

WYOMING
Water Well Drilling Contractors
And
Water Well Pump Installation Contractors



RULES AND REGULATIONS

July 12, 2004

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CHAPTER I

GENERAL PROVISIONS

Section 1. **Authority.** The State Board of Examining Water Well Drilling Contractors and Water Well Pump Installation Contractors, hereinafter the "Board", is authorized by W.S. 33-42-101 through 33-42-111, hereinafter the "Act". Pursuant to W.S. 33-42-107, the Board shall from time to time adopt such rules and regulations consistent with the Laws of the State of Wyoming as may be deemed necessary in the performance of its duties.

Section 2. **Statement of Purpose.** These rules and regulations are adopted to implement the authority of the Board to provide certification and standards of practice for certified water well drilling contractors and certified water well pump installation contractors in Wyoming and provide for enforcement and proper administration of the provisions of the Act.

Section 3. **Definitions.** The definitions set out in statute W.S. 33-42-102 are hereby incorporated by reference into these rules and regulations. In addition, in the statutes and these rules, unless the context otherwise requires, the following definitions of terms shall apply:

(a) "Board" means the State Board of Examining Water Well Drilling Contractors and Water Well Pump Installation Contractors.

(b) "Bona fide employee" means an individual working under the direct supervision of a certificate holder and receiving compensation, and whose work product is the responsibility of the certificate holder.

(c) "Certificate holder" means a person who has been granted certification or has been certified to practice any profession authorized to be certified pursuant to W.S. 33-42-101 through 33-42-111.

(d) "Direct Supervision" means that the work product has been critically examined and evaluated for compliance with appropriate contracting standards by a certificate holder in that profession.

(e) "Good moral character and repute" means the certification applicant:

(i) Has not been convicted of a felony involving dishonesty, fraud, misrepresentation, embezzlement, theft, forgery, perjury, bribery or breach of fiduciary duty within five (5) years of application for certification;

(ii) Has not been convicted of any crime involving moral turpitude related to the applicant's proposed area of practice within five (5) years of application for certification;

(iii) Is not currently incarcerated in a penal institution;

(iv) Has not engaged in fraud or misrepresentation in connection with the application for certification or related examination;

(v) If previously certified in this state, or registered in another state, or foreign country, has not had their certification/registration canceled, revoked, suspended or not renewed for cause within the last five (5) years of applying for certification/registration;

(vi) Has not been found by a court or any other state board of practicing without registration in another jurisdiction within the United States within two (2) years of application for certification.

(f) "Gross negligence" means a substantial deviation in contracting from the standard of professional care exercised by members of the certificate holder's profession, or a substantial deviation from any technical standards issued by a nationally and/or state recognized contracting organization comprised of members of the certificate holder's profession, or a substantial deviation from requirements contained in state laws, Board regulations, local ordinances, or regulations related to the certificate holder's contracting practice.

(g) "Incompetence" means to lack the professional qualifications, experience, education, or combination thereof to undertake a contracting engagement or assignment.

(h) "Other misconduct" means:

(i) Conviction of any crime reasonably related to the practice of the certificate holder's profession;

(ii) An adverse civil adjudication involving dishonesty, gross negligence, or incompetence;

(iii) Suspension or revocation of a contracting license or certification by this state or by any other jurisdiction;

(iv) Knowingly acting, or failing to act, in violation of any provisions of W.S. 33-42-101 through 33-42-111, or rules of the Board, or any federal or state law or regulation, local ordinance, regulation, or code related to the practice of the certificate holder's profession.

(i) "Resident" means a person who has maintained his/her primary residence in Wyoming and not claimed residence in any other state for one (1) year or more immediately prior to the filing of the application for certification.

(j) "Resident Business Organization" means:

(i) a business organization which has maintained its principal office and place of business within Wyoming for one (1) year or more immediately prior to the filing of its application for certification and which is owned entirely by residents; or

(ii) a corporation organized under the laws of Wyoming which has been in existence for one (1) year or more immediately prior to the filing of its application for certification, whose president is a resident, which maintains its principal office and place of business in Wyoming and either

a. a majority of the issued and outstanding shares of stock in the corporation are owned by residents; or

b. one (1) or more classes of its shares are publicly traded and registered under Section 13 or 15(b) of the Securities and Exchange Act of 1934.

(k) "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; (l)

"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;

(l) "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;

(m) "Water Well Minimum Construction Standards" shall mean the State of Wyoming, State Engineer's Office regulations and instructions, Part III, Revised January 1974, and subsequent revisions.

