

537.777 Regulation of controlling works of wells and distribution of ground water. (1) The Water Resources Commission shall regulate or cause to be regulated the controlling works of wells and distribute ground water to secure compliance or equal and fair distribution if the commission finds that:

(a) Any person or public agency is using or attempting to use any ground water or is operating or permitting the operation of any well owned or controlled by such person or public agency except upon compliance with ORS 537.505 to 537.795 and 537.992 and any applicable order or rule of the commission under ORS 537.505 to 537.795 and 537.992; or

(b) It is necessary in order to secure the equal and fair distribution of ground water in accordance with the rights of the various ground water users.

(2) The regulation of controlling works and distribution of ground water under subsection (1) of this section shall be as nearly as possible in the same manner as provided in ORS 540.010 to 540.130. [1957 c.341 §4; 1985 c.673 §72]

537.780 Powers of Water Resources Commission; rules; limitations on authority. (1) In the administration of ORS 537.505 to 537.795 and 537.992, the Water Resources Commission may:

(a) Require that all flowing wells be capped or equipped with valves so that the flow of ground water may be completely stopped when the ground water is not actually being applied to a beneficial use.

(b) Enforce:

(A) General standards for the construction and maintenance of wells and their casings, fittings, valves, pumps and back-siphoning prevention devices; and

(B) Special standards for the construction and maintenance of particular wells and their casings, fittings, valves and pumps.

(c)(A) Adopt by rule and enforce when necessary to protect the ground water resource, standards for the construction, maintenance, abandonment or use of any hole through which ground water may be contaminated; or

(B) Enter into an agreement with, or advise, other state agencies that are responsible for holes other than wells through which ground water may be contaminated in order to protect the ground water resource from contamination.

(d) Enforce uniform standards for the scientific measurement of water levels and of ground water flowing or withdrawn from wells.

(e) Enter upon any lands for the purpose of inspecting wells, including wells exempt under ORS 537.545, casings, fittings, valves, pipes, pumps, measuring devices and back-siphoning prevention devices.

(f) Prosecute actions and suits to enjoin violations of ORS 537.505 to 537.795 and 537.992, and appear and become a party to any action, suit or proceeding in any court or before any administrative body when it appears to the satisfaction of the commission that the determination of the action, suit or proceeding might be in conflict with the public policy expressed in ORS 537.525.

(g) Call upon and receive advice and assistance from the Environmental Quality Commission or any other public agency or any person, and enter into cooperative agreements with a public agency or person.

(h) Adopt and enforce rules necessary to carry out the provisions of ORS 537.505 to 537.795 and 537.992 including but not limited to rules governing:

(A) The form and content of registration statements, certificates of registration, applications for permits, permits, certificates of completion, ground water right certificates, notices, proofs, maps, drawings, logs and licenses;

(B) Procedure in hearings held by the commission; and

(C) The circumstances under which the helpers of persons operating well drilling machinery may be exempt from the requirement of direct supervision by a licensed water well constructor.

(i) In accordance with applicable law regarding search and seizure, apply to any court of competent jurisdiction for a warrant to seize any well drilling machine used in violation of ORS 537.747 or 537.753.

(2) Notwithstanding any provision of subsection (1) of this section, in administering the provisions of ORS 537.505 to 537.795 and 537.992, the commission may not:

(a) Adopt any rule restricting ground water use in an area unless the rule is based on substantial evidence in the record of the Water Resources Department to justify the imposition of restrictions.

(b) Make any determination that a ground water use will impair, substantially interfere or unduly interfere with a surface water source unless the determination is based on substantial evidence. Such evidence may include reports or studies prepared with relation to the specific use or may be based on the application of generally accepted hydrogeological principles to the specific use.

