

2 **SHB 1806 - H COMM AMD ADOPTED 03-16-93**

3 By Committee on Revenue

4

5 Strike everything after the enacting clause and insert the
6 following:

7 **"Sec. 1.** RCW 18.104.010 and 1971 ex.s. c 212 s 1 are each amended
8 to read as follows:

9 The legislature declares that the drilling, making or constructing
10 of ~~((water))~~ wells ~~((using the ground water resources))~~ within the
11 state is a business and activity of vital interest to the public. In
12 order to protect the public health, welfare, and safety of the people
13 it is necessary that provision be made for the regulation and licensing
14 of ~~((water))~~ well contractors and operators and for the regulation of
15 ~~((water))~~ well design and construction.

16 **Sec. 2.** RCW 18.104.020 and 1983 1st ex.s. c 27 s 14 are each
17 amended to read as follows:

18 The definitions set forth in this section apply throughout this
19 chapter, unless a different meaning is plainly required by the context.

20 (1) "Abandoned well" means a well that is unused, unmaintained, and
21 is in such disrepair as to be unusable.

22 (2) "Constructing a well" or "construct a well" means ((and
23 includes)):

24 (a) Boring, digging, drilling, or excavating ((and)) a well;

25 (b) Installing casing, sheeting, lining, or well screens, ((whether
26 in the installation of a new well or)) in a well; or

27 (c) Drilling a geotechnical soil boring.

28 "Constructing a well" or "construct a well" includes the alteration
29 of an existing well.

30 ~~((+2))~~ (3) "Decommission" means to fill or plug a well so that it
31 will not produce water, serve as a channel for movement of water or
32 pollution, or allow the entry of pollutants into the well or aquifers.

33 (4) "Department" means the department of ecology.

34 ~~((+3))~~ (5) "Dewatering well" means a cased or lined excavation or
35 boring that is intended to withdraw or divert ground water for the

1 purpose of facilitating construction, stabilizing a landslide, or
2 protecting an aquifer.

3 (6) "Director" means the director of the department of ecology.

4 ~~((4))~~ (7) "Geotechnical soil boring" or "boring" means an uncased
5 well drilled for purpose of obtaining soil samples to ascertain
6 structural properties of the subsurface. Geotechnical soil boring
7 includes auger borings, rotary borings, cone penetrometer probes and
8 vane shear probes, or any other uncased ground penetration for
9 geotechnical information.

10 (8) "Ground water" means and includes ground waters as defined in
11 RCW 90.44.035(~~, as now or hereafter amended~~).

12 ~~((5))~~ (9) "Instrumentation well" means a well in which pneumatic
13 or electric geotechnical or hydrological instrumentation is permanently
14 or periodically installed to measure or monitor subsurface strength and
15 movement. Instrumentation well includes borehole extensometers, slope
16 indicators, pneumatic or electric pore pressure transducers, and load
17 cells.

18 (10) "Monitoring well" means a well designed to obtain a
19 representative ground water sample or designed to measure the water
20 level elevation in either clean or contaminated water or soil.

21 (11) "Observation well" means a well designed to measure the depth
22 to the water level elevation in either clean or contaminated water or
23 soil.

24 (12) "Operator" means ~~((any))~~ a person(~~, other than a person~~
25 ~~exempted by RCW 18.104.180,~~) who (a) is employed by a ~~((water))~~ well
26 ~~contractor ((for the control and supervision of the));~~ (b) is licensed
27 under this chapter; or (c) who controls, supervises, or oversees the
28 construction of a ~~((water))~~ well ~~((or for the operation of water)) or~~
29 who operates well construction equipment.

30 ~~((6))~~ (13) "Owner" or "well owner" means the person, firm,
31 partnership, copartnership, corporation association, or other entity
32 who owns the property on which the well is or will be constructed.

33 (14) "Pollution" and "contamination" have the meanings provided in
34 RCW 90.48.020.

35 (15) "Resource protection well" means a cased boring used to
36 determine the existence or migration of pollutants within an
37 underground formation. Resource protection wells include monitoring
38 wells, observation wells, piezometers, spill response wells, vapor
39 extraction wells, and instrumentation wells.

1 (16) "Resource protection well contractor" means any person, firm,
2 partnership, copartnership, corporation, association, or other entity,
3 licensed and bonded under chapter 18.27 RCW, engaged in the business of
4 constructing resource protection wells or geotechnical soil borings.

5 (17) "Water well" means ((and includes)) any excavation that is
6 ((drilled, cored, bored, washed, driven, dug, jetted, or otherwise))
7 constructed when the intended use of the well is for the location,
8 diversion, artificial recharge, observation, monitoring, dewatering, or
9 withdrawal of ground water. (("Water well" does not mean an excavation
10 made for the purpose of obtaining or prospecting for oil, natural gas,
11 minerals, or products of mining, or quarrying, or for inserting media
12 to repressure oil or natural gas bearing formations, or for storing
13 petroleum, natural gas, or other products.

