

Chapter 18.104 RCW
WATER WELL CONSTRUCTION

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RCW 18.104.005 Transfer of duties to the department of health.

The powers and duties of the department of social and health services under this chapter shall be performed by the department of health. [1989 1st ex.s. c 9 § 237.]

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

RCW 18.104.010 Purpose. The legislature declares that the drilling, making or constructing of wells within the state is a business and activity of vital interest to the public. In order to protect the public health, welfare, and safety of the people it is necessary that provision be made for the regulation and licensing of

well contractors and operators and for the regulation of well design and construction. [1993 c 387 § 1; 1971 ex.s. c 212 § 1.]

RCW 18.104.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Abandoned well" means a well that is unmaintained or is in such disrepair that it is unusable or is a risk to public health and welfare.

(2) "Constructing a well" or "construct a well" means:

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

(b) Installing casing, sheeting, lining, or well screens, in a well;

(c) Drilling a geotechnical soil boring; or

(d) Installing an environmental investigation well.

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

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

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

(5) "Dewatering well" means a cased or lined excavation or boring that is intended to withdraw or divert groundwater for the purpose of facilitating construction, stabilizing a landslide, or protecting an aquifer.

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

(7) "Environmental investigation well" means a cased hole intended or used to extract a sample or samples of groundwater, vapor, or soil from an underground formation and which is decommissioned immediately after the sample or samples are obtained. An environmental investigation well is typically installed using direct push technology or auger boring and uses the probe, stem, auger, or rod as casing. An environmental investigation well is not a geotechnical soil boring.

(8) "Geotechnical soil boring" or "boring" means a well drilled for the purpose of obtaining soil samples or information to ascertain structural properties of the subsurface.

(9) "Ground source heat pump boring" means a vertical boring constructed for the purpose of installing a closed loop heat exchange system for a ground source heat pump.

(10) "Grounding well" means a grounding electrode installed in the earth by the use of drilling equipment to prevent buildup of voltages that may result in undue hazards to persons or equipment. Examples are anode and cathode protection wells.

(11) "Groundwater" means and includes groundwaters as defined in RCW 90.44.035.

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

(13) "Monitoring well" means a well designed to obtain a representative groundwater sample or designed to measure the water level elevation in either clean or contaminated water or soil.

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

(15) "Operator" means a person who (a) is employed by a well contractor; (b) is licensed under this chapter; or (c) who controls, supervises, or oversees the construction of a well or who operates well construction equipment.

(16) "Owner" or "well owner" means the person, firm, partnership, copartnership, corporation, association, other entity, or any combination of these, who owns the property on which the well is or will be constructed or has the right to the well by means of an easement, covenant, or other enforceable legal instrument for the purpose of benefiting from the well.

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

(18) "Remediation well" means a well intended or used to withdraw groundwater or inject water, air (for air sparging), or other solutions into the subsurface for the purpose of remediating, cleaning up, or controlling potential or actual groundwater contamination.

(19) "Resource protection well" means a cased boring intended or used to collect subsurface information or to determine the existence or migration of pollutants within an underground formation. Resource protection wells include monitoring wells, observation wells, piezometers, spill response wells, remediation wells, environmental investigation wells, vapor extraction wells, ground source heat pump boring, grounding wells, and instrumentation wells.

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

(21) "Water well" means any excavation that is constructed when the intended use of the well is for the location, diversion, artificial recharge, observation, monitoring, dewatering, or withdrawal of groundwater. "Water wells" include ground source heat pump borings and grounding wells.

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

(23) (a) "Well" means water wells, resource protection wells, dewatering wells, and geotechnical soil borings.

(b) Well does not mean an excavation made for the purpose of:

(i) Obtaining or prospecting for oil, natural gas, geothermal resources, minerals, or products of mining, or quarrying, or for inserting media to repressure oil or natural gas bearing formations, or for storing petroleum, natural gas, or other products;

(ii) Siting and constructing an on-site sewage disposal system as defined in RCW 70A.105.020 or a large on-site sewage system as defined in RCW 70A.115.010; or

(iii) Inserting any device or instrument less than ten feet in depth into the soil for the sole purpose of performing soil or water testing or analysis or establishing soil moisture content as long as there is no withdrawal of water in any quantity other than as necessary to perform the intended testing or analysis.