(n) "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;

(o) "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, 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.

CHAPTER II

ORGANIZATION

Section 1. **Meetings; Election of Officers.** Board meetings shall be held at least semi-annually, at a time and place designated by the Chairman. The Chairman, the Vice Chairman or any four (4) Board members as a group may call such other meetings as necessary to conduct the business of the Board. At the first meeting of odd numbered years, the Board shall elect from its members a Chairman and Vice Chairman who shall assume the duties of their offices at the close of that meeting and serve for a term of two (2) years. The State Engineer/Designee shall be the Secretary-Treasurer of the Board. If an officer resigns or vacates the position prior to the expiration of his/her term, the Board shall recommend a replacement to the Governor to serve the remainder of the term.

Section 2. **Duties of Officers.** The Chairman shall preside at all meetings, appoint committees of the Board, sign all certificates and official documents and otherwise perform all duties ordinarily pertaining to the office of Chairman. The Vice Chairman shall, in the absence or incapacity of the Chairman, exercise the duties of the Chairman. The Secretary-Treasurer or Designee shall have charge of the records.

CHAPTER III

FEES

Section 1. Application Fees.

- (a) Water Well Drilling Contractor application (resident) - \$ 25.00
- (b) Water Well Drilling Contractor application (non-resident) - \$100.00
- (c) Water Well Pump Installation Contractor application (resident) - \$ 25.00
- (d) Water Well Pump Installation Contractor application (non-resident) - \$100.00
- (e) The Board has determined that the costs of processing applications equal or exceed the application fees. Therefore, all application fees are non-refundable.

Section 2. Examination Fees.

- (a) Water Well Drilling Contractors (General) - \$ 35.00
- (b) Water Well Drilling Contractor (Wyoming) - \$ 25.00
- (c) Water Well Drilling Contractor (Specialty) - \$ 35.00
- (d) Water Well Pump Installation Contractor (General) - \$ 35.00
- (e) Water Well Pump Installation Contractor (Wyoming) - \$ 25.00
- (f) Water Well Pump Installation Contractor (Specialty) - \$ 35.00
- (g) Re-examination fees are the same as examination fees.

Section 3. Renewal Fees.

- (a) Triennial renewal fee - \$ 200.00
- (b) Inactive renewal fee - \$ 25.00
- (c) Retired renewal fee - \$ 25.00

Section 4. Miscellaneous Fees. Payment of fees must be in United States dollars, and may be in cash, check or money order. If a check is returned for insufficient funds, repayment, including payment of a returned check charge, shall be in cash or by money order or certified check.

- (a) Combined alphabetical/numerical roster of registrants - \$ 20.00
- (b) Board annual report (exclusive of roster) - \$ 20.00

- (c) Computer printout or compact disk fee (noncommercial use) - \$50 per computer run
- \$100 address labels
- (d) Copy fee per page (noncommercial use) - \$.25
- (e) Business Organization - \$200.00 per three-year period.
- (f) Replacement certificates - \$10
- (g) Local review of examination results by applicant - \$10
- (h) Rules and Regulations and Statutes pertaining to the Board - \$10

Section 5. **Delinquency Penalty.** The penalty for late payment of renewal fees is \$15 per month, but the total renewal fee and penalties shall not exceed the amount of the application plus examination fees.

Section 6. **Renewal Periods.** The first renewal will be due by December 31 of the third year after initial certification. Renewed certificates shall be valid for three (3) years and expire on December 31 of the third year following issuance.

CHAPTER IV

CERTIFICATION

Section 1. **Application Requirements for Water Well Drillers and Water Well Pump Installers.**

(a) All individuals seeking certification must be at least 18 years old. Applicants seeking certification in well construction or pump installation shall complete the application form. If the application does not contain space for the information submitted, the applicant may securely attach additional sheets to the form. In addition, all applicants shall provide:

(i) If applicable, evidence from the National Ground Water Association (NGWA) Westerville, Ohio of the applicant's current certification in the branch or discipline for which certification is being requested. The Board may grant a waiver from general and specialized testing exams for those applicant's demonstrating successful completion of NGWA testing.

(ii) Evidence of coverage under a general liability insurance policy in an amount of not less than \$300,000.

(iii) Submit required fees.

(b) If the application is complete and in the proper form, and the Board is satisfied that all statements on the application are true and that the applicant is eligible in all other respects to be certified in the field for which the applicant has applied, it shall certify the applicant as eligible to take the examination. If the Board is not satisfied that all of the statements on the application are true or that the applicant is not eligible in all respects for examination, it may cause a further investigation to be made of the applicant. The Board will notify the applicant thirty (30) days prior to the examination that his application and evidence submitted for certification is satisfactory and accepted or unsatisfactory and rejected.

