

2011

STATE OF NEBRASKA

**STATUTES RELATING TO
WATER WELL STANDARDS AND
CONTRACTORS' PRACTICE ACT**

Department of Health & Human Services



N E B R A S K A

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INDEX

- 46-1201. Act, how cited.
- 46-1202. Purposes of act.
- 46-1203. Definitions, where found.
- 46-1204. Repealed. Laws 1993, LB 131, §65.
- 46-1204.01. Abandoned water well, defined.
- 46-1204.02. Active status water well, defined.
- 46-1205. Board, defined.
- 46-1205.01. Licensed natural resources ground water technician, defined.
- 46-1206. Construction of water wells, defined.
- 46-1206.01. Decommissioned, defined.
- 46-1207. Department, defined.
- 46-1207.01. Illegal water well, defined; landowner; petition for reclassification; when.
- 46-1207.02. Inactive status water well, defined.
- 46-1208. Installation of pumps and pumping equipment, defined.
- 46-1208.01. Person, defined.
- 46-1208.02. Natural resources ground water technician, defined.
- 46-1209. Licensed pump installation contractor, defined.
- 46-1210. Licensed pump installation supervisor, defined.
- 46-1211. Pumps and pumping equipment, defined.
- 46-1212. Water well, defined.
- 46-1213. Licensed water well contractor, defined.
- 46-1214. Licensed water well drilling supervisor, defined.
- 46-1214.01. Licensed water well monitoring technician, defined.
- 46-1215. Well repairs, defined.
- 46-1216. Well seal, defined.
- 46-1217. Water Well Standards and Contractors' Licensing Board; created; members; qualifications.
- 46-1218. Board; terms; vacancy.
- 46-1219. Board; meetings; quorum.
- 46-1219.01. Repealed. Laws 2007, LB 463, § 1319.
- 46-1220. Repealed. Laws 2007, LB 463, § 1319.
- 46-1221. Board; executive secretary; offices.
- 46-1222. Repealed. Laws 2007, LB 463, § 1319.
- 46-1223. Examinations; requirements; fee; hardship licensing.
- 46-1223.01. Department; develop program.
- 46-1224. Board; set fees; Water Well Standards and Contractors' Licensing Fund; created; use; investment.
- 46-1225. License renewal; continuing competency required.
- 46-1226. Repealed. Laws 2007, LB 463, § 1319.
- 46-1227. Department; well and equipment standards; adopt rules and regulations.
- 46-1227.01. Activities subject to standards; contractor, supervisor, and technician authority; landowner rights.
- 46-1228. Department; access and inspection; powers.
- 46-1229. License required; application; qualifications.
- 46-1230. Licensees; proof of insurance.
- 46-1231. License; application; qualifications.
- 46-1232. Repealed. Laws 2007, LB 463, § 1319.
- 46-1233. Water well construction or decommissioning; equipment installation or repair; supervision required.
- 46-1233.01. Repealed. Laws 2007, LB 463, § 1319.
- 46-1234. Exploratory wells; agreement to decommission required; failure to plug; effect.
- 46-1235. License; disciplinary actions; grounds.
- 46-1235.01. Repealed. Laws 2007, LB 463, § 1319.
- 46-1235.02. Repealed. Laws 2007, LB 463, § 1319.
- 46-1236. Repealed. Laws 2007, LB 463, § 1319.
- 46-1237. Repealed. Laws 2007, LB 463, § 1319.
- 46-1237.01. Repealed. Laws 2007, LB 463, § 1319.
- 46-1237.02. Repealed. Laws 2007, LB 463, § 1319.
- 46-1237.03. Repealed. Laws 2007, LB 463, § 1319.
- 46-1238. License; when required; action to enjoin activities.
- 46-1239. Unauthorized employment; construction, decommissioning, or installation without license; criminal penalty; civil penalty.

- 46-1240. Failure to comply with standards; criminal penalty; civil penalty; action to enjoin.
- 46-1240.01. False or forged documents; penalty.
- 46-1240.02. Repealed. Laws 2007, LB 463, § 1319.
- 46-1240.03. Repealed. Laws 2007, LB 463, § 1319.
- 46-1240.04. Repealed. Laws 2007, LB 463, § 1319.
- 46-1240.05. Repealed. Laws 2007, LB 463, § 1319.
- 46-1240.06. Variance from rule, regulation, or standard; conditions; injunction.
- 46-1241. Water well log required; contents.

STATUTES PERTAINING TO WATER WELL STANDARDS AND CONTRACTORS' LICENSING

46-1201. Act, how cited. Sections 46-1201 to 46-1241 shall be known and may be cited as the Water Well Standards and Contractors' Practice Act.

Source: Laws 1986, LB 310, § 1; Laws 1991, LB 51, § 18; Laws 1993, LB 131, § 38; Laws 1994, LB 981, § 9; Laws 1996, LB 1241, § 2; Laws 2001, LB 133, § 1; Laws 2007, LB463, § 1143. Operative date December 1, 2008.

