

CHAPTER 1031

WELLS, BORINGS, AND UNDERGROUND USES

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1031.005 DEFINITIONS.

[For text of subs 1 to 11, see M.S.1998]

Subd. 12. **Limited well/boring contractor.** "Limited well/boring contractor" means a person with a limited well/boring contractor's license issued by the commissioner.

Subd. 13. **Limited well/boring sealing contractor.** "Limited well/boring sealing contractor" means a person with a limited well/boring sealing contractor's license issued by the commissioner.

[For text of subs 14 to 17, see M.S.1998]

Subd. 20. **Vertical heat exchanger.** "Vertical heat exchanger" means an earth-coupled heating or cooling device consisting of a sealed closed-loop piping system installed vertically in the ground to transfer heat to or from the surrounding earth with no discharge.

[For text of subs 21 to 24, see M.S.1998]

History: 1999 c 153 s 1-3

1031.101 POWERS AND DUTIES OF THE COMMISSIONER OF HEALTH.

[For text of subd 1, see M.S.1998]

Subd. 2. **Duties.** The commissioner shall:

(1) regulate the drilling, construction, modification, repair, and sealing of wells and borings;

(2) examine and license well contractors, persons constructing, repairing, and sealing vertical heat exchangers, persons modifying or repairing well casings, well screens, or well diameters; constructing, repairing, and sealing unconventional wells such as drive point wells or dug wells; constructing, repairing, and sealing dewatering wells; sealing wells; installing well pumps or pumping equipment; and excavating or drilling holes for the installation of elevator shafts or hydraulic cylinders;

(3) register and examine monitoring well contractors;

(4) license explorers engaged in exploratory boring and examine individuals who supervise or oversee exploratory boring;

(5) after consultation with the commissioner of natural resources and the pollution control agency, establish standards for the design, location, construction, repair, and sealing of wells, elevator shafts, and borings within the state; and

(6) issue permits for wells, groundwater thermal devices, vertical heat exchangers, and excavation for holes to install elevator shafts or hydraulic cylinders.

[For text of subs 3 and 4, see M.S.1998]

Subd. 5. **Commissioner to adopt rules.** The commissioner shall adopt rules including:

(1) issuance of licenses for:

- (i) qualified well contractors, persons modifying or repairing well casings, well screens, or well diameters;
 - (ii) persons constructing, repairing, and sealing unconventional wells such as drive points or dug wells;
 - (iii) persons constructing, repairing, and sealing dewatering wells;
 - (iv) persons sealing wells;
 - (v) persons installing well pumps or pumping equipment and excavating holes for installing elevator shafts or hydraulic cylinders; and
 - (vi) persons constructing, repairing, and sealing vertical heat exchangers;
- (2) issuance of registration for monitoring well contractors;
 - (3) establishment of conditions for examination and review of applications for license and registration;
 - (4) establishment of conditions for revocation and suspension of license and registration;
 - (5) establishment of minimum standards for design, location, construction, repair, and sealing of wells to implement the purpose and intent of this chapter;
 - (6) establishment of a system for reporting on wells and borings drilled and sealed;
 - (7) establishment of standards for the construction, maintenance, sealing, and water quality monitoring of wells in areas of known or suspected contamination;
 - (8) establishment of wellhead protection measures for wells serving public water supplies;
 - (9) establishment of procedures to coordinate collection of well data with other state and local governmental agencies;
 - (10) establishment of criteria and procedures for submission of well logs, formation samples or well cuttings, water samples, or other special information required for and water resource mapping; and
 - (11) establishment of minimum standards for design, location, construction, maintenance, repair, sealing, safety, and resource conservation related to borings, including exploratory borings as defined in section 1031.005, subdivision 9.

Until the commissioner adopts rules under this chapter to replace rules relating to wells and borings that were adopted under chapter 156A, the rules adopted under chapter 156A shall remain in effect.

