

CHAPTER 42 - WATER WELL DRILLING CONTRACTORS AND WATER WELL PUMP INSTALLATION CONTRACTORS

33-42-101. Short title.

This act shall be known and may be cited as the "Water Well Drilling Contractors and Water Well Pump Installation Contractors Act."

33-42-102. Definitions.

(a) As used in this act:

(i) "Board" means the state board of examining water well drilling contractors and water well pump installation contractors;

(ii) "Underground water" means any water, including hot water and geothermal steam, under the surface of the land or under the bed of any stream, lake or reservoir;

(iii) "Water well drilling contractor" means any person responsible for or causing the construction, equipping, test pumping or development of any water well for compensation or otherwise as provided by this act;

(iv) "Water well pump installation contractor" means any person who is in the business of installing pumping equipment in water wells for compensation or otherwise as provided by this act;

(v) "Well" means any artificial opening in the ground for the production of groundwater or the disposal of water underground, including developed springs, test wells, monitoring wells, deep well ground beds (cathodic protection bores), geothermal or heat exchange wells, drive points and excavations for the purpose of artificial recharge to the groundwater bodies or disposal of wastes. The term "well" does not include excavations made for the dewatering of construction sites, mines or oil and gas wells, and the prospecting for and removal of mineral products, nor wells for the production of the media for secondary oil recovery;

(vi) "This act" means W.S. 33-42-101 through 33-42-117.

33-42-103. License.

(a) It is unlawful for any person to use in connection with his name or to advertise any title or description tending to convey the impression that he is a licensed water well drilling contractor or water well pump installation contractor unless he has been licensed under this act.

(b) The drilling, construction or completion of water wells, including the installation of pumping equipment, shall be considered a business activity affecting the public interest and requiring reasonable standards of competence.

(c) The licensing of water well drilling contractors and the licensing of water well pump installation contractors are separate and distinct activities. Licensing requirements shall be specific to each profession and shall be addressed in rules and regulations.

(d) A copy of the license of a licensed water well drilling licensee or water well pump installation licensee overseeing the job and assuming liability for the water well drilling or water well pump installation shall be conspicuously posted at the water well drilling or water well pump installation site.

(e) Nothing in this act shall be construed to require licensure of any person operating drilling equipment or conducting other drilling or boring operations which do not require a permit from the state engineer to appropriate ground water.

(f) It shall be unlawful for any person to construct, alter or rehabilitate a water well or install pumping equipment in a water well without a license as provided by this act unless the activity is exempted from the licensing requirements of this act.

33-42-104. Board of examining water well drilling contractors and water well pump installation contractors created; composition; appointment; terms; vacancies; qualification; compensation.

(a) The state board of examining water well drilling contractors and water well pump installation contractors is created to consist of the following seven (7) members:

(i) The state engineer or his authorized representative;

(ii) The director of the department of environmental quality or his authorized representative; and

(iii) Five (5) members appointed by the governor as follows:

(A) One (1) water well drilling contractor engaged in the practice of irrigation well contracting or a municipal or industrial well contractor;

(B) One (1) water well drilling contractor engaged in the practice of domestic and stock water well contracting;

(C) One (1) at large water well drilling contractor;

(D) One (1) water well pump installation contractor; and

(E) One (1) member of the general public who owns an active water well.

(b) The members appointed by the governor shall serve for a term of four (4) years, except three (3) of the initial appointments shall be for a term of two (2) years. Each member shall hold office until his successor is appointed and has been qualified. The governor may remove any member of the board as provided by W.S. 9-1-202. A vacancy occurring in the board by death, resignation or otherwise, shall be filled by appointment by the governor upon recommendation of the remaining board members for the unexpired term.

(c) Each member of the board appointed by the governor shall have been a resident of this state for at least one (1) year at the time of his appointment. Each contractor board member shall have been engaged in the practice of his profession for at least five (5) years prior to his appointment. After the appointment of the initial board, any water well drilling contractor or water well pump installation contractor appointed to the board shall be licensed within six (6) months after appointment.

(d) The members of the board shall serve without compensation other than per diem and mileage allowance as allowed to state employees for the performance of their duties.

33-42-105. Organization of board; meetings; quorum; disposition of funds.

(a) The state engineer or his representative shall be secretary of the board and shall have charge of the records and be responsible for budget preparation and general administrative duties.

(b) The members of the board shall elect a chairman from their membership who shall hold office for a term of two (2) years. No member shall serve more than two (2) consecutive terms as chairman.

