

---

ENGROSSED SUBSTITUTE HOUSE BILL 1806

---

State of Washington

53rd Legislature

1993 Regular Session

By House Committee on Environmental Affairs (originally sponsored by Representatives Bray, Horn and Rust)

Read first time 03/03/93.

1 AN ACT Relating to wells; amending RCW 18.104.010, 18.104.020,  
2 18.104.030, 18.104.040, 18.104.043, 18.104.048, 18.104.050, 18.104.060,  
3 18.104.070, 18.104.080, 18.104.100, 18.104.110, 18.104.120, 18.104.150,  
4 18.104.155, 43.21B.300, 18.104.180, 18.104.900, and 89.16.055;  
5 reenacting and amending RCW 43.21B.110; adding new sections to chapter  
6 18.104 RCW; prescribing penalties; and providing an expiration date.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

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

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

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

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

5 (2) "Constructing a well" or "construct a well" means ((and  
6 includes)):

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

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

10 (c) Drilling a geotechnical soil boring.

11 "Constructing a well" or "construct a well" includes the alteration  
12 of an existing well.

13 ((+2)) (3) "Decommission" means to fill or plug a well so that it  
14 will not produce water, serve as a channel for movement of water or  
15 pollution, or allow the entry of pollutants into the well or aquifers.

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

17 ((+3)) (5) "Dewatering well" means a cased or lined excavation or  
18 boring that is intended to withdraw or divert ground water for the  
19 purpose of facilitating construction, stabilizing a landslide, or  
20 protecting an aquifer.

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

22 ((+4)) (7) "Geotechnical soil boring" or "boring" means an uncased  
23 well drilled for purpose of obtaining soil samples to ascertain  
24 structural properties of the subsurface. Geotechnical soil boring  
25 includes auger borings, rotary borings, cone penetrometer probes and  
26 vane shear probes, or any other uncased ground penetration for  
27 geotechnical information.

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

30 ((+5)) (9) "Instrumentation well" means a well in which pneumatic  
31 or electric geotechnical or hydrological instrumentation is permanently  
32 or periodically installed to measure or monitor subsurface strength and  
33 movement. Instrumentation well includes borehole extensometers, slope  
34 indicators, pneumatic or electric pore pressure transducers, and load  
35 cells.

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

1 (11) "Observation well" means a well designed to measure the depth  
2 to the water level elevation in either clean or contaminated water or  
3 soil.

4 (12) "Operator" means ~~((any))~~ a person~~((, other than a person~~  
5 ~~exempted by RCW 18.104.180,))~~ who (a) is employed by a ~~((water))~~ well  
6 ~~contractor ((for the control and supervision of the)); (b) is licensed~~  
7 ~~under this chapter; or (c) who controls, supervises, or oversees the~~  
8 ~~construction of a ((water)) well ((or for the operation of water)) or~~  
9 ~~who operates well construction equipment.~~

10 ~~((6))~~ (13) "Owner" or "well owner" means the person, firm,  
11 partnership, copartnership, corporation association, or other entity  
12 who owns the property on which the well is or will be constructed.

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

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

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

24 (17) "Water well" means ~~((and includes))~~ any excavation that is  
25 ~~((drilled, cored, bored, washed, driven, dug, jetted, or otherwise))~~  
26 constructed when the intended use of the well is for the location,  
27 diversion, artificial recharge, observation, monitoring, dewatering, or  
28 withdrawal of ground water. ~~(("Water well" does not mean an excavation~~  
29 ~~made for the purpose of obtaining or prospecting for oil, natural gas,~~  
30 ~~minerals, or products of mining, or quarrying, or for inserting media~~  
31 ~~to repressure oil or natural gas bearing formations, or for storing~~  
32 ~~petroleum, natural gas, or other products.~~

33 ~~(7))~~ (18) "Water well contractor" means any person, firm,  
34 partnership, copartnership, corporation, association, or other entity,  
35 licensed and bonded under chapter 18.27 RCW, engaged in the business of  
36 constructing water wells.

