

Memorandum

DATE: March 19, 2009

TO: Interested Parties and Persons who Commented on the Proposed Amended Rules, WAC Chapter 308-408C

FROM: Jerry McDonald, Assistant Administrator

SUBJECT: CONCISE EXPLANATORY STATEMENT

Reason for Adoption:

The board is required to establish rules for standard of practice and ethics for adoption by the director of the Department of Licensing. RCW 18.280.060(6)

Differences between Rule as Adopted and as Published in the Washington State Register:

WAC 308-408C-100 Plumbing system. The presence and functionality of sump pumps/~~and~~ waste ejector pumps when visible or confirm the float switch activates the pump when the sump is dry.

WAC 308-408C-130 Air condition systems. (b) Operate the system using normal control devices and ~~determine~~ measure and record temperature differential.

Summary of Comments/Questions Received:

From George Sharrett:

1. Comment: “WAC 308-408C-050 Contracts. A preinspection agreement is mandatory and as a minimum must contain or state: (3) General description of what the home inspector will and will not inspect. That description will include all items that the Washington state SOP requires to be inspected.

Does this mean that a simple list of items included in the inspection must be in the contract, i.e. Structure, Exterior, Roof, etc. or must the details of each section be spelled out in the agreement?”

Response: The items are listed in the title of each administrative code from WAC 308-408C-070 Structure through 308-408C-180 attached garages or carports.

2. Comment: “WAC 308-408C-060 Procedures. A home inspector must: (1) Provide a copy of the preinspection agreement to the client prior to the inspection unless prevented by circumstances from doing so.

Is this to say that the contract can be handled to the client on site, before the inspection begins? Does this mean that the contract must be sent to the client prior to the inspection? Would this be considered “prior to” as interpreted by the state. From a legal standpoint of protecting the inspector sending the client the agreement far in advance of the inspection would be a great practice but is rarely possible or practical.

Also, would a more correct term for this document be “inspection agreement” rather than “preinspection agreement”?”

Response: Yes, the preinspection agreement can be handed to the client just before the inspection. There was a tremendous amount of debate by the board members over this particular code and this was a compromise between no contract and several days notice.

3. Comment: “WAC 308-408C-100 Plumbing system. An inspection of the plumbing system includes visible water supply lines; visible waste/soil and vent lines; fixtures and faucets; domestic hot water system and fuel source. (1) The inspector will: (b) Report (i) The presence and functionality of sump pumps and waste ejector pumps when visible.

Does this mean the inspector must go get a bucket of water and drag it into the crawl area and test the sump pump? Simply lifting the float to check the switch does not test functionality of the system. I believe, in the current wording, this is beyond the scope of a home inspection. Perhaps wording that reflects checking that the float switch and pump turned on when float was lifted is appropriate. Asking us to verify that the entire system is functional is, again beyond the scope of a home inspection.”

Response: Clarity is needed in this WAC because the requirement is beyond the scope of a home inspection. (b) Report (i) The department will clarify this code by changing the following: The presence and functionality of sump pumps/ ~~and~~ waste ejector pumps when visible or confirm the float switch activates the pump when the sump is dry.

4. Comment: “WAC 308-408C-110 Electrical system. The inspection of the electrical system includes the service drop through the main panel; subpanels including feeders; branch circuits, connected devices, and lighting fixtures. (1) **The inspector will: (C) Verify** (iii) Ground fault circuit interrupter (GFCI) protection and arc-fault circuit interrupter (AFCI) protection **where required.**

Is this to say we must quote code? The statement says, “where required, by what? It is a slippery slope to begin to quote code and even more slippery to be required to quote some sections only. Perhaps this could read: “where applicable” or “where desired for safety” or that “industry standards recommend”...”

Response: Quoting of code is not mandatory.

5. Comment: “WAC 308-408C-130 Air condition systems. The inspection of the air conditioning system includes the cooling equipment; cooling distribution equipment and the operating controls. The inspector will: (b) Operate the system using normal control devices and determine temperature differential.

Is this to say that a temperature differential number must be determined or simply that a sufficient differential exists? The addition of one or two words here would remove ambiguity of the statement.”

Response: Clarity is needed in this WAC because the word “determine” suggests that only a difference exists. The department will clarify this code by changing the following: (b) Operate the system using normal control devices and ~~determine~~ measure and record temperature differential.

From Ron Perkerewicz:

1. Comment: “308-408C-020(2) at the end of the first sentence add “at the time of the inspection” Many times we find out later who the title company or appraiser is. Many times the seller is someone we may know but did not know at the time of the inspection they owned the property. This is more of an issue in smaller communities.”

Response: A preinspection agreement is required. WAC 308-408C-050 The inspector can meet this requirement by simply disclosing the relationship on the pre-inspection agreement just prior to signing.

2. Comment: “308-408-020(7) this may need clarification as sometimes the agent pay for part of the inspection for the buyer, or the fee is split between the buyer and he seller. Could there be a simple line in the pre-inspection agreement to cover this?”

Response: Yes. The rules do not limit what an inspector has in the preinspection agreement.

3. Comment: “308-408C-060(1) should there be anything in this section about the preinspection agreement being signed by both parties?”