(24) "Well contractor" means a resource protection well contractor and a water well contractor licensed and bonded under

chapter 18.27 RCW. [2021 c 65 § 14. Prior: 2011 c 196 § 1; 2005 c 84 § 1; 2002 c 48 § 1; 2000 c 171 § 26; 1993 c 387 § 2; 1983 1st ex.s. c 27 § 14; 1971 ex.s. c 212 § 2.]

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

RCW 18.104.030 Compliance enjoined. It is unlawful:

- (1) For any person to supervise, construct, alter, or decommission a well without complying with the provisions of this chapter and the rules for well construction adopted pursuant to this chapter;
- (2) For any person to cause a well to be constructed in violation of the standards for well construction established by this chapter and rules adopted by the department pursuant to this chapter;
- (3) For a prospective water well owner to have a water well constructed without first obtaining a water right permit, if a permit is required;
- (4) For any person to construct, alter, or decommission a well unless the fees required by RCW 18.104.055 have been paid;
- (5) For a person to tamper with or remove a well identification tag except during well alteration; and
- (6) Except as provided in RCW 18.104.180, for any person to contract to engage in the construction of a well or to act as a well operator without first obtaining a license pursuant to this chapter. [1993 c 387 § 3; 1971 ex.s. c 212 § 3.]

RCW 18.104.040 Powers of department. The department shall have the power:

- (1) To issue, deny, suspend or revoke licenses pursuant to the provisions of this chapter;
- (2) At all reasonable times, to enter upon lands for the purpose of inspecting, taking measurements from, or tagging any well, constructed or being constructed;
- (3) To call upon or receive professional or technical advice from the department of health, the technical advisory group created in RCW 18.104.190, or any other public agency or person;
- (4) To adopt rules, in consultation with the department of health and the technical advisory group created in RCW 18.104.190, governing licensing and well construction as may be appropriate to carry out the purposes of this chapter. The rules adopted by the department may include, but are not limited to:
 - (a) Standards for the construction and maintenance of wells and their casings;
 - (b) Methods of capping, sealing, and decommissioning wells to prevent contamination of groundwater resources and to protect public health and safety;
 - (c) Methods of artificial recharge of groundwater bodies and of construction of wells which insure separation of individual water bearing formations;
 - (d) The manner of conducting and the content of examinations required to be taken by applicants for license hereunder;
 - (e) Requirements for the filing of notices of intent, well reports, and the payment of fees;

- (f) Reporting requirements of well contractors;
 - (g) Limitations on well construction in areas identified by the department as requiring intensive control of withdrawals in the interests of sound management of the groundwater resource;
 - (5) To require the operator in the construction of a well and the property owner in the maintenance of a well to guard against waste and contamination of the groundwater resources;
 - (6) To require the operator to place a well identification tag on a new well and on an existing well on which work is performed after the effective date of rules requiring well identification tags and to place or require the owner to place a well identification tag on an existing well;
 - (7) To require the well owner to repair or decommission any well:
 - (a) That is abandoned, unusable, or not intended for future use;
- or
- (b) That is an environmental, safety, or public health hazard.
- [1993 c 387 § 4; 1991 c 3 § 249; 1971 ex.s. c 212 § 4.]

RCW 18.104.043 Well sealing and decommissioning—Delegation of authority. (1) If requested in writing by the governing body of a local health district or county, the department by memorandum of agreement may delegate to the governing body the authority to administer and enforce the well tagging, sealing, and decommissioning portions of the water well construction program.

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

(3) If the department determines that a delegation of authority to a local health district or county to administer and enforce the well sealing and decommissioning portions of the water well construction program will enhance the public health and safety and the environment, the department and the local governing body may enter into a memorandum of agreement setting forth the specific authorities delegated by the department to the local governing body. The memorandum of agreement must be, at a minimum, reviewed annually. The department, in consultation with the technical advisory group, created under RCW 18.104.190, shall adopt rules outlining the annual review and reporting process. A detailed summary of the review must be made available to well contractors and operators upon request and be published on the department's website.

(4) With regard to the portions of the water well construction program delegated under this section, the local governing agency shall exercise only the authority delegated to it under this section. If, after a public hearing, the department determines that a local governing body is not administering the program in accordance with this chapter, it shall notify the local governing body of the deficiencies. If corrective action is not taken within a reasonable time, not to exceed sixty days, the department by order shall withdraw the delegation of authority.

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

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

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

(8) The department shall not delegate the authority to license well contractors, renew licenses, receive notices of intent to commence constructing a well, receive well reports, or collect state fees provided for in this chapter. [2005 c 84 § 2; 2000 c 32 § 1; 1996 c 12 § 2; 1993 c 387 § 5; 1992 c 67 § 2.]

