



# Oregon

Theodore R. Kulongoski, Governor

## Water Resources Department

North Mall Office Building  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
503-986-0900  
FAX 503-986-0904

### MEMORANDUM

**TO:** Water Resources Commission

**FROM:** Phillip C. Ward, Director

**SUBJECT:** Agenda Item G, May 5, 2006  
Water Resources Commission Meeting

#### **Request for Adoption of Administrative Rules Relating to Requirement for Pump Testing of Nonexempt Wells, OAR Chapter 690, Division 217**

#### **I. Issue Statement**

The Commission is asked to amend rules relating to Requirement for Pump Testing of Nonexempt Wells (OAR Chapter 690, Division 217). The final proposed rules are provided in Attachment 1. The proposed rules waive pump test requirements for certain water rights; however, they do not eliminate pump test requirements for all pump test holders, nor do they eliminate the pump test program. With the proposed rule amendments, the emphasis of the pump test program will be on the quality of the data and on collecting data in areas of ground water concerns, rather than on the quantity of data submitted.

#### **II. Background**

ORS 537.772 was enacted in 1987 and outlined pump-test requirements for nonexempt wells (i.e., wells that are subject to water right application requirements). Pump tests provide local information about a well and the aquifer supplying water to the well. The statute allows the Commission to establish the criteria for waiver from the pump-test requirements. Under the existing pump-test rules, adopted in 1988, well owners or operators of all nonexempt wells are required to conduct pump tests or follow-up testing on ten-year cycles and submit those results to the Department.

The proposed rule amendments would waive the pump-test requirement for permits and certificates with priority dates before December 20, 1988, unless required by the Director. This rulemaking will also eliminate the requirements for well owners or operators to conduct follow-up testing of wells on ten-year cycles, unless required by the Director.

Notice of the public rulemaking was published in the *Oregon Bulletin* and a hearing draft of the proposed rules was made available on February 1, 2006. The proposed rules were presented to the Ground Water Advisory Committee (GWAC) on February 10, 2006. GWAC supported adoption of the draft rules. In addition to the opportunity to provide written comment, the Department held a public rulemaking hearing in Salem on February 17, 2006. No testimony was provided at the public rulemaking hearing. The public comment period closed on March 3, 2006. No written public comments on the hearing draft were received in the comment period..

### **III. Discussion**

The hearing draft of the rules proposed the following changes to the requirements in 690-217-0020:

- 1) *Waives the pump- test requirement for certain water rights* – The hearing draft of the proposed rules waives the pump-test requirement for permits or certificates with priority dates before December 20, 1988, which was the effective date of the current rules, unless required by the Director.

With adoption of the 1988 pump-test rules, the Department's strategy was to bring existing permits and certificates into pump-test compliance over a ten-year period, beginning in 1990; however, the program was unfunded, and the workload to research current ownership, notify landowners, and provide subsequent communications for the 11,000 affected permits was more than anticipated.

A considerable proportion of the submitted tests were of limited value, for a variety of reasons, not the least of which was permittee's failure to follow pump-test guidelines. The Department put considerable effort into working with permit holders to follow procedure; however, the level of effort was not sustainable given the Department's limited staff resources and the number of permits required to comply with the pump testing requirements. As a result, this pump-test compliance effort was terminated in 1993. The requirement to submit pump tests remained, and at an approximate cost to well owners of about \$400 to \$600 dollars each test. The Department, over the years, has filed the received tests as "submitted but not evaluated." As the Department conducts ground-water investigations and evaluates ground-water applications around the state, staff extract what information can be collected from the submitted pump tests. .

Given this history, the proposed rules waive pump-test requirements for certain water rights. The proposed rules do not eliminate pump-test requirements for all pump-test holders, nor do they eliminate the pump-test program. All permits with priority dates of December 20, 1988 and later will still be required to submit a pump test prior to issuance of a water right certificate. The requirement to submit a pump test at the time of certification provides baseline aquifer data at a time in the permit process when the Department can ensure that the pump-test data is of sufficient quality to be of value. Additionally, the Department maintains the ability to require pump-test data collection and reporting in areas of particular concern (e.g., serious water management areas, ground water limited areas, etc.). It is anticipated the Department will focus this authority in areas of concern where data gaps are identified. Even though the program

remains unfunded, the emphasis under the draft rules will be on the quality of the data, not on the quantity of data.

- 2) *Eliminates the requirement for follow-up testing* – The current rules require static water-level measurements or pump testing at wells on ten-year cycles. The proposed rules waive this requirement unless required by the Director.

A properly conducted pump test can provide useful information about an aquifer. Once that information is collected there is less value in subsequent testing. Follow-up tests can be dominated by well efficiency (i.e. how easily water from the aquifer flows into and out of a borehole) and does not provide additional aquifer information. Subsequent tests are useful for well owners because it provides them with a measure of well competence, but it is difficult for the Department to justify administering those data.

Water-level measurements clearly have value in providing information on aquifer storage. Under the current rules, however, measurements are required only on the ten-year anniversary. Such infrequent measurements lack detail regarding aquifer response to decadal climate variation or changes in local ground water use. For this reason, the value of the data is somewhat limited; regardless, the Department bears the administrative burden of tracking ownership changes and measurement notification. Rather than relying on decadal measurements, the Department has developed a program to administer the annual water-level data submitted by permit holders as required by conditions on newer ground water permits. These data supplement the Department's water-level networks around the state, and the administration of this information, unlike the pre-December 20, 1988 permits, is facilitated through annual contacts with permit holders.

#### **IV. Summary**

The final proposed rules in Attachment 1 (Requirement for Pump Testing of Nonexempt Wells, OAR Chapter 690, Division 217) streamline the requirements and reduce the cost and administrative burden associated with conducting pump tests and follow-up testing. Pump-test data are still required prior to issuance of a certificate of water right for permits with priority dates of December 20, 1988 or later. Based on GWAC support and a lack of public comment, staff propose no modifications to the hearing draft of the rules issued February 1, 2006.

The final proposed rules are consistent with the State's goal of regulatory streamlining and reducing the fiscal impact of regulations. The final proposed rules also support the Department's mission to understand the ground water resources of the state – by focusing limited staff resources on obtaining the highest quality data.

#### **V. Alternatives**

The Commission may consider the following alternative actions:

1. Adopt the final proposed rules in Attachment 1.
2. Adopt modified final proposed rules.
3. Not adopt the proposed rules and request that the Department further evaluate the issues.

**VI. Recommendation**

The Director recommends that the Commission adopt the final proposed rules in Attachment 1.

Attachment:

1. Final Proposed Rules – Requirement for Pump Testing of Nonexempt Wells (OAR Chapter 690, Division 217).

Douglas Woodcock  
503-986-0847