37 (19) "Well" means water wells, resource protection wells,  
38 instrumentation wells, dewatering wells, and geotechnical soil borings.  
39 Well does not mean an excavation made for the purpose of obtaining or

1 prospecting for oil, natural gas, geothermal resources, minerals, or  
2 products of mining, or quarrying, or for inserting media to repressure  
3 oil or natural gas bearing formations, or for storing petroleum,  
4 natural gas, or other products.

5 (20) "Well contractor" means a resource protection well contractor  
6 and a water well contractor.

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

9 It is unlawful:

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

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

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

19 constructed in violation of the standards for well construction  
20 established by this chapter and rules adopted by the department  
21 pursuant to this chapter;

22 (3) For a prospective water well owner to have a water well  
23 constructed without first obtaining a water right permit, if a permit  
24 is required;

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

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

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

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

34 The department shall have the power:

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

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

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

9       (4) To ((make such)) adopt rules, in consultation with the  
10 department of health and the technical advisory group created in  
11 section 25 of this act, governing licensing ((hereunder)) and ((water))  
12 well construction as may be appropriate to carry out the purposes of  
13 this chapter. ((Without limiting the generality of the foregoing,))  
14 The rules adopted by the department may ((in cooperation with the  
15 department of health make rules regarding)) include, but are not  
16 limited to:

17       (a) Standards for the construction and maintenance of ((water))  
18 wells and their casings;

19       (b) Methods of capping, sealing ((artesian)), and decommissioning  
20 wells ((and water wells to be abandoned or which may contaminate  
21 other)) to prevent contamination of ground water resources and to  
22 protect public health and safety;

23       (c) Methods of artificial recharge of ground water bodies and of  
24 construction of wells which insure separation of individual water  
25 bearing formations;

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

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

30       (f) Reporting requirements of ((water)) well contractors;

31       ((f)) (g) Limitations on ((water)) well construction in areas  
32 identified by the department as requiring intensive control of  
33 withdrawals in the interests of sound management of the ground water  
34 resource;

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

38       (6) To require the operator to place a well identification tag on  
39 a new well and on an existing well on which work is performed after the

1 effective date of rules requiring well identification tags and to place  
2 or require the owner to place a well identification tag on an existing  
3 well;

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

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

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

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

9 (1) If requested in writing by the governing body of a local health  
10 district or county, the department by memorandum of agreement may  
11 delegate to the governing body the authority to administer and enforce  
12 the well tagging, sealing, and decommissioning portions of the water  
13 well construction program.

14 (2) The department shall determine whether a local health district  
15 or county that seeks delegation under this section has the resources,  
16 capability, and expertise, including qualified field inspectors, to  
17 administer the delegated program. If the department determines the  
18 local government has these resources, it shall notify (~~(drilling)~~) well  
19 contractors, consultants, and operators of the proposal. The  
20 department shall accept written comments on the proposal for sixty days  
21 after the notice is mailed.

22 (3) If the department determines that a delegation of authority to  
23 a local health district or county to administer and enforce the well  
24 sealing and decommissioning portions of the water well construction  
25 program will enhance the public health and safety and the environment,  
26 the department and the local governing body may enter into a memorandum  
27 of agreement setting forth the specific authorities delegated by the  
28 department to the local governing body. The memorandum of agreement  
29 shall provide for an initial review of the delegation within one year  
30 and for periodic review thereafter.

31 (4) The local governing body shall exercise any authority delegated  
32 under this section in accordance with this chapter, other applicable  
33 laws, the memorandum of agreement, and applicable ordinances. If,  
34 after a public hearing, the department determines that a local  
35 governing body is not administering the program in accordance with this  
36 chapter, it shall notify the local governing body of the deficiencies.  
37 If corrective action is not taken within a reasonable time, not to

1 exceed sixty days, the department by order shall withdraw the  
2 delegation of authority.

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

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

9 (7) Any person aggrieved by a decision of a local health district  
10 or county under a delegated program may appeal the decision to the  
11 department. The department's decision is subject to review by the  
12 pollution control hearings board as provided in RCW ((18.104.130))  
13 43.21B.110.