(c) If the applicant makes no attempt to complete his application within six (6) months from the date of seeking certification, his application will be cancelled with neither prejudice nor refund of fee.

(d) An applicant may withdraw their application for certification by written request to the Board. Such withdrawal shall be allowed, with neither prejudice nor refund of the application fee.

Section 2. **Examinations**

(a) Examinations shall be given according to a schedule established by the Board.

(b) Water Well Drilling Contractor Examinations - A series of three (3) separate examinations are required to be taken by applicants seeking certification as a Water Well Drilling Contractor. They are as follows:

(i) General exam – tests the applicants general knowledge of groundwater and the groundwater industry.

(ii) Wyoming exam – tests the applicants knowledge of Wyoming laws, rules, and regulations governing groundwater in the State.

(iii) Specialized category exam – applicants are required to select any one (1) of seven (7) specialized exams which will test the applicant’s knowledge in the selected field. The Board has established the following specialized categories:

- Cable tool drilling
- Air rotary drilling
- Mud rotary drilling
- Reverse rotary drilling in unconsolidated material
- Jetting and driving wells in unconsolidated material
- Monitoring well construction
- Well servicing and maintenance

(c) Water Well Pump Installation Contractor Examinations – A series of three (3) separate examinations are required to be taken by applicants seeking certification as a Water Well Pump Installation Contractor. They are as follows:

(i) General exam – tests the applicant’s general knowledge of groundwater and the groundwater industry.

(ii) Wyoming exam – tests the applicant’s knowledge of Wyoming laws, rules, and regulations governing groundwater in the State.

(iii) Specialized category exam – applicants are required to select any one (1) of four (4) specialized exams which will test the applicant’s knowledge in the selected field. The Board has established the following specialized categories;

- Domestic pump installation
- Pump installation in water systems less than 100 GPM
- Pump installation in water systems greater than 100 GPM
- Groundwater heat pumps

(d) All examinations are given at the times and places determined by the Board. Unless otherwise established by the Board, complete applications must be filed a minimum of sixty (60) days prior to any regularly scheduled Board meeting. Applicants or materials received after the cutoff date will be processed for the next Board meeting.

(e) When an applicant has paid the proper fee but is unable to take the first scheduled examination, he may request in writing, sixty (60) days prior to the examination date, an extension that will permit the applicant to take the next scheduled examination without submitting a re-examination fee. A request for an extension beyond the next scheduled examination will not be considered except for reasons of hardship, such as substantiated serious illness or absence from the country.

(f) Applications for admittance to the examination may be denied by the Board for any of the following reasons:

- (i) If the examination or re-examination fee is not received on or before the specified date;
- (ii) If an applicant fails to successfully complete all parts of the application;
- (i) If an applicant fails to comply with any provision of W.S. 33-42-108 or these rules concerning applications.

(g) An applicant who fails to achieve a passing grade on an examination may apply for re-examination within ninety (90) days of the original application date by paying the appropriate examination fee or fees. Access and review of examinations shall be allowed only to those individuals who have failed the examination. The review shall be held not more than one (1) year following the date of examination. Applicants may review their examinations by making prior arrangements with staff.

Section 3. **Water Well Driller Contractors Certification Requirements.**

(a) An applicant for certification as a water well driller shall be of good moral character and repute, and meet the examination and other requirements of this rule.

(b) An applicant shall take and pass the certification examinations offered in water well drilling with a minimum score determined by the Board. The examinations are administered by the Board or a designated representative.

(c) An applicant shall have in place a minimum of \$300,000 in general liability insurance.

Section 4. **Water Well Pump Installers Contractors Certification.**

(a) An applicant for certification as a water well pump installer shall be of good moral character and repute and meet the examination and other requirements of this rule.

(b) An applicant shall take and pass the Wyoming certification examinations offered in water well pump installation with a minimum score determined by the Board. The examinations are administered by the Board or a designated representative.

(c) An applicant shall have in place, a minimum of \$300,000 in general liability insurance.

CHAPTER V

REGULATORY PROVISIONS

Section 1. Rules of Professional Conduct.

(a) All certificate holders shall comply with the following standards.

