

401 KAR 6:320. Certification of water well drillers.

RELATES TO: KRS 223.400-223.460, 223.991, 224.10-010, 224.10-100, 224.10-410 - 224.10-470, Chapter 322, Chapter 322A, EO 2008-507, 2008-531

STATUTORY AUTHORITY: KRS 223.410, 223.420(1)(e), 223.435, 224.10-100, 224.70-100, 224.70-110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100, 224.70-100, and 224.70-110 authorize the cabinet to establish administrative regulations to protect water quality. KRS 223.420(1)(e) requires the cabinet to promulgate administrative regulations concerning examination and certification of water well drillers. EO 2008-507 and 2008-531, effective June 16, 2008, abolish the Environmental and Public Protection Cabinet and establish the new Energy and Environment Cabinet. This administrative regulation provides for the certification of water well drillers, including the requirements for examination, application, and disciplinary action.

Section 1. General Requirements. (1) The cabinet shall issue a water well drillers certificate pursuant to KRS Chapter 223 to natural persons who qualify under this administrative regulation.

(2) The cabinet shall issue separate certificates for separate methods and activities as follows:

(a) Monitoring well driller. Separate certificates shall be issued for drilling monitoring wells. The certificates shall specify for which methods the certified driller is qualified to drill, including:

1. Cable tool drilling;
2. Air rotary drilling;
3. Mud rotary drilling;
4. Reverse rotary drilling;
5. Jetting and driving wells in unconsolidated material; or
6. Boring and auguring in unconsolidated materials; and

(b) Water supply well driller. Separate certificates shall be issued for drilling water supply wells. The certificates shall specify for which methods the certified driller is qualified to drill, including:

1. Cable tool drilling;
2. Air rotary drilling;
3. Mud rotary drilling;
4. Reverse rotary drilling;
5. Jetting and driving wells in unconsolidated material; or
6. Boring and auguring in unconsolidated materials.

(3) A person shall not construct, alter, repair, or abandon a water well without first obtaining a water well driller's certificate from the cabinet.

(4) Each driller certified to drill water supply wells may construct, alter, repair, or abandon water supply wells using the drilling method or methods specified on the driller's certificate.

(5) Each driller certified to drill monitoring wells may construct, alter, repair, or abandon monitoring wells using the drilling method or methods specified on the driller's certificate.

(6) In order to receive a certificate, a driller shall:

- (a) Provide an application pursuant to this administrative regulation;
- (b) Pass applicable examinations taken pursuant to this administrative regulation;
- (c) Demonstrate that the driller has the education and experience to qualify for a certificate pursuant to this administrative regulation; and
- (d) Demonstrate that the driller's certificate is not under suspension, temporary revocation, or permanent revocation pursuant to Section 6(2) of this administrative regulation.

Section 2. Applications. (1) Each person desiring a certificate shall provide the Cabinet with an application.

(a) Each application for certification shall be accompanied by payment of the application fee specified in KRS 223.447.

(b) The application shall be made on the Water Well and Monitoring Well Driller's Certification Application, provided by the cabinet.

(2) The application shall include:

(a) The information required by KRS 223.425, including proof the applicant is eligible to be a driller pursuant to KRS 223.425(2);

(b) Proof of the insurance and bond required pursuant to KRS 223.430; and

(c)1. A notarized statement from a certified water well driller, a driller in another state, or another person who has directly supervised the applicant, that the applicant has worked under the driller's supervision for the statutory period of time pursuant to KRS 223.425(2); or

2. Notarized proof of other qualifying experience, including:

a. Employment as an environmental professional working with the design and installation of wells and well drilling operations for a minimum of two (2) years; and

b. One (1) of the following:

(i) Employment as a registered professional geologist in accordance with KRS Chapter 322A;

(ii) Employment as a registered professional engineer in accordance with KRS Chapter 322; or

(iii) A graduate, bachelors, or associates degree in a natural science.

Section 3. Examinations. (1) All persons receiving a certification shall pass an exam.

(2) The cabinet shall prepare and administer the examinations that determine the knowledge, ability, and judgment of approved applicants in accordance with Section 2 of this administrative regulation.

(a)1. Examinations shall be administered at least annually at a place and time scheduled by the cabinet.

2. The cabinet shall provide an advanced announcement of each examination and the availability of National Groundwater Association examinations.