14 ~~(7))~~ (18) "Water well contractor" means any person, firm,
15 partnership, copartnership, corporation, association, or other entity,
16 licensed and bonded under chapter 18.27 RCW, engaged in the business of
17 constructing water wells.

18 (19) "Well" means water wells, resource protection wells,
19 instrumentation wells, dewatering wells, and geotechnical soil borings.
20 Well does not mean an excavation made for the purpose of obtaining or
21 prospecting for oil, natural gas, geothermal resources, minerals, or
22 products of mining, or quarrying, or for inserting media to repressure
23 oil or natural gas bearing formations, or for storing petroleum,
24 natural gas, or other products.

25 (20) "Well contractor" means a resource protection well contractor
26 and a water well contractor.

27 **Sec. 3.** RCW 18.104.030 and 1971 ex.s. c 212 s 3 are each amended
28 to read as follows:

29 It is unlawful:

30 (1) For any ~~((water well contractor))~~ person to supervise,
31 construct, alter, or decommission a ((water)) well ((for compensation))
32 without complying with the ((licensing)) provisions of this chapter((;

33 ~~(2) For any water well contractor to construct a water well for~~
34 ~~compensation without complying with))~~ and the rules ((and regulations))
35 for ((water)) well construction adopted pursuant to this chapter;

36 ~~((3) For any water well construction operator to supervise the~~
37 ~~construction of a water well without having an operators license as~~
38 ~~provided in this chapter))~~ (2) For any person to cause a well to be

1 constructed in violation of the standards for well construction
2 established by this chapter and rules adopted by the department
3 pursuant to this chapter;

4 (3) For a prospective water well owner to have a water well
5 constructed without first obtaining a water right permit, if a permit
6 is required;

7 (4) For any person to construct, alter, or decommission a well
8 unless the fees required by section 9 of this act have been paid;

9 (5) For a person to tamper with or remove a well identification tag
10 except during well alteration; and

11 (6) Except as provided in RCW 18.104.180, for any person to
12 contract to engage in the construction of a well or to act as a well
13 operator without first obtaining a license pursuant to this chapter.

14 **Sec. 4.** RCW 18.104.040 and 1991 c 3 s 249 are each amended to read
15 as follows:

16 The department shall have the power:

17 (1) To issue, deny, suspend or revoke licenses pursuant to the
18 provisions of this chapter;

19 (2) At all reasonable times, to enter upon lands for the purpose of
20 inspecting, taking measurements from, or tagging any ((water)) well,
21 ((drilled or being drilled, at all reasonable times)) constructed or
22 being constructed;

23 (3) To call upon or receive professional or technical advice from
24 ((any)) the department of health, the technical advisory group created
25 in section 25 of this act, or any other public agency or ((any))
26 person;

27 (4) To ((make such)) adopt rules, in consultation with the
28 department of health and the technical advisory group created in
29 section 25 of this act, governing licensing ((hereunder)) and ((water))
30 well construction as may be appropriate to carry out the purposes of
31 this chapter. ((Without limiting the generality of the foregoing,))
32 The rules adopted by the department may ((in cooperation with the
33 department of health make rules regarding)) include, but are not
34 limited to:

35 (a) Standards for the construction and maintenance of ((water))
36 wells and their casings;

37 (b) Methods of capping, sealing ((artesian)), and decommissioning
38 wells ((and water wells to be abandoned or which may contaminate

1 ~~other~~) to prevent contamination of ground water resources and to
2 protect public health and safety;

3 (c) Methods of artificial recharge of ground water bodies and of
4 construction of wells which insure separation of individual water
5 bearing formations;

6 (d) The manner of conducting and the content of examinations
7 required to be taken by applicants for license hereunder;

8 (e) Requirements for the filing of notices of intent, well reports,
9 and the payment of fees;

10 (f) Reporting requirements of (~~water~~) well contractors;

11 (~~(f)~~) (g) Limitations on (~~water~~) well construction in areas
12 identified by the department as requiring intensive control of
13 withdrawals in the interests of sound management of the ground water
14 resource;

15 (5) To require the operator in the construction of a well and the
16 property owner in the maintenance of a well to guard against waste and
17 contamination of the ground water resources;

18 (6) To require the operator to place a well identification tag on
19 a new well and on an existing well on which work is performed after the
20 effective date of rules requiring well identification tags and to place
21 or require the owner to place a well identification tag on an existing
22 well;

23 (7) To require the well owner to repair or decommission any well:

24 (a) That is abandoned, unusable, or not intended for future use; or

25 (b) That is an environmental, safety, or public health hazard.

26 **Sec. 5.** RCW 18.104.043 and 1992 c 67 s 2 are each amended to read
27 as follows:

28 (1) If requested in writing by the governing body of a local health
29 district or county, the department by memorandum of agreement may
30 delegate to the governing body the authority to administer and enforce
31 the well tagging, sealing, and decommissioning portions of the water
32 well construction program.