[For text of subd 6, see M.S.1998]

History: 1999 c 153 s 4,5

1031.105 ADVISORY COUNCIL ON WELLS AND BORINGS.

(a) The advisory council on wells and borings is established as an advisory council to the commissioner. The advisory council shall consist of 18 voting members. Of the 18 voting members:

- (1) one member must be from the department of health, appointed by the commissioner of health;
- (2) one member must be from the department of natural resources, appointed by the commissioner of natural resources;
- (3) one member must be a member of the Minnesota geological survey of the University of Minnesota, appointed by the director;
- (4) one member must be a licensed exploratory borer;
- (5) one member must be a licensed elevator shaft contractor;
- (6) two members must be members of the public who are not connected with the business of exploratory boring or the well drilling industry;
- (7) one member must be from the pollution control agency, appointed by the commissioner of the pollution control agency;
- (8) one member must be from the department of transportation, appointed by the commissioner of transportation;

(9) one member from the board of water and soil resources appointed by its chair;

(10) one member must be a monitoring well contractor;

(11) six members must be residents of this state appointed by the commissioner, who are actively engaged in the well drilling industry, with not more than two from the seven-county metropolitan area and at least four from other areas of the state who represent different geographical regions; and

(12) one member must be a licensed vertical heat exchanger contractor or be certified by the International Ground Source Heat Pump Association and appointed by the commissioner.

(b) An appointee of the well drilling industry may not serve more than two consecutive terms.

(c) The appointees to the advisory council from the well drilling industry must:

(1) have been residents of this state for at least three years before appointment; and

(2) have at least five years' experience in the well drilling business.

(d) The terms of the appointed members and the compensation and removal of all members are governed by section 15.059, except section 15.059, subdivision 5, relating to expiration of the advisory council does not apply.

History: 1999 c 153 s 6

103I.205 WELL CONSTRUCTION.

[For text of subd 1, see M.S.1998]

Subd. 2. **Emergency permit and notification exemptions.** The commissioner may adopt rules that modify the procedures for filing a well notification or well permit if conditions occur that:

(1) endanger the public health and welfare or cause a need to protect the groundwater; or

(2) require the monitoring well contractor, limited well/boring contractor, or well contractor to begin constructing a well before obtaining a permit or notification.

[For text of subd 3, see M.S.1998]

Subd. 4. **License required.** (a) Except as provided in paragraph (b), (c), or (d), section 103I.401, subdivision 2, or section 103I.601, subdivision 2, a person may not drill, construct, repair, or seal a well or boring unless the person has a well contractor's license in possession.

(b) A person may construct a monitoring well if the person:

(1) is a professional engineer registered under sections 326.02 to 326.15 in the branches of civil or geological engineering;

(2) is a hydrologist or hydrogeologist certified by the American Institute of Hydrology;

(3) is a professional engineer registered with the board of architecture, engineering, land surveying, landscape architecture, and interior design;

(4) is a geologist certified by the American Institute of Professional Geologists; or

(5) meets the qualifications established by the commissioner in rule.

A person must register with the commissioner as a monitoring well contractor on forms provided by the commissioner.

(c) A person may do the following work with a limited well/boring contractor's license in possession. A separate license is required for each of the six activities:

(1) installing or repairing well screens or pitless units or pitless adaptors and well casings from the pitless adaptor or pitless unit to the upper termination of the well casing;

(2) constructing, repairing, and sealing drive point wells or dug wells;

(3) installing well pumps or pumping equipment;

(4) sealing wells;

(5) constructing, repairing, or sealing dewatering wells; or

(6) constructing, repairing, or sealing vertical heat exchangers.

(d) Notwithstanding other provisions of this chapter requiring a license or registration, a license or registration is not required for a person who complies with the other provisions of this chapter if the person is:

(1) an individual who constructs a well on land that is owned or leased by the individual and is used by the individual for farming or agricultural purposes or as the individual's place of abode; or

(2) an individual who performs labor or services for a contractor licensed or registered under the provisions of this chapter in connection with the construction, sealing, or repair of a well or boring at the direction and under the personal supervision of a contractor licensed or registered under the provisions of this chapter.

[For text of subds 5 to 9, see M.S.1998]

History: 1999 c 153 s 7,8

1031.208 NOTIFICATION FILING FEES AND PERMIT FEES.

Subdivision 1. **Well notification fee.** The well notification fee to be paid by a property owner is:

(1) for a new well, \$120, which includes the state core function fee;

(2) for a well sealing, \$20 for each well, which includes the state core function fee, except that for monitoring wells constructed on a single property, having depths within a 25 foot range, and sealed within 48 hours of start of construction, a single fee of \$20; and

(3) for construction of a dewatering well, \$120, which includes the state core function fee, for each well except a dewatering project comprising five or more wells shall be assessed a single fee of \$600 for the wells recorded on the notification.

