

APPENDIX A-1

Chapter 18.210 RCW

On-site wastewater treatment systems — designer licensing

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18.210.005 Findings — Purpose — Prohibition. (1) In order to safeguard life, health, and property and to promote the public welfare, the legislature finds that it is in the public interest to permit the limited practice of engineering by qualified individuals who are not registered as professional engineers under chapter 18.43 RCW. The increased complexity of on-site wastewater treatment systems, changes in treatment technology, and the need to protect ground water and watershed areas make it essential that qualified professionals design the systems. Furthermore, the legislature finds that individuals who have been authorized by local health jurisdictions to design on-site wastewater treatment systems have performed these designs in the past. However, it is desirable to establish a statewide licensing program to create uniform application of design practices, standards for designs, individual qualifications, and consistent enforcement efforts applicable to all persons who design on-site wastewater treatment systems, including persons licensed to practice as professional engineers under chapter 18.43 RCW. It is further desirable to establish a certification program applicable to all persons who inspect or approve on-site wastewater treatment systems on behalf of a local health jurisdiction.

(2) It is unlawful for any individual to practice or offer to practice the design of on-site wastewater treatment systems unless licensed in accordance with this chapter or licensed as a professional engineer under chapter 18.43 RCW.

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

(1) "Advisory committee" means a group of individuals with broad knowledge and experience in the design, construction, and regulation of on-site wastewater treatment systems, appointed under this chapter to offer recommendations to the board and the director on the administration of the program established under this chapter.

(2) "Board" means the board of registration for professional engineers and land surveyors as defined in chapter 18.43 RCW.

(3) "Designer," "licensee," or "permit holder" means an individual authorized under this chapter to perform design services for on-site wastewater treatment systems.

(4) "Director" means the director of the Washington state department of licensing.

(5) "Engineer" means a professional engineer licensed under chapter 18.43 RCW.

(6) "Practice of engineering" has the meaning set forth in RCW 18.43.020(5).

(7) "On-site wastewater treatment system" means an integrated system of components that: Convey, store, treat, and/or provide subsurface soil treatment and disposal of wastewater effluent on the property where it originates or on adjacent or other property and includes piping, treatment devices, other accessories, and soil underlying the disposal component of the initial and reserve areas, for on-site wastewater treatment under three thousand five hundred gallons per day when not connected to a public sewer system.

(8) "On-site wastewater design" means the development of plans, details, specifications, instructions, or inspections by application of specialized knowledge in analysis of soils, on-site wastewater treatment systems, disposal methods, and technologies to create an integrated system of collection, transport, distribution, treatment, and disposal of on-site wastewater.

(9) "Local health jurisdiction" or "jurisdictional health department" means an administrative agency created under chapter 70.05, 70.08, or 70.46 RCW, that administers the regulation and codes regarding on-site wastewater treatment systems.

(10) "Practice permit" means an authorization to practice granted to an individual who designs on-site wastewater treatment systems and who has been authorized by a local health jurisdiction to practice on or before July 1, 2000.

(11) "License" means a license to design on-site wastewater treatment systems under this chapter.

(12) "Certificate of competency" means a certificate issued to employees of local health jurisdictions indicating that the certificate holder has passed the licensing examination required under this chapter.

18.210.020 Unprofessional conduct. In addition to the unprofessional conduct described in RCW 18.235.130, the following conduct, acts, and conditions constitute unprofessional conduct:

(1) Practicing with a practice permit or license issued under this chapter that is expired, suspended, or revoked;

(2) Being willfully untruthful or deceptive in any document, report, statement, testimony, or plan that pertains to the design or construction of an on-site wastewater treatment system; and

(3) Submission of a design or as-built record to a local health jurisdiction, to the department of health, or to the department of ecology, that is knowingly based upon false, incorrect, misleading, or fabricated information.

18.210.030 Support order — License/practice permit suspension. The board shall immediately suspend the license or practice permit of a person who 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. If the person has continued to meet all other requirements for a license under this chapter during the suspension, reissuance of the license or certificate shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the child support order. The procedure in RCW 74.20A.320 is the exclusive administrative remedy for contesting the establishment of noncompliance with a child support order, and suspension of a license under this subsection [section], and satisfies the requirements of RCW 34.05.422.