33 (2) The department shall determine whether a local health district
34 or county that seeks delegation under this section has the resources,
35 capability, and expertise, including qualified field inspectors, to
36 administer the delegated program. If the department determines the
37 local government has these resources, it shall notify (~~drilling~~) well
38 contractors, consultants, and operators of the proposal. The

1 department shall accept written comments on the proposal for sixty days
2 after the notice is mailed.

3 (3) If the department determines that a delegation of authority to
4 a local health district or county to administer and enforce the well
5 sealing and decommissioning portions of the water well construction
6 program will enhance the public health and safety and the environment,
7 the department and the local governing body may enter into a memorandum
8 of agreement setting forth the specific authorities delegated by the
9 department to the local governing body. The memorandum of agreement
10 shall provide for an initial review of the delegation within one year
11 and for periodic review thereafter.

12 (4) The local governing body shall exercise any authority delegated
13 under this section in accordance with this chapter, other applicable
14 laws, the memorandum of agreement, and applicable ordinances. If,
15 after a public hearing, the department determines that a local
16 governing body is not administering the program in accordance with this
17 chapter, it shall notify the local governing body of the deficiencies.
18 If corrective action is not taken within a reasonable time, not to
19 exceed sixty days, the department by order shall withdraw the
20 delegation of authority.

21 (5) The department shall promptly furnish the local governing body
22 with a copy of each water well report and notification of start cards
23 received in the area covered by a delegated program.

24 (6) The department and the local governing body shall coordinate to
25 reduce duplication of effort and shall share all appropriate
26 information including technical reports, violations, and well reports.

27 (7) Any person aggrieved by a decision of a local health district
28 or county under a delegated program may appeal the decision to the
29 department. The department's decision is subject to review by the
30 pollution control hearings board as provided in RCW ((18.104.130))
31 43.21B.110.

32 (8) The department shall not delegate the authority to license
33 ((water)) well contractors, renew licenses, receive notices of intent
34 to commence ((drilling)) constructing a well, receive well reports, or
35 collect state fees provided for in this chapter.

36 **Sec. 6.** RCW 18.104.048 and 1987 c 394 s 3 are each amended to read
37 as follows:

1 (~~To enable the department to monitor the construction,~~
2 ~~reconstruction, and abandonment of water wells more efficiently and~~
3 ~~effectively, water well contractors~~) A property owner or the owner's
4 agent shall (~~provide notification to~~) notify the department of
5 (~~their~~) his or her intent to begin well construction, reconstruction,
6 or (~~abandonment~~) decommissioning procedures at least seventy-two
7 hours in advance of commencing work. The (~~notification~~) notice shall
8 be submitted on forms provided by the department and shall be
9 accompanied by the fees required by section 9 of this act. The notice
10 shall contain the name of the owner of the well, location of the well,
11 proposed use, approximate start date, (~~driller's~~) well contractor's
12 or operator's name and license number, (~~drilling~~) company's name, and
13 other pertinent information as prescribed by rule of the department.
14 Rules of the department shall also provide for prior telephonic
15 notification by well (~~drillers~~) contractors or operators in
16 exceptional situations. The department shall issue a receipt
17 indicating that the notice required by this section has been filed and
18 the fees required by section 9 of this act have been paid not later
19 than three business days after the department has received the notice
20 and fees.

21 **NEW SECTION. Sec. 7.** A new section is added to chapter 18.104 RCW
22 to read as follows:

23 The department by rule shall adopt procedures to permit a well
24 operator to modify construction standards to meet unforeseen
25 circumstances encountered during the construction of a well. The
26 procedures shall be developed in consultation with the technical
27 advisory group established in section 25 of this act.

28 **Sec. 8.** RCW 18.104.050 and 1971 ex.s. c 212 s 5 are each amended
29 to read as follows:

30 (~~In order to enable the state to protect the welfare, health and~~
31 ~~safety of its citizens, any water~~) (1) A well contractor shall furnish
32 a (~~water~~) well report to the director within thirty days after the
33 completion of the construction or alteration of a well by (~~him of any~~
34 ~~water well~~) the contractor. The director, by (~~regulation~~) rule,
35 shall prescribe the form of the report and the information to be
36 contained therein.

37 (2) In the case of a dewatering well project:

1 (a) A single well construction report may be submitted for all
2 similar dewatering wells constructed with no significant change in
3 geologic formation; and

4 (b) A single well decommissioning report may be submitted for all
5 similar dewatering wells decommissioned that have no significant change
6 in geologic formation.

7 **NEW SECTION.** **Sec. 9.** A new section is added to chapter 18.104 RCW
8 to read as follows:

9 (1) A fee is hereby imposed on each well constructed in this state
10 on or after July 1, 1993.

11 (2)(a) The fee for one new water well, other than a dewatering
12 well, with a minimum top casing diameter of less than twelve inches is
13 one hundred dollars.

14 (b) The fee for one new water well, other than a dewatering well,
15 with a minimum top casing diameter of twelve inches or greater is two
16 hundred dollars.

