401 KAR 6:320. Certification of water well drillers and water well driller assistants.

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

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 requires the cabinet to promulgate administrative regulations concerning examination and certification of water well drillers and water well driller assistants. This administrative regulation establishes provisions for the certification of water well drillers and water well driller assistants, including the requirements for examination, application, and disciplinary action.

Section 1. General Requirements.

(1) The cabinet shall issue a water well driller or water well driller assistant certificate to qualified applicants as established in KRS Chapter 223 and this administrative regulation.

(2) Certificate issuance.

(a) Monitoring well driller. A certificate shall be issued for drilling monitoring wells that shall state the methods for which the certified driller is qualified to drill, including:

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

(b) Water supply well driller. A certificate shall be issued for drilling water supply wells that shall state the methods for which 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;
6. Sonic drilling;
7. Direct push; or
8. Boring and augering in unconsolidated materials.

(c) A combined certificate may be issued for drilling monitoring wells and water supply wells that shall specify the methods for which the water well driller is qualified to drill as established in this subsection.

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

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

(5) Each water well driller or water well driller assistant certified to drill monitoring wells may construct, alter, repair, or abandon monitoring wells using the drilling method or methods stated on the certificate.

(6) In order to receive a water well driller or water well driller assistant certificate, an applicant shall:

(a) Submit a complete application as established in this administrative regulation;

(b) Earn a minimum passing score of seventy (70) percent on applicable examinations as established in this administrative regulation;
(c) Demonstrate that the:
1. Applicant has the education and experience to qualify for a certificate as established in KRS Chapter 223 and this administrative regulation; and
2. Applicant's certificate is not under suspension, temporary revocation, or permanent revocation as established in Section 6 of this administrative regulation.

Section 2. Applications.
(1) Water well driller application. Each person desiring a water well driller certificate shall submit to the cabinet a complete application which shall include:
(a) Payment of the application fee as established in KRS 223.447;
(b) The Application for Certification;
(c) All information required by KRS 223.425;
(d) Proof of the insurance and bond required by KRS 223.430; and
(e)
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 a minimum of two (2) years as established in 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.
(i) Employment as a registered professional geologist as established in KRS Chapter 322A;
(ii) Employment as a registered professional engineer as established in, or associate degree in a natural science.
(2) Water well driller assistant application. An applicant desiring a water well driller assistant certification shall submit a completed application to the cabinet and shall include:
(a) The Application for Certification;
(b) All information required by KRS 223.425(5); and
(c) Payment of the application fee as established in KRS 223.447.

Section 3. Examinations.
(1) An applicant for a water well driller or water well driller assistant certification shall earn a minimum passing score of seventy (70) percent on an applicable examination in order to receive a certificate.
(2) The cabinet shall prepare and administer the examinations that determine the knowledge, ability, and judgment of approved applicants as established in this section and Section 1 of this administrative regulation.
(a)
1. Examinations shall be administered at least annually by the cabinet.
2. The applicant and cabinet shall schedule the cabinet-administered examination at a mutually agreeable date and time.
(b) The applicant shall schedule to take other examinations required by this administrative regulation directly with the National Groundwater Association..
(3) The cabinet shall administer the examination only to a qualified applicant who has:
(a) Submitted a complete application;
(b) Met all requirements established in KRS 223.425;

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

(d) Paid the examination fee as established in KRS 223.447.

(4)

(a) An applicant who does not pass an examination may repeat the examination after forty-five (45) days from the date the cabinet notifies the applicant of the results.

(b) 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 water supply well driller examination.

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

1. The Kentucky Water Well Certification Examination;
2. The National Ground Water Association General Exam; and
3. One (1) or more of the National Ground Water Association specialty examinations applicable to each drilling method for which the applicant wishes to be certified, including:
   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 by the cabinet in consultation with the board to test knowledge of local laws or regulations as established in 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:

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
4. A substitute examination as identified or developed by the cabinet in consultation with the board to test knowledge of local laws or regulations as established in KRS 223.410.

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

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 National Ground Water Association specialty examinations applicable to each drilling method for which the applicant wishes to be certified, including:
   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 by the cabinet in consultation with the board to test knowledge of local laws or regulations as established in KRS 223.410.

(6) Contents of the water supply well driller assistant examination. An applicant shall earn a minimum passing score of seventy (70) percent on:

(a) The Kentucky Water Well Driller Assistant Certification Examination; or

(b) A substitute examination as identified or developed by the cabinet in consultation with the board to test knowledge of local laws or regulations as established in KRS 223.410.

(7) Contents of the monitoring well driller assistant examination. An applicant shall earn a minimum passing score of seventy (70) percent on the:

(a) Kentucky Monitoring Well Driller Assistant Certification Examination; or

(b) A substitute examination as identified or developed by the cabinet in consultation with the board to test knowledge of local laws or regulations as established in KRS 223.410.