[For text of subds 1a and 2, see M.S.1998]

History: 1999 c 247 s 1

1031.235 REAL PROPERTY SALE; DISCLOSURE OF LOCATION OF WELLS.

Subdivision 1. **Disclosure of wells to buyer.** (a) Before signing an agreement to sell or transfer real property, the seller must disclose in writing to the buyer information about the status and location of all known wells on the property, by delivering to the buyer either a statement by the seller that the seller does not know of any wells on the property, or a disclosure statement indicating the legal description and county, and a map drawn from available information showing the location of each well to the extent practicable. In the disclosure statement, the seller must indicate, for each well, whether the well is in use, not in use, or sealed.

(b) At the time of closing of the sale, the disclosure statement information, name and mailing address of the buyer, and the quartile, section, township, and range in which each well is located must be provided on a well disclosure certificate signed by the seller or a person authorized to act on behalf of the seller.

(c) A well disclosure certificate need not be provided if the seller does not know of any wells on the property and the deed or other instrument of conveyance contains the statement: "The Seller certifies that the Seller does not know of any wells on the described real property."

(d) If a deed is given pursuant to a contract for deed, the well disclosure certificate required by this subdivision shall be signed by the buyer or a person authorized to act on behalf of the buyer. If the buyer knows of no wells on the property, a well disclosure certificate is not required if the following statement appears on the deed followed by the signature of the grantee or, if there is more than one grantee, the signature of at least one of the grantees: "The Grantee certifies that the Grantee does not know of any wells on the described real property." The statement and signature of the grantee may be on the front or back of the deed or on an attached sheet and an acknowledgment of the statement by the grantee is not required for the deed to be recordable.

(e) This subdivision does not apply to the sale, exchange, or transfer of real property:

(1) that consists solely of a sale or transfer of severed mineral interests; or

(2) that consists of an individual condominium unit as described in chapters 515 and 515B.

(f) For an area owned in common under chapter 515 or 515B the association or other responsible person must report to the commissioner by July 1, 1992, the location and status of all wells in the common area. The association or other responsible person must notify the commissioner within 30 days of any change in the reported status of wells.

(g) For real property sold by the state under section 92.67, the lessee at the time of the sale is responsible for compliance with this subdivision.

(h) If the seller fails to provide a required well disclosure certificate, the buyer, or a person authorized to act on behalf of the buyer, may sign a well disclosure certificate based on the information provided on the disclosure statement required by this section or based on other available information.

(i) A county recorder or registrar of titles may not record a deed or other instrument of conveyance dated after October 31, 1990, for which a certificate of value is required under section 272.115, or any deed or other instrument of conveyance dated after October 31, 1990, from a governmental body exempt from the payment of state deed tax, unless the deed or other instrument of conveyance contains the statement made in accordance with paragraph (c) or (d) or is accompanied by the well disclosure certificate containing all the information required by paragraph (b) or (d). The county recorder or registrar of titles must not accept a certificate unless it contains all the required information. The county recorder or registrar of titles shall note on each deed or other instrument of conveyance accompanied by a well disclosure certificate that the well disclosure certificate was received. The notation must include the statement "No wells on property" if the disclosure certificate states there are no wells on the property. The well disclosure certificate shall not be filed or recorded in the records maintained by the county recorder or registrar of titles. After noting "No wells on property" on the deed or other instrument of conveyance, the county recorder or registrar of titles shall destroy or return to the buyer the well disclosure certificate. The county recorder or registrar of titles shall collect from the buyer or the person seeking to record a deed or other instrument of conveyance, a fee of \$20 for receipt of a completed well disclosure certificate. By the tenth day of each month, the county recorder or registrar of titles shall transmit the well disclosure certificates to the commissioner of health. By the tenth day after the end of each calendar quarter, the county recorder or registrar of titles shall transmit to the commissioner of health \$17.50 of the fee for each well disclosure certificate received during the quarter. The commissioner shall maintain the well disclosure certificate for at least six years. The commissioner may store the certificate as an electronic image. A copy of that image shall be as valid as the original.

(j) No new well disclosure certificate is required under this subdivision if the buyer or seller, or a person authorized to act on behalf of the buyer or seller, certifies on the deed or other instrument of conveyance that the status and number of wells on the property have not changed since the last previously filed well disclosure certificate. The following statement, if followed by the signature of the person making the statement, is sufficient to comply with the certification requirement of this paragraph: "I am familiar with the property described in this instrument and I certify that the status and number of wells on the described real property have not changed since the last previously filed well disclosure certificate." The certification and signature may be on the front or back of the deed or on an attached sheet and an acknowledgment of the statement is not required for the deed or other instrument of conveyance to be recordable.

