

Building Code Compliance for Factory Built Commercial Structures

Technical Memorandum #9

To: Interested Persons

From: Dave Bradley, Manager
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Key Point of this memorandum:

Persons constructing “factory built commercial structures” housing remedial action equipment installed under a Model Toxics Control Act (MTCA) order or decree must obtain an “insignia of approval” from the Washington Department of Labor and Industries under RCW 43.22.45.

Background:

RCW 70.105D.090 exempts the Department of Ecology (Ecology) and other persons conducting remedial actions from the procedural requirements of several state and “all local government’ permits or approvals for remedial actions being conducted by Ecology or under a Model Toxics Control Act (MTCA) order or decree (see also WAC 173-340-710). The intent of this provision is to prevent permit appeals under these other laws from delaying cleanups. While exempt from the procedural requirement of obtaining a permit, persons conducting these actions must still comply with the substantive requirements in these exempt laws and ordinances.

There is an increasing trend to use prefabricated structures containing groundwater or vapor treatment equipment to conduct remedial actions at contaminated sites (see figures 1 and 2). These structures typically contain substantial plumbing and electrical subsystems. Under RCW 43.22.450, these structures are considered “factory built commercial structures” and, as such, persons constructing these structures must obtain an “insignia of approval” from the Department of Labor and Industries (L&I). The purpose of this permit is to make sure these

structures comply with the state building codes and are safe. The permit required by RCW 43.22.450 is not one of the exempt permits listed in RCW 70.105D.090. Thus, responsible parties and their consultants using prefabricated structures must obtain this “insignia.”

Under RCW 70.105D.090, local permits are not required for the installation of these structures by Ecology or under a MTCA order or decree. This means that persons installing these units under these circumstances are exempt from having to obtain any local permits. However, these structures still need to comply with the substantive requirements of state and local building codes and any relevant local land use regulations such as building setbacks, height limitations, landscaping requirements and stormwater runoff controls. Local governments may request responsible parties reimburse the local government’s costs of assisting Ecology in identifying the substantive requirements in these local laws, as well as the cost of technical assistance and inspections. In many cases, because of the specialized nature of determining building code compliance, and the unlikely potential for an appeal of these permits, it may be more efficient to simply apply for a building permit.

Note that if these prefabricated structures are located in a jurisdiction where L&I conducts electrical permitting and inspections, persons connecting these structures to the local electrical grid are also required to obtain an electrical permit from L&I, as this is not considered a local permit that is exempt under RCW 70.105D.090. To determine which agency does electrical permitting, consult with the local permitting agency or go to:

<http://www.lni.wa.gov/TradesLicensing/Electrical/FeePermInsp/>

See also the Toxics Cleanup Program’s Policy 710 for a further discussion of permit exemptions under MTCA. <http://www.ecy.wa.gov/programs/tcp/policies/pol710.pdf>

Questions?

Questions regarding this memorandum can be directed to:

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Pictures of “factory built structures” regulated under Chapter 43.22, RCW. (Pictures courtesy of L&I)