(c) Meetings of the board shall be called by the chairman or upon request of not less than four (4) members and held in an appropriate location. The board shall hold not less than two (2) meetings each year. Four (4) members shall constitute a quorum. No decision shall be made unless it receives the affirmative votes of at least four (4) members of the board.

(d) Fees collected by the board shall be paid into the account created under W.S. 33-42-116 which shall be used by the board to defray costs incurred in the administration of this act. The board shall not maintain unnecessary fund balances.

33-42-106. Powers of the board in general; enjoining unlawful acts.

(a) The board is entitled to the services of the attorney general in the conduct of its affairs and shall reimburse the attorney general for actual cost of legal services provided.

(b) Whenever any person has engaged or is about to engage in any acts or practices which constitute a violation of this act, the board, or the attorney general on its behalf, may make application to the appropriate court for an order enjoining those acts. Upon a showing by the board that the person has engaged or is about to engage in any illegal act, an injunction, restraining order or other appropriate order shall be granted by the court without bond, and without the necessity of a showing of actual damages by the board.

(c) The board may compel the attendance of witnesses, administer oaths and take testimony concerning all matters within its jurisdiction.

(d) The board may contract for services or employ persons deemed necessary for the implementation of the provisions of this act.

33-42-107. Duties of the board.

(a) The board shall:

(i) Supervise the general administration of this act;

(ii) Enforce the provisions of this act and any rules and regulations promulgated under it and take all action necessary to carry out the provisions of this act;

(iii) Examine the qualifications of anyone desiring to obtain a license to engage in the business of water well drilling or the business of water well pump installing within the state;

(iv) Adopt rules and regulations necessary to carry out the provisions of this act;

(v) Conduct hearings upon complaints with respect to any person licensed under this act in conformity with the Wyoming Administrative Procedure Act. The hearing shall be held in the county where the complaint originated; and

(vi) Establish continuing education for persons licensed to maintain knowledge of current industry standards. However, the board shall not impose continuing education requirements for any person which exceed eighteen (18) hours in any three (3) year period.

33-42-108. Licensure in general; qualifications of applicant; operator's license.

(a) The board shall issue a license to an applicant who:

(i) Is eighteen (18) years of age or older;

(ii) Has demonstrated professional competence by passing an examination prescribed by the board;

(iii) Has paid the required fees; and

(iv) Has provided written documentation of financial responsibility, including proof of general liability insurance.

(b) In the case of hardship, the board may provide special arrangements for administering the examination required by this act.

(c) Repealed By Laws 2008, Ch. 89, 3.

(d) Repealed By Laws 2008, Ch. 89, 3.

33-42-109. Fees; renewal; renewal of lapsed licenses; suspension or revocation.

(a) The board shall establish reasonable and necessary fees pursuant to W.S. 33-1-201 for:

(i) Application fees;

(ii) Certification fees and fees for renewal of certification. Certification fees shall not exceed two hundred dollars (\$200.00). Certification renewal fees shall not exceed two hundred dollars (\$200.00) for a three (3) year period thereafter. This paragraph is repealed July 1, 2009;

(iii) Examination and reexamination of license applicants;

(iv) Miscellaneous fees, including rosters, annual reports, address labels, copying fees and replacement licenses;

(v) License fees. License fees shall not exceed two hundred dollars (\$200.00). License renewal fees shall not exceed two hundred dollars (\$200.00) for each three (3) year renewal period thereafter.

(b) The initial license shall be for a period not to exceed three (3) years and shall expire on the third December 31 after receiving the initial license. Each subsequent license shall be valid for three (3) calendar years and shall expire on December 31 of the third year.

(c) If a licensed water well drilling contractor or water well pump installation contractor does not submit an application for license renewal prior to the December 31 expiration date or does not remit the renewal fees, the license shall expire. The contractor shall have a thirty-one (31) day grace period to renew the expired license. If the license has not been renewed before February 1 of the new license period, it shall not be eligible for reinstatement until the applicant has met all the requirements of W.S. 33-42-108.

(d) All fees collected under this section shall be deposited into the account created under W.S. 33-42-116.

33-42-110. Examination; notification; reexamination.

(a) An applicant for a license shall demonstrate professional competence by passing a written or oral examination prescribed by the board.

(b) An examination shall be given at least twice annually. The examination shall be given at a location designated by the board.

(c) The written or oral examination shall test the applicant's general knowledge of the basics of well construction or pump installation procedures, Wyoming laws, rules, regulations and local ordinances concerning the construction of water wells or installation of water well pumps and pumping equipment.

