a bed of clean crushed stone or naturally occurring coarse gravel, if present;
- (e) Have crushed stone 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
- (f) Be properly aligned.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.32 Wells Constructed by Excavation: Backfill.

- (a) Backfill for a well constructed by excavation shall be:
 - (1) Placed in a manner that will deter intrusion of soil into the well and reduce the likelihood of surface waters percolating directly into the well through the backfill;
 - (2) Covered with at least 2 feet of impervious material, including but not limited to, clay or hardpan; and
 - (3) Compacted to reduce settlement.
- (b) Organic material including but not limited to loam, peat, building paper, hay or soil shall not be used as or in backfill.
- (c) When crushed stone is used around the casing, a non-polluting barrier, such as pea stone, shall be used over the crushed stone to prevent fine soils from entering the crushed stone.

(d) 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. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.33 Development of Well Yield, Generally.

(a) Well yield shall be measured periodically during well construction when there is a readily observable change in yield.

(b) A well shall be flushed or surged to remove debris and by-products of the construction process.

(c) A well 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. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.34 Development of Well Yield by Hydrofracturing. A water well contractor who uses hydrofracturing, as defined in We 101.20 to potentially increase the yield of a water well shall comply with the following requirements:

(a) Injection water used for hydrofracturing shall be drawn from a potable source if available;

(b) If a potable water source is not available, a water well contractor may use non-potable water if the water is:

(1) Not drawn from stagnant water sources such as beaver ponds;

(2) Free of visible sediment; and

(3) Chlorinated to a minimum concentration of 50 parts per million and allowed to stand for a minimum of 1/2 hour 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) 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;

(e) 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;

(f) For the purposes of (e), 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; and

(g) Dry ice and explosives shall not be used for hydrofracturing or well development in bedrock well construction.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.35 Termination of Well Casings Below Ground Surface.

(a) A water well contractor shall not terminate a well casing below the ground surface unless:

(1) The location of the well would pose a hazard if the casing extended above the ground surface;

(2) The well contractor first advises the well owner of the advantages of terminating 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 and costs of terminating the well casing below the ground surface; and

(3) Once advised, the well owner requests that the well casing be terminated below the ground surface.

(b) For a well terminated below the land surface, a water well contractor shall:

(1) Terminate the top of the casing in a drained, cased well pit with a secure cover installed at the ground surface;

(2) Completely seal the top of the casing to prevent the entrance of surface water, ground water, soil, or other foreign matter into the well;

(3) Vent the well to avoid the creation of a vacuum; and

(4) Construct vents to ensure that they do not become blocked or allow contamination to enter the well.

(c) For a well terminated below the ground surface, a water well contractor shall include on the "Well Completion Report" and provide to the property owner the exact location of the well as referenced by exact distances to at least 3 permanent references including the following:

(1) If a house has been built, at least 2 reference distances shall be to 2 corners of the foundation;

(2) 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 point within the property boundaries; or

(3) If no house or other structure exists on the property, the references shall be to the closest permanent reference points within the property boundaries.

(d) For the purposes of (a)(1), 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.

(e) This section shall not apply to wells constructed by excavation in accordance with We 602.29 through We 602.32.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.36 Monitoring Wells.

(a) Monitoring wells shall be designed, installed, developed, and maintained as specified in Env-Or 704.02(a), (b) and (c), ASTM “Standards on Environmental Site Characterization”, dated 2015, available as noted in Appendix B, and “Standards Related to Environmental Sampling”, 5th Edition (ASTM SAMP14), available as noted in Appendix B.

(b) Monitoring wells shall be decommissioned as specified in ASTM “Standard Guide for the Decommissioning of Groundwater Wells, Vadose Zone Monitoring Devices, Boreholes, and Other Devices for Environmental Activities” D5299-99, 2012, available as noted in Appendix B.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.37 Closed Loop Geothermal Wells.

(a) The setback and protective well radius requirements specified in We 602.06 through We 602.12, shall not apply to closed loop geothermal wells.

(b) A closed loop geothermal well shall be located no less than:

- (1) Fifty feet from a well used for potable water supply; and
- (2) Twenty five feet from a septic tank or effluent disposal area.

(c) During advancement of the borehole, the licensed contractor shall follow the observation and record keeping requirements of We 602.20.

(d) 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.

(e) The borehole shall be grouted as follows:

- (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;
- (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; and
- (4) The following materials shall not be used 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. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 602.38 Open Loop Geothermal Wells.