Findings—Intent—1996 c 12: "The legislature finds that experimental delegation of portions of the well drilling administration and enforcement authority of the department of ecology to willing and able local governments has been successful to date. Delegation has provided a more effective and efficient means of assuring proper well construction and decommissioning and protection of public health and safety than could be accomplished by the department of ecology acting alone. The legislature further finds that without legislative action, the authority for such delegation will expire June 30, 1996. Therefore, it is the intent of the legislature to extend the authority for delegation an additional four years." [1996 c 12 § 1.]

Legislative findings—1992 c 67: "The legislature finds that the public health and safety and the environment would be enhanced by permitting qualified local governmental agencies to administer and enforce portions of the water well construction program." [1992 c 67 § 1.]

RCW 18.104.048 Prior notice of well construction, reconstruction, or decommissioning. A property owner or the owner's agent shall notify the department of his or her intent to begin well construction, reconstruction, or decommissioning procedures at least seventy-two hours in advance of commencing work. The notice shall be submitted on forms provided by the department and shall be accompanied by the fees required by RCW 18.104.055. The notice shall contain the name of the owner of the well, location of the well, proposed use, approximate start date, well contractor's or operator's name and license number, company's name, and other pertinent information as prescribed by rule of the department. Rules of the department shall also provide for prior telephonic notification by well contractors or operators in exceptional situations. The department shall issue a receipt indicating that the notice required by this section has been filed and the fees required by RCW 18.104.055 have been paid not later than three business days after the department has received the notice and fees. [1993 c 387 § 6; 1987 c 394 § 3.]

RCW 18.104.049 Modification of construction standards. The department by rule shall adopt procedures to permit a well operator to modify construction standards to meet unforeseen circumstances encountered during the construction of a well. The procedures shall be developed in consultation with the technical advisory group established in RCW 18.104.190. [1993 c 387 § 7.]

RCW 18.104.050 Reports of well construction or decommissioning.

(1) Any person authorized by this chapter to construct or decommission a well shall furnish a well report to the director within thirty days after the completion of the construction or decommissioning of a well. The director, by rule, shall prescribe the form of the report and the information to be contained therein.

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

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

(b) A single well decommissioning report may be submitted for all similar dewatering wells decommissioned that have no significant change in geologic formation. [2005 c 84 § 3; 1993 c 387 § 8; 1971 ex.s. c 212 § 5.]

RCW 18.104.055 Fees. (1) A fee is hereby imposed on each well constructed in this state on or after July 1, 2005.

(2) (a) The fee for one water well, other than a dewatering well, with a minimum top casing diameter of less than twelve inches is two hundred dollars. This fee does not apply to a ground source heat pump boring or a grounding well.

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

(c) The fee for a resource protection well, except for an environmental investigation well, a ground source heat pump boring, or a grounding well, is forty dollars for each well.

(d) The fee for an environmental investigation well in which groundwater is sampled or measured is forty dollars for construction of up to four environmental investigation wells per project, ten dollars for each additional environmental investigation well constructed on a project with more than four wells. There is no fee for soil or vapor sampling purposes.

(e) The fee for a ground source heat pump boring or a grounding well is forty dollars for construction of up to four ground source heat pump borings or grounding wells per project and ten dollars for each additional ground source heat pump boring or grounding well constructed on a project with more than four wells.

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

(g) The fee to decommission a water well is fifty dollars.

(h) The fee to decommission a resource protection well, except for an environmental investigation well, is twenty dollars. There is no fee to decommission an environmental investigation well or a geotechnical soil boring.

(i) The fee to decommission a ground source heat pump boring or a grounding well is twenty dollars.

(3) The fees imposed by this section shall be paid at the time the notice of well construction is submitted to the department as provided by RCW 18.104.048. The department by rule may adopt procedures to permit the fees required for resource protection wells to be paid after the number of wells actually constructed has been determined. The department shall refund the amount of any fee collected for wells, borings, probes, or excavations as long as construction has not started and the department has received a refund request within one hundred eighty days from the time the department received the fee. The refund request shall be made on a form provided by the department. [2005 c 84 § 4; 2002 c 48 § 2; 1993 c 387 § 9.]

RCW 18.104.060 Violations—Cease and desist orders.