17 (c) The fee for a new resource protection, observation, and
18 monitoring well is forty dollars for each well.

19 (d) The combined fee for construction and decommissioning of a
20 dewatering well system shall be forty dollars for each two hundred
21 horizontal lineal feet, or portion thereof, of the dewatering well
22 system.

23 (3) The fees imposed by this section shall be paid at the time the
24 notice of well construction is submitted to the department as provided
25 by RCW 18.104.048. The department by rule may adopt procedures to
26 permit the fees required for resource protection wells to be paid after
27 the number of wells actually constructed has been determined. The
28 department shall refund the amount of any fees collected for any wells
29 on which construction is not started.

30 **Sec. 10.** RCW 18.104.060 and 1971 ex.s. c 212 s 6 are each amended
31 to read as follows:

32 Notwithstanding and in addition to any other powers granted to the
33 department, whenever it appears to the director, or to an assistant
34 authorized by the director to issue regulatory orders under this
35 section, that a person is violating or is about to violate any of the
36 provisions of this chapter, the director, or ~~((his))~~ the director's
37 authorized assistant, may cause a written regulatory order to be served

1 upon said person either personally, or by registered or certified mail
2 delivered to the addressee only with return receipt requested and
3 acknowledged by him or her. The order shall specify the provision of
4 this chapter, and if applicable, the rule (~~(or regulation)~~) adopted
5 pursuant to this chapter alleged to be or about to be violated, and the
6 facts upon which the conclusion of violating or potential violation is
7 based, and shall order the act constituting the violation or the
8 potential violation to cease and desist or, in appropriate cases, shall
9 order necessary corrective action to be taken with regard to such acts
10 within a specific and reasonable time. (~~(A regulatory)~~) An order
11 issued (~~(hereunder)~~) under this chapter shall become effective
12 immediately upon receipt by the person to whom the order is directed,
13 and shall become final unless review thereof is requested as provided
14 in this chapter.

15 NEW SECTION. **Sec. 11.** A new section is added to chapter 18.104
16 RCW to read as follows:

17 (1) The department may order a well contractor or well operator to
18 repair, alter, or decommission a well if the department demonstrates
19 that the construction of the well did not meet the standards for well
20 construction in effect at the time construction of the well was
21 completed.

22 (2) The department may not issue an order pursuant to this section:

23 (a) For wells for which construction has been substantially
24 completed before July 1, 1993, more than six years after construction
25 has been substantially completed; or

26 (b) For wells for which construction has been substantially
27 completed on or after July 1, 1993, more than three years after
28 construction has been substantially completed.

29 For purposes of this subsection, "construction has been
30 substantially completed" has the same meaning as "substantial
31 completion of construction" in RCW 4.16.310.

32 (3) Subsection (2) of this section shall only apply to a well for
33 which the notice of construction required by RCW 18.104.048 and the
34 report required by RCW 18.104.050 have been filed with the department.

35 **Sec. 12.** RCW 18.104.070 and 1987 c 394 s 2 are each amended to
36 read as follows:

1 (~~Except as provided in RCW 18.104.180, no person may contract to~~
2 ~~engage in the construction of a water well and no person may act as an~~
3 ~~operator without first obtaining a license by applying to the~~
4 ~~department.~~)

5 A person shall be qualified to receive a water well
6 ~~((construction))~~ operator's license if ~~((he))~~ the person:

7 (1) Has ~~((made))~~ submitted a completed application ~~((therefor))~~ to
8 the department on forms provided by the department and has paid to the
9 department ~~((an))~~ the application fee ~~((of twenty five dollars))~~
10 determined by rule adopted pursuant to this chapter; and

11 (2) Has ~~((at least two years of field experience with a licensed~~
12 ~~well driller or one year of field experience and an equivalent of at~~
13 ~~least one school year of qualifying educational training that satisfies~~
14 ~~the criteria established by department rule))~~ the field experience and
15 educational training required by rule adopted by the department
16 pursuant to this chapter; and

17 (3) Has passed a written examination as provided for in RCW
18 18.104.080~~((: PROVIDED, That should any applicant establish his~~
19 ~~illiteracy to the satisfaction of the department, such applicant shall~~
20 ~~be entitled to an oral examination in lieu of the written examination~~
21 ~~authorized herein))~~; and

22 (4) Has passed an on-site examination by the department if the
23 person's qualifying field experience under subsection (2) of this
24 section is from another state. The department may waive the on-site
25 examination.

26 NEW SECTION. Sec. 13. A new section is added to chapter 18.104
27 RCW to read as follows:

28 The department may issue a water well construction operator's
29 training license if the person:

30 (1) Has submitted a completed application to the department on
31 forms provided by the department and has paid to the department the
32 application fee required by rules adopted pursuant to this chapter;

33 (2) Has acquired field experience and educational training required
34 by rules adopted pursuant to this chapter;

35 (3) Has passed a written examination as provided for in RCW
36 18.104.080;

37 (4) Has passed an on-site examination by the department; and

1 (5) Presents a statement by a person licensed under this chapter,
2 other than a trainee, signed under penalty of perjury as provided in
3 RCW 9A.72.085, verifying that the applicant has the field experience
4 required by rules adopted pursuant to this chapter and assuming
5 liability for any and all well construction activities of the person
6 seeking the training license.