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

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

20 ((To enable the department to monitor the construction,  
21 reconstruction, and abandonment of water wells more efficiently and  
22 effectively, water well contractors)) A property owner or the owner's  
23 agent shall ((provide notification to)) notify the department of  
24 ((their)) his or her intent to begin well construction, reconstruction,  
25 or ((abandonment)) decommissioning procedures at least seventy-two  
26 hours in advance of commencing work. The ((notification)) notice shall  
27 be submitted on forms provided by the department and shall be  
28 accompanied by the fees required by section 9 of this act. The notice  
29 shall contain the name of the owner of the well, location of the well,  
30 proposed use, approximate start date, ((driller's)) well contractor's  
31 or operator's name and license number, ((drilling)) company's name, and  
32 other pertinent information as prescribed by rule of the department.  
33 Rules of the department shall also provide for prior telephonic  
34 notification by well ((drillers)) contractors or operators in  
35 exceptional situations. The department shall issue a receipt  
36 indicating that the notice required by this section has been filed and  
37 the fees required by section 9 of this act have been paid not later

1 than three business days after the department has received the notice  
2 and fees.

3 NEW SECTION. Sec. 7. A new section is added to chapter 18.104 RCW  
4 to read as follows:

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

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

12 ~~((In order to enable the state to protect the welfare, health and~~  
13 ~~safety of its citizens, any water)) (1) A well contractor shall furnish~~  
14 ~~a ((water)) well report to the director within thirty days after the~~  
15 ~~completion of the construction or alteration of a well by ((him of any~~  
16 ~~water well)) the contractor.~~ The director, by ~~((regulation))~~ rule,  
17 shall prescribe the form of the report and the information to be  
18 contained therein.

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

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

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

26 NEW SECTION. Sec. 9. A new section is added to chapter 18.104 RCW  
27 to read as follows:

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

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

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



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

3 (d) The combined fee for construction and decommissioning of a  
4 dewatering well system shall be forty dollars for each two hundred  
5 horizontal lineal feet, or portion thereof, of the dewatering well  
6 system.

7 (3) The fees imposed by this section shall be paid at the time the  
8 notice of well construction is submitted to the department as provided  
9 by RCW 18.104.048. The department by rule may adopt procedures to  
10 permit the fees required for resource protection wells to be paid after  
11 the number of wells actually constructed has been determined. The  
12 department shall refund the amount of any fees collected for any wells  
13 on which construction is not started.

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

16 Notwithstanding and in addition to any other powers granted to the  
17 department, whenever it appears to the director, or to an assistant  
18 authorized by the director to issue regulatory orders under this  
19 section, that a person is violating or is about to violate any of the  
20 provisions of this chapter, the director, or ~~((his))~~ the director's  
21 authorized assistant, may cause a written regulatory order to be served  
22 upon said person either personally, or by registered or certified mail  
23 delivered to the addressee only with return receipt requested and  
24 acknowledged by him or her. The order shall specify the provision of  
25 this chapter, and if applicable, the rule ~~((or regulation))~~ adopted  
26 pursuant to this chapter alleged to be or about to be violated, and the  
27 facts upon which the conclusion of violating or potential violation is  
28 based, and shall order the act constituting the violation or the  
29 potential violation to cease and desist or, in appropriate cases, shall  
30 order necessary corrective action to be taken with regard to such acts  
31 within a specific and reasonable time. ~~((A regulatory))~~ An order  
32 issued ~~((hereunder))~~ under this chapter shall become effective  
33 immediately upon receipt by the person to whom the order is directed,  
34 and shall become final unless review thereof is requested as provided  
35 in this chapter.

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

1 (1) The department may order a well contractor or well operator to  
2 repair, alter, or decommission a well if the department demonstrates  
3 that the construction of the well did not meet the standards for well  
4 construction in effect at the time construction of the well was  
5 completed.

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

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

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

13 For purposes of this subsection, "construction has been  
14 substantially completed" has the same meaning as "substantial  
15 completion of construction" in RCW 4.16.310.

