

**OREGON ADMINISTRATIVE RULES  
WATER RESOURCES DEPARTMENT  
CHAPTER 690  
DIVISION 225**

**WATER WELL CONSTRUCTION STANDARDS**

**690-225-0020**

**Investigation of Alleged Violations**

(1) The Water Resources Director, upon the Director's own initiative, or upon complaint alleging violation of statutes, standards or rules governing construction, alteration, or abandonment of wells may cause an investigation to determine whether a violation has occurred. If the investigation indicates that a violation has occurred, the Director shall notify the persons believed responsible for the violation including but not limited to:

- (a) Any Water Supply Well Constructor involved; or
- (b) The landowner, if the violation involves construction, alteration, operation, or abandonment of a well.

(2) Enforcement and civil penalty assessment for "other than well constructors" is described in OAR 690-260.

Stat. Auth.: ORS 183, ORS 536, ORS 537 & ORS 540

Stats. Implemented: ORS 183, ORS 536, ORS 537 & ORS 540

Hist.: WRD 13-1986, f. 10-7-86, ef. 11-1-86; WRD 5-2006, f. & cert. ef. 6-20-06

**690-225-0030**

**Enforcement Actions**

(1) If, after notice and opportunity for hearing under ORS 183.310 to 183.550 the Director determines that one or more violations have occurred, the Director may impose one or more of the following:

- (a) Provide a specified time for remedy;
- (b) Assess a civil penalty in accordance with the schedule of civil penalties in OAR 690-225-0110;
- (c) Suspend, revoke, or refuse to renew the licenses when one or more persons responsible for the violation hold a Water Supply Well Constructor's License;
- (d) Require that a person whose license has been refused renewal pass the Water Supply Well Constructor's License examination before a new license is issued;
- (e) Impose any reasonable conditions on the Water Supply Well Constructor's License to insure correction of the violation and future compliance with the law. These conditions may include but are not limited to:

(A) Fulfilling any outstanding obligations which are the result of administrative action before the constructor can offer any services or construct, alter or abandon any well;

*Note: These rules were filed with the Office of the Secretary of State and took effect on June 20, 2006. The rules are subject to non-substantive modifications such as renumbering and correction of typographical errors pursuant to ORS 183.360(2)(a) when published by the Secretary of State.*

(B) Requiring additional advance notice to be given to the Department of construction, alteration or abandonment of any well;

(C) Requiring a seal placement notice be given to the Department 24 hours in advance of placing the seal; or

(D) Any other conditions the Director feels are appropriate.

(f) Order the landowner to repair or meet other conditions on use of the well, or order discontinuance of use and proper abandonment pursuant to ORS 537.775;

(g) Make demand on the Water Well Constructor's Bond or on the Landowner's Water Well Bond. This may occur only if the Director has given the notice required in OAR 690-225-0020 to the persons responsible for the violation within three years after the date the well report is filed with the Department. If no well report has been filed, the three year limitation shall not apply until such time as a well report is filed;

(h) Take any other action authorized by law.

(2) An order may specify a schedule of escalating or cumulative sanctions to be assessed on specified dates until satisfactory correction of the violation has been completed.

(3) Any Water Supply Well Constructor whose license is suspended or revoked shall not contract for well construction services or operate well drilling machines in the State of Oregon during the suspension or revocation period.

Stat. Auth.: ORS 183, ORS 536, ORS 537 & ORS 540

Stats. Implemented: ORS 183, ORS 536, ORS 537 & ORS 540

Hist.: WRD 13-1986, f. 10-7-86, ef. 11-1-86; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 5-2006, f. & cert. ef. 6-20-06

#### **690-225-0040**

##### **Multiple Violations and Consolidation of Proceedings**

In cases of multiple or continuing violations, each occurrence of substantially the same activity and each days continuance of a violation after the responsible party has been notified is a separate and distinct violation. Administrative enforcement proceedings for multiple violations may be consolidated into a single proceeding.

Stat. Auth.: ORS Ch. 183, 536, 537 & 540

Hist.: WRD 13-1986, f. 10-7-86, ef. 11-1-86; WRD 9-2001, f. & cert. ef. 11-15-01

#### **690-225-0050**

##### **Factors Affecting Selection of Type and Degree of Enforcement**

In selecting the appropriate type and degree of enforcement, the Director may consider the following factors:

(1) Whether the constructor's file demonstrates a pattern of prior similar violations;

(2) Whether the respondent has cooperated in attempting correction of any violation in a timely fashion;

(3) The gravity and magnitude of the violation, including whether there is an immediate or long-term threat to human health or the ground water resource;

(4) Whether the damage to the ground water resource is reversible;

(5) Whether the violation in the instances cited was repeated or continuous;

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- (6) Whether a cause of the violation was an unavoidable accident;
- (7) The opportunity and degree of difficulty to correct the violation;
- (8) The cost to the Department, except for travel costs and the initial field investigation, in attempting to gain voluntary compliance of the cited violation. The costs may be considered until the Department receives respondent's answer to the written notice and opportunity for hearing; and
- (9) Any other relevant factor.

Stat. Auth.: ORS Ch. 183, 536, 537 & 540

Hist.: WRD 13-1986, f. 10-7-86, ef. 11-1-86; WRD 9-2001, f. & cert. ef. 11-15-01

#### **690-225-0060**

##### **Change in Enforcement Status**

(1) In the interest of achieving compliance, the Director at any time may reevaluate the status of the violations and take appropriate action, including reduction of the enforcement level or remission of all or part of any civil penalties assessed.