7 A person with a water well construction operator's training license
8 may operate a drilling rig without the direct supervision of a licensed
9 operator if a licensed operator is available by radio, telephone, or
10 other means of communication.

11 NEW SECTION. **Sec. 14.** A new section is added to chapter 18.104
12 RCW to read as follows:

13 A person shall be qualified to receive a resource protection well
14 operator's license if the person:

15 (1) Has submitted a completed application to the department on
16 forms provided by the department and has paid to the department the
17 application fee required by rules adopted pursuant to this chapter;

18 (2) Has acquired field experience and educational training required
19 by rules adopted pursuant to this chapter;

20 (3) Has passed a written examination as provided for in RCW
21 18.104.080. This requirement shall not apply to a person who passed
22 the written examination to obtain a resource protection well
23 construction operator's training license; and

24 (4) Has passed an on-site examination by the department if the
25 person's qualifying field experience is from another state. The
26 department may waive the on-site examination.

27 A person with a license issued pursuant to this chapter before the
28 effective date of this section may obtain a resource protection well
29 construction operator's license by paying the application fee
30 determined by rule adopted by the department pursuant to this chapter
31 and submitting evidence required by the department to demonstrate that
32 the person has the required experience to construct resource protection
33 wells.

34 NEW SECTION. **Sec. 15.** A new section is added to chapter 18.104
35 RCW to read as follows:

36 The department may issue a resource protection well operator's
37 training license if the person:

1 (1) Has submitted a completed application to the department on
2 forms provided by the department and has paid to the department the
3 application fee required by rules adopted pursuant to this chapter;

4 (2) Has acquired field experience and educational training required
5 by rules adopted pursuant to this chapter;

6 (3) Has passed a written examination as provided for in RCW
7 18.104.080;

8 (4) Has passed an on-site examination by the department; and

9 (5) Presents a statement by a person licensed under this chapter,
10 other than a trainee, signed under penalty of perjury as provided in
11 RCW 9A.72.085, verifying that the applicant has the field experience
12 required by rules adopted pursuant to this chapter and assuming
13 liability for any and all well construction activities of the person
14 seeking the training license.

15 A person with a resource protection well construction operator's
16 training license may operate a drilling rig without direct supervision
17 of a licensed operator if a licensed operator is accessible by radio,
18 telephone, or other means of communication.

19 **Sec. 16.** RCW 18.104.080 and 1991 c 3 s 250 are each amended to
20 read as follows:

21 The examination(~~(, which is made a prerequisite for obtaining a~~
22 ~~license hereunder,)~~) for a license issued pursuant to this chapter
23 shall be prepared to test knowledge and understanding of at least the
24 following subjects:

25 (1) Washington ground water laws as they relate to well
26 construction;

27 (2) Sanitary standards for ((water)) well drilling and construction
28 of ((water)) wells;

29 (3) Types of ((water)) well construction;

30 (4) Drilling tools and equipment;

31 (5) Underground geology as it relates to ((water)) well
32 construction; and

33 (6) Rules of the department and the department of health relating
34 to ((water)) well construction.

35 Examinations shall be held at such times and places as may be
36 determined by the department but not later than thirty days after an
37 applicant has filed a completed application with the department. The

1 department shall make a determination of the applicant's qualifications
2 for a license within ten days after the examination.

3 **Sec. 17.** RCW 18.104.100 and 1971 ex.s. c 212 s 10 are each amended
4 to read as follows:

5 ~~((The term for the effectiveness of any license))~~ (1) Licenses
6 issued pursuant to this chapter shall be ~~((one))~~ renewed every two
7 years~~((, commencing on the date the license is issued))~~. ~~((Every))~~ A
8 license shall be renewed ~~((annually))~~ upon payment of a renewal fee
9 ~~((of ten dollars))~~ and completion of continuing education required by
10 rule adopted by the department. If a licensee fails to submit an
11 application for renewal, ~~((together with))~~ the renewal fee, ~~((before~~
12 ~~the end of the effective term of his license, his license shall be~~
13 ~~suspended for thirty days on notice by the director.~~ If his renewal
14 ~~fee is paid prior to the end of said suspension period, the suspension~~
15 ~~shall automatically terminate.~~ If during the period of suspension
16 ~~renewal is not completed, his license shall be revoked: PROVIDED, That~~
17 ~~the director shall give the licensee ten days notice prior to the~~
18 ~~revocation of any license for failure to renew))~~ and proof of
19 completion of the required continuing education, the license shall
20 expire at the end of its effective term.