18.210.040 Advisory committee. (1) There is created an advisory committee, which shall provide recommendations to the board and the director concerning the implementation of this chapter. The advisory committee shall consist of five members who are conversant with and experienced in the design, inspection, construction, and/or maintenance of on-site wastewater treatment systems, and who are otherwise eligible for licensure under this chapter. Each member of the committee must be a resident of the state and must have a minimum of seven years of continuous experience with on-site wastewater treatment systems immediately prior to appointment.

(2) The director shall appoint to the committee individuals from across the state, thus utilizing geographic and experiential diversity as much as possible. The terms of the members of the advisory committee shall be a maximum of three years, except that the initial appointees to the committee shall serve the following terms: Two members for two years and three members for three years. No member of the advisory committee is eligible for reappointment to a third consecutive term, but any member is eligible for reappointment after an absence of at least one year from the committee. Any member who is reappointed following an absence of at least one year from the committee is eligible for reappointment to a second consecutive term and is again eligible for reappointment after an absence of at least one year from the committee.

(3) Members of the advisory committee shall serve until replaced by a subsequent appointment, but may resign prior to completing the term of appointment. The director may for just cause remove a committee member. The director shall appoint a new member to fill any vacancy on the advisory committee for the remainder of the unexpired term. Members of the advisory committee shall not be

compensated, but shall be reimbursed for expenses incurred in accordance with RCW 43.03.050 and 43.03.060. Three members constitutes a quorum.

(4) At the request of the advisory committee, the director may appoint temporary additional members to the advisory committee for assistance with rule development, examination development, and technical advice on complaints. Members temporarily appointed must meet the same minimum qualifications as regular members of the advisory committee. Temporary members have all the powers, duties, and immunities of regular members of the advisory committee and shall be reimbursed for expenses incurred in accordance with RCW 43.03.050 and 43.03.060. The director shall limit the term of temporary members to one year, but may for just cause extend the original appointment up to one additional year.

18.210.050 Director's authority. The director may:

(1) Appoint and reappoint members to the advisory committee, including temporary additional members, and remove committee members for just cause;

(2) Employ administrative, clerical, and investigative staff as necessary to administer and enforce this chapter;

(3) Establish fees for applications, examinations, and renewals in accordance with chapter 43.24 RCW;

(4) Issue practice permits and licenses to applicants who meet the requirements of this chapter; and

(5) Exercise rule-making authority to implement this section.

18.210.060 Board — Authority — Duties. (1) The board may:

(a) Adopt rules to implement this chapter including, but not limited to, evaluation of experience, examinations, and scope and standards of practice;

(b) Administer licensing examinations; and

(c) Review and approve or deny initial and renewal license applications.

(2) The board shall consider recommendations of the advisory committee made in accordance with this chapter.

18.210.070 Advisory committee — Duties. The advisory committee shall make recommendations to the board regarding:

(1) Development and adoption of rules to implement this chapter including, but not limited to, evaluation of experience, examinations, and scope and standards of practice;

(2) Development of the material content of examinations for licensure or for a certificate of competency under this chapter;

(3) Review of complaints and investigations pertaining to the practice of the design of on-site wastewater treatment systems; and

(4) Any other duties deemed necessary by the director or the board.

18.210.080 Immunity. The director, members of the board, and individuals acting on behalf of the director are immune to liability in any civil action or criminal case based on any acts performed in the course of their duties under this chapter, except for acts displaying intentional or willful misconduct.

18.210.090 Practice permits — License. (1) On July 1, 2000, any person who is authorized by a local health jurisdiction to prepare on-site wastewater treatment system designs in the state of Washington is eligible for a practice permit under this chapter. On or after July 1, 2000, any individual wishing to obtain a practice permit must make application to the board and pay the fee established by the director. A practice permit enables the permit holder to practice on-site design services only within local health jurisdictions where the permit holder had authorization to practice as of July 1, 2000.

(2) A practice permit is renewable annually upon payment of the fee established by the director. All practice permits issued under this chapter expire June 30, 2003.

