



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 D, November 20, 2008
Water Resources Commission Meeting

Request Adoption of Administrative Rules Relating to Water Well Construction and Maintenance Standards, OAR Chapter 690, Divisions 200, 205, 215, 220 and Request Adoption of Administrative Rules Relating to Construction, Maintenance, Alteration, Conversion and Abandonment of Monitoring Wells, Geotechnical Holes and Other Holes in Oregon, OAR Chapter 690, Division 240

I. Issue Statement

The Department is proposing administrative rules to modify and clarify the initial notice of water supply well construction (start card) for water supply and monitoring wells; modify ground water protection rule provisions related to alterations performed on water supply wells; modify rule provisions related to the abandonment of wells; modify rule provisions related to information contained in the water supply well log; clarify the responsibility for work performed on existing water supply wells, address standards for material used in water supply well alterations and develop standards for the placement and authorize the use of unhydrated bentonite for well abandonments.

II. Background

The Oregon Ground Water Association (OGWA) submitted a petition for rulemaking to the Commission on March 3, 2008. The petition requested that the Commission engage in rulemaking to clarify that a well contractor is only responsible to meet well construction standards for specific work performed on existing wells.

The Commission denied the OGWA petition, but asked that the Department move forward with rulemaking on well alterations for Commission consideration by the end of the year.

III. Rulemaking Process

A Rules Advisory Committee (RAC) was appointed by the Department to assist with the development of rules on these issues. The RAC met four times in July and August and helped develop a hearing draft set of proposed rules.

Notice of rulemaking was published in the *Oregon Bulletin* and provided to interested parties on September 1, 2008. In addition to the opportunity to provide written comment, three public rulemaking hearings were held in Salem on September 22nd, Bend on September 10th, and Pendleton on September 9th. No testimony was received at the public hearings. The public comment period closed on September 25, 2008.

One written comment was received and is included as Attachment 2. The Department's response is included as Attachment 3. The hearing draft rules were modified to address the following comments:

- The sentence "A duplicate start card is not required if the start card fee is included with a start card submitted electronically under Section (1)(a) of this rule" was added OAR 690-205-0200, page 2, lines 26 and 27.
- The sentence "Type of proposed alternation" was modified to "In addition, to the information required pursuant to OAR 690-205-0200(1)(a)-(d), a start card may also contain information regarding the type of proposed alteration.", page 1, line 18.
- The word "report" was changed to "record" in OAR 690-215-0006(2), page 2, line 11.
- The reference to "690-210-0190 through" was deleted in OAR 690-215-0035, page 6, line 29.
- The words "all or a portion of" was added in OAR 690-220-0040(1), page 2, line 37.
- The word "remaining" was added in OAR 690-220-0040(1), page 2, line 38.
- The word "shall" was changed to "may" in OAR 690-220-0040(4), page 3, line 13.
- The words "and 690-220-0050" was added in OAR 690-220-0070, page 5, line 29.
- The paragraph was reworded for clarity in 690-220-0115(1), page 8, lines 25 through 33.
- The sentences were reworded for clarity and the word "maximum" was changed to "minimum" in 690-220-0115(12), page 10, lines 15, 16, 17 and 18.
- (GWAC comment)The sentence "A duplicate start card is not required if the start card fee is included with a start card submitted electronically under Section (1)(a) of this rule" was added OAR 690-240-0385, page 14, lines 31 and 32.

On March 5, 2008, staff met with the Commission's Ground Water Advisory Committee (GWAC), which advises the Commission on rules for the development and protection of ground water (ORS 536.090). After discussion among committee members, GWAC unanimously recommended the Commission adopt the final proposed rule changes with the following modifications:

- Change "maximum depth to minimum depth" in 690-220-0115(12)
- Change "re-preforating to re-perforating" in 690-240-0010(3)

IV. Summary

The final proposed rules in Attachment 1 modify and clarify the initial notice of water supply well construction (Start Card) for water supply and monitoring wells; modify ground water protection rule provisions related to alterations performed on water supply wells; modify rule provisions related to the abandonment of wells; modify rule provisions related to information contained in the water supply well log; clarify the responsibility for work performed on existing water supply wells and authorize the use of unhydrated bentonite for well abandonment. In addition the rules propose to establish standards for the type and placement of unhydrated bentonite used in well abandonment.

V. Alternatives

The Commission may consider the following alternatives:

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

VI. Recommendation

The staff recommends Alternative 1 that the Commission adopts the final proposed rules in Attachment 1.

Attachments:

1. Final Proposed Rules “Water Well Construction and Maintenance Standards, OAR Chapter 690, Divisions 200, 205, 215, 220” and Final Proposed Rules “Construction, Maintenance, Alteration, Conversion and Abandonment of Monitoring Wells, Geotechnical Holes and Other Holes in Oregon, OAR Chapter 690, Division 240”
2. Written comment from the Oregon Ground Water Association on Hearing Draft
3. WRD’s response to written comments

Juno Pandian, Manager
Well Construction and Compliance Section
503-986-0852