(b) Arrangements may be made with the cabinet to take the examination at an alternate time.

(3) The cabinet shall administer the examination only to a qualified applicant who has:

(a) Submitted a complete application;

(b) Met all requirements of KRS 223.425;

(c) Met all requirements of Sections 1 and 2 of this administrative regulation; and

(d) Paid all applicable fees for the examination as listed in KRS 223.447.

(4) The cabinet shall certify those applicants who pass the applicable examination.

(a) Each applicant shall achieve a score of not less than seventy (70) percent to pass each examination administered.

(b)1. Each applicant who does not pass an examination may repeat the examination after forty-five (45) days from the date the applicant is notified of the results.

2. An applicant shall not repeat an examination more than six (6) times per calendar year.

(c) Examinations shall not be returned to the applicant, but the applicant may review results with a member of the board or an employee of the cabinet upon request.

(5) Contents of the examination.

(a) For a certificate to drill water supply wells, an examination shall consist of the following:

1. The Kentucky Water Well Certification Examination;

2. The National Ground Water Association General Exam; and

3. One (1) or more of the following National Ground Water Association specialty examinations applying to each drilling method for which the applicant wishes to be certified:

a. Cable Tool Drilling Exam;

b. Air Rotary Drilling Exam;

- c. Mud Rotary Drilling Exam;
- d. Reverse Rotary Drilling Exam;
- e. Jetting and Driving Wells in Unconsolidated Material Exam;
- f. Boring and Augering in Unconsolidated Materials Exam; or
- g. A substitute examination as identified or developed jointly by the cabinet and the board testing for knowledge of local laws or regulations in accordance with KRS 223.410.

(b) For a certificate to drill monitoring wells using hollow stem auger, solid stem auger, or direct push method, an examination shall consist of the following:

- 1. The Kentucky Monitoring Well Certification Examination;
- 2. The National Ground Water Association General Exam; and
- 3. The National Ground Water Association Augering and Monitoring Exam or a substitute examination as identified or developed jointly by the cabinet and the board testing for knowledge of local laws or regulations in accordance with KRS 223.410.

(c) For a certificate to drill monitoring wells using another method, an examination shall consist of the following:

- 1. The Kentucky Monitoring Well Certification Examination;
- 2. The National Ground Water Association General Examination;
- 3. The National Ground Water Association Augering and Monitoring Exam; and
- 4. One (1) or more of the following National Ground Water Association specialty examinations applying to each drilling method for which the applicant wishes to be certified:

- a. Cable Tool Drilling Exam;
- b. Air Rotary Drilling Exam;
- c. Mud Rotary Drilling Exam;
- d. Reverse Rotary Drilling Exam;
- e. Jetting and Driving Wells in Unconsolidated Material Exam;
- f. Boring and Augering in Unconsolidated Materials Exam; or
- g. A substitute examination as identified or developed jointly by the cabinet and the board testing for knowledge of local laws or regulations in accordance with KRS 223.410.

Section 4. Issuance of Certificate. (1) Upon satisfactory fulfillment of the requirements of this administrative regulation, the cabinet shall issue a certificate to the applicant designating the classification of drilling for which the driller has demonstrated competence.

(2) If the driller's employment or mailing address changes from that listed on the application, the driller shall provide written notification to the cabinet within thirty (30) days.

(3) Display of certificate number.

(a) A certified well driller shall have the certificate number affixed and prominently displayed on the drill rig used at the well site.

(b) The certificate number shall be inscribed in the following manner: KY. CERT. XXXX-XXXX (insert certificate number in place of the Xs).

(c) Numbers shall be at least three (3) inches in height and of a color that shall be easily distinguishable from that of the drill rig.

(d) This number shall be removed if the drill rig is scrapped, sold, or otherwise changes ownership, or if the certified well driller's certificate becomes invalid.

Section 5. Service of Process. Each applicant and driller shall provide the cabinet an address for receipt of applicable legal documents for service of process. The last address provided to the cabinet pursuant to this provision shall be the address at which the cabinet shall tender applicable legal notices in connection with an enforcement or disciplinary action.