Notwithstanding and in addition to any other powers granted to the department, whenever it appears to the director, or to an assistant authorized by the director to issue regulatory orders under this section, that a person is violating or is about to violate any of the provisions of this chapter, the director, or the director's authorized assistant, may cause a written regulatory order to be served upon said person either personally, or by registered or certified mail delivered to the addressee only with return receipt requested and acknowledged by him or her. The order shall specify the provision of this chapter, and if applicable, the rule adopted pursuant to this chapter alleged to be or about to be violated, and the facts upon which the conclusion of violating or potential violation is based, and shall order the act constituting the violation or the potential violation to cease and desist or, in appropriate cases, shall order necessary corrective action to be taken with regard to such acts within a specific and reasonable time. An order issued under this chapter shall become effective immediately upon receipt by the person to whom the order is directed, and shall become final unless review thereof is requested as provided in this chapter. [1993 c 387 § 10; 1971 ex.s. c 212 § 6.]

RCW 18.104.065 Remedies for noncomplying wells. (1) The department may order a well contractor or well operator to repair, alter, or decommission a well if the department demonstrates that the construction of the well did not meet the standards for well construction in effect at the time construction of the well was completed.

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

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

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

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

(3) Subsection (2) of this section shall only apply to a well for which the notice of construction required by RCW 18.104.048 and the

report required by RCW 18.104.050 have been filed with the department.
[1993 c 387 § 11.]

RCW 18.104.070 Water well operator's license. A person shall be qualified to receive a water well operator's license if the person:

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

(2) Has the field experience and educational training required by rule adopted by the department pursuant to this chapter; and

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

(4) Has passed an on-site examination by the department if the person's qualifying field experience under subsection (2) of this section is from another state. The department may waive the on-site examination. [1993 c 387 § 12; 1987 c 394 § 2; 1971 ex.s. c 212 § 7.]

RCW 18.104.080 Examinations—Subjects—Times and places. The examination for a license issued pursuant to this chapter shall be prepared to test knowledge and understanding of at least the following subjects:

(1) Washington groundwater laws as they relate to well construction;

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

(3) Types of well construction;

(4) Drilling tools and equipment;

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

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

Examinations shall be held at such times and places as may be determined by the department but not later than thirty days after an applicant has filed a completed application with the department. The department shall make a determination of the applicant's qualifications for a license within ten days after the examination. [1993 c 387 § 16; 1991 c 3 § 250; 1971 ex.s. c 212 § 8.]

RCW 18.104.093 Water well construction operator's training license. The department may issue a water well construction operator's training license if the person:

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

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

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

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

(5) Presents a statement by a person licensed under this chapter, other than a trainee, signed under penalty of perjury as provided in chapter 5.50 RCW, verifying that the applicant has the field experience required by rules adopted pursuant to this chapter and

assuming liability for any and all well construction activities of the person seeking the training license.

A person with a water well construction operator's training license may operate a drilling rig without the direct supervision of a licensed operator if a licensed operator is available by radio, telephone, or other means of communication. [2019 c 232 § 13; 1993 c 387 § 13.]

RCW 18.104.095 Resource protection well operator's license. A person shall be qualified to receive a resource protection well operator's license if the person:

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

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

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

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

A person with a license issued pursuant to this chapter before July 1, 1993, may obtain a resource protection well construction operator's license by paying the application fee determined by rule adopted by the department pursuant to this chapter and submitting evidence required by the department to demonstrate that the person has the required experience to construct resource protection wells. [1993 c 387 § 14.]

RCW 18.104.097 Resource protection well operator's training license. The department may issue a resource protection well operator's training license if the person:

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

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

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

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

(5) Presents a statement by a person licensed under this chapter, other than a trainee, signed under penalty of perjury as provided in chapter 5.50 RCW, verifying that the applicant has the field experience required by rules adopted pursuant to this chapter and assuming liability for any and all well construction activities of the person seeking the training license.

A person with a resource protection well construction operator's training license may operate a drilling rig without direct supervision of a licensed operator if a licensed operator is accessible by radio, telephone, or other means of communication. [2019 c 232 § 14; 1993 c 387 § 15.]