46-1202. Purposes of act. The purposes of the Water Well Standards and Contractors' Practice Act are to: (1) Provide for the protection of ground water through the licensing and regulation of water well contractors, pump installation contractors, water well drilling supervisors, pump installation supervisors, water well monitoring technicians, and natural resources ground water technicians in the State of Nebraska; (2) protect the health and general welfare of the citizens of the state; (3) protect ground water resources from potential pollution by providing for proper siting and construction of water wells and proper decommissioning of water wells; and (4) provide data on potential water supplies through well logs which will promote the economic and efficient utilization and management of the water resources of the state.

Source: Laws 1986, LB 310, § 2; Laws 1994, LB 981, § 10; Laws 2001, LB 133, § 2; Laws 2001, LB 667, § 11; Laws 2007, LB463, § 1144. Operative date December 1, 2008.

46-1203. Definitions, where found. For purposes of the Water Well Standards and Contractors' Practice Act, unless the context otherwise requires, the definitions found in sections 46-1204.01 to 46-1216 shall be used.

Source: Laws 1986, LB 310, § 3; Laws 1991, LB 51, § 19; Laws 1993, LB 131, § 39; Laws 1994, LB 981, § 11; Laws 1996, LB 1241, § 3; Laws 2001, LB 133, § 3; Laws 2007, LB463, § 1145. Operative date December 1, 2008.

46-1204. Repealed. Laws 1993, LB 131, §65.

46-1204.01. Abandoned water well, defined. Abandoned water well means any water well (1) the use of which has been accomplished or permanently discontinued, (2) which has been decommissioned as described in the rules and regulations of the Department of Health and Human Services, and (3) for which the notice of abandonment required by subsection (2) of section 46-602 has been filed with the Department of Natural Resources by the licensed water well contractor or licensed pump installation contractor who decommissioned the water well or by the water well owner if the owner decommissioned the water well.

Source: Laws 1994, LB 981, § 12; Laws 1996, LB 1044, § 264; Laws 2000, LB 900, § 234; Laws 2001, LB 667, § 12; Laws 2003, LB 245, § 7; Laws 2007, LB296, § 207; Laws 2007, LB463, § 1146. The changes made by LB 296 became operative July 1, 2007. The changes made by LB 463 became operative December 1, 2008.

46-1204.02. Active status water well, defined. Active status water well shall mean a water well which is in use and which is not an illegal water well.

Source: Laws 1994, LB 981, §13.

46-1205. Board, defined. Board means the Water Well Standards and Contractors' Licensing Board.

Source: Laws 1986, LB 310, § 5; Laws 2007, LB463, § 1147. Operative date December 1, 2008.

46-1205.01. Licensed natural resources ground water technician, defined. Licensed natural resources ground water technician means a natural resources ground water technician who has taken a training course, passed an examination based on the training course, and received a license from the department indicating that he or she is a licensed natural resources ground water technician.

Source: Laws 2001, LB 133, § 4; Laws 2007, LB463, § 1148. Operative date December 1, 2008.

46-1206. Construction of water wells, defined. Construction of water wells shall mean and include all acts necessary to make a water well usable for the purpose for which it is intended including, without limitation, the siting of and excavation for the water well and its construction, alteration, or repair, but excluding the installation of pumps and pumping equipment.

Source: Laws 1986, LB 310, §6.

46-1206.01. Decommissioned, defined. Decommissioned, when used in relation to a water well, shall mean the act of filling, sealing, and plugging a water well in accordance with the rules and regulations of the department.

Source: Laws 1994, LB 981, §14.

46-1207. Department, defined. Department shall mean the Department of Health and Human Services.

Source: Laws 1986, LB 310, § 7; Laws 1996, LB 1044, § 265; Laws 2007, LB296, § 208. Operative date July 1, 2007.

46-1207.01. Illegal water well, defined; landowner; petition for reclassification; when. (1) Illegal water well means any water well which has not been properly decommissioned and which meets any of the following conditions:

- (a) The water well is in such a condition that it cannot be placed in active or inactive status;
- (b) Any necessary operating equipment has been removed and the well has not been placed in inactive status;
- (c) The water well is in such a state of disrepair that continued use for the purpose for which it was constructed is impractical;
- (d) The water well was constructed after October 1, 1986, but not constructed by a licensed water well contractor or by an individual on land owned by him or her and used by him or her for farming, ranching, or agricultural purposes or as his or her place of abode;
- (e) The water well poses a health or safety hazard;
- (f) The water well is an illegal water well in accordance with section 46-706; or
- (g) The water well has been constructed after October 1, 1986, and such well is not in compliance with the standards developed under the Water Well Standards and Contractors' Practice Act.

(2) Whenever the department classifies a water well as an illegal water well, the landowner may petition the department to reclassify the water well as an active status water well, an inactive status water well, or an abandoned water well.

Source: Laws 1994, LB 981, § 15; Laws 1996, LB 108, § 76; Laws 2004, LB 962, § 98; Laws 2007, LB463, § 1149. Operative date December 1, 2008.