(i) A certificate holder shall not submit any materially false statements or fail to disclose any material facts requested in connection with the application for certification;

(ii) A certificate holder shall not engage in fraud, deceit, misrepresentation, or concealment of material facts in advertising, soliciting or providing services to members of the public;

(iii) A certificate holder shall not knowingly commit bribery as prescribed in W.S. 6-5-102 or violate any federal statute concerning bribery;

(iv) A certificate holder shall comply with all federal, state, and local building, fire, safety, and real estate and any other laws, codes, ordinances, or regulations pertaining to the certificate holder's professional practice. A certificate holder shall not provide any services in violation of any such laws, codes, ordinances, or regulations;

(v) A certificate holder shall not violate any state or federal criminal statute involving fraud, misrepresentation, embezzlement, theft, forgery or breach of fiduciary duty, where the violation is related to the certificate holder's professional practice;

(vi) A certificate holder shall apply the technical knowledge and skill which would be applied by other qualified certificate holders who practice the same profession;

(vii) A certificate holder shall not accept an assignment where the duty to a client or the public would conflict with the certificate holder's personal interest or the interest of another client without full disclosure of all material facts of the potential conflict to each person who might be related to or affected by the project or engagement in question;

(viii) A certificate holder shall not accept compensation for services related to the same project or professional engagement from more than one party without making full disclosure to all such parties and obtaining the express written consent of all parties involved;

(ix) Except as provided in Subparagraph (viii) of this rule, a certificate holder shall not accept any engagement or assignment outside the certificate holder's certification unless: (i) the certificate holder is qualified by education, technical knowledge or experience to perform such work and (ii) such work is both necessary and incidental to the work of the certificate holder's profession on that specific engagement or assignment;

(x) Except as otherwise provided by law, code, ordinance, or regulation, a certificate holder may act as the prime contractor for a given project and select collaborating contractors; however, the certificate holder shall perform only those services for which the certificate holder is qualified;

(xi) A certificate holder shall make full disclosure to all parties concerning: (i) any transaction involving payments to any person for the purpose of securing a contract, assignment, or engagement, except for actual and substantial technical assistance in preparing the proposal; or (ii) any monetary, financial, or beneficial interest, the certificate holder may hold in a contracting firm or other entity providing goods or services, other than the certificate holder's services, to a project or engagement;

(xii) A certificate holder shall not solicit, receive, or accept compensation from material, equipment, or other product or service suppliers for endorsing their products, goods, or services to any client or other person without full written disclosure to all parties;

(xiii) If a certificate holder's professional judgment is overruled or not adhered to under circumstances where a serious threat to the public health, safety, or welfare results or would result, the certificate holder shall immediately notify the client or employer. If the client or employer does not take appropriate remedial action within a reasonable amount of time under the circumstances, the certificate holder shall also notify the Board of the specific nature of the public threat;

(xiv) If called upon or employed as an arbitrator to interpret contracts or to judge contract performance, or to perform any other arbitration duties, the certificate holder shall render decisions impartially and without bias to any party.

(b) Failure to comply with any provision of this section shall be deemed to be evidence of gross negligence, incompetence, or other misconduct.

CHAPTER VI

BUSINESS ORGANIZATIONS

Section 1. **Business Organizations.** Any form of business organization recognized by State law may provide well drilling and water well pump installation services. Business organizations desiring to become certified, may do so by completing the requirements of this Chapter.

Section 2. **Business Organizations of Other States.**

(a) Business organizations from other states may become certified with the Board and obtain a Certificate of Authorization in order to furnish water well drilling and water well pump installation services to corporations, partnerships, individuals, state, and local government, etc., which are domiciled in or are residents of the state of Wyoming. In addition, the individual in responsible charge of each engagement in Wyoming is required to be a Wyoming certificate holder.

(b) Firms not having a Wyoming address must submit a copy of the Certificate of Authorization from the Secretary of State in the jurisdiction which the firm is located.

Section 3. **Certification of Wyoming Business Organizations.**

(a) The Certificate of Authorization to conduct water well drilling and water well pump installation contracting in Wyoming will be effected by submitting to the Board office, on forms adopted by the Board, the following information:

- (i) Firm name and business form;
- (ii) Location of each office in the state;
- (iii) Phone number;
- (iv) Certificate number of bonafide employee in responsible charge of activities of the firm in the state;
- (v) Description of water well drilling and/or water well pump installation services to be offered or practiced in the state.

(vi) The Board office must be notified within thirty (30) calendar days of any name changes of responsible persons in charge; and if firm name changes. If firm name changes, a copy of the amended Certificate of Authority from the Wyoming Secretary of State is required before firm name will be changed in the Board's records.

