

Item H – Well Construction Proposed Rule Adoption

Water Resources Commission Meeting June 16th, 2023



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Program Overview

Core Program Functions

- **Well Constructor Licensing**
- **Start Cards**
- **Well Reports**
- **Special Standards**
- **Exempt Use Registration**
- **Well Construction Compliance**



- **Well Constructor Licensing**
 - Proctor Exam
 - ***Verify Experience***
 - Issue Licenses
 - Continuing Education
 - License Renewals
 - ~ 403 Licensed Drillers



Core Program Functions

- **Start Cards**
 - *Beginning of Construction Notification*
 - *Submitted Any Time Before Work Begins*
 - Allows Department to Inspect Work
 - *Start Cards Do Not Expire*
 - ~ 4600 Received a Year

- **Well Reports**
 - Report Describing Construction of Well
 - Submitted within 30 days of Completion
 - ***No Map Required for Water Wells***
 - ***GPS Location Not Required***
 - ***Helpers Not Required to be Listed***
 - ~ 4500 a Year

Core Program Functions

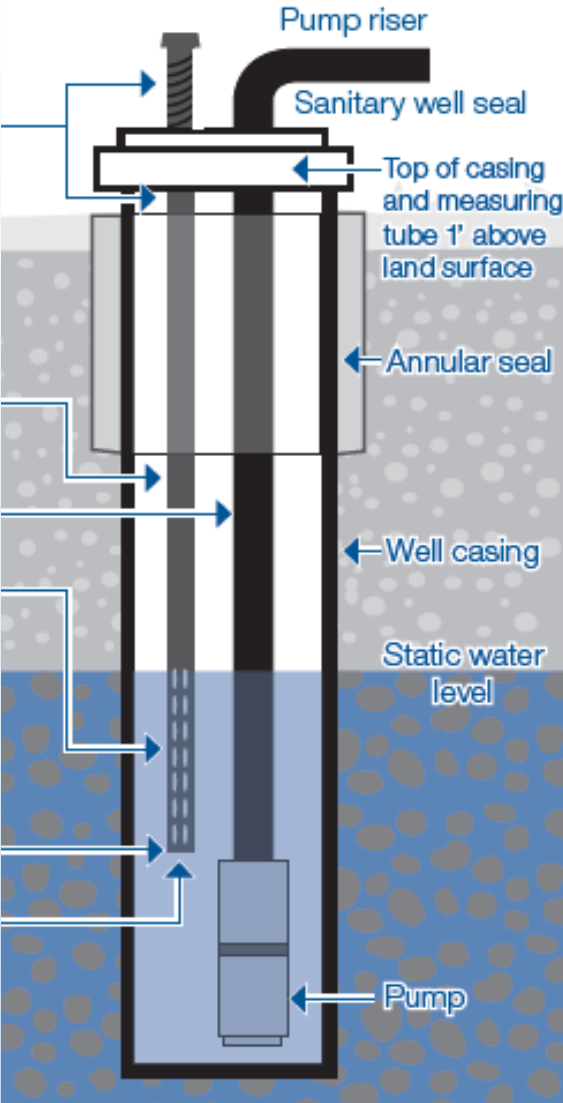
- **Special Standards**
 - Request to Deviate from Requirements
 - ***GPS Information Not Required***
 - ***Detailed Setback Information Not Required***
 - ***Associated Well Reports Not Required***
 - ~ 300 - 400 a Year

- **Exempt Use Registration**
 - *Sent in by Well Owner After Construction*
 - *Map Submission Required*
 - Accuracy of Map a Problem
 - Compliance Not Always Achieved
 - ~ 3400 a Year

Core Program Functions

- **Well Construction Compliance**
 - Seek Voluntary Compliance
 - Enforcement Tools Available
- **Notice of Violation**
 - ***Must Be Sent Within 5 Calendar Days***
 - Sometimes Difficult to Meet Timeline

Terminology



Annular Seals Prevent:

- Loss of Artesian Pressure
- Contamination or Waste
- Commingling

Welded Casing Joints





Rulemaking Process

Need - Legislation Implementation

Implement recent legislation

- **House Bill 2145 (2021):** Well construction modernization
- **House Bill 3030 (2019)/Senate Bill 688 (2019):** Temporary licenses for spouses of active members of armed forces
- **House Bill 4061 (2022):** Extending timeline for agency to issue a notice of violation (NOV)

Need - Housekeeping

Penalty alignment across Divisions

- Major and minor penalties for well drillers and other than well drillers

Restore deleted rule

- Dedicated measuring tube requirements (OAR 690-215-0200)

Other “Housekeeping”

- Spelling, grammar, clarity
- Figure updates, improved resolution
- Statutory authority/implementation

Rules Advisory Committee (RAC)

20 Members (Attachment 1)

4 Hybrid Meetings

December 2022 – March 2023

Notice and Public Comment

April 3 – May 3, 2023

Public Hearing

April 27, 2023



Groundwater Advisory Committee (GWAC) Input

- GWAC kept informed throughout rulemaking process
- Draft rules presented to GWAC for input during public comment period
- One GWAC member also served on the Rules Advisory Committee
- GWAC's recommendation is included in the following summary of public comments

Comment Summary/Response

Name/Organization	Comment(s)	Response
Cara Lewis; Groundwater Advisory Committee; Oregon Ground Water Association; Western States Drilling	Day of Notification (Drilling & Seal Placement) Options <ul style="list-style-type: none"> • remove “snail mail” • add texting/ voicemail 	No changes made
Oregon Ground Water Association; Western States Drilling	Remove Monitoring Well Welding Proficiency Requirements	No changes made
Klamath Community College Welding Program	Add American Welding Society D1.1 Standard to Welding Proficiency Requirements	Revisions made



Proposed Rules Overview

Licensing – Welding Proficiency

Issue to Address

Wells with poor welds can become a source of commingling, waste, contamination, or can allow a loss of artesian pressure.

