

TITLE L

WATER MANAGEMENT AND PROTECTION

CHAPTER 482-B

NEW HAMPSHIRE WATER WELL BOARD

Section 482-B:1

482-B:1 Purpose. – The purpose of this chapter is to protect and improve the general health and welfare of the people of the state of New Hampshire; to protect the groundwater resources of the state; to regulate the construction of water wells and the installation of well pumps; to license water well contractors and well pump installers; to provide well records; to create a water well board; and to provide for penalties for violations of this chapter.

Source. 1989, 339:1. 1998, 89:1, eff. July 18, 1998.

Section 482-B:2

482-B:2 Definitions. –

For the purposes of this chapter:

I. "Board" means the New Hampshire water well board established under RSA 482-B.

I-a. "Commissioner" means the commissioner of environmental services.

I-b. "Department" means the department of environmental services.

II. "Person" includes an individual, partnership, corporation, association, or organization, or any combination thereof.

III. "Pump installations" means and includes the industry, procedure, and all operations engaged in by any person, full time or part time, for compensation or otherwise, to connect a pump or pipe to a water system or its appurtenances, or to install a pump or pipe in a well.

IV. "Pump installer" means a person who engages in pump installations.

IV-a. "Technical drilling" means and includes the industry, procedure and all operations engaged in by any person, full time or part time, for compensation or otherwise, to conduct subsurface soil exploration, foundation borings including cased or auger borings, rock core drilling, and monitoring well installation.

IV-b. "Technical driller" means a person licensed to engage in technical drilling.

V. "Water well construction" means and includes the industry, procedure, and all operations engaged in by any person, full time or part time, for compensation or otherwise, to obtain water from a well by drilling, digging, developing including hydrofracturing, or other method, for any purpose or use.

VI. "Water well contractor" means a person who engages in water well construction.

VII. "Well" means a hole or shaft sunk into the earth which is deeper than it is wide to observe, sample, or withdraw groundwater, or to transfer heat to or from the subsurface.

Source. 1989, 339:1. 1998, 89:2-5. 2009, 27:1, eff. July 7, 2009.

Section 482-B:3

482-B:3 Water Well Board. –

I. There is created a board to be known as the New Hampshire water well board. The water well board shall be administered by the commissioner of environmental services. The board shall consist of 7 members who are residents of the state, appointed by the governor with the advice and consent of the council as follows: one member shall be the commissioner, department of environmental services, or designee; one shall be the state

geologist; 2 shall be active water well contractors with at least 10 years of experience; one shall be an active pump installer with at least 10 years of experience; one shall be an active technical driller licensed in the state of New Hampshire with at least 10 years of experience; and one shall be a member of the public who has demonstrated concern for and knowledge of water resources management in New Hampshire. Each member shall hold office for a term of 3 years and until a successor is appointed and qualified. No member shall serve more than 2 consecutive terms. Appointments to fill vacancies shall be for the unexpired term. The governor and council may remove any member of the board for good cause.

II. The board shall meet at least 4 times a year. The board shall elect a chairman and a secretary annually from its membership. The secretary shall keep a complete record of all meetings and proceedings of the board and shall perform the usual duties pertaining to the office. The board may employ such assistants as may be required.

III. To safeguard the public health, the board shall promote and encourage cooperation among water well contractors, pump installers, technical drillers, and governmental agencies in the development and protection of records of underground water formations and resources. The board shall prepare and make available to the public information relative to groundwater resources in the state.

Source. 1989, 339:1. 1996, 228:64. 1997, 339:1, eff. June 23, 1997.

Section 482-B:4

482-B:4 Rulemaking. –

The water well board shall adopt rules under RSA 541-A relative to:

I. The application procedure for a water well contractor or pump installer license.

II. The qualifications of applicants in addition to those requirements set by RSA 482-B:5, III.

III. The types of licenses to be issued.

IV. Applicant examination methods including:

(a) Time and place of examination, and

(b) Passing grade.

V. License renewal, including the requirements for continuing education.

VI. The establishment of all fees required under this chapter at rates which will make the board self-supporting, including fees for the processing of license applications, for examination of applicants, for licensure and for renewal of licenses, for transcribing and transferring records, and other services.

VII. Applicant examination for professional and technical proficiency when the applicant has been:

(a) Licensed in another state but has not taken a written examination, or

(b) Holding nonactive status for a period of 3 years or more.

VIII. Procedures for hearings held under RSA 482-B:9, II.

IX. The information to be included in records required under RSA 482-B:10.

X. Standards for the construction, maintenance, and abandonment of wells.

XI. Procedures for requesting an exemption pursuant to RSA 482-B:13.

Source. 1989, 339:1. 1998, 89:6-8, eff. July 18, 1998.