- (a) A withdrawal, return or standing column well shall be located:
 - (1) As specified in We 602.06 through We 602.12; 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 602.20.
- (c) An open-loop geothermal well shall be cased as specified in We 602.21 and We 602.22 or, if a reduced setback is required, as specified in We 602.13 through We 602.17.
- (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) An owner of an open loop geothermal well shall obtain a groundwater discharge permit in accordance with Env-Wq 402.33 through Env-Wq 402.36.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

PART We 603 WELL MAINTENANCE

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

- (a) A well casing shall not be terminated below ground surface, except as specified in We 602.35.
- (b) A well with a casing inside diameter of 4 to 12 inches shall be equipped with a well cover with an o-ring, gasket or other seal to prevent the entrance of insects or other foreign matter into the well.
- (c) A well with a casing inside diameter less than 4 inches shall be fitted with a secure cap or plug.
- (d) A well constructed by excavation 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) A monitoring well shall be fitted with a secured tamper proof well cover.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 603.02 Inactive Wells. For a well that is no longer in use the following requirements shall apply:

- (a) An inactive well terminated above ground surface shall be:
 - (1) Sealed in accordance with We 604.04 through We 604.06; or
 - (2) Maintained in accordance with We 603.01(a) through (e), except that a well casing shall not be terminated below ground surface; and
- (b) An inactive well terminated below ground surface shall be:
 - (1) Sealed in accordance with We 604.04 through We 604.06; or
 - (2) Fitted with a well casing extension in accordance with We 603.03 and maintained in accordance with We 603.01(a) through (e).

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 603.03 Well Casing Extensions.

(a) If any repair, replacement, or maintenance work is performed on an existing pump or well terminated below the ground surface, and the well does not meet the requirements for terminating the casing below ground surface, as specified in We 602.35, a casing extension shall be installed to raise the casing above the surface of the ground to the height required under We 602.22 and We 602.25.

(b) A well casing extension shall be water tight.

(c) A well casing extension 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 602.21.

(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. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 603.04 Abandoned Wells. A well that has been abandoned, in accordance with We 604.03, shall be sealed as specified in We 604.04 through We 604.06.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

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. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

PART We 604 SEALING ABANDONED WELLS

We 604.01 Purpose. The purpose of We 604 is to prevent abandoned wells from becoming a source of contamination to groundwater or otherwise becoming a health or safety hazard to the citizens of the state.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 604.02 Applicability.

- (a) We 604 shall apply to all wells.

(b) A well shall be sealed only by a licensed New Hampshire water well contractor who has been issued a valid water well contractor license under RSA 482-B.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 604.03 Determination of Abandonment.

(a) A well shall be deemed to be abandoned if it is:

- (1) Inactive;
- (2) Not maintained in accordance with We 603; and
- (3) Not sealed in accordance with We 604.05.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

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. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 604.05 Sealing. An abandoned well shall be sealed as follows:

(a) A well constructed by excavation 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) Subject to (e), below, a drilled well penetrating bedrock shall be sealed as follows:

- (1) The bore hole shall be filled with clean ½ inch diameter crushed stone at intervals of 100 feet or less, to a depth of 20 feet below the bottom of the well casing;
- (2) A 4-foot seal comprised of bentonite pellets, chips, or cement shall be installed between each layer of crushed stone; and
- (3) The remainder of the borehole and casing shall be grouted using materials specified for grouting casings, as specified in We 602.05;

(c) A drilled well constructed in unconsolidated materials shall be sealed as follows:

- (1) The screened area and casing shall be filled with sand, gravel, washed stone, or cement up to 15 feet below finished grade;
- (2) A 4-foot seal comprised of bentonite, pellets, chips, or cement shall be installed; and
- (3) The remainder of the casing shall be grouted using materials specified for grouting, as specified in We 602.05;

(d) A well, other than a drilled well, constructed in unconsolidated materials with a casing diameter 2 inches or less shall be sealed as follows:

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- (1) The casing shall be removed from the ground, to the extent possible, and any remaining casing shall be cut away to a depth of one foot below the ground surface;
- (2) The hole, together with any remaining casing and screen, shall be filled with bentonite pellets or chips, with a maximum diameter of 3/8 of an inch, up to the ground surface; and
- (3) Well cover components shall be removed and the resulting void shall be backfilled with materials similar to the adjacent ground up to the surrounding surface grade;