46-1207.02. Inactive status water well, defined. Inactive status water well shall mean a water well that is in a good state of repair and for which the owner has provided evidence of intent for future use by maintaining the water well in a manner which meets the following requirements:

- (1) The water well does not allow impairment of the water quality in the water well or of the ground water encountered by the water well;
- (2) The top of the water well or water well casing has a water-tight welded or threaded cover or some other water-tight means to prevent its removal without the use of equipment or tools to prevent unauthorized access, to prevent a safety hazard to humans and animals, and to prevent illegal disposal of wastes or contaminants into the water well;
- (3) All entrances and discharge piping to the water well are effectively sealed to prevent the entrance of contaminants; and
- (4) The water well is marked so as to be easily visible and located and is labeled or otherwise marked so as to be easily identified as a water well and the area surrounding the water well is kept clear of brush, debris, and waste material.

Source: Laws 1994, LB 981, § 16; Laws 2004, LB 962, § 99. Operative date July 16, 2004.

46-1208. Installation of pumps and pumping equipment, defined. Installation of pumps and pumping equipment shall mean the procedure employed in the placement and preparation for operation of pumps and pumping equipment at the water well location, including connecting all wiring to the first control and all construction or repair involved in making entrance to the water well, which involves the breaking of the well seal.

Source: Laws 1986, LB 310, § 8; Laws 1993, LB 131, § 40; Laws 2006, LB 508, § 4. Effective date July 14, 2006.

46-1208.01. Person, defined. Person shall mean any: Individual; partnership; limited liability company; association; public or private corporation; trustee; receiver; assignee; agent; municipality or other governmental subdivision; public agency; other legal entity; or any officer or governing or managing body of any public or private corporation, municipality, governmental subdivision, public agency, or other legal entity.

Source: Laws 1996, LB 1241, §4. Effective date July 19, 1996.

46-1208.02. Natural resources ground water technician, defined. Natural resources ground water technician means any individual employed by a natural resources district and engaged in the inspection of chemigation systems, measuring and recording static water levels, inspection and servicing of flow meters, and water sampling practices and techniques. Natural resources ground water technician does not include: (1) An individual who constructs a water well or installs or repairs pumps or pumping equipment or a water well; (2) a water well monitoring technician; or (3) an individual who carries out the measurement, sampling, or inspection of a water well which is on land owned by him or her and used by him or her for farming, ranching, or agricultural purposes or as his or her place of abode.

Source: Laws 2001, LB 133, § 5. Effective date September 1, 2001.

46-1209. Licensed pump installation contractor, defined. Licensed pump installation contractor means an individual who has obtained a license from the department and who is a principal officer, director, manager, or owner-operator of any business engaged in the installation of pumps and pumping equipment or the decommissioning of water wells.

Source: Laws 1986, LB 310, § 9; Laws 2001, LB 667, § 13; Laws 2007, LB463, § 1150. Operative date December 1, 2008.

46-1210. Licensed pump installation supervisor, defined. Licensed pump installation supervisor means any individual who has obtained a license from the department and who is engaged in the installation of pumps and pumping equipment or the decommissioning of water wells. Such supervisor may have discretionary and supervisory authority over other employees of a pump installation contractor.

Source: Laws 1986, LB 310, § 10; Laws 2001, LB 667, § 14; Laws 2007, LB463, § 1151. Operative date December 1, 2008.

46-1211. Pumps and pumping equipment, defined. Pumps and pumping equipment shall mean any equipment or materials utilized or intended for use in withdrawing or obtaining ground water including, but not limited to, seals, tanks, fittings, and controls.

Source: Laws 1986, LB 310, §11.

46-1212. Water well, defined. Water well shall mean any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed for the purpose of exploring for ground water, monitoring ground water, utilizing the geothermal properties of the ground, obtaining hydrogeologic information, or extracting water from or injecting fluid as defined in section 81-1502 into the underground water reservoir. Water well shall not include any excavation described in subdivisions (1)(b) and (1)(c) of section 46-601.01.

Source: Laws 1986, LB 310, § 12; Laws 1993, LB 131, § 41; Laws 2004, LB 962, § 100; Laws 2007, LB701, § 24. Effective date May 2, 2007.

46-1213. Licensed water well contractor, defined. Licensed water well contractor means an individual who has obtained a license from the department and who is a principal officer, director, manager, or owner-operator of any business engaged in the construction or decommissioning of water wells.

Source: Laws 1986, LB 310, § 13; Laws 2001, LB 667, § 15; Laws 2007, LB463, § 1152. Operative date December 1, 2008.

46-1214. Licensed water well drilling supervisor, defined. Licensed water well drilling supervisor means any individual who has obtained a license from the department and who is engaged in the construction or decommissioning of water wells. Such supervisor may have discretionary and supervisory authority over other employees of a water well contractor.

Source: Laws 1986, LB 310, § 14; Laws 2001, LB 667, § 16; Laws 2007, LB463, § 1153. Operative date December 1, 2008.

46-1214.01. Licensed water well monitoring technician, defined. Licensed water well monitoring technician means any individual who has obtained a license from the department and who is engaged solely in the measuring of ground water levels, the collection of ground water samples from existing water wells, or the inspection of installed water well equipment or pumping systems. A licensed water well monitoring technician shall not supervise the work of others.

Source: Laws 1991, LB 51, § 20; Laws 2001, LB 133, § 6; Laws 2001, LB 667, § 17; Laws 2007, LB463, § 1154. Operative date December 1, 2008.