Section 4. Issuance of Certificate.

(1) The cabinet shall issue a certificate designating the classification for which the water well driller or water well driller assistant has demonstrated competence:

(a) Upon satisfactory fulfillment of the requirements established in this administrative regulation; and

(b) Payment of the initial certification fee as established in KRS 223.447.

(2) A water well driller or water well driller assistant shall provide written notification to the cabinet within thirty (30) days of a change of employment or mailing address.

(3) Display of certificate number.

(a) A certified water 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:

1. Inscribed with the format: KY. CERT. XXXX-XXXX-XX (insert certificate number in place of the Xs);

2. Inscribed with numbers that shall be at least three (3) inches in height and of a color that shall be easily distinguishable from that of the drill rig; and

3. Removed if the:

a. Drill rig is scrapped, sold, or otherwise changes ownership; or

b. Certified water well driller's certificate becomes invalid.

Section 5. Service of Process. Each applicant, certified water well driller, and certified water well driller assistant shall provide the cabinet with an address for receipt of applicable legal documents for service of process. The last address provided to the cabinet 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 certified water well driller or certified water well driller assistant shall be subject to disciplinary action if the water well driller or water well driller assistant:

(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 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 be as established in this subsection depending on the severity, duration, and number of the violations, including:

(a) Probation, not to exceed one (1) year;

(b) Suspension of the water well driller's or water well driller assistant certificate, not to exceed one (1) year, during which the certificate shall be considered void;

(c) Temporary revocation of the certificate which shall be greater than one (1) year and not more than four (4) years;

(d) Permanent revocation of the certificate; or

(e) Civil or criminal penalties against the driller.

(3) Initial review procedures. Valid complaints or a significant enforcement action against a water well driller or water well driller assistant may be reviewed at the next regularly scheduled board meeting.

(a) If the board decides a complaint or enforcement action warrants further investigation, the water well driller or water well driller assistant 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:

1. Decide whether or not to take disciplinary action against the water well driller or water well driller assistant based on the board's recommendation and supporting facts; and

2. Notify the water well driller or water well driller assistant and the board of its decision and the facts supporting its decision in writing.

(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 water well driller or water well driller assistant whose certificate has been suspended or revoked shall not drill wells.

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

(c) Experience gained during a suspension or temporary revocation shall not be included toward meeting the requirements established in Section 2 of this administrative regulation.

(6)

(a) Sanction review and removal. During the water well driller's or water well driller assistant's probation or suspension the board and cabinet shall monitor the water well driller's or water well driller assistant'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 water well driller or water well driller assistant.

(7) Pursuant to KRS 224.10-420(2) and 400 KAR 1:100, a water well driller or water well driller assistant may contest a disciplinary action of the cabinet by filing a petition for a hearing with the cabinet.

Section 7. Expiration and Renewal of Certificates.

(1) All certified water well drillers and water well driller assistants 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) Certificate renewal shall require submitting to the cabinet:

(a) A complete Application for Certification Renewal; and

(b) Payment of the renewal fee as established in KRS 223.447.

(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 of the expiration date, if the applicant:

1. Pays the renewal fee as established in KRS 223.447;

2. Meets the continuing education requirements established in subsection 5 of this section within the twelve (12) months immediately preceding recertification; and

3. Meets all other statutory and regulatory requirements for certification.

(5) Continuing education requirement.

(a) Certified water well drillers shall complete a minimum of five (5) hours of cabinet-approved continuing education for certificate renewal. A minimum of three (3) hours of continuing education shall pertain directly to well drilling.

(b) Certified well driller assistants shall complete a minimum of eight (8) hours of cabinet-approved continuing education as established in KRS 223.425. A minimum of four (4) hours of continuing education shall pertain directly to well drilling.

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

(d) A certified water well driller or water well driller assistant shall obtain written confirmation from the cabinet that a continuing education training course has been approved by the cabinet prior to completing the continuing education training course.

(e) The cabinet shall approve continuing education training events that meet the requirements established in paragraphs (a) and (b) of this subsection.

(f) An applicant for certificate renewal shall submit documentation of continuing education with the renewal application.

Section 8. Certificates and Wallet Cards.

(1) The cabinet shall provide certified water well drillers and water well driller assistants with certificates and wallet cards.

(2) A certified water well driller or water well driller assistant shall carry wallet cards at the job site.

Section 9. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Application for Certification", DEP No. DOW6060, July 2019;

(b) "Application for Certification Renewal", DEP No. DOW6070, July 2019; and

(c) "Affidavit of Supervision", DEP No. DOW6080, July 2019.

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(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; 46 Ky.R. 640, 1477; eff. 1-3-2020.)