Section 482-B:5

482-B:5 Licensing for Water Well Contractors and Pump Installers. –

I. A person, before engaging in the business of constructing a well or installing a pump, shall obtain the proper license annually as a water well contractor or pump installer. A license shall not be transferable and shall expire on June 30 of each year. After July 31 of each year, a license may be renewed only upon application for renewal and payment of a late fee of \$20 in addition to the regular license fee.

II. The water well contractor's license and the pump installer's license shall contain the following information, in addition to such other information as the board may require:

(a) The name of the licensed water well contractor or licensed pump installer.

(b) If the licensee is a partnership, the names and addresses of all partners.

(c) If the licensee is a corporation, the name and principal address of the corporation and the names and addresses of all officers, directors, and stockholders of the corporation; except that this requirement shall not

apply to a publicly held corporation.

(d) If the licensee is an individual, the name and address of the individual.

III. Water well contractors and pump installers shall be required to have been actively engaged in their trade for a period of 3 years prior to the date of their application and to pass an examination prepared and administered by the board. The required 3 years experience shall be directly related to the type of license to be issued. One year of experience for drilling contractors shall be in drilling water wells in crystalline rocks of the Appalachian Region.

IV. The board may issue an appropriate license without examination to a person to whom a water well contractor's license or a pump installer's license has been previously issued by another state if the other state maintained a standard of requirements equivalent to those of this state and who presents satisfactory proof to the board that he is a bona fide water well contractor or pump installer. An applicant under this paragraph shall be exempt from examination only if he holds a license from another state and, if under the laws or rules of the other state issuing the license, a like exemption is granted to water well contractors or pump installers duly licensed under the laws of this state.

V. Pump installers shall complete a minimum of 2 hours annually of continuing education.

Source. 1989, 339:1. 1998, 89:9-11, eff. July 18, 1998.

Section 482-B:6

482-B:6 Display of License. – A water well contractor shall place in a conspicuous location on both sides of each well drilling rig or other machine used to construct a well and a pump installer shall place in a conspicuous location on both sides of each pump service truck the license number in letters not less than 2 inches high. A seal furnished by the board designating the year the license was issued or renewed and the words 'Licensed New Hampshire Water Well Contractor' or 'Licensed New Hampshire Pump Installer' shall be affixed directly adjacent to the license number.

Source. 1989, 339:1. 1998, 89:12, eff. July 18, 1998.

Section 482-B:7

482-B:7 Plumbers Exempted. – This chapter shall not restrict a plumber from engaging in the trade for which the plumber has been licensed if such plumber holds a pump installer's license. No examination shall be required for a person who is a plumber licensed under RSA 153:27-a and holds a valid pump installer's license on the effective date of this section.

Source. 1989, 339:1. 1998, 89:12, eff. July 18, 1998. 2013, 275:13, eff. July 1, 2013.

Section 482-B:8

482-B:8 Refusal; Revocation; Suspension; Disciplinary Action. –

I. A license may be refused, or a license duly issued may be suspended or revoked, or the renewal of such license refused by the board on the board's own investigation and motion or upon motion or written complaint of an interested party if the board has good and sufficient reason to believe or finds that the applicant for or the holder of such a license has:

(a) Made a material misstatement in the application for a license or any application for renewal of such license.
(b) Obtained the license through willful fraud or misrepresentation.
(c) Demonstrated incompetency to act as a water well contractor or pump installer as determined by the water well board.

(d) Been guilty of willful failure to comply with the provisions of this chapter or rules adopted under RSA 482-B:4.

(e) Refused to file reports as required under RSA 482-B:10.

(f) Been found guilty, by the board or by a court of competent jurisdiction of any fraud, deceit, gross negligence,

incompetence, or misconduct in the industry, operations, or business of water well construction or pump installations.

II. The department may undertake one or more of the following disciplinary actions upon the department's own investigation and motion or upon written complaint and motion of an interested party if the department has good and sufficient reason to believe or finds that the applicant for or the holder of such a license has violated the provisions of RSA 482-B and the rules of the board:

- (a) Written reprimand.
- (b) Administrative order.
- (c) Administrative fine.
- (d) Requiring the licensee to participate in a program of continuing education in the area or areas in which the licensee has been found deficient.

Source. 1989, 339:1. 1998, 89:13, eff. July 18, 1998.

Section 482-B:9

482-B:9 Hearing. –

I. Before taking any action under RSA 482-B:8, the board or department shall give notice of its intention to do so by certified mail to the person against whom the proposed action is to be taken. Upon receipt of such notice, the person affected may within 30 days request a hearing. If a hearing is requested, the board or department shall not act until such hearing is completed.