46-1215. Well repairs, defined. Well repairs shall mean any change, replacement, or other alteration of any water well, pump, or pumping equipment or any other activity which requires a breaking or opening of the well seal.

Source: Laws 1986, LB 310, §15.

46-1216. Well seal, defined. Well seal shall mean an arrangement or device used to cap a water well or to establish and maintain a junction between the casing or curbing of a water well and the piping or equipment installed therein, the purpose or function of which is to prevent pollutants from entering the water well.

Source: Laws 1986, LB 310, §16.

46-1217. Water Well Standards and Contractors' Licensing Board; created; members; qualifications. (1)

There is hereby created a Water Well Standards and Contractors' Licensing Board. The board shall be composed of ten members, six of whom shall be appointed by the Governor as follows: (a) A licensed water well contractor representing irrigation water well contractors, (b) a licensed water well contractor representing domestic water well contractors, (c) a licensed water well contractor representing municipal and industrial water well contractors, (d) a licensed pump installation contractor, (e) a manufacturer or supplier of water well or pumping equipment, and (f) a holder of a license issued under the Water Well Standards and Contractors' Practice Act employed by a natural resources district. The chief executive officer of the Department of Health and Human Services or his or her designated representative, the Director of Environmental Quality or his or her designated representative, the Director of Natural Resources or his or her designated representative, and the director of the Conservation and Survey Division of the University of Nebraska or his or her designated representative shall also serve as members of the board.

(2) Each member shall be a resident of the state. Each industry representative shall have had at least five years of experience in the business of his or her category prior to appointment and shall be actively engaged in such business at the time of appointment and while serving on the board. Each member representing a category subject to licensing under the Water Well Standards and Contractors' Practice Act shall be licensed by the department pursuant to such act. In making appointments, the Governor may consider recommendations made by the trade associations of each category.

Source: Laws 1986, LB 310, § 17; Laws 1993, LB 3, § 32; Laws 1993, LB 131, § 42; Laws 1996, LB 1044, § 266; Laws 2000, LB 900, § 235; Laws 2006, LB 508, § 5; Laws 2007, LB296, § 209; Laws 2007, LB463, § 1155. The changes made by LB 296 became operative July 1, 2007. The changes made by LB 463 became operative December 1, 2008.

46-1218. Board; terms; vacancy. (1) The terms of members of the board appointed pursuant to subdivisions

(1)(e) and (f) of section 46-1217 shall be extended by one year to five-year terms, and the successors to members appointed pursuant to subdivisions (1)(a) through (f) of such section shall be appointed for five-year terms. No appointed member shall be appointed to serve more than two consecutive full five-year terms.

(2) Each appointed member shall hold office until the expiration of his or her term or until a successor has been appointed and qualified. Any vacancy occurring in the appointed board membership, other than by expiration of a term, shall be filled within sixty days by the Governor by appointment from the appropriate category for the unexpired term.

Source: Laws 1986, LB 310, § 18; Laws 2007, LB463, § 1156. Operative date December 1, 2008.

46-1219. Board; meetings; quorum. (1) Special meetings of the board shall be called upon the written request of

any three members of the board. The place of all meetings shall be at the offices of the department, unless otherwise determined by the board.

(2) A majority of the members of the board shall constitute a quorum for the transaction of business. Every act of a majority of the total number of members of the board shall be deemed to be an act of the board.

Source: Laws 1986, LB 310, § 19; Laws 2007, LB463, § 1157. Operative date December 1, 2008.

46-1219.01. Repealed. Laws 2007, LB 463, § 1319.

46-1220. Repealed. Laws 2007, LB 463, § 1319.

46-1221. Board; executive secretary; offices. The department shall designate an individual with the approval of the board to serve as executive secretary of the board, and the department shall furnish such offices and materials as may be necessary for the efficient operation of the board.

Source: Laws 1986, LB 310, §21.

46-1222. Repealed. Laws 2007, LB 463, § 1319.

46-1223. Examinations; requirements; fee; hardship licensing. (1) Examinations for water well monitoring technicians shall be designed and adopted to examine the knowledge of the applicant regarding the minimum standards for water wells and water well pumps, the geological characteristics of the state, measuring ground water levels, and water sampling practices and techniques. Examinations for natural resources ground water technicians shall examine the knowledge of the applicant regarding inspection of chemigation systems, measuring and recording static water levels, inspecting and servicing flow meters, and water sampling practices and techniques. All other examinations shall be designed and adopted to examine the knowledge of the applicant regarding the minimum standards for water wells and water well pumps, the geological characteristics of the state, current drilling or pump installation practices and techniques, and such other knowledge as deemed appropriate by the board.

(2) An examinee who fails to pass the initial examination may retake such examination without charge at any regularly scheduled examination held within twelve months after failing to pass the initial examination, except that when a national standardized examination is utilized which requires the payment of a fee to purchase such examination, the board shall require the applicant to pay the appropriate examination fee whether an initial examination or a retake of an examination is involved.

(3) In cases of hardship, the board may provide and direct that special arrangements for administering examinations be utilized. The board may also provide for temporary hardship licensing without examination due to the death of the current license holder or for other good cause shown.