Section 6. Disciplinary Action. (1) A driller shall be subject to disciplinary action if the driller:

- (a) Practiced fraud or deception in obtaining a certificate or filing cabinet mandated reports;
- (b) Did not use reasonable care or judgment in the performance of duties;
- (c) Failed to apply knowledge in the performance of duties;
- (d) Is incompetent, unable, or unwilling to properly perform duties; or
- (e) Does not have bond and insurance required by KRS 223.430.

(2) The disciplinary action shall take the form of the following sanctions depending on the severity, duration, and number of the violations:

- (a) Probation, not to exceed one (1) year;
- (b) Suspension of the driller's certificate, not to exceed one (1) year, during which the certificate shall be considered void;
- (c)1. Temporary revocation of the driller's certificate.
2. Temporary revocation shall be greater than one (1) year and not more than four (4) years;
- (d) Permanent revocation of the driller's certification; or
- (e) Civil or criminal penalties against the driller.

(3) Initial review procedures. Written complaints against a driller, unless duplicitous or frivolous, shall be reviewed at the next regularly scheduled board meeting.

(a) If the board decides complaints warrant further investigation, the driller shall be requested to appear before the board.

(b) Upon completion of its review of the complaint and available facts, the board shall send its recommendation and supporting facts to the cabinet.

(c) The cabinet shall decide whether to take disciplinary action against the driller based on the board's recommendation and supporting facts.

(d) The cabinet shall notify the driller of its decision and the facts supporting its decision.

(e) The cabinet shall notify the board of its decision and the facts supporting its decision.

(4) Action taken by the cabinet pursuant to this section shall not preclude the cabinet from pursuing additional civil or criminal action.

(5)(a) A driller whose certificate has been suspended or revoked shall not drill wells.

(b) If a certificate is permanently revoked, the driller shall be ineligible to receive a certificate as a water supply well driller or monitoring well driller in the future.

(c) Experience gained during a suspension or temporary revocation shall not be included toward meeting the requirements of Section 7(5) of this administrative regulation.

(6)(a) Sanction review and removal. During the driller's probation or suspension the board and cabinet shall monitor the driller's work activities.

(b) At the end of the sanction period, the board shall recommend that the cabinet lift the sanction or take additional action against the driller.

(7) Pursuant to KRS 224.10-420(2), a driller who considers himself aggrieved by a disciplinary action of the cabinet may file a petition for a hearing with the cabinet.

Section 7. Expiration and Renewal of Certificates. (1) All certified water well drillers shall renew their certificates annually.

(2)(a) Certificates shall be valid from the date of issuance until the following June 30. If an initial certificate is issued after May 1, it shall be effective until June 30 of the next calendar year.

(b) Certificates shall be renewed by July 1 of each year.

(3)(a) A certified water well driller desiring to renew a certificate shall file a renewal application with the cabinet and pay the fees specified in KRS 223.447.

(b) The renewal application shall be made on the Well Driller's Certification Renewal Application.

(4)(a) If the certificate renewal fee is not received within sixty (60) days of the renewal date of

July 1, the certificate shall expire.

(b) Expired certificates may be renewed without examination within two (2) years, if the applicant pays the renewal fee, meets the continuing education requirements outlined in subsection five (5) of this section within the twelve (12) months prior to recertification, and meets all other statutory requirements.

(5) Certified water well drillers shall complete five (5) hours of continuing education for certificate renewal.

(a) Continuing education shall include correspondence courses, short courses, trade association meetings, and other job training courses relevant to water well construction.

(b) The certified driller shall obtain written approval from the cabinet prior to completing the continuing education training.

(c) The cabinet shall approve continuing education training events for all drillers if the training meets the requirements of paragraph (a) of this subsection.

(d) An applicant for certificate renewal shall submit documentation of training with the renewal application.

Section 8. Certificates and Wallet Cards. (1) The cabinet shall provide certified drillers with certificates and wallet cards.

(2) The driller shall carry wallet cards at the job site.

Section 9. Rig Operators. Rig operator cards shall not be issued after the most recent effective date of this administrative regulation.

Section 10. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Water Well and Monitoring Well Driller's Certification Application", July 2008; and

(b) "Well Driller's Certification Renewal Application", July 2008.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Water, 300 Sower Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the Division of Water Web site, www.water.ky.gov. (17 Ky.R. 581; 1421; eff. 11-15-1990; 35 Ky.R. 601; eff. 10-8-2008; TAm eff. 7-8-2016; Crt eff. 9-5-2018.)