II. Hearings held by the board shall be held in the county in which the person affected has his or her place of business or in the office of the board, whichever the board may decide. At least 10 days prior to the date of hearing, the board shall send written notice of the time and place of such hearing to the applicant for, or holder of, such license by certified mail to the last known address of such person. The testimony presented and the proceedings of such hearing shall be recorded and preserved as the records of the board. The board shall as soon after the hearing as possible, and not later than 90 days after the date of such hearing, make its findings and determination on the license and shall send a copy of its decision to each interested party by certified mail return receipt requested or by personal service. Revocation or suspension of a license shall be effective upon receipt of such board decision.

III. Appeal from a decision of the board may be made in accordance with RSA 541.

IV. Hearings held by the department shall be held in accordance with the rules of practice and procedure of the department.

Source. 1989, 339:1. 1998, 89:14, eff. July 18, 1998.

Section 482-B:10

482-B:10 Record of Wells; Monitoring Wells. –

I. Within 90 days after completion of a well, the water well contractor shall provide the board with a record of the well containing the following information:

- (a) Name of the owner of the property on which the well is situated.
- (b) Name of the building contractor, if applicable.
- (c) Location of the well by:
 - (1) Coordinates provided by global positioning technology in units of degrees and decimal minutes of latitude and longitude, with at least 3 decimal places of precision and referenced to the World Geodetic System 1984 (WGS 84) datum or its successor;
 - (2) Street address of the property as listed in the enhanced 911 street address guide to the extent it is publicly available on the date of submission of the report;
 - (3) Tax map and lot number of the property; and
 - (4) A drawing indicating the position of each well, if more than one well is located within the lot, relative to significant permanent man-made or natural features at a given site.
- (d) Date well was completed.
- (e) Proposed use of well.

- (f) Reason for constructing well.
- (g) Type of well.
- (h) Total depth of well.
- (i) Casing details.
- (j) Method or methods of sealing casing into bedrock, if applicable.
- (k) Screen details, if applicable.
- (l) Results, method, and duration of yield test or tests conducted.
- (m) Static water level, if encountered.
- (n) Depth to bedrock.
- (o) Description and depth intervals of unconsolidated surficial deposits encountered during the well drilling process.
- (p) Yield test at various depths, if performed.
- (q) Hydro fracturing or other well development details, if applicable.
- (r) Name of water well contractor or technical driller.
- (s) Additional well seals installed, if applicable.
- (t) A statement specifying whether a water quality sample was collected by the driller.
- (u) If the well location does not comply with setback requirements for wells under New Hampshire law or rules of the water well board, a statement identifying the law or rule with which the wells do not comply.
- (v) Date of the report.
- (w) Any other information required by rules adopted by the water well board.

II. At a minimum, the technical drillers shall comply with the requirements of paragraph I for the deepest monitoring well installed at each property or place of business and for each monitoring well installed into the bedrock at each property or place of business.

III. If the technical driller does not comply with the requirements of paragraph I for all the monitoring wells the driller installs at a single property or place of business, then the technical driller shall prepare and submit a map showing the location of each monitoring well installed by the technical driller relative to significant permanent man-made or natural features at a given site and relative to wells located with GPS coordinates in accordance with paragraph I.

Source. 1989, 339:1. 1998, 89:15. 2007, 89:1, eff. Dec. 8, 2007.

Section 482-B:11

482-B:11 Wells Constructed for Oil, Gas, Brine, or Mining. – Drilling, excavating and pumping associated with the oil, gas or brine well industries and the construction, quarrying, and mining industries and the disposal of any materials shall be subject to this chapter only insofar as they relate to the pollution and depletion of underground water resources.

Source. 1989, 339:1, eff. Jan. 1, 1990.

Section 482-B:12

482-B:12 Wells Constructed for Farming or Private Use. – Nothing in this chapter shall prevent a person from constructing a well on the person's own or leased property if the well is intended for use only for noncommercial farming purposes or if the waters to be produced are not intended for use by the public or by persons in any residence other than the person's own permanent residence. Such person shall submit records as required under RSA 482-B:10 and shall comply with any applicable rules.

Source. 1989, 339:1. 1998, 89:16, eff. July 18, 1998.

Section 482-B:13

482-B:13 Exemptions. – Where the board finds that compliance with all the requirements of this chapter or rules adopted under RSA 482-B:4 would result in undue hardship, an exemption from any one or more of such requirements may be granted by the board to the extent necessary to ameliorate such undue hardship and to the extent such exemption can be granted without impairing the intent and purpose of this chapter.

Source. 1989, 339:1, eff. Jan. 1, 1990.

