



RULE-MAKING ORDER

DR-103 (June 2004)
(Implements RCW 34.05.360)

Agency: Department of Licensing

- Permanent Rule
- Emergency Rule

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes
 - No
- If Yes, explain:

Purpose: To replace the current Brief Adjudicative Proceedings portions of WAC 196-09, so that the new sections regarding the Brief Adjudicative Proceedings may be used in more circumstances, and be standardized throughout the division and Agency.

Citation of existing rules affected by this order:

Repealed: N/A
 Amended: N/A
 Suspended: N/A

Statutory authority for adoption: RCW 18.43.035

Other authority : RCW 18.235

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 06-07-119 on March 20, 2006 (date).
 Describe any changes other than editing from proposed to adopted version:

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____
 Address: _____ fax () _____
 e-mail _____

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

Date adopted: April 27, 2006

NAME (TYPE OR PRINT)
 George A. Twiss

SIGNATURE

TITLE
 Executive Director

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
 STATE OF WASHINGTON
 FILED

NO

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(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	<u>2</u>	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	<u>2</u>	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

WAC 196-09-050 Brief adjudicative proceedings. (1) The board will conduct brief adjudicative proceedings as provided for in RCW 34.05.482 through 34.05.494 of the Administrative Procedure Act. (~~Such proceedings may be held at the request of the applicant/registrant/board (petitioner) for the following purposes:)~~ Brief adjudicative proceedings may be used whenever a statement of charges, notice of intent to issue a cease and desist order, or temporary cease and desist order alleges violations of chapter 18.43 RCW, chapter 18.210 RCW, chapter 18.235 RCW, administrative rules in title 196 WAC or any statutes or rules that specifically govern the defined practices of engineering, land surveying and on-site wastewater treatment system designs. Brief adjudicative proceedings may also be used in place of formal adjudicative hearings whenever the board issues a statement of charges, notice of intent to issue a cease and desist order, or temporary cease and desist order alleging that an applicant or licensee's conduct, act(s), or condition(s) constitute unlicensed practice or unprofessional conduct as that term is defined under chapter 18.235 RCW, the Uniform Regulation of Business and Professions Act.

~~((1) To appeal a determination that an applicant for certification as an engineer in training or land surveyor in training does not meet the minimum certification requirements as provided in chapter 18.43 RCW and/or chapters 196-20 and 196-21 WAC; or~~

~~(2) To appeal a determination that a professional engineer or professional land surveyor applicant does not meet the minimum licensing requirements as provided in chapter 18.43 RCW and/or chapter 196-12 WAC (PE) and chapter 196-16 WAC (PLS); or))~~

(2) Brief adjudicative proceedings may be used to determine the following issues, including, but not limited to:

(a) Whether an applicant has satisfied terms for reinstatement of a license after a period of license restriction, suspension, or revocation;

(b) Whether an applicant is eligible to sit for a professional licensing examination;

(c) Whether a sanction proposed by the board is appropriate based on the stipulated facts;

(d) Whether an applicant meets minimum requirements for an initial or renewal application;

(e) Whether an applicant has failed the professional licensing examination;

(f) Whether a licensee has sufficient continuing education credits when the licensee submits a renewal application;

(g) Whether an applicant or licensee failed to cooperate in an investigation by the board

(h) Whether an applicant or licensee was convicted of a crime that disqualifies the applicant or licensee from holding the specific license sought or held;

(i) Whether an applicant or licensee has defaulted on educational loans;

(j) Whether an applicant or licensee has violated the terms of a final order issued by the board or the board's designee;

(k) Whether a person has engaged in false, deceptive or misleading advertising; or

(l) Whether a person has engaged in unlicensed practice.

~~((3) To determine whether a licensee requesting renewal or reinstatement has submitted all required information and has met the minimum criteria for renewal or reinstatement; or))~~

(3) In addition to the situations enumerated in subsection (2) of this section, the board may conduct brief adjudicative proceedings instead of formal adjudicative hearings whenever the parties have stipulated to the facts and the only issues presented are issues of law, or whenever issues of fact exist but witness testimony is unnecessary to prove or disprove the relevant facts.

~~((4) To determine whether an individual, named in default of student loan payments under RCW 18.43.160, holds a certification or license issued under chapter 18.43 RCW.))~~

WAC 196-09-055 Records required for brief adjudicative proceeding. The records for the brief adjudicative proceeding shall include:

(1) ~~((Applicants for certification/licensing: Original complete application with all attachments required by the board; all documents relied upon in reaching the determination of ineligibility; and all correspondence between the applicant and the board about the application or the appeal.))~~ Renewal or reinstatement of license:

- All correspondence between the applicant and the board about the renewal or reinstatement;
- Copies of renewal notice(s) sent by the department of licensing to the licensee;
- All documents received by the board from or on behalf of the licensee relating to information, payments, or explanations that have been provided to the board.

(2) ~~((License renewal or reinstatement: Copy (ies) of original renewal notice(s) sent by the department of licensing to the licensee; all documents received by the board from or on behalf of the licensee relating to information, payments or explanations that have been provided to the board.))~~ Applicants for certification/licensing:

- Original complete application with all attachments as submitted by the applicant;
- Copies of all supplementary information related to application review by staff or board member;
- All documents relied upon in reaching the determination of ineligibility;
- All correspondence between the applicant and the board about the application or appeal.

(3) Default of student loan payments: ((Copy(ies) of notice(s) to the board showing the name and other identification information of the individual claimed to be in default on student loan payments; copies of identification information corresponding to the person(s) who is (are) certified/licensed by the board that relate to the identity of the individual in default; and all documents received by the board from or on behalf of the licensee relating to rebutting such identification.))

- Copies of notices to the board showing the name and other identification information of the individual claimed to be in default on student loan payments;

• Copies of identification information corresponding to the person who is certified/licensed by the board that relate to the identity of the individual in default;

• All documents received by the board from or on behalf of the licensee relating to rebutting such identification;

• Certification and report by the lending agency that the identified person is in default or nonpayment on a federally or state-guaranteed student loan or service-conditional scholarship; or

• A written release, if any issued by the lending agency stating that the identified person is making payment on the loan in accordance with a repayment agreement approved by the lending agency.

(4) Determination of compliance with previously issued board

- The previously issued final order or agreement;
- All reports or other documents submitted by, or at the direction of, the license holder, in full or partial fulfillment of the terms of the final order or agreement;
 - All correspondence between the license holder and the program regarding compliance with the final order or agreement; and
 - All documents relied upon by the program showing that the license holder has failed to comply with the previously issued final order or agreement.