RCW 18.104.100 Licenses—Duration—Renewal—Failure to renew, procedure—Suspension—Conditional licenses. (1) Licenses issued pursuant to this chapter shall be renewed every two years. A license shall be renewed upon payment of a renewal fee and completion of continuing education requirements and receipt of a completed license renewal application. If a licensee fails to submit an application for renewal, the renewal fee, and proof of completion of the required continuing education, the license shall be suspended at the end of its effective term. The licensee is not allowed to perform work authorized by their license during the time that it is suspended. The licensee is allowed thirty days to submit an application for renewal, the renewal fee, and proof of completion of the required continuing education for the renewal period. Continuing education obtained during the thirty-day suspension period may be applied only to the next renewal period. If a licensee fails to submit an application for renewal, the renewal fee, and proof of completion of the required continuing education by the end of the thirty-day suspension period, the license expires. The department shall adopt rules, in consultation with the technical advisory group created under RCW 18.104.190, that allow for an extension of the thirty-day suspension period for certain situations that are beyond the control of the licensee. The rules must also allow for a retirement or inactive license.

(2) A person whose license has expired must apply for a new license as provided in this chapter. The department may waive the requirement for a written examination and on-site testing for a person whose license has expired.

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

(4) The department may issue a conditional license to enable a former licensee to comply with an order to correct problems with a well. [2005 c 84 § 5; 1993 c 387 § 17; 1971 ex.s. c 212 § 10.]

RCW 18.104.110 Actions against licenses—Grounds—Duration. (1) In cases other than those relating to the failure of a licensee to renew a license, the director may suspend or revoke a license issued pursuant to this chapter for any of the following reasons:

(a) For fraud or deception in obtaining the license;
(b) For fraud or deception in reporting under RCW 18.104.050;
(c) For violating the provisions of this chapter, or of any lawful rule or regulation of the department or the department of health.

(2) The director shall immediately suspend any license issued under this chapter if the holder of the license has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

(3) No license shall be suspended for more than six months, except that a suspension under RCW 74.20A.320 shall continue until the department receives a release issued by the department of social and

health services stating that the person is in compliance with the order.

(4) No person whose license is revoked shall be eligible to apply for a license for one year from the effective date of the final order of revocation. [1997 c 58 § 828; 1993 c 387 § 18; 1991 c 3 § 251; 1971 ex.s. c 212 § 11.]

***Reviser's note:** 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for noncompliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Short title—Part headings, captions, table of contents not law—Exemptions and waivers from federal law—Conflict with federal requirements—Severability—1997 c 58: See RCW 74.08A.900 through 74.08A.904.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

RCW 18.104.120 Complaints against a well contractor, operator, or trainee—Department's response—Review. Any person who can demonstrate being materially harmed by the actions or inactions of a well contractor, operator, or trainee, or has knowledge of illegal activities engaged in by a well contractor, operator, or trainee may submit a complaint against the well contractor, operator, or trainee to the department of ecology. The complaint shall be in writing, signed by the complainant, and specify the grievances against the licensee. The department may investigate the complaint to establish the validity of the complaint. In the event evidence shows a violation of this chapter or rules adopted under this chapter, the department may respond to the complaint by issuance of an order appropriate to the violation. Review of the order shall be subject to the hearings procedures set forth in RCW 18.104.130. [2005 c 84 § 7; 1993 c 387 § 19; 1983 c 93 § 1; 1971 ex.s. c 212 § 12.]

RCW 18.104.130 Appeals. Any person who feels aggrieved by an order of the department including the granting, denial, revocation, or suspension of a license issued by the department pursuant to this chapter shall be entitled to an appeal pursuant to RCW 43.21B.310. [1987 c 109 § 24; 1971 ex.s. c 212 § 13.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

RCW 18.104.150 Disposition of fees—Grants to local governments.
(1) All fees paid under this chapter shall be credited by the state treasurer to the reclamation account established by chapter 89.16 RCW. Subject to legislative appropriation, the fees collected under this chapter shall be allocated and expended by the director for the

administration of the well construction, well operators' licensing, and education programs.

(2) The department shall provide grants to local governing entities that have been delegated portions of the well construction program pursuant to RCW 18.104.043 to assist in supporting well inspectors hired by the local governing body. Grants provided to a local governing body shall not exceed the revenues generated from fees for the portion of the program delegated and from the area in which authority is delegated to the local governing body. [1993 c 387 § 20; 1971 ex.s. c 212 § 15.]

RCW 18.104.155 Civil penalties—Amount and disposition. (1)

Except as provided in RCW 43.05.060 through 43.05.080 and 43.03.150, the department of ecology may assess a civil penalty for a violation of this chapter or rules or orders of the department adopted or issued pursuant to it.