(3) At least once every three years, the commission shall review any rule adopted

under subsection (2) of this section that restricts ground water use in an area. The review process shall include public notice and an opportunity to comment on the rule. [1955 c.708 §32; 1981 c.416 §7; 1985 c.673 §73; 1989 c.833 §60; 1995 c.549 §2]

537.783 Reinjection of geothermal fluids; rules and standards; water pollution control facilities permit. (1) The Water Resources Commission shall adopt rules which govern the disposal by reinjection or other means of geothermal fluids derived from:

(a) Geothermal or hot water wells less than 2,000 feet deep producing fluids of less than 250 degrees Fahrenheit bottom hole temperature; or

(b) Geothermal or hot water wells less than 2,000 feet deep producing fluids that have been appropriated pursuant to ORS 537.505 to 537.795 and 537.992.

(2) The rules adopted under subsection (1) of this section shall include standards whereby contamination may be determined, construction standards for reinjection wells, testing procedures for identifying aquifers, standards and procedures for determining whether adjacent aquifers are being degraded by the reinjection process, guidelines for conservation of the resource, criteria for evaluating reservoirs or zones for geothermal fluid disposal and requirements for prior approval of all geothermal fluid reinjection proposals.

(3) A water pollution control facilities permit shall be obtained from the Department of Environmental Quality under ORS 468B.050 before reinjection is commenced. The Department of Environmental Quality may, by agreement with the Water Resources Commission, waive this requirement for reinjection into the reservoir from which the fluid came where adequate standards and tests have been adopted to insure the fluid and its residues are uncontaminated. [1979 c.547 §3; 1985 c.673 §74]

537.785 Fees. (1) In the administration of ORS 537.505 to 537.795 and 537.992, the Water Resources Commission shall collect in advance, the fees set forth in ORS 539.081 for any service similar to any of those referred to in ORS 539.081.

(2) All fees collected by the commission under subsection (1) of this section shall be paid into the General Fund of the State Treasury. [1955 c.708 §33; 1969 c.629 §1; 1979 c.67 §2; 1985 c.673 §75; 2009 c.819 §11]

537.786 [1957 c.341 §3; repealed by 1969 c.629 §3]

537.787 Investigation of violation of ground water laws; remedies for violation. (1) The Water Resources Commission, upon the commission's own initiative, or

upon complaint alleging violation of any provision of ORS 537.505 to 537.795 and 537.992, or any rule adopted pursuant thereto, may investigate to determine whether a violation has occurred. If the investigation indicates that a violation has occurred, the commission shall notify the persons responsible for the violation, including:

(a) Any well constructor involved; and

(b) The landowner, if the violation involves construction, alteration, operation, abandonment or conversion of a well.

(2) If, after notice and opportunity for hearing under ORS chapter 183 the commission determines that one or more violations have occurred, the commission may:

(a) Provide additional time for remedy of the violation if the commission has reason to believe adequate repair or other remedy will be carried out within the specified period.

(b) If one or more persons responsible for the violation hold a water well constructor's license, suspend, revoke or refuse to renew the license.

(c) Assess a civil penalty under ORS 537.992, on the well constructor or other responsible party, including the landowner if the landowner was involved in the well construction.

(d) If an involved constructor or landowner has a surety bond required by ORS 537.753 (1) or (4) in effect, make demand on the bond in an amount not to exceed the cost of remedying the violation.

(e) Impose any reasonable condition on the water well constructor's license to insure compliance with applicable laws and provide protection to the ground water of the State of Oregon. Such action shall be conducted as a contested case proceeding according to the applicable provisions of ORS chapter 183.

(f) Any other action authorized by law.

(3) The commission may terminate proceedings against a person if:

(a) The landowner does not permit the person involved in proceedings to be present at any inspection made by the commission; or

(b) The commission determines that the person involved in proceedings is capable of complying with recommendations made by the commission, but the landowner does not permit the person to comply with the recommendations. [1985 c.615 §5; 1985 c.673 §199; 1999 c.293 §6]

537.788 [1993 c.774 §8; repealed by 2005 c.14 §4]

537.789 Well identification number. (1) The well identification number provided by the Water Resources Department when the