(e) Notwithstanding the sealing requirements in We 604.05(b) and We 604.05(c) above, abandoned drilled wells penetrating bedrock may be sealed by grouting the entire length of the well;

(f) A drilled well penetrating bedrock or constructed in unconsolidated materials that has been contaminated or is causing an environmental hazard, including a salt contaminated well, 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 up to 5 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 API class A or B and ASTM Type I or II

Percent Bentonite (by weight)	Maximum Mix-Water Requirements Gallons/Sack	Slurry Weight (Density) Pounds/Gallon
Neat cement	5.2	15.6
1	6.0	15.0
2	6.5	14.7
3	7.2	14.4
4	7.8	14.1
5	8.5	13.8

(g) In addition to the materials specified in We 604.05(f) above, commercially available premixed bentonite grouts designed for sealing wells may be used;

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

(i) 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 not more than 5 percent high solids bentonite clay mixed according to the water-to-cement ratio in Table 604-1;
- (3) Bentonite chips;
- (4) Bentonite and sand grout slurry with a mix ratio no greater than 50 pounds of bentonite to 400 pounds of sand; and
- (5) Commercially available premixed grouts mixed with water according to the manufacturers specifications; and

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(j) Bentonite chips used for sealing 6 inch diameter or larger wells shall be a minimum of 3/8 inch diameter and shall be hydrated and as specified by the manufacturer.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

We 604.06 Responsibility.

(a) Except as specified in (c), below, it shall be the responsibility of the well owner to have an abandoned well sealed.

(b) Upon completing a replacement well installation, a licensed water well contractor shall inform the well owner of the requirements of We 603 and We 604, pertaining to maintenance and abandonment of the existing well.

(c) A licensed water well contractor shall be responsible for sealing:

(1) A failed borehole, or

(2) An abandoned well if the abandonment:

a. Resulted from improper well construction, and

b. Occurred within 12 months of the date of construction.

Source. (See Revision Note at chapter heading for We 600)
#12083 eff 3-1-17

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

PART We 701 PURPOSE AND APPLICABILITY

We 701.01 Purpose. The purpose of We 700 is to:

- (a) Protect the groundwater of the state and supplied groundwater of the state from contamination resulting from improper pump installation or repair; and
- (b) 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; ss by #12083, eff 3-1-17 (See Revision Notes at Chapter headings for We 300 and We 600)

We 701.02 Applicability.

(a) We 700 shall apply to all installation, maintenance, repair and replacement of pumps for water supply wells, except as specified in (b), below.

(b) We 700 shall not apply to pumps installed temporarily for the following purposes:

- (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; ss by #12083, eff 3-1-17 (See Revision Notes at Chapter headings for We 300 and We 600)

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-a, XV shall be subject to, Env-Dw 301, Env-Dw 302, Env-Dw 404, Env-Dw 405, and Env-Dw 406, or successor rules, 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; ss by #12083, eff 3-1-17 (See Revision Notes at Chapter headings for We 300 and We 600)

We 702.02 Chlorination. A well shall be chlorinated to a minimum concentration of 50 parts per million for a minimum of 4 hours when a pump is installed or reinstalled.

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; ss by #12083, eff 3-1-17 (See Revision Notes at Chapter headings for We 300 and We 600)

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; ss by #12083, eff 3-1-17 (See Revision Notes at Chapter headings for We 300 and We 600)

We 702.04 Electrical Requirements.

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

(b) Electrical conduit shall be:

- (1) PVC schedule 40 or equivalent;
- (2) Metal conduit;
- (3) Flexible plastic pipe rated for 100 pounds per square inch pressure or better; or
- (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. When flexible plastic pipe is used for electrical conduit, the pipe shall be secured to the well cover with a stainless steel clamp.

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(d) All electrical wiring installations from the point of entry into the building to the power source shall conform to the National Electrical Code as adopted by reference in RSA 155-A:1, IV.

(e) Electrical installation within the building served by the well shall meet the following requirements:

(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, the electrical cable shall be secured to a board which shall be secured to the structure;

(4) Installations using approved electrical conduit shall be anchored in accordance with the requirements for such conduit specified in the National Electrical Code, as adopted by reference in RSA 155-A:1, IV; and

(5) A protective conduit shall be used to pass the cable through the foundation wall.

(f) Wire shall be sized in accordance with the pump or motor manufacturer's specifications.

(g) A domestic pump installation shall have controls sufficient to operate the water system.

(h) Electrical wire in the well shall be secured to the drop pipe with tape at intervals between 5 and 20 feet, in order to support the weight of the wire.