Source: Laws 1986, LB 310, § 23; Laws 1991, LB 51, § 21; Laws 1993, LB 131, § 43; Laws 2001, LB 133, § 8; Laws 2007, LB463, § 1159. Operative date December 1, 2008.

46-1223.01. Department; develop program. The department shall develop a program that is designed to train individuals to become licensed natural resources ground water technicians. Such course shall be developed by the department in consultation with the natural resources districts. Such course shall include inspection of chemigation systems, measuring and recording static water levels, inspecting and servicing flow meters, and taking water samples. Training sessions shall not be less than two hours and shall not exceed eight hours.

Source: Laws 2001, LB 133, § 7; Laws 2007, LB463, § 1160. Operative date December 1, 2008.

46-1224. Board; set fees; Water Well Standards and Contractors' Licensing Fund; created; use; investment. (1) Except as otherwise provided in subsections (2) through (4) of this section, the board shall set reasonable fees in an amount calculated to recover the costs incurred by the department and the board in administering and carrying out the purposes of the Water Well Standards and Contractors' Practice Act. Such fees shall be paid to the department and remitted to the State Treasurer for credit to the Water Well Standards and Contractors' Licensing Fund, which fund is hereby created. Such fund shall be used by the department and the board for the purpose of administering the Water Well Standards and Contractors' Practice Act. Additionally, such fund shall be used to pay any required fee to a contractor which provides the on-line services for registration of water wells. Any discount in the amount paid the state by a credit card, charge card, or debit card company or a third-party merchant bank for such registration fees shall be deducted from the portion of the registration fee collected pursuant to this section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) Fees for credentialing individuals under the Water Well Standards and Contractors' Practice Act shall be established and collected as provided in sections 38-151 to 38-157.

(3) The board shall set a fee of not less than twenty-five dollars and not more than forty dollars for each water well which is required to be registered and which is designed and constructed to pump fifty gallons per minute or less and each monitoring and observation well and a fee of not less than forty dollars and not more than eighty dollars for each water well which is required to be registered and which is designed and constructed to pump more than fifty gallons per minute. For water wells permitted pursuant to the Industrial Ground Water Regulatory Act, the fee set pursuant to this subsection shall be collected for each of the first ten such water wells registered, and for each group of ten or fewer such water wells registered thereafter, the fee shall be collected as if only one water well was being registered. For a series of two or more water wells completed and pumped into a common carrier, as defined in section 46-601.01, as part of a single site plan for irrigation purposes, the fee set pursuant to this subsection shall be collected for each of the first two such water wells registered. For a series of water wells completed for purposes of installation of a ground heat exchanger for a structure for utilizing the geothermal properties of the ground, the fee set pursuant to this subsection shall be collected as if only one water well was being registered. For water wells constructed as part of a single site plan for monitoring ground water, obtaining hydrogeologic information, or extracting contaminants from the ground and for water wells constructed as part of remedial action approved by the Department of Environmental Quality pursuant to section 66-1525, 66-1529.02, or 81-15,124, the fee set pursuant to this subsection shall be collected for each of the first five such water wells registered, and for each group of five or fewer such water wells registered thereafter, the fee shall be collected as if only one water well was being registered. The fees shall be remitted to the Director of Natural Resources with the registration form required by section 46-602 and shall be in addition to the fee in section 46-606. The director shall remit the fee to the State Treasurer for credit to the Water Well Standards and Contractors' Licensing Fund.

(4) The board shall set an application fee for a declaratory ruling or variance of not less than fifty dollars and not more than one hundred dollars. The fee shall be remitted to the State Treasurer for credit to the Water Well Standards and Contractors' Licensing Fund.

Source: Laws 1986, LB 310, § 24; Laws 1993, LB 131, § 45; Laws 1994, LB 981, § 17; Laws 1994, LB 1066, § 34; Laws 1999, LB 92, § 4; Laws 2000, LB 900, § 236; Laws 2001, LB 667, § 18; Laws 2003, LB 242, § 8; Laws 2007, LB463, § 1161; Laws 2011, LB27, § 2. Effective Date: August 27, 2011

46-1225. License renewal; continuing competency required. The board shall adopt rules and regulations to establish continuing competency requirements for persons licensed under the Water Well Standards and Contractors' Practice Act. Continuing education is sufficient to meet continuing competency requirements.

Source: Laws 1986, LB 310, § 25; Laws 1993, LB 131, § 46; Laws 1996, LB 1044, § 267; Laws 2002, LB 458, § 6; Laws 2002, LB 1021, § 2; Laws 2007, LB463, § 1162. Operative date December 1, 2008.

46-1226. Repealed. Laws 2007, LB 463, § 1319.

46-1227. Department; well and equipment standards; adopt rules and regulations. The department, with the approval of the board, shall adopt and promulgate uniform rules and regulations, in accordance with the rules and regulations adopted and promulgated pursuant to sections 46-602 and 81-1505, for the establishment of standards for the (1) construction of water wells, (2) installation of pumps and pumping equipment, and (3) decommissioning water wells. Such rules, regulations, and standards may recognize differing hydrologic and geologic conditions, may recognize differing uses of any developed supplies, and shall be designed to promote efficient methods of operation and prevent water wells from becoming a source of contamination to the aquifer. Such standards shall be applicable whether such activities are carried out by a licensed water well contractor, a licensed pump installation contractor, a licensed water well drilling supervisor, a licensed pump installation supervisor, or any other person. Nothing in this section shall be construed to require that the department adopt, promulgate, or amend rules and regulations for programs in existence on October 1, 1986.