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

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

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

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

27 (1) Has ~~((made))~~ submitted a completed application ~~((therefor))~~ to  
28 the department on forms provided by the department and has paid to the  
29 department ~~((an))~~ the application fee ~~((of twenty-five dollars))~~  
30 determined by rule adopted pursuant to this chapter; and

31 (2) Has ~~((at least two years of field experience with a licensed  
32 well driller or one year of field experience and an equivalent of at  
33 least one school year of qualifying educational training that satisfies  
34 the criteria established by department rule))~~ the field experience and  
35 educational training required by rule adopted by the department  
36 pursuant to this chapter; and

37 (3) Has passed a written examination as provided for in RCW  
38 18.104.080~~((:— PROVIDED, That should any applicant establish his~~

1 ~~illiteracy to the satisfaction of the department, such applicant shall~~  
2 ~~be entitled to an oral examination in lieu of the written examination~~  
3 ~~authorized herein)); and~~

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

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

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

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

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

17 (3) Has passed a written examination as provided for in RCW  
18 18.104.080;

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

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

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

30 NEW SECTION. Sec. 14. A new section is added to chapter 18.104  
31 RCW to read as follows:

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

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

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

3 (3) Has passed a written examination as provided for in RCW  
4 18.104.080. This requirement shall not apply to a person who passed  
5 the written examination to obtain a resource protection well  
6 construction operator's training license; and

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

10 A person with a license issued pursuant to this chapter before the  
11 effective date of this section may obtain a resource protection well  
12 construction operator's license by paying the application fee  
13 determined by rule adopted by the department pursuant to this chapter  
14 and submitting evidence required by the department to demonstrate that  
15 the person has the required experience to construct resource protection  
16 wells.

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

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

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

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

26 (3) Has passed a written examination as provided for in RCW  
27 18.104.080;

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

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

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

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

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

7       (1) Washington ground water laws as they relate to well  
8 construction;

9       (2) Sanitary standards for ~~((water))~~ well drilling and construction  
10 of ~~((water))~~ wells;

11       (3) Types of ~~((water))~~ well construction;

12       (4) Drilling tools and equipment;

13       (5) Underground geology as it relates to ~~((water))~~ well  
14 construction; and

15       (6) Rules of the department and the department of health relating  
16 to ~~((water))~~ well construction.

17       Examinations shall be held at such times and places as may be  
18 determined by the department but not later than thirty days after an  
19 applicant has filed a completed application with the department. The  
20 department shall make a determination of the applicant's qualifications  
21 for a license within ten days after the examination.

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

24       ~~((The term for the effectiveness of any license))~~ (1) Licenses  
25 issued pursuant to this chapter shall be ~~((one))~~ renewed every two  
26 years~~((, commencing on the date the license is issued))~~. ~~((Every))~~ A  
27 license shall be renewed ~~((annually))~~ upon payment of a renewal fee  
28 ~~((of ten dollars))~~ and completion of continuing education required by  
29 rule adopted by the department. If a licensee fails to submit an  
30 application for renewal, ~~((together with))~~ the renewal fee, ~~((before~~  
31 ~~the end of the effective term of his license, his license shall be~~  
32 ~~suspended for thirty days on notice by the director.~~ If his renewal  
33 ~~fee is paid prior to the end of said suspension period, the suspension~~  
34 ~~shall automatically terminate.~~ If during the period of suspension  
35 ~~renewal is not completed, his license shall be revoked: PROVIDED, That~~  
36 ~~the director shall give the licensee ten days notice prior to the~~  
37 ~~revocation of any license for failure to renew))~~ and proof of

1 completion of the required continuing education, the license shall  
2 expire at the end of its effective term.

3 (2) A person whose license ((is revoked under this section and who  
4 thereafter desires to engage in the supervision of construction of  
5 water wells)) has expired must ((make application)) apply for a new  
6 license ((and pay twenty five dollars)) as provided in ((RCW  
7 18.104.070)) this chapter. The department may waive the requirement  
8 for a written examination and on-site testing for a person whose  
9 license has expired.

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

14 (4) The department may issue a conditional license to enable a  
15 former licensee to comply with an order to correct problems with a  
16 well.

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

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

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

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

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

32 Any person with an economic or noneconomic interest may make a  
33 complaint against any ~~((water))~~ well contractor or operator for  
34 violating this chapter or any regulations under it to the department of  
35 ecology. The complaint shall be in writing, signed by the complainant,  
36 and specify the grievances against the licensee. The department shall  
37 respond to the complaint by issuance of an order it deems appropriate.