(i) Submersible pump motors shall be grounded as specified in the National Electrical Code, as adopted by reference in RSA 155-A:1, IV.

(j) Submersible pump branch circuit equipment grounding conductors shall be bonded and mechanically connected to the well casing, if metal casing is used, using one of the following methods:

(1) Pressure connectors listed in the National Electrical Code, as specified in We 101.24;

(2) Pressure connectors listed for use as grounding and bonding equipment, as specified in We 101.24;

(3) Machine screw-type fasteners that engage not less than 2 threads or are secured with a nut;

(4) Thread-forming machine screws that engage not less than 2 threads in the enclosure;

(5) Connections that are part of a listed assembly; or

(6) Other listed methods.

(k) All wire connections in the well, with the exception of the grounding conductor, shall be water tight.

(l) Compliance with (j)(3) above, may be achieved by drilling a minimum 1/4 inch diameter hole through the well casing and connecting the grounding conductor to the casing using a stainless steel bolt and nut fastened wrench tight.

(m) For the purposes of (j)(5) above, listed assemblies shall include well covers listed for compliance with National Electrical Code requirements for grounding and bonding.

(n) Nonconductive coatings, such as paint, lacquer, and enamel, on well casing or equipment to be grounded shall be removed from contact surfaces to ensure electrical continuity unless the grounding equipment is connected by means of fittings designed to make such removal unnecessary.

Source. #7307, eff 6-13-00; ss by #9179, eff 6-13-08; ss by #12083, eff 3-1-17 (See Revision Notes at Chapter headings for We 300 and We 600)

We 702.05 Mechanical Requirements.

- (a) A submersible pump installation shall have a minimum of 2 check valves.
- (b) A well casing shall extend above the ground surface a minimum of 8 inches except as provided by We 602.35. Additional casing height shall, however, be required to prevent entrance of surface water in areas prone to seasonal flooding.
- (c) A well shall be vented and all vents shall be covered with screen to prevent the entrance of insects or other foreign matter.
- (d) A well shall be equipped with a cover with an o-ring, gasket, or other seal to prevent the entrance of insects or other foreign matter.
- (e) Plastic water supply pipe used in a well shall be installed in accordance with the manufacturer's specifications.
- (f) 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, or underground between the building and the well, in submersible pump installations unless they are cement type fittings for use with rigid or semi-rigid plastic pipe.
- (h) All connections to flexible plastic pipe in the well or underground 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 prevent 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 submersible pump installations in wells having a diameter of 6 inches or larger.
- (m) Notwithstanding We 702.05(l), 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; ss by #12083, eff 3-1-17 (See Revision Notes at Chapter headings for We 300 and We 600)

We 702.06 Standards Adopted by Reference.

(a) Water service pipe, fittings, valves, and pitless units used in potable water pump system installations shall conform to NSF/ANSI Standard 61, "Drinking Water System Components – Health Effects" 2016 edition, available as noted in Appendix B.

(b) All pressurized water storage tanks used in potable water pump system installations shall conform to ANSI/WSC PST 2000 "Standard Pressurized Water Tank" – 2016 edition, available as noted in Appendix B.

Source. #12083, eff 3-1-17 (See Revision Notes at Chapter headings for We 300 and We 600)

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 setback reduction 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;

- (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 be signed by the licensed water well contractor.

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; ss by #12083, eff 3-1-17 (See Revision Notes at Chapter headings for We 300 and We 600)

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, as required by RSA 482-B:10, I(c), 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; ss by #12083, eff 3-1-17 (See Revision Notes at Chapter headings for We 300 and We 600)

We 801.03 Submission Procedure.

- (a) “Well Completion Reports” shall be submitted to the board:

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(1) By first class or certified mail at the following address:

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

(2) In person through the water well board program manager located at the office of the department at the following address:

Water Well Board
29 Hazen Drive
Concord, New Hampshire 03301; or

(3) Electronically, using the department's OneStop Data Provider service at the following URL address:

<https://www2.des.state.nh.us/OnestopDataProviders/DESLogin.aspx>

(b) "Well Completion Reports" shall be submitted no later than 90 days after completion of the well.

(c) "Well Completion Reports" shall be considered submitted on the date stamped received by the department or the board or the date received by the department's OneStop Data Provider service.

(d) For purposes of (b), above, a new or replacement well shall be considered completed when it meets the definition of a well established in RSA 482-B:2, IV and the water well contractor removes all well construction equipment from the site.