21 (2) A person whose license ~~((is revoked under this section and who~~
22 ~~thereafter desires to engage in the supervision of construction of~~
23 ~~water wells))~~ has expired must ~~((make application))~~ apply for a new
24 license ~~((and pay twenty five dollars))~~ as provided in ~~((RCW~~
25 ~~18.104.070))~~ this chapter. The department may waive the requirement
26 for a written examination and on-site testing for a person whose
27 license has expired.

28 (3) The department may refuse to renew a license if the licensee
29 has not complied with an order issued by the department or has not paid
30 a penalty imposed in accordance with this chapter, unless the order or
31 penalty is under appeal.

32 (4) The department may issue a conditional license to enable a
33 former licensee to comply with an order to correct problems with a
34 well.

35 **Sec. 18.** RCW 18.104.110 and 1991 c 3 s 251 are each amended to
36 read as follows:

1 In cases other than those relating to the failure of a licensee to
2 renew a license, (~~any license issued hereunder may be suspended or~~
3 ~~revoked by~~) the director may suspend or revoke a license issued
4 pursuant to this chapter for any of the following reasons:

- 5 (1) For fraud or deception in obtaining the license;
6 (2) For fraud or deception in reporting under RCW 18.104.050;
7 (3) For violating the provisions of this chapter, or of any lawful
8 rule or regulation of the department or the department of health.

9 No license shall be suspended for more than six months. No person
10 whose license is revoked shall be eligible to apply for a license for
11 one year from the effective date of the final order of revocation.

12 **Sec. 19.** RCW 18.104.120 and 1983 c 93 s 1 are each amended to read
13 as follows:

14 Any person with an economic or noneconomic interest may make a
15 complaint against any (~~water~~) well contractor or operator for
16 violating this chapter or any regulations under it to the department of
17 ecology. The complaint shall be in writing, signed by the complainant,
18 and specify the grievances against the licensee. The department shall
19 respond to the complaint by issuance of an order it deems appropriate.
20 Review of the order shall be subject to the hearings procedures set
21 forth in RCW 18.104.130.

22 **Sec. 20.** RCW 18.104.150 and 1971 ex.s. c 212 s 15 are each amended
23 to read as follows:

24 (~~All receipts realized in the administration of this chapter shall~~
25 ~~be paid into the general fund.~~) (1) All fees paid under this chapter
26 shall be credited by the state treasurer to the reclamation account
27 established by chapter 89.16 RCW. Subject to legislative
28 appropriation, the fees collected under this chapter shall be allocated
29 and expended by the director for the administration of the well
30 construction, well operators' licensing, and education programs.

31 (2) The department shall provide grants to local governing entities
32 that have been delegated portions of the well construction program
33 pursuant to RCW 18.104.043 to assist in supporting well inspectors
34 hired by the local governing body. Grants provided to a local
35 governing body shall not exceed the revenues generated from fees for
36 the portion of the program delegated and from the area in which
37 authority is delegated to the local governing body.

1 **Sec. 21.** RCW 18.104.155 and 1987 c 394 s 1 are each amended to
2 read as follows:

3 (1) The department of ecology may ~~((levy))~~ assess a civil penalty
4 ~~((of up to one hundred dollars per day))~~ for a violation of this
5 chapter or rules or orders of the department adopted or issued pursuant
6 to it. ~~((Procedures of RCW 90.48.144 shall be applicable to all phases~~
7 ~~of levying of such a penalty as well as review and appeal of them))~~

8 (2) There shall be three categories of violations: Minor, serious,
9 and major.

10 (a) A minor violation is a violation that does not seriously
11 threaten public health, safety, and the environment. Minor violations
12 include, but are not limited to:

13 (i) Failure to submit completed start cards and well reports within
14 the required time;

15 (ii) Failure to submit variance requests before construction;

16 (iii) Failure to submit well construction fees;

17 (iv) Failure to place a well identification tag on a new well; and

18 (v) Minor or reparable construction problems.

19 (b) A serious violation is a violation that poses a critical or
20 serious threat to public health, safety, and the environment. Serious
21 violations include, but are not limited to:

22 (i) Improper well construction;

23 (ii) Intentional and improper location or siting of a well;

24 (iii) Construction of a well without a required permit;

25 (iv) Violation of decommissioning requirements;

26 (v) Repeated minor violations; or

27 (vi) Construction of a well by a person whose license has expired
28 or has been suspended for not more than ninety days.

29 (c) A major violation is the construction of a well by a person:

30 (i) Without a license; or

31 (ii) After the person's license has been suspended for more than
32 ninety days or revoked.

33 (3)(a) The penalty for a minor violation shall be not less than one
34 hundred dollars and not more than five hundred dollars. Before the
35 imposition of a penalty for a minor violation, the department may issue
36 an order of noncompliance to provide an opportunity for mitigation or
37 compliance.

38 (b) The penalty for a serious violation shall be not less than five
39 hundred dollars and not more than five thousand dollars.

1 (c) The penalty for a major violation shall be not less than five
2 thousand dollars and not more than ten thousand dollars.