(b) Business organizations must complete a certification renewal form and submit to the Board, along with the required renewal fee, as set in Chapter III, Section 3 of these rules.

Section 4. **Financial Responsibility**

(a) Business organizations shall provide evidence of general liability insurance in an amount of not less than \$300,000.

CHAPTER VII

PRACTICE AND PROCEDURE

Section 1. **Statement of Purpose.** These rules and regulations are adopted to implement the Board's authority to conduct investigations, hearing and proceedings, concerning alleged violations, and to determine and administer appropriate disciplinary action against certificate holders for proven violations.

Section 2. **Complaint.** If any information concerning a possible violation of the Act or these rules is received or obtained by a Board member or members of the staff, the Board may, on its own motion, initiate proceedings under the Act and in accordance with the Wyoming Administrative Procedure Act. A written complaint made against a certificate holder shall be submitted to the Board office and should provide the following information, as may be applicable:

- (a) Name, address, place of employment, and position of the individual believed to have violated the Act or Board rules and regulations.
- (b) The nature of the complaint and a description of the incident(s) involved including date(s), time(s), location(s) and any observed behavior of the individual.
- (c) The name and address of other witnesses, if any.
- (d) The signature and address of the person(s) making the complaint.

Section 3. **Review of Complaint.**

(a) If a complaint is filed or if any information concerning a possible violation of the act or these rules is received or obtained by the Board, an investigation may be conducted prior to the initiation of formal proceedings.

(b) A committee of one or two Board members, appointed by the Chairman of the Board shall review the complaint, materials submitted, conduct interviews, and make recommendations to the Board concerning its findings:

(i) The committee appointed shall not take part in the consideration of any contested case in which they participated in the investigation of the complaint, although they may attend any disciplinary hearing.

(c) Following review and investigation of a complaint, the committee may take any appropriate action, including but not necessarily limited to the following:

- (i) Request the Board Chairman to appoint an investigator;
- (ii) Forward the complaint filed by the complainant to the Board attorney with a recommendation that formal disciplinary proceedings commence;
- (iii) Send an advisory letter of warning to the individual listed in the complaint;

- (iv) Accept the voluntary surrender of a certificate;
- (v) Recommend terms for a conditional certificate; or
- (vi) Dismiss the complaint.

Section 4. **Investigation.**

(a) Upon a request by the committee, the Board Chairman may select a person to investigate the complaint. The investigator may be a certificate holder in good standing in the profession. Members of the Board may be investigators.

(b) The purpose of the investigation shall be to determine if there is sufficient evidence to warrant a hearing.

(c) The Board Chairman or Executive Director shall contact the investigator and inform the investigator that a complaint has been filed and shall tell the investigator the name of the certificate holder and the allegations contained in the complaint. The Board Chairman or designee shall ask if the investigator has any conflict of interest that would prevent the investigator from fully and impartially investigating the complaint. The investigator may accept the investigation task only if the investigator can do so without a conflict of interest.

(d) The Board may reimburse the investigator for all necessary and reasonable expenses incurred by the investigator conducting an investigation.

Section 5. **Conduct of Investigation.**

(a) The investigator is empowered to conduct a full and complete investigation of a scope necessary to determine whether or not the charges in the complaint are substantial enough to warrant further action on the complaint.

(b) In pursuit of the investigation, the investigator may review documents and interview the complainant and other witnesses. The investigator may interview the certificate holder only if the certificate holder voluntarily agrees and if the certificate holder has been furnished a copy of the complaint.

Section 6. **Investigator's Report.**

(a) Upon completing the investigation, the investigator shall submit a written report to the committee setting forth the facts discovered. The investigator may make a recommendation to the committee as to whether, in the investigator's opinion, there is sufficient evidence to warrant a hearing. The committee is not bound by the investigator's recommendation.

(b) Files of any investigation which is pending are confidential and not public record.

Section 7. **Informal Compliance Procedures.**

(a) Upon notification of the findings of an investigation, a certificate holder may be asked to attend an informal compliance conference with the committee. The certificate holder may appear either with or without counsel. The purpose of the compliance conference will be to discuss formal or informal settlement of the investigative matter.

(b) At any time either before or after formal disciplinary proceedings have been instituted against a certificate holder, the certificate holder may submit to the Board an offer of settlement whereby, in lieu of formal disciplinary action by the Board, the certificate holder agrees to accept certain sanctions such as suspension, civil penalties, enrolling in continuing education courses, limiting the scope of the certificate holder's practice, or other sanctions. If the Board determines that the proposed settlement will adequately protect the public welfare, the Board may accept the offer and enter a decision that is consented to by the certificate holder and incorporates the proposed settlement.