(e) Failure to submit "Well Completion Report" within 90 days shall be a violation subject 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 have been made to comply with the requirements of RSA 482-B and the rules of the board;

(2) There is 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 exist that are clearly stated in the written statement.

(h) "Well Completion Reports" that are unsigned, signed by someone other than the water well contractor or owner of a well constructed in accordance with RSA 482-B:12, or otherwise 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 fine in accordance with RSA 482-B:16 and Env-C 616, or successor rules.

Source. #7307, eff 6-13-00; ss by #9179, eff 6-13-08; ss by #12083, eff 3-1-17 (See Revision Notes at Chapter headings for We 300 and We 600)

PART We 802 MONITORING WELL COMPLETION REPORT

We 802.01 Applicability.

(a) “Well Completion Report” shall be submitted to the water well board in accordance with We 801 for all test or exploration wells associated with the development of drinking water supplies.

(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; ss by #12083, eff 3-1-17 (See Revision Notes at Chapter headings for We 300 and We 600)

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;
 - (18) Company name;
 - (19) Date of report; and
 - (20) License number.
- (b) “Well Completion Report” entries shall be typed or printed.
- (c) “Well Completion Report” shall be signed by the licensed water well contractor.

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; ss by #12083, eff 3-1-17 (See Revision Notes at Chapter headings for We 300 and We 600)

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, as required by RSA 482-B:10(c), 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; ss by #12083, eff 3-1-17 (See Revision Notes at Chapter headings for We 300 and We 600)

We 802.04 Submission Procedure.

(a) “Well Completion Reports” shall be submitted to the board:

(1) By first class or certified mail at the following address:

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

(2) In person to the water well board program manager located at the office of the department at the following address:

Water Well Board
29 Hazen Drive
Concord, New Hampshire 03301; or

(3) Electronically, using the department’s OneStop Data Provider service at the following URL address:

<https://www2.des.state.nh.us/OnestopDataProviders/DESLogin.aspx>

(b) “Well Completion Reports” shall be submitted no later than 90 days after completion of the well.

(c) “Well Completion Reports” shall be considered submitted on the date stamped received by the department or the board or the date received by the department’s OneStop DataProvider service.

(d) For purposes of (b), above, a new or replacement well shall be considered completed when it meets the definition of a well established in RSA 482-B:2, IV and the water well contractor removes all well construction equipment from the site.

(e) Failure to submit “Well Completion Reports” within 90 days shall be a violation subject an administrative fine in accordance with RSA 482-B:16 and Env-C 616 or successor rules.

(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 have been made to comply with the requirements of RSA 482-B and the rules of the board;

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- (2) There is 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 compelling circumstances exist that are clearly stated in the written statement.

(h) “Well Completion Reports” that are unsigned, signed by someone other than the water well contractor or owner of a well constructed as in accordance with RSA 482-B:12 , or otherwise 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, or successor rules.

Source. #7307, eff 6-13-00; ss by #9179, eff 6-13-08; ss by #12083, eff 3-1-17 (See Revision Notes at Chapter headings for We 300 and We 600)

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 Env-C 610 or Env-C 616, or successor rules.

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; ss by #12083, eff 3-1-17 (See Revision Notes at Chapter headings for We 300 and We 600)

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) A good faith effort was made to comply with RSA 482-B and these rules; or
 - (4) Any other unique or 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) Willful conduct;
 - (2) There is a history of noncompliance; or
 - (3) Any other unique or compelling circumstances exist that are clearly stated in the record of the hearing; or
- (d) Decrease the fine based upon testimony presented at the hearing establishing the existence of one or more of the following criteria:
 - (1) A good faith effort was made to comply with the requirements of RSA 482-B and the rules of the board;
 - (2) There is no previous history of non-compliance;
 - (3) The proposed fine amount would result in undue hardship as specified in RSA 482-B:13; or

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(4) Any other unique or compelling circumstances exist that are 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; ss by #12083, eff 3-1-17 (See Revision Notes at Chapter headings for We 300 and We 600)

CHAPTER We 1000 REGISTRY OF COMPLAINTS

Statutory Authority: RSA 482-B:18

PART We 1001 PURPOSE AND APPLICABILITY

We 1001.01 Purpose. We 1000 establishes the procedures for implementing RSA 482-B:18, relative to the creation of a registry of complaints and for providing information contained in the registry to the public.