1 Review of the order shall be subject to the hearings procedures set  
2 forth in RCW 18.104.130.

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

5 ~~((All receipts realized in the administration of this chapter shall  
6 be paid into the general fund.))~~ (1) All fees paid under this chapter  
7 shall be credited by the state treasurer to the reclamation account  
8 established by chapter 89.16 RCW. Subject to legislative  
9 appropriation, the fees collected under this chapter shall be allocated  
10 and expended by the director for the administration of the well  
11 construction, well operators' licensing, and education programs.

12 (2) The department shall provide grants to local governing entities  
13 that have been delegated portions of the well construction program  
14 pursuant to RCW 18.104.043 to assist in supporting well inspectors  
15 hired by the local governing body. Grants provided to a local  
16 governing body shall not exceed the revenues generated from fees for  
17 the portion of the program delegated and from the area in which  
18 authority is delegated to the local governing body.

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

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

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

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

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

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

34 (iii) Failure to submit well construction fees;

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

36 (v) Minor or reparable construction problems.

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

4 (i) Improper well construction;

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

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

7 (iv) Violation of decommissioning requirements;

8 (v) Repeated minor violations; or

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

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

12 (i) Without a license; or

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

15 (3)(a) The penalty for a minor violation shall be not less than one  
16 hundred dollars and not more than five hundred dollars. Before the  
17 imposition of a penalty for a minor violation, the department may issue  
18 an order of noncompliance to provide an opportunity for mitigation or  
19 compliance.

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

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

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

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

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

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

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

35 (6) For ~~((each notice regarding))~~ informational purposes, a copy of  
36 the notice of violation, resulting from the improper construction of a  
37 well, that is sent to a water well contractor or water well  
38 construction operator, ~~((the department shall send a copy of the notice~~  
39 for information purposes only to the owner of the land on which the



1 ~~improperly constructed well is located~~) shall also be sent by the  
2 department to the well owner.

3 (7) Penalties collected by the department pursuant to this section  
4 shall be deposited in the reclamation account established by chapter  
5 89.16 RCW. Subject to legislative appropriation, the penalties may be  
6 spent only for purposes related to the restoration and enhancement of  
7 ground water resources in the state.

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

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

15 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,  
16 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and  
17 90.56.330.

18 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
19 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,  
20 90.14.130, and 90.48.120.

21 (c) The issuance, modification, or termination of any permit,  
22 certificate, or license by the department or any air authority in the  
23 exercise of its jurisdiction, including the issuance or termination of  
24 a waste disposal permit, the denial of an application for a waste  
25 disposal permit, or the modification of the conditions or the terms of  
26 a waste disposal permit.

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

29 (e) Decisions of local health departments regarding the issuance  
30 and enforcement of permits to use or dispose of biosolids under RCW  
31 70.95J.080.

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

35 (2) The following hearings shall not be conducted by the hearings  
36 board:

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

1 (b) Hearings conducted by the department pursuant to RCW 70.94.332,  
2 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

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

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

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

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

12 (1) Any civil penalty provided in RCW 18.104.155, 70.94.431,  
13 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and  
14 90.56.330 shall be imposed by a notice in writing, either by certified  
15 mail with return receipt requested or by personal service, to the  
16 person incurring the penalty from the department, the administrator of  
17 the office of marine safety, or the local air authority, describing the  
18 violation with reasonable particularity. Within fifteen days after the  
19 notice is received, the person incurring the penalty may apply in  
20 writing to the department, the administrator, or the authority for the  
21 remission or mitigation of the penalty. Upon receipt of the  
22 application, the department, the administrator, or authority may remit  
23 or mitigate the penalty upon whatever terms the department, the  
24 administrator, or the authority in its discretion deems proper. The  
25 department or the authority may ascertain the facts regarding all such  
26 applications in such reasonable manner and under such rules as it may  
27 deem proper and shall remit or mitigate the penalty only upon a  
28 demonstration of extraordinary circumstances such as the presence of  
29 information or factors not considered in setting the original penalty.