Welding Proficiency Requirement - HB 2145

Added welding proficiency requirement for new well drilling licenses to ensure only qualified individuals drill wells.

Proposed Changes: Division 205 & Division 240

Licensing – Temporary Authorization

Issue to Address

Difficult for spouses of active-duty military members to get licensed to drill wells in Oregon.

Temporary Authorization - HB 3030/SB 688

Added authorization for issuing temporary well drilling licenses to spouses of active-duty military members.

Proposed Changes: Division 200 (definitions), Division 205 (water supply well) & Division 240 (monitoring well)

Reporting – Start Cards

Issue to Address

Well inspectors need additional notification and data to prioritize their work to be onsite during construction activity.

Start Cards - HB 2145

Added more data inputs, including proposed seal placement date, day of drilling notification, start card expiration date, mandatory e-filing (effective 7/24).

Proposed Changes: Division 205 & Division 240

Exempt Use – Map/Recording Fee

Issue to Address

Invoicing may be difficult due to inability to locate current address of landowner; maps are often inaccurate; landowners are not always responsive.

Exempt Use Map and Fee - HB 2145

Shifted responsibility for submittal of exempt use map and fee from landowner to driller.

Proposed Changes: Division 190 (exempt use recording), 225 (enforcement), & 260 (civil penalties for other than well constructors)

Issue to Address

No rules to address well constructor exempt use registration violations; civil penalty amounts are not in alignment for similar violations.

Civil Penalties - HB 2145

Added authorization to assess civil penalties for exempt use registration violations.

Proposed Changes: Division 225 (enforcement), 240 (monitoring well), & 260 (civil penalties for other than well constructors)

Civil Penalties

Div. 260 Rules – Current Other than well constructors	Div. 225 and 240 – Current Well Constructors	Div. 225 and 240 – Proposed Well Constructors
Minor - \$50	Minor - \$25	Minor - \$50
Major - \$200	Major - \$50	Major - \$200

Align civil penalty amounts across rule divisions.

Notice of Violation (NOV) Timeline

Issue to Address

Notified within five days of confirmation. Five days to issue a notice of violation (NOV) is too short.

Notice of Violation - HB 4061

Revised timeline for issuing NOV upon confirmation of a violation from 5 calendar days to 10 business days.

Proposed Changes: Division 260 (civil penalties for other than well constructors)

Issue to Address

Rules should be clear and simple.

Other rule changes

- Spelling, grammar, and clarity
- Figure updates and improved resolution
- Restoration of rule deleted due to clerical error
 - OAR 690-215-0200 (dedicated measuring tube requirements)

Issue to Address

Need to reformat statutory references to HB 3030/SB 688 (2019)

Proposed Changes

- Change references in OARS 690-190-0010(8), 690-200-0050(68), 690-200-0050(113), 690-205-0020(5)(e), 690-240-0010(50), 690-240-0010(86), 690-240-0065(5)(e) from **“Section 1, Chapter 626, Oregon Laws 2019”** to **“ORS 670.403”**
- Change references in OARS 690-190-0010(8), 690-200-0050(68), 690-200-0050(113), 690-240-0010(50), 690-240-0010(86), from **“Section 1, Chapter 142, Oregon Laws 2019”** to **“ORS 670.400”**



Alternatives



Proposed Alternative (1)

The Commission may consider the following alternatives:

1. Adopt the proposed rules for OAR Chapter 690, Divisions 190, 200, 205, 210, 215, 225, 240, and 260, as contained in Attachment 4.

Proposed Alternative (2)

2. Adopt modified proposed rules for OAR Chapter 690, Divisions 190, 200, 205, 210, 215, 225, 240, and 260, updating statutory references in Attachment 4 as presented below:
 - (a) Change references within OARS 690-190-0010(8), 690-200-0050(68), 690-200-0050(113), 690-205-0020(5)(e), 690-240-0010(50), 690-240-0010(86), 690-240-0065(5)(e) from “Section 1, Chapter 626, Oregon Laws 2019” to “ORS 670.403”
 - (b) Change references within OARS 690-190-0010(8), 690-200-0050(68), 690-200-0050(113), 690-240-0010(50), 690-240-0010(86), from “Section 1, Chapter 142, Oregon Laws 2019” to “ORS 670.400”

Proposed Alternatives (3) & (4)

3. Adopt other modified proposed rules.
4. Not adopt rules and request the Department to further evaluate the issues.

Recommendation

The Director recommends Alternative 2:

2. Adopt modified proposed rules for OAR Chapter 690, Divisions 190, 200, 205, 210, 215, 225, 240, and 260, updating statutory references in Attachment 4 as presented below:
 - (a) Change references within OARS 690-190-0010(8), 690-200-0050(68), 690-200-0050(113), 690-205-0020(5)(e), 690-240-0010(50), 690-240-0010(86), 690-240-0065(5)(e) from “Section 1, Chapter 626, Oregon Laws 2019” to “ORS 670.403”
 - (b) Change references within OARS 690-190-0010(8), 690-200-0050(68), 690-200-0050(113), 690-240-0010(50), 690-240-0010(86), from “Section 1, Chapter 142, Oregon Laws 2019” to “ORS 670.400”

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WATER RESOURCES
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