Response: WAC 308-408C-040(1) states the inspector is required to maintain records that include, “Preinspection agreements signed by the client and the home inspector for all home inspections.””

4. Comment: “308-408C-070(2b) Could something be added to clarify what attics need to be entered? Thick insulation in a 48” high attic space can be a hazard or a potential for damage to the building.”

Response: WAC 308-408-030(18) states that the inspector is not required to enter any attic that is not readily accessible or in the opinion of the inspector likely to be dangerous to the inspector or damage property.

5. Comment: “308-408C-080(2b) I disagree with this exception. I think the inspector should to the best of their ability identify those glazed panels that should be safety glass by current standards.”

Response: The inspector is not required to inspect safety glass. The inspector can if they choose to inspect the safety glass. The board discussed this issue and noted that the safety glass seal is not always present or has faded.

6. Comment: “308-408C-110(1c) Could you clarify with L & I that an inspector can remove the face panel on a panel. I have been told by a local electrical inspector that I am not a licensed electrician and I cannot remove the panel face?”

Response: The department will contact L & I and ask your question and relay the information to you and the Home Inspector Advisory board.

7. Comment: “308-408C-110(1h2d) Would this mean that a missing service disconnect on a spa or hot tub would not need to be reported?”

Response: No. The inspector is not required to operate service disconnects per WAC 308-408C-110(2)(c)

8. Comment: “308-408C-120 (1dii) We should add filters to this section.”

Response: The board determined that filters were considered part of the installed heating system accessories WAC 408C-120 (2)(iv)

9. Comment: “308-408C-180 (1) I believe some local Government jurisdictions allow clothes washers and dryers on garage floors and the motors are below the 18” height. This should be clarified so that local Government inspectors are not allowing something this WAC will contradict. (International mechanical Code Section M1307.3)”

Response: The enabling statute (RCW 18.280.030) mandates that the inspection include looking for certain fire and safety hazards. An electrical motor below 18” in a garage is a generally accepted safety concern and should be reported.

10. Comment: “I feel that there should be some discussion included in the WAC in regards to the inspector of manufactured homes. We see decks attached and supported on the side of homes, additions added on by cutting holes in the sides of structures and many improper foundation systems. Without a mention of them

within this WAC leaves the inspector in limbo as to what to do about defects seen and the responsibility to identify them and what standards to use.”

Response: WAC 308-408C-010 states that these rules (Standards of Practice) are applicable to building with four or fewer dwelling units and their attached garages or carports. Manufactured homes would be included.

From Howard Maxfield:

1. Comment: “Did the inspector verify proper working condition for all wall outlets inside and outside & did all lights, fans etc., work properly?”

Response: WAC 308-408C-110(2) (g) states the inspector is not required to test every switch, receptacle and fixture. WAC 308-408C-110(1) (3) (i) states the inspector must verify a representative number of accessible switches, receptacles and light fixtures.

2. Comment: “Did the inspector do a documented operational test on the ATS (Automatic transfer switch) panel and generator?”

Response: WAC 308-408C-110(2)(b) & (d) states the inspector is not required to activate electrical systems or branch circuits that are not energized and inspect ancillary systems. A generator is considered an ancillary system.

3. Comment: “I cannot remember but I think this house is on septic, If so, It surprises me that the inspector did not realize the lid is likely a Septic chamber lid. I am not sure though.”

Response: WAC 308-408C-100(2)(d)(iv) states that the inspector is not required to determine the quality or condition of on-site sewage disposal systems.

4. Comment: “Did the inspector verify installation of RPBA’s (reduced pressure backflow assembly) or DCVA’s (Double Check Valve Assembly) w/Certification (used for sprinkler systems)”

Response: WAC 308-408C-100(2)(c)(i) states that the inspector is not required to test pressure valves. Please also see WAC 308-408C-110(2)(d)(viii).

5. Comment: “Did the Hot tub have a disconnect?”

Response: No. The inspector is not required to operate service disconnects per WAC 308-408C-110(2)(c)

6. Comment: “Is there Power on the dock?”

Response: WAC 308-408C-170(2) states the inspector is not required to determine adequacy of docks.

7. Comment: “In reading through the SOP’s, I do not recall mention of representative numbers of items such as outlets, lights, or any other item such as windows.”

Response: WAC 308-408C-110(1) (3) (i) states the inspector must verify a representative number of accessible switches, receptacles and light fixtures. WAC 308-408C-080(1) states the inspector will inspect windows. Also see WAC 308-408C-080(2) regarding safety glass.

8. Comment: “Is the home inspector required to inspect ceiling fans used for cooling?”

Response: Yes.

9. Comment: “Excuse my ignorance, but I had to look up RPBA’s and DCVA’s to even know what they were talking about. I believe the new SOP’s would exclude these items because they are below grade issues and associated with sprinkler systems.”

Response: See # 4 above.

10. Comment: “Unless I missed them, Hot Tubs, swimming pools, saunas, back-up generating systems, outbuildings, computerized household control systems, and docks should be specifically excluded.”

Response: WAC 308-408C-030 states an inspector can specifically exclude items or components provided a reason the items were excluded in written in the report. Nor should the inspector comment on areas outside their education, training or expertise.