Section 8. **Formal Hearing Procedures.** Formal proceedings for Board disciplinary action on a Certificate shall be commenced by notice issued by the Board.

(a) The complaint shall be served pursuant to the Wyoming Rules of Civil Procedure, or by Certified Mail. The complaint shall, at a minimum, contain the following information:

- (i) The name and certificate number of the certificate holder;
- (ii) The name, address, and phone number of the Board's attorney;
- (iii) A statement of the legal authority and jurisdiction of the Board;
- (iv) A statement of the particular sections of the statutes and rules involved;
- (v) A statement, in ordinary and concise language, of the nature of the complaint and the facts upon which the complaint is based;
- (vi) The time in which the certificate holder must respond to the complaint. Said time shall be thirty (30) calendar days from date of service;
- (vii) A statement that failure to respond may result in entry of judgment by default for the relief demanded in the complaint;

(b) At any time following the expiration of the period in which the certificate holder must respond to the complaint, the Board may set the matter for hearing. Notice of hearing shall be mailed to the certificate holder at least thirty (30) calendar days prior to the date set for the hearing, or such shorter time as may be agreed to by the parties.

Section 9. **Default.** The Board may enter an order based on the allegations of a complaint in any case where the certificate holder has not responded within the time limits contained in Section 8 (a) (vi) above or in any case in which the certificate holder or the certificate holder's representative has not appeared at a scheduled hearing of which the certificate holder had notice.

Section 10. **Motions.** All motions made to the Board shall be made in writing ten (10) business days prior to the date set for hearing.

(a) The Board may, within its discretion and upon good cause shown, allow a motion to be filed at any time.

(b) For purposes of this rule, any request for settlement of a contested case shall be considered a motion before the Board.

Section 11. **Docket.**

(a) When formal proceedings are initiated and notice has been provided, the case shall be assigned a number and entered upon a docket provided for such purpose.

(b) A separate file shall be established for each docketed case, in which all papers and evidence shall be systematically placed.

Section 12. **Hearing Officer.** The Board may appoint a hearing officer to take evidence at the hearing. A Board member may be the hearing officer. If the case is heard before the Board, the Chairman may preside.

Section 13. **Discovery.**

(a) In all formal proceedings before the Board, discovery shall be afforded in accordance with the Wyoming Administrative Procedures Act.

(b) Requests for discovery from the Board shall be made in writing and directed to the Hearing Officer.

Section 14. **Subpoenas.**

(a) The Board or its hearing officers may issue subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence, and shall have the power to administer oaths.

(b) Any party desiring the Board or its hearing officers to issue a subpoena to compel the appearance of a witness at any hearing shall make application, stating the substance of the testimony expected of the witness. If such testimony appears to be material and necessary, a subpoena will be supplied. The affixing of the seal of the Board shall be sufficient attestation of the same.

(c) Service of a subpoena must be made at the expense of the party applying for it, and shall be made in the manner provided by law for service of subpoenas in civil actions.

Section 15. **Witnesses.**

(a) All persons testifying at any hearing before the Board shall stand and be administered a standard oath.

(b) No testimony will be received from a witness except under oath of affirmation.

(c) The party calling a witness shall bear the costs associated with the witness' appearance.

Section 16. **Representation.**

(a) Any certificate holder may represent oneself or be represented by legal counsel, provided that such counsel is licensed to practice law in the state of Wyoming, or is associated at the hearing with one or more attorneys licensed to practice law in the state of Wyoming.

(b) A request for withdrawal from representation shall be made in writing to the Board by the attorney.

(c) In any case before the Board, an appearance in person or the filing of an answer by an attorney shall constitute an appearance of record by an attorney.

(d) A representative of the Attorney General's Office shall present to the Board all matters enumerated and described in the complaint.

(e) The Board may employ an attorney to advise the Board in conducting the hearing.

Section 17. **Order of Procedure.** As nearly as may be practicable, hearings shall be conducted in accordance with the following order of procedure:

(a) The presiding officer shall announce that the hearing is convened upon the call of the docket number and title of the matter and case to be heard, and thereupon the presiding officer shall direct the reading into the record of the notice of hearing given, and the complaint, together with appearance in the form of answers or other appearance made by the certificate holder, and shall note for the record all subpoenas issued and all appearances of record, including certificate holder and attorney.