(3) Any person who practices or offers to practice the design of on-site wastewater treatment systems must obtain a license under this chapter by July 1, 2003. A license issued under this chapter enables the licensee to perform design services for on-site wastewater treatment systems in all counties in the state. A person wishing to obtain a license to practice the design of on-site wastewater treatment systems may obtain the license by one of the methods described in this chapter. Beginning on July 1, 2001, the board will accept applications for the license.

(4) On July 1, 2000, all programs administered by local health jurisdictions that license or otherwise authorize the practice of on-site wastewater treatment systems designs must discontinue. On or after July 1, 2000, each person practicing on-site design services in the state of Washington must hold a practice permit or a license described in this chapter.

(5) Local health jurisdictions, the department of health, and the department of ecology retain authority: (a) To administer local regulations and codes for approval or disapproval of designs for on-site wastewater treatment systems; (b) to issue permits for construction; (c) to evaluate soils and site conditions for compliance with code requirements; and (d) to perform on-site wastewater treatment design work as authorized in state and local board of health rules.

18.210.100 Written examination — Minimum requirements. All applicants for licensure under this chapter, except as provided in RCW 18.210.180, must pass a written examination administered by the board and must also meet the following minimum requirements:

(1) A high school diploma or equivalent; and

(2) A minimum of four years of experience, as approved by the board, showing increased responsibility for the design of on-site wastewater treatment systems. The experience must include, but is not limited to, site soil assessment, hydraulics, topographic delineations, use of specialized treatment processes and devices, microbiology, and construction practices. Completion of two years of college level course work in subjects dealing with, but not limited to, soils, hydraulics, topographic delineations, construction practices, and/or microbiology or completion of a two-year curriculum in on-site treatment systems, technology, and applications, as approved by the board, may be substituted for up to two years of the experience requirement.

18.210.110 Experience from outside state. Experience in on-site design, inspection, and/or construction activities acquired outside the state of Washington may satisfy the experience requirements under this chapter. The board shall consider the experience according to the level of complexity of the design work and evidence that the experience shows increased responsibility over designs. The experience may be considered only to the extent that it can be independently verified by the board.

18.210.120 Application for licensure — References — Fees. (1) Application for licensure must be on forms prescribed by the board and furnished by the director. The application must contain statements, made under oath, demonstrating the applicant's education and work experience.

(2) Applicants shall provide not less than two verifications of experience from licensed professional engineers, on-site wastewater treatment system designers licensed under this chapter, or state/local regulatory officials in the on-site wastewater treatment field who have direct knowledge of the applicant's qualifications to practice in accordance with this chapter and who verify the applicant's work experience.

(3) The director, as provided in RCW 43.24.086, shall determine an application fee for licensure as an on-site wastewater treatment system designer. A nonrefundable application fee must accompany the application. The director shall ensure that the application fee includes the cost of the examination and the cost issuance of a license and certificate. A candidate who fails an examination may apply for reexamination. The director shall determine the fee for reexamination.

18.210.130 Issuance of license. (1) The director shall issue a license to any applicant who meets the requirements of this chapter. The issuance of a license by the director is evidence that the person named is entitled to the rights and privileges of a licensed on-site wastewater treatment system designer as long as the license remains valid.

(2) Each person licensed under this chapter shall obtain an inking stamp, of a design authorized by the board, that contains the licensee's name and license number. Plans, specifications, and reports prepared by the registrant must be signed, dated, and stamped. Signature and stamping constitute certification by the licensee that a plan, specification, or report was prepared by or under the direct supervision of a licensee.

(3) Those persons who obtain a certificate of competency as provided in chapter 70.118 RCW do not have the privileges granted to a license holder under this chapter and do not have authority to obtain and use a stamp as described in this section.

18.210.140 Renewal — Renewal fee — Penalty fee. (1) Practice permits and licenses issued under this chapter are valid for one year and may be renewed under the conditions described in this chapter. An expired practice permit or license is invalid and must be renewed before lawful practice can resume. Any permit holder or licensee who fails to pay the renewal fee within ninety days following the date of expiration shall be assessed a penalty fee as determined by the director and must pay the penalty fee and the base renewal fee before the practice permit or license may be returned to a valid status.