(2) The Director may terminate proceedings against a Water Supply Well Constructor if the constructor provides acceptable evidence that:

(a) The landowner does not permit the constructor to be present at any inspection made by the Director; or

(b) That the constructor is capable of complying with recommendations made by the Director, but the landowner does not permit the constructor to comply. In such cases, the landowner is responsible for bringing the well into compliance pursuant to ORS 537.535, and if the landowner was not a party to the original enforcement proceeding the Director may initiate a proceeding to ensure that the landowner does so.

Stat. Auth.: ORS 183, ORS 536, ORS 537 & ORS 540

Stats. Implemented: ORS 183, ORS 536, ORS 537 & ORS 540

Hist.: WRD 13-1986, f. 10-7-86, ef. 11-1-86; WRD 5-2006, f. & cert. ef. 6-20-06

#### **Civil Penalties**

#### **690-225-0100**

##### **Assessment of Civil Penalties**

Under OAR 690-225-0030(1) the Director may at any time select the most appropriate enforcement tool, including assessment of civil penalties, to gain compliance. However, the Director shall not impose a civil penalty if compliance has been achieved in another manner prior to final decision in the proceeding.

Stat. Auth.: ORS Ch. 183, 536, 537 & 540

Hist.: WRD 13-1986, f. 10-7-86, ef. 11-1-86

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**690-225-0110**

**Schedule of Civil Penalties**

(1) The amount of civil penalty shall be determined consistent with the following schedule:

(a) Not less than \$25 nor more than \$250 for each occurrence defined in these rules as a minor violation;

(b) Not less than \$50 nor more than \$1,000 for each occurrence defined in these rules as a major violation;

(c) First occurrence, in a calendar year, of a missing or late start card fee shall be \$150;

(d) Second occurrence, in a calendar year, of a missing or late start card fee shall be \$250;

(e) Third, and each subsequent, occurrence, in a calendar year, of a missing or late start card fee shall be \$250 and may include suspension of the Water Supply Well Constructor's license, and any other action authorized by law.

(2) For purposes of assessing a civil penalty, the start card fee referred to in subsections (1)(c), (d), and (e) of this rule shall not be considered late if it is received in the Salem office of the Water Resources Department within five days of the receipt of the start card, provided the start card was submitted in a timely manner as described in OAR 690-205-0200.

(3) Table 1 lists minor violations of well construction standards. All other violations are declared to be major.

[ED. NOTE: The Table referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 536.090 & ORS 537.505 - ORS 537.795 Stats. Implemented: ORS 536.090, ORS 537.505 - ORS 537.795

Hist.: WRD 13-1986, f. 10-7-86, ef. 11-1-86; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 7-1989(Temp), f. & cert. ef. 9-29-89; WRD 10-1989, f. & cert. ef. 11-20-89; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 5-2006, f. & cert. ef. 6-20-06

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**TABLE 225-1****MINOR WELL CONSTRUCTION VIOLATIONS**

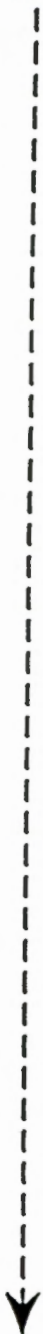
<b>Oregon Statute Reference</b>	<b>Value Assignment</b>	<b>Title</b>
ORS 537.762	Minor	REPORT OF COMMENCEMENT OF CONSTRUCTION
ORS 537.765	Minor	WELL REPORT
ORS 537.789	Minor	WELL IDENTIFICATION NUMBER
<b>Administrative Rule Reference</b>	<b>Value Assignment</b>	<b>Title</b>
690-200-0048	Minor	WELL IDENTIFICATION LABEL
690-205-0060	Minor	WATER SUPPLY WELL DRILLING MACHINES
690-205-0070	Minor	REPORT OF COMMENCEMENT OF CONSTRUCTION
690-205-0080	Minor	WELL REPORT REQUIRED
690-210-0270	Minor	PITLESS WELL ADAPTERS AND UNITS
690-210-0280	Minor	ACCESS PORTS AND AIRLINES
690-210-0290	Minor	LINER PIPE
690-210-0370	Minor	WELL TEST
690-215-0055	Minor	WELL IDENTIFICATION LABEL MAINTENANCE
690-230-0050	Minor	DESCRIPTION OF PROPOSED WELL USE
690-230-0060	Minor	IDENTIFICATION OF INTENDED WELL USE
690-230-0080	Minor	PUMP TESTING OF LOW-GEOTHERMAL INJECTION WELLS
690-230-0090	Minor	WATER TEMPERATURE MEASUREMENT

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EXAMPLE OF WELL ENFORCEMENT PROCESS  
(690-225)

Table 225-2

CREASING SEVERITY  
OF ENFORCEMENT



POTENTIAL VIOLATIONS BROUGHT  
TO DEPARTMENT'S ATTENTION



INVESTIGATION OF ALLEGED VIOLATIONS



VERBAL OR TELEPHONE REQUEST FOR  
COMPLIANCE WITH TIME FRAME



LETTERS OR NOTICE OF VIOLATION  
WITH TIME FRAMES AND CONSEQUENCES



NOTICE OF INTENT TO ENFORCE  
WITH HEARING OPPORTUNITY



HEARING (IF REQUESTED)



ENFORCEMENT ORDER ISSUED



MONITOR PROGRESS  
UNDER ENFORCEMENT ORDER

(FALL BACK IF  
SUBSTANTIAL  
PROGRESS OR  
FULL COMPLIANCE  
ACHIEVED)



ENFORCEMENT ACTIONS  
EFFORT OR LEVEL

(ESCALATE IF NO  
PROGRESS ACHIEVED  
OR MORE VIOLATIONS  
OCCUR)

It is desirable to achieve compliance at the lowest possible level of enforcement. Escalation of enforcement can be expected if compliance does not result at the next lower level. Reduction of enforcement effort can be expected if substantial progress towards compliance is achieved.