Source: Laws 1986, LB 310, § 27; Laws 1993, LB 3, § 33; Laws 1994, LB 981, § 18; Laws 2007, LB463, § 1163. Operative date December 1, 2008.

46-1227.01. Activities subject to standards; contractor, supervisor, and technician authority; landowner rights. (1) All water well construction and monitoring, pump and pumping equipment installation and repair, and decommissioning shall be accomplished following the standards developed under the Water Well Standards and Contractors' Practice Act.

(2) A licensed water well contractor may have supervisory authority over all employees.

(3) A licensed water well drilling supervisor shall work under the supervision of a licensed water well contractor and may have supervisory authority over noncredentialed employees.

(4) A licensed pump installation contractor may have supervisory authority over all employees.

(5) A licensed pump installation supervisor shall work under the supervision of a licensed pump installation contractor and may have supervisory authority over noncredentialed employees.

(6) A licensed water well monitoring technician may work independently and shall not have supervisory authority.

(7) A licensed natural resources ground water technician employed by a natural resources district may work independently and shall not have supervisory authority over any credentialed or noncredentialed persons.

(8) An individual who owns land and uses it for farming, ranching, or agricultural purposes or as his or her place of abode may, on such land, construct a water well, install a pump in a well, or decommission a driven sandpoint well.

Source: Laws 2007, LB463, § 1158. Operative date December 1, 2008.

46-1228. Department; access and inspection; powers. The department shall have (1) authority to inspect water wells constructed, water wells decommissioned, and water well locations, (2) access to water wells and accompanying pumps and pumping equipment at all reasonable times, and (3) power of inspection in regard to the construction and decommissioning of all water wells.

Source: Laws 1986, LB 310, § 28; Laws 2004, LB 962, § 101. Operative date July 16, 2004.

46-1229. License required; application; qualifications. Any person desiring to engage in the construction of water wells, the installation of pumps and pumping equipment, or the decommissioning of water wells shall make initial application for a license to the department in accordance with section 38-130. A license to engage in the construction or decommissioning of water wells or the installation of pumps and pumping equipment shall be issued to every applicant who demonstrates professional competence by successfully passing the examination prescribed in section 46-1223 and otherwise complies with the Uniform Credentialing Act, the Water Well Standards and Contractors' Practice Act, and all standards, rules, and regulations adopted and promulgated pursuant to such acts. Applicants shall receive licenses for any category or combination of categories for which they have successfully passed the required examination.

Source: Laws 1986, LB 310, § 29; Laws 1997, LB 752, § 122; Laws 2001, LB 667, § 19; Laws 2003, LB 242, § 9; Laws 2007, LB463, § 1164. Operative date December 1, 2008.

46-1230. Licensees; proof of insurance. Each applicant for an initial license as a licensed water well contractor or as a licensed pump installation contractor shall furnish proof to the department that there is in force a policy of public liability and property damage insurance issued to the applicant in an amount established by the department by rules and regulations sufficient to protect the public interest. Proof of insurance shall be maintained and submitted annually for the term of the active license.

Source: Laws 1986, LB 310, § 30; Laws 2007, LB463, § 1165. Operative date December 1, 2008.

46-1231. License; application; qualifications. Each water well drilling supervisor, pump installation supervisor, natural resources ground water technician, and water well monitoring technician shall make application for a license in his or her respective trade. A license shall be issued to every applicant who successfully passes the examination for such license and otherwise complies with the Uniform Credentialing Act, the Water Well Standards and Contractors' Practice Act, and all standards, rules, and regulations adopted and promulgated pursuant to such acts. Any individual employed by a licensed water well contractor or a licensed pump installation contractor who is not deemed to qualify as a licensed water well drilling supervisor or licensed pump installation supervisor may apply for a license in his or her respective trade in the same manner as the licensed water well drilling supervisor or the licensed pump installation supervisor. A supervisor holding a certificate of competence in his or her respective trade on December 1, 2008, shall be deemed to be licensed as a supervisor in such trade on such date. A technician holding a certificate of competence in his or her respective trade on December 1, 2008, shall be deemed to be licensed as a technician in such trade on such date.

Source: Laws 1986, LB 310, § 31; Laws 1991, LB 51, § 22; Laws 1997, LB 752, § 123; Laws 2001, LB 133, § 9; Laws 2003, LB 242, § 10; Laws 2007, LB463, § 1166. Operative date December 1, 2008.

46-1232. Repealed. Laws 2007, LB 463, § 1319.

46-1233. Water well construction or decommissioning; equipment installation or repair; supervision required. (1) Any person constructing a water well, installing or repairing pumps onsite, or decommissioning a water well shall do such work in accordance with the rules and regulations developed under the Water Well Standards and Contractors' Practice Act.