(b) Opening statements may be made by each of the parties. The time allowed for oral argument may be limited by the presiding officer.

(c) The attorney or representative of the state of Wyoming shall then present all evidence in support of the complaint. Witnesses may be cross-examined by the certificate holder or the certificate holder's attorney. All exhibits offered by the state shall be marked by letters of the alphabet beginning with "A".

(d) The certificate holder shall be heard in the same manner. Any exhibits presented by the certificate holder shall be marked numerically, beginning with "1".

(e) At the conclusion of the evidence, a closing statement may be made by each of the parties. The time allowed for this statement may be limited by the hearing officer.

(f) After all proceedings have been concluded, the hearing officer shall dismiss and excuse all witnesses and declare the hearing closed. Any party who may desire to tender written briefs to the Board may do so. The Board or hearing officer may require written briefs. The hearing officer shall take the case under advisement and shall declare that the decision of the Board shall be announced within due and proper time following consideration of all matters presented at the hearing.

Section 18. **Decision and Order.** The Board shall, following the hearing, make and enter a written decision and order containing findings of fact and conclusions of law, stated separately.

(a) The decision and order shall be sent by United States mail to the certificate holder and the certificate holder's attorney of record as required by the Administrative Procedures Act.

(b) This rule does not preclude the Board from giving preliminary, non-binding notice to the parties prior to the issuance of the Board's written decision and order.

(c) Unless otherwise ordered by the Board, all decisions of the Board shall be effective as of the date of issuance of the written decision and order.

Section 19. **Record of Proceedings.**

(a) When the denial, revocation, or suspension of any certificate is the subject for hearing, it shall be regarded as a contested case and the proceedings, including all testimony, shall be recorded verbatim by a competent reporter or by electronic recording devices. If the written transcript is prepared at the request of a party, the cost of the transcript shall be paid by the party making the request, unless the Board for good cause shown waives assessment of such costs.

(b) The Board records in a contested case shall include the following:

(i) All pleadings, motions, interlocutory rulings;

(ii) Evidence received or considered;

(iii) Statement of matters officially noticed;

(iv) Objections and offers of proof and rulings thereon;

(v) Proposed findings and exceptions;

(vi) Decision, opinion, or report by the Board or presiding officer; and

(vii) All staff memoranda, other than privileged communications, of data submitted to the Board.

Section 20. **Appeals.**

(a) Appeals from decisions of the Board are governed by Section 16-3-114, W.S. 1977 of the Wyoming Administrative Procedures Act, and the Wyoming Rules of Appellate Procedure.

(b) Costs of transcripts and any reasonable costs assessed by the Board regarding the record on appeal shall be borne by the party making the appeal.

Section 21. **Applicability of the Rules of Civil Procedure.** The Wyoming Rules of Civil Procedure, insofar as they may be applicable and not inconsistent with the laws of the state and these rules and regulations, shall apply to cases before the Board.

CHAPTER VIII

CONTINUING PROFESSIONAL COMPETENCY

Section 1. **Authority.** The Board is authorized by W.S. 33-42-107 to adopt such rules and regulations not inconsistent with the laws of the state of Wyoming as may be deemed necessary in the performance of its duties.

Section 2. **Statement of Purpose.** The continuing education competency guidelines are set forth below for the purpose of providing consistency in those jurisdictions that adopt mandatory requirements or for those jurisdictions that wish to encourage voluntary usage. The purpose of the continuing education competency requirement is to demonstrate a continuing level of competency of water well drilling contractors and water well pump installation contractors.

Section 3. **Introduction.** Every certified holder shall meet the continuing professional education requirements of these regulations for professional development as a condition for certification renewal.

Section 4. **Definitions.** Terms used in this section are defined as follows:

(a) Continuing Professional Competency (CPC) Unit – A contact hour (nominal) of instruction or presentation. The common denominator for other units of credit.

(b) Continuing Education Unit (CEU) – Unit of credit customarily used for continuing education courses. One continuing education unit equals ten (10) contact hours of class in continuing education course.

(c) College/Unit Semester/Quarter Hour – Credit for approved course or other related college course approved in accordance with article (d) of this section.

(d) Course/Activity – Any qualifying course or activity with a clear purpose and objective which will maintain, improve, or expand the skills and knowledge relevant to the certificate holder's field of practice.

(e) Dual Certificate Holder – A person who is registered as both a water well drilling contractor and water well pump installation contractor.