(k) The commissioner in consultation with county recorders shall prescribe the form for a well disclosure certificate and provide well disclosure certificate forms to county recorders and registrars of titles and other interested persons.

(l) Failure to comply with a requirement of this subdivision does not impair:

(1) the validity of a deed or other instrument of conveyance as between the parties to the deed or instrument or as to any other person who otherwise would be bound by the deed or instrument; or

(2) the record, as notice, of any deed or other instrument of conveyance accepted for filing or recording contrary to the provisions of this subdivision.

[For text of subd 2, see M.S.1998]

History: 1999 c 11 art 3 s 6

1031.301 WELL SEALING REQUIREMENTS.

[For text of subd 1, see M.S.1998]

Subd. 2. **Monitoring wells.** The owner of the property where a monitoring well is located must have the monitoring well sealed when the well is no longer in use. The owner must have a well contractor, limited well/boring sealing contractor, or a monitoring well contractor seal the monitoring well.

Subd. 3. **Dewatering wells.** (a) The owner of the property where a dewatering well is located must have the dewatering well sealed when the dewatering well is no longer in use.

(b) A well contractor, limited well/boring sealing contractor, or limited dewatering well contractor shall seal the dewatering well.

[For text of subds 4 and 6, see M.S.1998]

History: 1999 c 153 s 9,10

1031.501 LICENSING AND REGULATION OF WELLS AND BORINGS.

(a) The commissioner shall regulate and license:

(1) drilling, constructing, and repair of wells;

(2) sealing of wells;

(3) installing of well pumps and pumping equipment;

(4) excavating, drilling, and sealing of holes for the installation of elevator shafts and hydraulic cylinders;

(5) construction and sealing of environmental bore holes; and

(6) construction, repair, and sealing of vertical heat exchangers.

(b) The commissioner shall examine and license well contractors, limited well/boring contractors, and elevator shaft contractors, and examine and register monitoring well contractors.

(c) The commissioner shall license explorers engaged in exploratory boring and shall examine persons who supervise or oversee exploratory boring.

History: 1999 c 153 s 11

1031.525 WELL CONTRACTOR'S LICENSE.

[For text of subds 1 to 8, see M.S.1998]

Subd. 9. **Incomplete or late renewal.** If a licensee fails to submit all information required for renewal in subdivision 8 or submits the application and information after the required renewal date:

(1) the licensee must include an additional late fee set by the commissioner; and

(2) the licensee may not conduct activities authorized by the well contractor's license until the renewal application, renewal application fee, late fee, and all other information required in subdivision 8 are submitted.

History: 1999 c 250 art 3 s 10

NOTE: The amendment to subdivision 9 by Laws 1999, chapter 250, article 3, section 10, is effective July 1, 2001. Laws 1999, chapter 250, article 3, section 29.

1031.531 LIMITED WELL/BORING CONTRACTOR'S LICENSE.

Subdivision 1. **Application.** (a) A person must file an application and an application fee with the commissioner to apply for a limited well/boring contractor's license.

(b) The application must state the applicant's qualifications for the license, the equipment the applicant will use in the contracting, and other information required by the commissioner. The application must be on forms prescribed by the commissioner.

Subd. 2. **Application fee.** The application fee for a limited well/boring contractor's license is \$50. The commissioner may not act on an application until the application fee is paid.

Subd. 3. **Examination.** After the commissioner has approved the application, the applicant must take an examination given by the commissioner.

Subd. 4. **Issuance of license.** If an applicant meets the experience requirements established in rule, passes the examination as determined by the commissioner, submits the bond under subdivision 5, and pays the license fee under subdivision 6, the commissioner shall issue a limited well/boring contractor's license. If the other conditions of this section are satisfied, the commissioner may not withhold issuance of a dewatering limited license based on the applicant's lack of prior experience under a licensed well contractor.