Source. #7307, eff 6-13-00; ss by #9179, eff 6-13-08; ss by #12083, eff 3-1-17

We 1001.02 Applicability. We 1000 shall apply to complaints filed against water well contractors, pump installers, and any other individual authorized by these rules to perform pump repair or replacement.

Source. #7307, eff 6-13-00; ss by #9179, eff 6-13-08; ss by #12083, eff 3-1-17

PART We 1002 MAINTAIN A REGISTRY

We 1002.01 Registry. The board shall maintain a registry of complaints which have been determined by the board to be credible based on the information contained in the complaint and any subsequent investigation conducted by the board.

Source. #7307, eff 6-13-00; ss by #9179, eff 6-13-08; ss by #12083, eff 3-1-17

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 for lack of credible supporting information shall not become part of the registry.

(c) Complaints that have been withdrawn by the person filing the complaint shall not become part of the registry.

Source. #7307, eff 6-13-00; ss by #9179, eff 6-13-08; ss by #12083, eff 3-1-17

We 1002.03 Public Access.

- (a) Persons may request information from the registry either by telephone or in writing.
- (b) The board shall respond to a request for information from the registry within 10 working days of the date of receipt.
- (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; ss by #12083, eff 3-1-17

We 1002.04 Requests for Removal from the Registry.

- (a) A licensee may request the board to remove the record of complaints filed against their company from the registry.
- (b) All requests for removal shall be submitted to the board in writing and shall be signed and dated.
- (c) 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; ss by #12083, eff 3-1-17

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APPENDIX A: STATUTES IMPLEMENTED

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, I & III
We 303	RSA 482-B:4, I, III & VI; RSA 482-B:5, II
We 304	RSA 482-B:4, IV; RSA 482-B:5, III
We 305	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

APPENDIX B: INCORPORATED REFERENCES

Rule	Title -Date	Obtain at:
We 602.36 (a)	ASTM “Standards on Environmental Site Characterization”, 2015	ASTM International 100 Barr Harbor Drive PO Box C700 West Conshohocken, PA 19428-2959 1-877-909-2786 (USA & Canada) http://www.astm.org/ Available online for \$315 at: http://www.astm.org/BOOKSTORE/CO MPS/ENVCHARCMP.htm
We 602.36 (a)	ASTM “Standards Related to Environmental Sampling”, 5 th Edition-(ASTM SAMP2014)- 2014	ASTM International 100 Barr Harbor Drive PO Box C700 West Conshohocken, PA 19428-2959 1-877-909-2786 (USA & Canada) http://www.astm.org/ Available online for \$199 at: http://www.astm.org/BOOKSTORE/CO MPS/SAMP14.htm
We 602.36 (b)	ASTM “Standard Guide for the Decommissioning of Groundwater Wells, Vadose Zone Monitoring Devices, Boreholes, and Other Devices for Environmental Activities”- ASTM D5299-99 (2012)	ASTM International 100 Barr Harbor Drive PO Box C700 West Conshohocken, PA 19428-2959 1-877-909-2786 (USA & Canada) http://www.astm.org/ Available online for \$51 at: http://www.astm.org/Standards/D5299.htm
We 702.06(a)	ANSI/NSF Standard 61, “Drinking Water System Components – Health Effects” 2016 edition	Obtain at: NSF International P.O. Box 130140 789 N. Dixboro Road Ann Arbor, MI 48105 USA Available online at no cost at: http://www.nsf.org/newsroom_pdf/NSF-ANSI_61_watemarked.pdf

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We 702.06(b)	ANSI/WSC PST 2000 “Standard Pressurized Water Tank”, 2016 edition	Obtain at: NSF International P.O. Box 130140 789 N. Dixboro Road Ann Arbor, MI 48105 USA Available online at no cost at: http://standards.nsf.org/apps/group_public/download.php/31827/ANSI%20WSC%20PST%202000%202016%20Standard%20Pressurized%20Water%20Storage%20Tank.pdf
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APPENDIX C: SETBACK DISTANCES FROM SEPTIC SYSTEM EFFLUENT DISPOSAL AREAS OR SEPTIC TANK FROM ENV-WQ 1008.06(B), TABLE 1008-4

Daily Sewage Flow (GPD)	Radius (ft.)
0-750	75
751-1440	100
1441-4320	125
4321-14,400	150
14,401-28,800	175
28,801-57,600	200
57,601-86,400	250
86,401-115,200	300
115,201-144,000	350
greater than 144,001	400