(d) Not less than thirty (30) days prior to examination the board shall notify each applicant that his application and evidence submitted for licensing is satisfactory and accepted or unsatisfactory and rejected. If rejected, the reasons for rejection shall be given. The notice shall include the date and location of the examination.

(e) In the event an applicant fails to receive a passing grade on examination, he may reapply for examination within ninety (90) days.

(f) The board may contract with examination development consultants, water well technical experts, water pump installation technical experts or other technical experts as deemed necessary to prepare the examinations and may assign a member or members of the board to work with the consultants and technical experts to assure compliance with the requirements of this act.

33-42-111. Denial, revocation or suspension of license; hearing.

(a) The board may withhold, deny, revoke or suspend any certificate or license issued or applied for in accordance with the provisions of this act upon proof that the certificate or license holder or applicant:

(i) Has used fraud or deception in applying for a certificate or license or in the taking of the examination;

(ii) Has willfully or negligently violated any of the provisions of this act, the rules and regulations adopted pursuant to this act or the statutes or rules and regulations of the state pertaining to underground water; or

(iii) Has failed while engaging in the business of water well construction contracting or water well pump installation contracting to comply with the state water well minimum construction standards.

(b) No certificate or license may be suspended or revoked unless there has been a hearing in conformity with the provisions of the Wyoming Administrative Procedure Act.

33-42-112. Exemptions.

(a) Upon submitting satisfactory evidence to the board, any person who has been actively engaged as a water well drilling contractor or a water well pump installation contractor in the state of Wyoming for the five (5) years prior to July 1, 2008, shall be exempt from the oral or written examination requirements pursuant to W.S. 33-42-108 and 33-42-110 until June 30, 2009. Satisfactory evidence may include written affidavits from three (3) individuals competent to attest to the applicant's professional work experience.

(b) Any Wyoming water well drilling contractor or water well pump installation contractor certified pursuant to W.S. 33-42-101 through 33-42-111 by June 30, 2009, shall be exempt from oral or written examination requirements pursuant to W.S. 33-42-108 and 33-42-110.

(c) All applicants shall be required to pay all applicable fees.

(d) If a water well drilling contractor or pump installation contractor is not licensed by June 30, 2009, he shall comply with all the requirements of W.S. 33-42-108, including taking and passing the examination.

(e) The licensure requirements of this chapter shall not apply to any person drilling an oil or gas well or installing a pump in an oil or gas well, where the oil or gas well is permitted pursuant to W.S. 30-5-115.

(f) The licensure requirements of this chapter shall not apply to any person:

(i) Installing a pump in a well on land owned or leased by him or on which he is employed on a regular basis;

(ii) Drilling a monitor well that does not require a permit from the state engineer;

(iii) Drilling a well on land owned by him.

(g) Subsections (a) through (d) of this section are repealed July 1, 2009.

33-42-113. License renewal.

(a) In order to be eligible to renew a license, a licensed water well drilling contractor or water well pump installation contractor shall:

(i) Complete eighteen (18) professional competence hours in three (3) years, as established by the board;

(ii) Submit payment of all applicable fees; and

(iii) Comply with all requirements under W.S. 33-42-111(a).

33-42-114. Reciprocity.

If a person holding a license entitling him to drill water wells or install pumping equipment in another state applies for a Wyoming water well drilling contractor's or water well pump installation contractor's license, if the other state offers reciprocity, and if the board determines the standards and requirements of the state in which the applicant is licensed are equal to or exceed the standards or requirements of this act, the board may waive the examination requirements except the applicant shall successfully complete an examination based on Wyoming statutes and rules relating to the drilling of water wells or installation of pump equipment. The applicant shall also pay all applicable fees.

33-42-115. Complaints and investigations.

If any information concerning a possible violation of this act or rules and regulations applicable to water well drilling or pump installation is received or obtained by a board member or the state engineer's office, the board may, on its own motion, initiate proceedings under this act and in accordance with the Wyoming Administrative Procedure Act.

33-42-116. Account; expenditures.

The water well contractors account is created. Funds provided under W.S. 9-1-904(b), 33-42-105(d) and 33-42-109(d) shall be deposited into the account. Income earned on amounts within the account shall be credited to the account. Funds in the account are continuously appropriated to the board for the operation and management of the board and the administration of this act.

33-42-117. Penalties.

A violation of any provision of this act is a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000.00), imprisonment for not more than six (6) months, or both.