30 (2) Any penalty imposed under this section may be appealed to the  
31 pollution control hearings board in accordance with this chapter if the  
32 appeal is filed with the hearings board and served on the department,  
33 the administrator, or authority thirty days after receipt by the person  
34 penalized of the notice imposing the penalty or thirty days after  
35 receipt of the notice of disposition of the application for relief from  
36 penalty.

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

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

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

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

5 (4) If the amount of any penalty is not paid to the department or  
6 the administrator within thirty days after it becomes due and payable,  
7 the attorney general, upon request of the department or the  
8 administrator, shall bring an action in the name of the state of  
9 Washington in the superior court of Thurston county, or of any county  
10 in which the violator does business, to recover the penalty. If the  
11 amount of the penalty is not paid to the authority within thirty days  
12 after it becomes due and payable, the authority may bring an action to  
13 recover the penalty in the superior court of the county of the  
14 authority's main office or of any county in which the violator does  
15 business. In these actions, the procedures and rules of evidence shall  
16 be the same as in an ordinary civil action.

17 (5) All penalties recovered shall be paid into the state treasury  
18 and credited to the general fund except those penalties imposed  
19 pursuant to RCW 18.104.155, which shall be credited to the reclamation  
20 account as provided in RCW 18.104.155(7), RCW 70.94.431, the  
21 disposition of which shall be governed by that provision, RCW  
22 70.105.080, which shall be credited to the hazardous waste control and  
23 elimination account, created by RCW 70.105.180, and RCW 90.56.330,  
24 which shall be credited to the coastal protection fund created by RCW  
25 90.48.390.

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

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

29 (1) Any individual who personally (~~drills~~) constructs a well on  
30 land which is owned or leased by (~~him~~) the individual or in which  
31 (~~he~~) the individual has a beneficial interest as a contract purchaser  
32 and is used by the individual for farm or (~~nonecommercial domestic~~)  
33 single-family residential use only. An individual who constructs a  
34 well without a license pursuant to this subsection shall comply with  
35 all other requirements of this chapter and rules adopted by the  
36 department, including but not limited to, well construction standards,  
37 payment of well construction fees, and notification of well  
38 construction required by RCW 18.104.048. An individual without a

1 license may construct not more than one well every two years pursuant  
2 to the provisions of this subsection.

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

7 (3) A person licensed under the provisions of chapter 18.08 or  
8 18.43 RCW if in the performance of duties covered by those licenses.

9 NEW SECTION. Sec. 25. A new section is added to chapter 18.104  
10 RCW to read as follows:

11 (1) For the purpose of carrying out the provisions of this chapter,  
12 the director shall appoint a technical advisory group, chaired by the  
13 department. The technical advisory group shall have twelve members:  
14 Two members shall represent the department of ecology, six members  
15 shall represent resource protection well contractors or water well  
16 contractors, one member shall represent the department of health, one  
17 member shall represent local health departments, one member shall  
18 represent licensed professional engineers, and one member shall be a  
19 scientist knowledgeable in the design and construction of wells.

20 (2) The technical advisory group shall assist the department in the  
21 development and revision of rules; the preparation and revision of  
22 licensing examinations; the development of training criteria for  
23 inspectors, well contractors, and well operators; and the review of  
24 proposed changes to the minimum standards for construction and  
25 maintenance of wells by local governments for the purpose of achieving  
26 continuity with technology and state rules.

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

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

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

34 This chapter shall be known and may be cited as the "Washington  
35 (~~Water~~) well construction act(~~(=)~~)."

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

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

5       (1) Conduct surveys, studies, investigations, and water right  
6 examinations for proposed reclamation projects or the rehabilitation of  
7 existing reclamation projects that may be funded fully or partially  
8 from the receipts of the sale of bonds issued by the state of  
9 Washington.

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

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

16       Funds of the account established by RCW 89.16.020 may, as  
17 appropriated by the legislature, be used in relation to the powers  
18 provided in this section, notwithstanding any other provisions of  
19 chapter 89.16 RCW that may be to the contrary.

20       NEW SECTION.   **Sec. 28.** Section 5 of this act expires on June 30,  
21 1996.

--- END ---