(2) A water well shall be constructed, pumps and pumping equipment shall be installed and repaired onsite, and water wells shall be decommissioned by a licensed contractor or supervisor or a person working directly under the supervision of a licensed contractor or supervisor, except that an individual may construct a water well or install and repair pumps and pumping equipment onsite on land owned by him or her and used by him or her for farming, ranching, or agricultural purposes or as his or her place of abode. No water well shall be opened or the seal broken by any person other than an owner of the water well unless (a) the opening or breaking of the seal is carried out by a licensed water well monitoring technician or a licensed natural resources ground water technician, (b) the opening or breaking of the seal is carried out by a licensed operator of a public water system in the course of his or her employment or someone under his or her supervision, or (c) a state electrical inspector in the course of his or her employment.

(3) For purposes of this section, supervision means the ready availability of the person licensed pursuant to the Water Well Standards and Contractors' Practice Act for consultation and direction of the activities of any person not licensed who assists in the construction of a water well, the installation of pumps and pumping equipment, or decommissioning of a water well. Contact with the licensed contractor or supervisor by telecommunication shall be sufficient to show ready availability.

Source: Laws 1986, LB 310, § 33; Laws 1996, LB 1241, § 5; Laws 2001, LB 667, § 20; Laws 2007, LB463, § 1167. Operative date December 1, 2008

46-1233.01. Repealed. Laws 2007, LB 463, § 1319.

46-1234. Exploratory wells; agreement to decommission required; failure to plug; effect. Any licensed water well contractor constructing a water well for any customer shall as a part of the agreement include the proper decommissioning of each water well constructed to explore for ground water pursuant to the agreement. Any failure to properly plug any such water well pursuant to such agreement shall subject him or her to suspension, revocation, or refusal of renewal of his or her license.

Source: Laws 1986, LB 310, §34; Laws 1994, LB 981, §19.

46-1235. License; disciplinary actions; grounds. In cases other than those relating to failure to meet the requirements for an initial license, the department may deny, refuse renewal of, suspend, or revoke licenses or may take other disciplinary action in accordance with section 38-196 for the grounds found in sections 38-178 and 38-179 and for any of the following acts or offenses:

- (1) Violation of the Water Well Standards and Contractors' Practice Act or any standards, rules, or regulations adopted and promulgated pursuant to such act;
- (2) Conduct or practices detrimental to the health or safety of persons hiring the services of the licensee or of members of the general public;
- (3) Practice of the trade while the license to do so is suspended or practice of the trade in contravention of any limitation placed upon the license;
- (4) Failing to file a water well registration required by subsection (1), (2), (3), (4), or (5) of section 46-602 or failing to file a notice required by subsection (7) of such section; or
- (5) Failing to file a properly completed notice of abandonment of a water well required by subsection (8) of section 46-602.

Source: Laws 1986, LB 310, § 35; Laws 1993, LB 131, § 47; Laws 1996, LB 1044, § 268; Laws 2001, LB 667, § 21; Laws 2003, LB 245, § 8; Laws 2007, LB296, § 210; Laws 2007, LB463, § 1168. The changes made by LB 296 became operative July 1, 2007. The changes made by LB 463 became operative December 1, 2008.

46-1235.01. Repealed. Laws 2007, LB 463, § 1319.

46-1235.02. Repealed. Laws 2007, LB 463, § 1319.

46-1236. Repealed. Laws 2007, LB 463, § 1319.

46-1237. Repealed. Laws 2007, LB 463, § 1319.

46-1237.01. Repealed. Laws 2007, LB 463, § 1319.

46-1237.02. Repealed. Laws 2007, LB 463, § 1319.

46-1237.03. Repealed. Laws 2007, LB 463, § 1319.

46-1238. License; when required; action to enjoin activities. Any person who fails to employ or use at least one individual appropriately licensed and available or any person who engages, without a license for such activities, in the construction of water wells, the installation of pumps and pumping equipment, the decommissioning of water wells, or the measuring of ground water levels, the collection of ground water samples from existing water wells, or the inspection of installed water well equipment, pumping systems, or chemigation regulation devices, in addition to the other penalties provided in the Uniform Credentialing Act or the Water Well Standards and Contractors' Practice Act, may be enjoined from continuing such activities.

Source: Laws 1986, LB 310, § 38; Laws 1991, LB 51, § 24; Laws 1996, LB 1241, § 6; Laws 2001, LB 667, § 22; Laws 2006, LB 508, § 7; Laws 2007, LB463, § 1169. Operative date December 1, 2008.

46-1239. Unauthorized employment; construction, decommissioning, or installation without license; criminal penalty; civil penalty. Any person who fails to employ or use at least one individual appropriately licensed and available or any person who engages, without a license for such activities, in the construction of water wells, the installation of pumps and pumping equipment, or the decommissioning of water wells is guilty of a Class II misdemeanor or subject to a civil penalty of not more than one thousand dollars for each day the violation occurs.