Subd. 5. **Bond.** (a) As a condition of being issued a limited well/boring contractor's license for constructing, repairing, and sealing drive point wells or dug wells, sealing wells or borings, constructing, repairing, and sealing dewatering wells, or constructing, repairing, and sealing vertical heat exchangers, the applicant must submit a corporate surety bond for \$10,000 approved by the commissioner. As a condition of being issued a limited well/boring contractor's license for installing or repairing well screens or pitless units or pitless adaptors and well casings from the pitless adaptor or pitless unit to the upper termination of the well casing, or installing well pumps or pumping equipment, the applicant must submit a corporate surety bond for \$2,000 approved by the commissioner. The bonds required in this paragraph must be conditioned to pay the state on unlawful performance of work regulated by this chapter in this state. The bonds are in lieu of other license bonds required by a political subdivision of the state.

(b) From proceeds of a bond required in paragraph (a), the commissioner may compensate persons injured or suffering financial loss because of a failure of the applicant to properly perform work or duties.

Subd. 6. **License fee.** The fee for a limited well/boring contractor's license is \$50.

Subd. 7. **Validity.** A limited well/boring contractor's license is valid until the date prescribed in the license by the commissioner.

Subd. 8. **Renewal.** (a) A person must file an application and a renewal application fee to renew the limited well/boring contractor's license by the date stated in the license.

(b) The renewal application fee shall be set by the commissioner under section 16A.1285.

(c) The renewal application must include information that the applicant has met continuing education requirements established by the commissioner by rule.

(d) At the time of the renewal, the commissioner must have on file all properly completed well sealing reports, well permits, vertical heat exchanger permits, and well notifications for work conducted by the licensee since the last license renewal.

Subd. 9. **Incomplete or late renewal.** If a licensee fails to submit all information required for renewal in subdivision 8 or submits the application and information after the required renewal date:

(1) the licensee must include an additional late fee set by the commissioner; and

(2) the licensee may not conduct activities authorized by the limited well/boring contractor's license until the renewal application, renewal application fee, and late fee, and all other information required in subdivision 8 are submitted.

History: 1999 c 153 s 12; 1999 c 250 art 3 s 11

NOTE: The amendment to subdivision 9 by Laws 1999, chapter 250, article 3, section 11, is effective July 1, 2001. Laws 1999, chapter 250, article 3, section 29.

1031.535 ELEVATOR SHAFT CONTRACTOR'S LICENSE.

[For text of subs 1 to 8, see M.S.1998]

Subd. 9. **Incomplete or late renewal.** If a licensee fails to submit all information required for renewal in subdivision 8 or submits the application and information after the required renewal date:

(1) the licensee must include an additional late fee set by the commissioner; and

(2) the licensee may not conduct activities authorized by the elevator shaft contractor's license until the renewal application, renewal application fee, and late fee, and all other information required in subdivision 8 are submitted.

History: 1999 c 250 art 3 s 12

NOTE: The amendment to subdivision 9 by Laws 1999, chapter 250, article 3, section 12, is effective July 1, 2001. Laws 1999, chapter 250, article 3, section 29.

1031.541 MONITORING WELL CONTRACTORS.

[For text of subs 1 to 4, see M.S.1998]

Subd. 5. **Incomplete or late renewal.** If a registered person submits a renewal application after the required renewal date:

(1) the registered person must include an additional late fee set by the commissioner; and

(2) the registered person may not conduct activities authorized by the monitoring well contractor's registration until the renewal application, renewal application fee, late fee, and all other information required in subdivision 4 are submitted.

History: 1999 c 250 art 3 s 13

NOTE: The amendment to subdivision 5 by Laws 1999, chapter 250, article 3, section 13, is effective July 1, 2001. Laws 1999, chapter 250, article 3, section 29.

1031.641 VERTICAL HEAT EXCHANGERS.

Subdivision 1. **Requirements.** A person may not drill or construct an excavation used to install a vertical heat exchanger unless the person is a limited well/boring contractor licensed for constructing, repairing, and sealing vertical heat exchangers or a well contractor.

[For text of subd 2, see M.S.1998]

Subd. 3. **Permit required.** (a) A vertical heat exchanger may not be installed without first obtaining a permit for the vertical heat exchanger from the commissioner. A limited well/boring contractor licensed for constructing, repairing, and sealing vertical heat exchangers or a well contractor must apply for the permit on forms provided by the commissioner and must pay the permit fee.

(b) As a condition of the permit, the owner of the property where the vertical heat exchanger is to be installed must agree to allow inspection by the commissioner during regular working hours of department of health inspectors.

History: 1999 c 153 s 13,14

NOTE: The amendments to subdivisions 1 and 3 by Laws 1999, chapter 153, sections 13 and 14, are effective August 1, 2000. Laws 1999, chapter 153, section 15.