

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1806

Chapter 387, Laws of 1993

53rd Legislature
1993 Regular Session

WELL CONSTRUCTION, CONTRACTORS, AND OPERATORS--REVISIONS

EFFECTIVE DATE: 7/1/93

Passed by the House April 20, 1993
Yeas 77 Nays 20

BRIAN EBERSOLE
**Speaker of the
House of Representatives**

Passed by the Senate April 14, 1993
Yeas 26 Nays 14

JOEL PRITCHARD
President of the Senate

Approved May 15, 1993

MIKE LOWRY
Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1806** as passed by the House of Representatives and the Senate on the dates hereon set forth.

ALAN THOMPSON
Chief Clerk

FILED

May 15, 1993 - 11:28 a.m.

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1806

AS AMENDED BY THE SENATE

Passed Legislature - 1993 Regular Session

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; providing an expiration date;
7 providing an effective date; and declaring an emergency.

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

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

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

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

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

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

7 (2) "Constructing a well" or "construct a well" means ((and
8 includes)):

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

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

12 (c) Drilling a geotechnical soil boring.

13 "Constructing a well" or "construct a well" includes the alteration
14 of an existing well.

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

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

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

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

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

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

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

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

4 (11) "Observation well" means a well designed to measure the depth
5 to the water level elevation in either clean or contaminated water or
6 soil.

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

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

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

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

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

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

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

1 (19) "Well" means water wells, resource protection wells,
2 instrumentation wells, dewatering wells, and geotechnical soil borings.
3 Well does not mean an excavation made for the purpose of obtaining or
4 prospecting for oil, natural gas, geothermal resources, minerals, or
5 products of mining, or quarrying, or for inserting media to repressure
6 oil or natural gas bearing formations, or for storing petroleum,
7 natural gas, or other products.

8 (20) "Well contractor" means a resource protection well contractor
9 and a water well contractor.

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

12 It is unlawful:

13 (1) For any ~~((water well contractor))~~ person to supervise,
14 construct, alter, or decommission a ((water)) well ((for compensation))
15 without complying with the ((licensing)) provisions of this chapter((
16

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

20 ~~((3) For any water well construction operator to supervise the~~
21 ~~construction of a water well without having an operators license as~~
22 ~~provided in this chapter))~~

23 (2) For any person to cause a well to be
24 constructed in violation of the standards for well construction
25 established by this chapter and rules adopted by the department
26 pursuant to this chapter;

27 (3) For a prospective water well owner to have a water well
28 constructed without first obtaining a water right permit, if a permit
29 is required;

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

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

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

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

The department shall have the power:

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

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

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

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

19 (a) Standards for the construction and maintenance of ((water))
20 wells and their casings;

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

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

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

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

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

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

1 (6) To require the operator to place a well identification tag on
2 a new well and on an existing well on which work is performed after the
3 effective date of rules requiring well identification tags and to place
4 or require the owner to place a well identification tag on an existing
5 well;

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

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

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

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

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

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

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

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

1 If corrective action is not taken within a reasonable time, not to
2 exceed sixty days, the department by order shall withdraw the
3 delegation of authority.

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

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

10 (7) Any person aggrieved by a decision of a local health district
11 or county under a delegated program may appeal the decision to the
12 department. The department's decision is subject to review by the
13 pollution control hearings board as provided in RCW ~~((18.104.130))~~
14 43.21B.110.

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

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

21 ~~((To enable the department to monitor the construction,~~
22 ~~reconstruction, and abandonment of water wells more efficiently and~~
23 ~~effectively, water well contractors))~~ A property owner or the owner's
24 agent shall ~~((provide notification to))~~ notify the department of
25 ~~((their))~~ his or her intent to begin well construction, reconstruction,
26 or ~~((abandonment))~~ decommissioning procedures at least seventy-two
27 hours in advance of commencing work. The ~~((notification))~~ notice shall
28 be submitted on forms provided by the department and shall be
29 accompanied by the fees required by section 9 of this act. The notice
30 shall contain the name of the owner of the well, location of the well,
31 proposed use, approximate start date, ~~((driller's))~~ well contractor's
32 or operator's name and license number, ~~((drilling))~~ company's name, and
33 other pertinent information as prescribed by rule of the department.
34 Rules of the department shall also provide for prior telephonic
35 notification by well ~~((drillers))~~ contractors or operators in
36 exceptional situations. The department shall issue a receipt
37 indicating that the notice required by this section has been filed and
38 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.

22 NEW SECTION. **Sec. 29.** This act is necessary for the immediate
23 preservation of the public peace, health, or safety, or support of the
24 state government and its existing public institutions, and shall take
25 effect July 1, 1993.

Passed the House April 20, 1993.

Passed the Senate April 14, 1993.

Approved by the Governor May 15, 1993.

Filed in Office of Secretary of State May 15, 1993.