(2) Any license or practice permit issued under this chapter that is not renewed within two years of its date of expiration must be canceled. Following cancellation, a person seeking to renew must reapply as a new applicant under this chapter.

(3) The director, in conformance with RCW 43.24.140, may modify the duration of the license. The director, as provided in RCW 43.24.086, shall determine the fee for applications and for renewals of practice permits and licenses issued under this chapter.

18.210.150 Persons exempt from licensure. A person engaged in any of the following activities is not required to be licensed in accordance with this chapter:

(1) A licensed professional engineer, as provided in chapter 18.43 RCW, if the professional engineer performs the design work in accordance with this chapter and rules adopted under this chapter; or

(2) An employee or a subordinate of a person licensed under chapter 18.43 RCW as a professional engineer, or a person licensed under this chapter if the work is performed under the direct supervision of the engineer or licensee and does not include final design decisions.

18.210.160 Prohibited practices — Penalty. On or after July 1, 2003, it is a gross misdemeanor for any person, not otherwise exempt from the requirements of this chapter, to: (1) Perform on-site wastewater treatment systems design services without a license; (2) purport to be qualified to perform those services without having been issued a standard license under this chapter; (3) attempt to use the license or seal of another; (4) attempt to use a revoked or suspended license; or (5) attempt to use false or fraudulent credentials. In addition, action may be taken under RCW 18.235.150.

18.210.170 Continuing education. The board shall require licensees and holders of certificates of competency under this chapter to obtain continuing professional development or continuing education. The board may also require these licensees and certificate holders to demonstrate maintenance of knowledge and skills as a condition of license or certificate renewal, including peer review of work products and periodic reexamination.

18.210.180 Foreign jurisdiction — License without examination. Any person holding a license issued by a jurisdiction outside the state of Washington authorizing that person to perform design services for the construction of on-site wastewater treatment systems may be granted a license without examination under this chapter, if:

(1) The education, experience, and/or examination forming the basis of the license is determined by the board to be equal to or greater than the conditions for the issuance of a license under this chapter; and

(2) The individual has paid the applicable fee and has submitted the necessary application form.

18.210.190 Local health jurisdictions — Certificate of competency — Fee. (1) Employees of local health jurisdictions who review, inspect, or approve the design and construction of on-site wastewater treatment systems shall obtain a certificate of competency by obtaining a passing score on the written examination administered for licensure under this chapter. Eligibility to apply for the certificate of competency is based upon a written request from the local health director or designee and payment of a fee established by the director. Applications for a certificate of competency may not be accepted until on or after July 1, 2000. The certificate of competency is renewable upon payment of a fee established by the director.

(2) Issuance of the certificate of competency does not authorize the certificate holder to offer or provide on-site wastewater treatment system design services. However, nothing in this chapter limits or affects the ability of local health jurisdictions to perform on-site design services under their authority in chapter 70.05 RCW.

18.210.200 Account — Budget request. (1) All fees and fines collected under this chapter shall be paid into the professional engineers' account established under RCW 18.43.150. Moneys in the account may be spent only after appropriation and must be used to carry out all the purposes and provisions of this chapter and chapter 18.43 RCW, including the cost of administering this chapter.

(2) The director shall biennially prepare a budget request based on the anticipated cost of administering licensing and certification activities. The budget request shall include the estimated income from fees contained in this chapter.

18.210.210 Chapter evaluation — Financial assurance. (1) By July 1, 2005, the department of licensing and department of health shall convene a review committee to evaluate the licensing and certification programs established under this chapter.

(2) By July 1, 1999, the director shall convene a work group to study the financial assurance of on-site wastewater system practitioners through bonding, insurance, risk pools, or similar methods. The study of financial assurance requirements for on-site wastewater system practitioners shall include consideration

of responsibility for the loss of value of structures or property should an installed on-site wastewater treatment system fail or be otherwise inoperable. The work group shall provide recommendations to the director by December 1, 1999, and the director shall forward those recommendations to the governor.

18.210.220 Uniform regulation of business and professions act. The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

18.210.900 Captions not law — 1999 c 263. Captions used in this chapter constitute no part of the law.