3 (4) In determining the appropriate penalty under subsection (3) of
4 this section the department shall consider whether the person:

5 (a) Has demonstrated a general disregard for public health and
6 safety through the number and magnitude of the violations;

7 (b) Has demonstrated a disregard for the well construction laws or
8 rules in repeated or continuous violations; or

9 (c) Knew or reasonably should have known of circumstances that
10 resulted in the violation.

11 (5) Penalties provided for in this section shall be imposed
12 pursuant to RCW 43.21B.300. The department shall provide thirty days
13 written notice of a violation as provided in RCW 43.21B.300(3).

14 (6) For ~~((each notice regarding))~~ informational purposes, a copy of
15 the notice of violation, resulting from the improper construction of a
16 well, that is sent to a water well contractor or water well
17 construction operator, ~~((the department shall send a copy of the notice~~
18 for information purposes only to the owner of the land on which the
19 improperly constructed well is located)) shall also be sent by the
20 department to the well owner.

21 (7) Penalties collected by the department pursuant to this section
22 shall be deposited in the reclamation account established by chapter
23 89.16 RCW. Subject to legislative appropriation, the penalties may be
24 spent only for purposes related to the restoration and enhancement of
25 ground water resources in the state.

26 **Sec. 22.** RCW 43.21B.110 and 1992 c 174 s 13 and 1992 c 73 s 1 are
27 each reenacted and amended to read as follows:

28 (1) The hearings board shall only have jurisdiction to hear and
29 decide appeals from the following decisions of the department, the
30 director, the administrator of the office of marine safety, and the air
31 pollution control boards or authorities as established pursuant to
32 chapter 70.94 RCW, or local health departments:

33 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
34 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and
35 90.56.330.

36 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
37 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
38 90.14.130, and 90.48.120.

1 (c) The issuance, modification, or termination of any permit,
2 certificate, or license by the department or any air authority in the
3 exercise of its jurisdiction, including the issuance or termination of
4 a waste disposal permit, the denial of an application for a waste
5 disposal permit, or the modification of the conditions or the terms of
6 a waste disposal permit.

7 (d) Decisions of local health departments regarding the grant or
8 denial of solid waste permits pursuant to chapter 70.95 RCW.

9 (e) Decisions of local health departments regarding the issuance
10 and enforcement of permits to use or dispose of biosolids under RCW
11 70.95J.080.

12 (f) Any other decision by the department, the administrator of the
13 office of marine safety, or an air authority which pursuant to law must
14 be decided as an adjudicative proceeding under chapter 34.05 RCW.

15 (2) The following hearings shall not be conducted by the hearings
16 board:

17 (a) Hearings required by law to be conducted by the shorelines
18 hearings board pursuant to chapter 90.58 RCW.

19 (b) Hearings conducted by the department pursuant to RCW 70.94.332,
20 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

21 (c) Proceedings by the department relating to general adjudications
22 of water rights pursuant to chapter 90.03 or 90.44 RCW.

23 (d) Hearings conducted by the department to adopt, modify, or
24 repeal rules.

25 (3) Review of rules and regulations adopted by the hearings board
26 shall be subject to review in accordance with the provisions of the
27 Administrative Procedure Act, chapter 34.05 RCW.

28 **Sec. 23.** RCW 43.21B.300 and 1992 c 73 s 2 are each amended to read
29 as follows:

30 (1) Any civil penalty provided in RCW 18.104.155, 70.94.431,
31 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and
32 90.56.330 shall be imposed by a notice in writing, either by certified
33 mail with return receipt requested or by personal service, to the
34 person incurring the penalty from the department, the administrator of
35 the office of marine safety, or the local air authority, describing the
36 violation with reasonable particularity. Within fifteen days after the
37 notice is received, the person incurring the penalty may apply in
38 writing to the department, the administrator, or the authority for the

1 remission or mitigation of the penalty. Upon receipt of the
2 application, the department, the administrator, or authority may remit
3 or mitigate the penalty upon whatever terms the department, the
4 administrator, or the authority in its discretion deems proper. The
5 department or the authority may ascertain the facts regarding all such
6 applications in such reasonable manner and under such rules as it may
7 deem proper and shall remit or mitigate the penalty only upon a
8 demonstration of extraordinary circumstances such as the presence of
9 information or factors not considered in setting the original penalty.

10 (2) Any penalty imposed under this section may be appealed to the
11 pollution control hearings board in accordance with this chapter if the
12 appeal is filed with the hearings board and served on the department,
13 the administrator, or authority thirty days after receipt by the person
14 penalized of the notice imposing the penalty or thirty days after
15 receipt of the notice of disposition of the application for relief from
16 penalty.

17 (3) A penalty shall become due and payable on the later of:

18 (a) Thirty days after receipt of the notice imposing the penalty;

19 (b) Thirty days after receipt of the notice of disposition on
20 application for relief from penalty, if such an application is made; or

21 (c) Thirty days after receipt of the notice of decision of the
22 hearings board if the penalty is appealed.