Section 482-B:14

482-B:14 Fees. – Fees received under this chapter shall be paid over to the state treasurer and deposited in the general fund.

Source. 1989, 339:1, eff. Jan. 1, 1990.

Section 482-B:15

482-B:15 Maintenance and Repair of Wells and Pumps. – All wells shall be maintained in a proper condition to conserve and protect groundwater resources and shall not be a source or cause of contamination or pollution of the water supply of any aquifer. All materials and construction practices used in the construction of a new well or new pump installation or in the maintenance, repair, or replacement of any well or pump installation shall conform with rules adopted by the board. All maintenance and repair work shall be done only by a licensed water well contractor, licensed pump installer, licensed plumber or licensed electrician.

Source. 1989, 339:1, eff. Jan. 1, 1990.

Section 482-B:16

482-B:16 Enforcement and Penalties. –

I. The department may issue an administrative order to any person who violates any provision of this chapter, any rule adopted under this chapter, or any license or approval issued under this chapter, or who makes or certifies a material false statement relative to any document required by this chapter. The department may order the person to cease and desist from the violation and may require such corrective measures as are necessary to correct the violation. Upon receipt of an order, the person affected may, within 30 days, appeal the order to the board. Following an appeal hearing, the board may uphold or overturn the order. Rehearings and appeals from a decision of the board shall be in accordance with RSA 541.

II. The commissioner, after notice and hearing pursuant to RSA 541-A, may impose an administrative fine not to exceed \$2,000 for each offense upon any person who violates any provision of this chapter, any rule adopted under this chapter, or any license or approval issued under this chapter, or who makes or certifies a material false statement relative to any document required by this chapter. The person may appeal the decision to the board within 30 days of the date of the decision. Following an appeal hearing, the board may uphold or overturn the decision or impose a lesser or greater fine. Rehearings and appeals from a decision of the board under this paragraph shall be in accordance with RSA 541. Any administrative fine imposed under this section shall not preclude the imposition of further penalties under this chapter. The commissioner shall adopt rules subject to the approval of the water well board, under RSA 541-A, relative to:

- (a) A schedule of administrative fines which may be imposed under this paragraph; and
- (b) Procedures for notice and hearing prior to the imposition of an administrative fine.

III. Any person who engages in water well construction or pump installation or offers to engage in water well construction or pump installation or advertises or holds oneself out or acts temporarily or otherwise as a water well contractor or pump installer without first having obtained the required license under RSA 482-B:5 and any person who violates any other provision of this chapter or any rule adopted under this chapter, or who makes or certifies a material false statement relative to any document required by this chapter may be subject to a civil penalty of not more than \$2,000 for each violation. Such a violation may also be enjoined by the superior court upon application of the attorney general.

IV. Any person shall be guilty of a misdemeanor who knowingly:

(a) Engages in water well construction or pump installation or offers to engage in water well construction or pump installation or advertises or holds oneself out or acts temporarily or otherwise as a water well contractor or pump installer without first having obtained the required license under RSA 482-B:5; or

(b) Violates any other provision of this chapter, any rule adopted under this chapter, or any license or approval issued under this chapter; or

(c) Makes or certifies a material false statement relative to any document required by this chapter.

V. Notwithstanding RSA 651:2, a natural person may, in addition to any sentence of imprisonment, probation, or conditional discharge, be fined not more than \$5,000 if found guilty of any violation under RSA 482-B:16, IV.

VI. All moneys collected under this section shall be forwarded to the state treasurer and deposited into the general fund as unrestricted revenue.

VII. Each day of a continuing violation under this chapter shall constitute a separate offense.

Source. 1989, 339:1. 1998, 89:17, eff. July 18, 1998.

Section 482-B:17

482-B:17 Exceptions. – The provisions of this chapter shall not apply to a person who regularly employs a maintenance person whose duties include replacement and maintenance of pump installations on the property of that person when such employee is actually so engaged or to an owner or an owner's agent who does pump installation repairs or replacement on property owned by him or her; provided, however, that said repairs, replacements, and maintenance shall conform to rules relative to such repairs, replacements, and maintenance adopted by the board.

Source. 1989, 339:1. 1998, 89:18, eff. July 18, 1998.

Section 482-B:18

482-B:18 Complaints. – Written complaints filed with the board against a licensed water well contractor or a licensed pump installer shall be public records. The board may maintain a registry of written complaints. If such a registry is established, the board shall establish, by rules adopted pursuant to RSA 541-A, a procedure for providing information contained in the registry to the public. Written complaints shall be removed from the registry upon the request of the licensee, provided that the board has not received a written complaint for 3 consecutive years prior to the date of the request.

Source. 1998, 89:19, eff. July 18, 1998.