



MEMORANDUM

TO: Water Resources Commission

FROM: Kris Byrd, Well Construction Section Manager
Laura Hartt, Water Policy Analyst

SUBJECT: Agenda Item F, February 23, 2023
Water Resources Commission

Update on Well Construction Rulemaking

I. Introduction

This informational report provides an update on the status of the Department's Well Construction Rulemaking effort.

II. Background

The Well Construction Rulemaking will implement House Bill 2145 (2021) relating to the exempt use map and recording fee, civil penalties, well driller licensing, and well report and start card data and reporting requirements. The proposed draft rules will:

- Add licensing requirements for well drillers;
- Require exempt use map to be submitted by drillers;
- Require groundwater use recording fee to be paid by drillers;
- Implement new start card notification, information and data requirements, and fees;
- Implement new well report information and data requirements; and
- Include a timeline for the Department to review 100% of well reports for compliance and to notify well drillers of any deficiencies.

This rulemaking will also implement House Bill 3030 (2019) and Senate Bill 688 (2019) relating to temporary license authorizations for active-duty Armed Forces Spouses, and House Bill 4061 (2022), extending the time for the Department to issue a Notice of Violation (NOV) after becoming aware of a violation from five calendar days to ten business days. Finally, the Department is using this rulemaking opportunity to clarify language, correct grammar, and restore a rule inadvertently deleted in 2016.

III. Rulemaking Status Update

The Department has formed a Rules Advisory Committee (RAC), comprised of 20 members representing well drilling, education and training, consulting, Tribes, local governments, and environmental non-governmental organizations. On December 13, 2022, the Department convened the first RAC hybrid meeting and reviewed proposed draft rules regarding updated penalties and other enforcement provisions, the updated timeline for issuing NOVs, and housekeeping items.

On January 11, 2023, the Department convened a second RAC meeting. During the meeting, the Department reviewed changes based on feedback from the first RAC meeting and then reviewed proposed draft rules pertaining to water wells, including temporary license authorizations for active-duty Armed Forces Spouses, exempt use recording requirements, Start Card changes (including e-filing), and welding proficiency requirements for licensing.

On February 15, 2023, the Department will convene a third RAC meeting. During the meeting, the Department will review changes based on feedback received from the RAC to date, then review proposed draft rules pertaining to water wells, including Start Card and well report changes (including e-filing). The Department will also review proposed draft rule changes pertaining to monitoring wells, including temporary license authorizations for active-duty Armed Forces Spouses, Start Card and well report changes (including e-filing), welding proficiency requirements for licensing, and updated penalties and other enforcement provisions. The RAC also will review the draft Statement of Need, Racial Equity Impacts, and Fiscal and Economic Impacts.

The final hybrid RAC meeting is scheduled for March 15, 2023. During this RAC meeting the Department will address any remaining RAC comments or concerns on both the draft rules and draft Statement of Need, Racial Equity Impacts, and Fiscal and Economic Impact.

The Department anticipates providing notice of the proposed rule changes in early April, with one hybrid public hearing scheduled for late April (in Salem and on Zoom). The Department will hold a 30-day comment period. Within the public comment period the Department will present the draft rules to the Groundwater Advisory Committee for review. After addressing public and Committee comments, the Department will bring the final proposed rule changes to the Commission in June. The rules must be adopted no later than July 1, 2023, per House Bill 2145.

Following rule adoption, the Department will communicate changes to the well construction industry, other affected stakeholders, and Department field staff using various means, including direct mailings to licensed drillers, emails to subscribers to the Department's Well Said newsletter, written articles in the Well Said newsletter, presentation at the Fall 2023 Oregon Groundwater Association Conference, training for the Department's field staff, and posting on the Well Construction and Rulemaking webpages.

IV. Summary

Well Construction rulemaking is needed to implement recent legislation, including House Bill 2145 (2021), House Bill 3030 (2019), Senate Bill 688 (2019), and House Bill 4061(2022), to restore a rule inadvertently deleted, and to clarify existing rules. The Department has convened two public RAC meetings to date, both well-attended and involving meaningful input. Several sections within House Bill 2145 must be implemented no later July 1, 2023; therefore, the Department plans to bring the proposed rules to the Commission in June 2023 for approval.

Kris Byrd
(503) 991-2470

Laura Hartt
(971)720-0963