23 (4) If the amount of any penalty is not paid to the department or
24 the administrator within thirty days after it becomes due and payable,
25 the attorney general, upon request of the department or the
26 administrator, shall bring an action in the name of the state of
27 Washington in the superior court of Thurston county, or of any county
28 in which the violator does business, to recover the penalty. If the
29 amount of the penalty is not paid to the authority within thirty days
30 after it becomes due and payable, the authority may bring an action to
31 recover the penalty in the superior court of the county of the
32 authority's main office or of any county in which the violator does
33 business. In these actions, the procedures and rules of evidence shall
34 be the same as in an ordinary civil action.

35 (5) All penalties recovered shall be paid into the state treasury
36 and credited to the general fund except those penalties imposed
37 pursuant to RCW 18.104.155, which shall be credited to the reclamation
38 account as provided in RCW 18.104.155(7), RCW 70.94.431, the
39 disposition of which shall be governed by that provision, RCW

1 70.105.080, which shall be credited to the hazardous waste control and
2 elimination account, created by RCW 70.105.180, and RCW 90.56.330,
3 which shall be credited to the coastal protection fund created by RCW
4 90.48.390.

5 **Sec. 24.** RCW 18.104.180 and 1971 ex.s. c 212 s 18 are each amended
6 to read as follows:

7 No license (~~((hereunder))~~) under this chapter shall be required of:

8 (1) Any individual who personally (~~((drills))~~) constructs a well on
9 land which is owned or leased by (~~((him))~~) the individual or in which
10 (~~((he))~~) the individual has a beneficial interest as a contract purchaser
11 and is used by the individual for farm or (~~((nonecommercial-domestic))~~)
12 single-family residential use only. An individual who constructs a
13 well without a license pursuant to this subsection shall comply with
14 all other requirements of this chapter and rules adopted by the
15 department, including but not limited to, well construction standards,
16 payment of well construction fees, and notification of well
17 construction required by RCW 18.104.048. An individual without a
18 license may construct not more than one well every two years pursuant
19 to the provisions of this subsection.

20 (2) (~~((Any))~~) An individual who performs labor or services for a
21 (~~((water))~~) well contractor in connection with the ((drilling))
22 construction of a well at the direction and under the supervision and
23 control of a licensed operator who is present at the construction site.

24 (3) A person licensed under the provisions of chapter 18.08 or
25 18.43 RCW if in the performance of duties covered by those licenses.

26 NEW SECTION. **Sec. 25.** A new section is added to chapter 18.104
27 RCW to read as follows:

28 (1) For the purpose of carrying out the provisions of this chapter,
29 the director shall appoint a technical advisory group, chaired by the
30 department. The technical advisory group shall have twelve members:
31 Two members shall represent the department of ecology, six members
32 shall represent resource protection well contractors or water well
33 contractors, one member shall represent the department of health, one
34 member shall represent local health departments, one member shall
35 represent licensed professional engineers, and one member shall be a
36 scientist knowledgeable in the design and construction of wells.

1 (2) The technical advisory group shall assist the department in the
2 development and revision of rules; the preparation and revision of
3 licensing examinations; the development of training criteria for
4 inspectors, well contractors, and well operators; and the review of
5 proposed changes to the minimum standards for construction and
6 maintenance of wells by local governments for the purpose of achieving
7 continuity with technology and state rules.

8 (3) The group shall meet at least twice each year to review rules
9 and suggest any necessary changes.

10 (4) Each member of the group shall be compensated in accordance
11 with RCW 43.03.240 and reimbursed for travel expenses while engaged in
12 the business of the group as prescribed in RCW 43.03.050 and 43.03.060.

13 **Sec. 26.** RCW 18.104.900 and 1971 ex.s. c 212 s 19 are each amended
14 to read as follows:

15 This chapter shall be known and may be cited as the "Washington
16 (~~Water~~) well construction act((~~W~~))."

17 **Sec. 27.** RCW 89.16.055 and 1981 c 216 s 1 are each amended to read
18 as follows:

19 In addition to the powers provided in RCW 89.16.050, the department
20 of ecology is authorized and empowered to:

21 (1) Conduct surveys, studies, investigations, and water right
22 examinations for proposed reclamation projects or the rehabilitation of
23 existing reclamation projects that may be funded fully or partially
24 from the receipts of the sale of bonds issued by the state of
25 Washington.

26 (2) Support the preparation for and administration of proceedings,
27 provided in RCW 90.03.110 or 90.44.220, or both, pertaining to river
28 systems or other water bodies that are associated with existing or
29 proposed reclamation projects.

30 (3) Conduct a regulatory program for well construction as provided
31 in chapter 18.104 RCW.

32 Funds of the account established by RCW 89.16.020 may, as
33 appropriated by the legislature, be used in relation to the powers
34 provided in this section, notwithstanding any other provisions of
35 chapter 89.16 RCW that may be to the contrary.

1 NEW SECTION. **Sec. 28.** Section 5 of this act expires on June 30,
2 1996."

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