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

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

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

(ii) Failure to submit variance requests before construction;

(iii) Failure to submit well construction fees;

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

and

(v) Minor or reparable construction problems.

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

(i) Improper well construction;

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

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

(iv) Violation of decommissioning requirements;

(v) Repeated minor violations; or

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

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

(i) Without a license; or

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

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

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

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

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

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

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

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

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

(6) For informational purposes, a copy of the notice of violation, resulting from the improper construction of a well, that is sent to a water well contractor or water well construction operator, shall also be sent by the department to the well owner.

(7) Penalties collected by the department pursuant to this section shall be deposited in the reclamation account established by chapter 89.16 RCW. Subject to legislative appropriation, the penalties may be spent only for purposes related to the restoration and enhancement of groundwater resources in the state. [1995 c 403 § 628; 1993 c 387 § 21; 1987 c 394 § 1.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

RCW 18.104.160 Criminal penalties—Prosecutions. Any person who shall violate any provision of this chapter, shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not more than two hundred fifty dollars, or imprisonment in a county jail for a term not to exceed thirty days, or both. Criminal prosecutions for violations of this chapter shall be prosecuted by the prosecuting attorney in the county in which the violation occurred. [1971 ex.s. c 212 § 16.]

RCW 18.104.170 Remedies cumulative. The remedies provided for in this chapter shall be cumulative and nothing herein shall alter, abridge or foreclose alternative actions at common law or in equity or under statutory law, civil or criminal. [1971 ex.s. c 212 § 17.]

RCW 18.104.180 Exemptions. No license under this chapter shall be required of:

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

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

(3) A person licensed under the provisions of chapter 18.08 or 18.43 RCW if in the performance of duties covered by those licenses. [1993 c 387 § 24; 1971 ex.s. c 212 § 18.]

RCW 18.104.190 Technical advisory group. (1) For the purpose of carrying out the provisions of this chapter, the director shall appoint a technical advisory group, chaired by the department. The technical advisory group shall have twelve members: Two members shall represent the department of ecology, six members shall represent resource protection well contractors or water well contractors, one member shall represent the department of health and be a person who regularly works on issues related to drinking water wells, one member shall represent local health departments and be a person who regularly works on issues related to drinking water wells, one member shall represent licensed professional engineers and be knowledgeable about the design and construction of wells, and one member shall be a licensed hydrogeologist knowledgeable about the design and construction of wells.

(2) The technical advisory group shall assist the department in the development and revision of rules; the preparation and revision of licensing examinations; the development of training criteria for inspectors, well contractors, and well operators; the establishment of continuing education providers; the development of evaluation procedures of all continuing education offerings; and the review of proposed changes to the minimum standards for construction and maintenance of wells by local governments for the purpose of achieving continuity with technology and state rules.

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

(4) Each member of the group shall be compensated in accordance with RCW 43.03.240 and reimbursed for travel expenses while engaged in the business of the group as prescribed in RCW 43.03.050 and 43.03.060. [2005 c 84 § 8; 1993 c 387 § 25.]

RCW 18.104.200 Continuing education. (1) A person seeking a new license or to renew an existing license under this chapter must demonstrate a willingness to maintain a high level of professional competency by completing continuing education programs as required by the department by rule. The department shall not approve any continuing education program unless: (a) It is offered by an approved provider; (b) it is open to all persons licensed or pursuing a license under this chapter; and (c) the fees charged are reasonable for all persons desiring to attend the program.

(2) The department, in consultation with the technical advisory group created in RCW 18.104.190, shall adopt rules governing continuing education programs. At a minimum, the rules must establish: A method of approving providers of continuing education; a criteria to evaluate the offerings, workshops, courses, classes, or programs; a criteria for assigning credits; and a criteria for reporting and verifying completion.

(3) The department shall support approved providers by providing, upon request and at the department's discretion, technical assistance and presenters for continuing education offerings.

(4) The department shall maintain a current list of all continuing education offerings by approved providers and ensure that

the list is available to all licensees by request. The list must also be posted on the department's website. [2005 c 84 § 6.]

RCW 18.104.900 Short title. This chapter shall be known and may be cited as the "Washington well construction act." [1993 c 387 § 26; 1971 ex.s. c 212 § 19.]

RCW 18.104.910 Effective date—1971 ex.s. c 212. This act shall take effect on July 1, 1971. [1971 ex.s. c 212 § 20.]

RCW 18.104.930 Effective date—1993 c 387. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993. [1993 c 387 § 29.]