Section 5. **Requirements.** All certificate holders renewing their registration will be required as a condition of renewal, to have completed a total of eighteen (18) CPC hours in each renewal period. For each renewal period, dual certificate holders will be required to have a minimum of six (6) CPC hours in each certification category, with a combined total of eighteen (18). A maximum of six (6) CPC units may be carried forward into the subsequent renewal period.

CPC units may be earned as follows:

(a) Successful completion of college courses;

(b) Successful completion of continuing education courses;

- (c) Successful completion of correspondence, televised, videotaped, audio taped, and other short courses/tutorials;
- (d) Presenting or attending qualifying seminars, in-house courses, workshops, or professional or technical presentations made at meetings, conventions or conferences;
- (e) Teaching or instructing in (a) through (d) above;
- (f) Authoring published papers, articles, monographs, or books;
- (g) Active participation in professional or technical societies;
- (h) Patents;
- (i) Self directed study/research.

Section 6. **Units.** The conversion of other units of credit or CPC units is as follows:

(a)	One (1) college or unit semester hour	45 CPC
(b)	One (1) college or unit quarter hour	30 CPC
(c)	One (1) continuing education unit	10 CPC
(d)	One (1) contact hour of professional development in course work, seminars, or professional or technical presentations made at meetings, conventions or conferences.	1 CPC
(e)	For teaching apply multiple of two (2) (teaching credit is valid for teaching a course or seminar for the first time only.)	
(f)	Each published paper, article, monograph, or book	10 CPC
(g)	Active participation in professional and technical society. (each organization)	2 CPC per year
(h)	Each patent	10 CPC
(i)	Self directed study/research	5 contact hours-yr
(j)	One (1) contact hour for safety training	1 CPC

Section 7. **Determination of Credit.** The Board has final authority with respect to approval of courses, credit, CPC value for courses, and other methods of earning credit.

- (a) Credit for college or community college approved courses will be based upon course credit established by the college.

(b) Credit for qualifying seminars and workshops, will be based on one CPC unit for each hour of attendance. Attendance at qualifying programs presented at professional and/or technical society meetings will earn CPC units for the actual time of attendance at each program.

(c) Credit determination for activities Section 6 (f) and Section 6 (h) is the responsibility of the certificate holder, subject to review as required by the Board.

(d) Credit for a Section 6 (g), active participation in professional and technical societies (limited to two (2) CPC per organization), requires that a certificate holder serve as an officer and/or actively participate in a committee of the organization. CPC credits are not earned until the end of each year of service.

Section 8. **Record keeping.** The responsibility of maintaining records to be used to support credits claimed is the responsibility of the certificate holder. Records required include, but are not limited to: 1) A log/diary showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, and CPC credits earned; 2) Attendance verification records in the form of completion certificates, receipts, or other documents supporting evidence of attendance: These records must be maintained for a period of three (3) years following renewal and copies may be requested by the Board for audit verification purposes.

Section 9. **Exemptions.** A certificate holder may be exempt from the continuing professional competency requirements for one of the following reasons:

(a) New certificate holders by way of examination or comity shall be exempt for their first renewal period.

(b) A certificate holder serving on temporary active duty in the armed forces of the United States for a period of time exceeding one hundred twenty (120) consecutive days in a year shall be exempt from obtaining the continuing professional competency required during that year.

(c) Certificate holders experiencing physical disability, illness, or other extenuating circumstances as reviewed and approved by the Board may be exempt. Certificate holders who believe that they are eligible should contact the Board office for requisite documentation required to substantiate the claim.

(d) Certificate holders who list their occupation as "retired" on the Board approved renewal form and who further certify that they are no longer receiving any remuneration from providing water well drilling and/or water well pump installation shall be exempt from the continuing professional competency required. In the event such a person elects to return to active water well drilling and/or water well pump installation, continuing professional competency must be earned before returning to active practice for each year exempted, not to exceed the annual requirement for three (3) years.

Section 10. **Reinstatement.** A certificate holder may bring an inactive certification to active status by earning all delinquent CPC units. However, if the total number required to become current exceeds eighteen (18), then eighteen (18) shall be the maximum number required.

Section 11. **Comity/Out-of-Jurisdiction Resident.** Certificate holders who are residents of jurisdictions other than Wyoming must satisfy the CPC requirements of Wyoming.

Section 12. **Forms.** All renewal applications will require the completion of a continuing education form specified by the Board outlining CPC credit claimed. The certificate holder must supply sufficient detail on the form to permit audit verification, must certify and sign the continuing education form, and submit the form with the renewal application and fee.