

Secretary of State
Certificate and Order for Filing
PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on September 24, 2001 by the
Date prior to or same as filing date.

Water Resources Commission
Agency and Division

690
Administrative Rules Chapter Number

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to become effective November 15, 2001 Rulemaking Notice was published in the March, 2001 Oregon Bulletin.**
Date upon filing or later Month and Year

RULEMAKING ACTION
List each rule number separately, 000-000-0000.

ADOPT:

Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

See attachment

AMEND:

See attachment

REPEAL: N/A

number: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

Amend and Renumber: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

ORS 536.027, 536.090 & 537.505-537.795

Stat. Auth.: ORS

Other Authority

ORS 536.090 & 537.505 - 537.795

Stats. Implemented: ORS

RULE SUMMARY

The rules in OAR Chapter 690, Division 200 through 240 pertain to well construction activities. The rule changes approved by the Water Resources Commission address new well drilling technology that has been developed. The rules will improve readability and increase the ease of use by the public. Minor modifications occur throughout the rules in order to correct grammatical mistakes, add clarity to the existing rules and delete outdated information.

In addition to the aforementioned items, the rules address the following: (1) Well identification labeling, to clarify the level of enforcement for non-compliance and acceptable label attachment methods; (2) Abandonment of old wells within setback distances, clarifying ORS 537.775(3); (3) Drilling while under suspension, clarifying that onsite supervision must be provided by a licensed well driller; (4) Clarifying that monitor well vaults must be designed to prevent surface water from entering the vault; and (5) Clarify how bentonite may be used during the sealing of wells..


Authorized Signer

11/15/01
Date

*Copies include a photocopy of this certificate with paper copy of each rule listed in the Rulemaking Action.

**The *Oregon Bulletin* is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 p.m. on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 p.m. on the preceding workday.

**Oregon Administrative Rules Affected in Rule Revision
Chapter 690**

Adopted

690-200-0048
690-215-0016
690-215-0045
690-215-0055
690-220-0035
690-240-0011
690-240-0014
690-240-0016
690-240-0024
690-240-0026
690-240-0082
690-240-0139

Amended

690-200-0005
690-200-0020
690-200-0025
690-200-0027
690-200-0030
690-200-0040
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690-205-0005
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690-230-0060
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690-240-0170
690-240-0180

Repeal

690-210-0020

Renumbered

690-210-0110 to 690-200-0047

Amend and Renumber

690-210-0015 to 690-200-0021
690-210-0040 to 690-200-0041
690-210-0050 to 690-200-0042
690-210-0080 to 690-200-0043
690-210-0090 to 690-200-0046
690-210-0120 to 690-210-0155
690-240-0140 to 690-240-0006

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

WATER WELL CONSTRUCTION STANDARDS

Enforcement

(See Figure 225-1 [+8])

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 **licensing of water supply well constructors and/or**, construction, alteration, **conversion, maintenance**, or abandonment of **water supply** 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) [~~1~~] Any **water supply** well constructor involved; or

(b) [~~2~~] The landowner, if the violation involves construction, alteration, **conversion, maintenance**, 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 Ch. 183, 536, 537 & 540

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 license(s) [s] 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 [~~test~~] **examination** before a new license is issued **or the current license is renewed**;

(e) Impose any reasonable conditions on the **water supply** well constructor's license to **ensure** [~~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, **convert**, or abandon any **water supply**

well;

(B) Requiring additional advance notice to be given to the **Department** [watermaster] of construction, alteration or abandonment of any **water supply** well;

(C) Requiring a seal placement notice be given to the **Department** [watermaster] [24] **up to 72** hours in advance of placing the seal; or

(D) Any other conditions the Director **deems** [feels-are] appropriate.

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

(g) Make demand on the **water supply** well constructor's bond or on the landowner's 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 **water supply** well report is filed with the Department. If no **water supply** 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 **be considered not licensed during the period of suspension or revocation. The appropriate provisions of OAR 690-205 shall apply.** [~~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 Ch. 183, 536, 537 & 540

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 [day's] **days** continuance of a violation after the responsible party has been notified is a separate and distinct violation. **Administrative** [~~en~~] enforcement proceedings for multiple violations may be consolidated into a single proceeding.

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

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;

- (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** [~~after~~] 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** [~~or~~]
- (9) Any other relevant factor.

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

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 violation(s) 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 Ch. 183, 536, 537 & 540

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

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; **and**

(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 constructors 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 690-205-0070.

(3) **Table 225-1** lists minor violations **related to** [of] **water supply** well construction standards. All other violations are declared to be major.

Stat. Auth.: ORS 536.090 & 537.505 - 537.795

TABLE 225-1

MINOR WELL CONSTRUCTION VIOLATIONS

Oregon Statute Reference	Value Assignment	Title
ORS 537.762	Minor	REPORT OF COMMENCEMENT OF CONSTRUCTION
ORS 537.765	Minor	WELL REPORT
<u>ORS 537.789</u>	<u>Minor</u>	<u>WELL IDENTIFICATION NUMBER</u>
Administrative Rule Reference	Value Assignment	Title
<u>690-200-0048</u>	<u>Minor</u>	<u>WELL IDENTIFICATION LABEL</u>
690-205-0060	Minor	WATER SUPPLY WELL DRILLING MACHINES
<u>690-205-0070</u>	<u>Minor</u>	<u>REPORT OF COMMENCEMENT OF CONSTRUCTION</u>
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
<u>690-215-0055</u>	<u>Minor</u>	<u>WELL IDENTIFICATION LABEL MAINTENANCE</u>
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
[690-240-0085	Minor	MONITORING WELL DRILLING MACHINES
690-240-0095	Minor	MONITORING WELL REPORT REQUIRED
690-240-0100(4)	Minor	MONITORING WELL CONSTRUCTION (START CARD NUMBER)]-