Any civil penalty assessed and unpaid shall constitute a debt to the state which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the district court of the county in which the violator resides or owns property. An action to collect a civil penalty shall be brought within two years of the alleged violation providing the basis of the penalty, except that if the cause of action is not discovered and could not be reasonably discovered within the two-year period, the action may be commenced within two years after the date of discovery or after the date of discovery of facts which would reasonably lead to discovery, whichever is earlier. The department shall remit the civil penalty to the State Treasurer, within thirty days after receipt, for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Source: Laws 1986, LB 310, § 39; Laws 1996, LB 1241, § 7; Laws 1997, LB 30, § 5; Laws 2001, LB 667, § 23; Laws 2006, LB 508, § 8; Laws 2007, LB463, § 1170. Operative date December 1, 2008.

46-1240. Failure to comply with standards; criminal penalty; civil penalty; action to enjoin. Any person who engages in or any person who employs or uses a person who engages in the construction of water wells, the installation of pumps and pumping equipment, the decommissioning of water wells, or the measuring of ground water levels, the collection of ground water samples from existing water wells, or the inspection of installed water well equipment, pumping systems, or chemigation regulation devices or who fails to decommission or decommissions an illegal water well without complying with the standards adopted and promulgated pursuant to the Water Well Standards and Contractors' Practice Act shall be guilty of a Class III misdemeanor or subject to a civil penalty of not more than five hundred dollars for each day an intentional violation occurs and may be enjoined from continuing such activity, including a mandatory injunction.

Any civil penalty assessed and unpaid shall constitute a debt to the state which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the district court of the county in which the violator resides or owns property. An action to collect a civil penalty shall be brought within two years of the alleged violation providing the basis of the penalty, except that if the cause of action is not discovered and could not be reasonably discovered within the two-year period, the action may be commenced within two years after the date of discovery or after the date of discovery of facts which would reasonably lead to discovery, whichever is earlier. The department shall remit the civil penalty to the State Treasurer, within thirty days after receipt, for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Source: Laws 1986, LB 310, § 40; Laws 1991, LB 51, § 25; Laws 1993, LB 131, § 55; Laws 1994, LB 981, § 20; Laws 1996, LB 1241, § 8; Laws 1997, LB 30, § 6; Laws 2001, LB 667, § 24; Laws 2007, LB463, § 1171. Operative date December 1, 2008.

46-1240.01. False or forged documents; penalty. Any person who files or attempts to file with the department any false or forged diploma or certificate or affidavit of identification or qualification shall be guilty of forgery.

Source: Laws 1993, LB 131, §56.

46-1240.02. Repealed. Laws 2007, LB 463, § 1319.

46-1240.03. Repealed. Laws 2007, LB 463, § 1319.

46-1240.04. Repealed. Laws 2007, LB 463, § 1319.

46-1240.05. Repealed. Laws 2007, LB 463, § 1319.

46-1240.06. Variance from rule, regulation, or standard; conditions; injunction. (1) The department may grant a variance from any rule, regulation, or standard adopted and promulgated by the department relating to the construction of water wells upon proof by a licensed water well contractor or owner of a proposed water well satisfactory to the department that the enforcement of the rule, regulation, or standard would create an unreasonable hardship or be unreasonable, impractical, or not feasible under the circumstances. A variance may be under such terms and conditions and for such time as the department may prescribe. The terms and conditions of a variance may include testing, monitoring, reporting, and additional construction or installation requirements.

(2) A variance shall be limited to the construction of a water well to replace an existing water well.

(3) Any person who owns or operates a water well in violation of the terms and conditions of a variance may be enjoined from continuing such activities. The injunction may include an order to properly decommission the water well.

Source: Laws 1993, LB 131, §61; Laws 1994, LB 981, §21.

46-1241. Water well log required; contents. Any owner of a water well or a licensed water well contractor who engages in an act of or the business of constructing a water well shall keep and maintain an accurate well log of the construction of each such water well. The well log shall be available to the department for inspection and copying during reasonable hours or the regular business hours of the contractor.

The well log shall include the following information:

- (1) Legal description of the water well;
- (2) Description and depth of geologic materials encountered;
- (3) Depth and diameter or dimension of constructed water well and test hole;
- (4) Depth and diameter or dimension of excavated hole if applicable;
- (5) Depth of formation stabilizer or gravel pack and size of particles if used;
- (6) Depth and thickness of grout or other sealing material if applicable;
- (7) Casing information, including length, inside diameter, wall thickness, and type of material if applicable;
- (8) Screen information, including length, trade name, inside and outside diameter, slot size, and type of material if applicable;
- (9) Static water level;
- (10) Water level when pumped at the designated rate, giving the rate of pumping and amount of time pumped, if applicable;
- (11) Yield of water well in gallons per minute or gallons per hour if applicable;
- (12) Signature of water well contractor;
- (13) Dates drilling commenced and construction completed;
- (14) Intended use of the water well;
- (15) Name and address of the owner;
- (16) Identification number of any permit for the water well issued pursuant to Chapter 46, article 6, Chapter 66, article 11, or any other law;

(17) Name, address, and license number of any license issued pursuant to the Water Well Standards and Contractors' Practice Act of any person, other than the owner of the water well, who constructed the water well; and
(18) Other data as the board reasonably requires.

Source: Laws 1986, LB 310, § 41; Laws 1993, LB 131, § 62; Laws 2001, LB 667, § 25; Laws 2007, LB463, § 1172. Operative date December 1, 2008.