



FILED
JUN 29 1988
BARBARA ROBERTS
SECRETARY OF STATE

**CERTIFICATE AND ORDER
FOR FILING
PERMANENT
ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE**

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of PERMANENT rule(s) adopted on June 24, 1988
(Date)

by the Water Resources Commission
(Department) (Division)

to become effective June 29, 1988
(Date)

The within matter having come before the Water Resources Commission after
(Department) (Division)

If procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in Secretary of State's Bulletin: NO YES Date Published: April 15, 1988

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken: (List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

Proposed:
(New Total Rules)

Repealed:
(Existing Rules)

Repealed:
(Total Rules Only)

RECEIVED
JUN 29 1988
See attachment
LEG. COUNSEL'S OFF.

Administrative Rules of the Water Resources Commission
(Department) (Division)

DATED this 29th day of June, 19 88

By: John E. Borden
(Authorized Signer)

Title: Deputy Director

Statutory Authority: ORS _____ or _____

Number(s) 183, 536, 537 and 540 Oregon Laws 19 87 or _____

House Bill(s) _____, 19 _____ Legislature; or Senate Bill(s) 132, 19 87 Legislature

Subject Matter:
Amendments to the Well Construction and Maintenance Rules
OAR 690-200-005 through 690-235-020.

For further information contact Tom Paul Phone: 378-8455
(Rule Coordinator)

OREGON ADMINISTRATIVE RULES
for
CONSTRUCTION and MAINTENANCE of WELLS

prescribed by the
WATER RESOURCES DEPARTMENT
adopted by the
WATER RESOURCES COMMISSION
on June 24, 1988

(effective June 29, 1988)

OREGON ADMINISTRATIVE RULES
 FOR
 WELL CONSTRUCTION AND MAINTENANCE
 Water Resources Department
 Chapter 690
 Administrative Rule
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SCHEDULE OF CIVIL PENALTIES

690-225-110 (1) The amount of civil penalty shall be determined consistent with the following schedule:

- (a) Not less than twenty five dollars (\$25) nor more than two hundred fifty (\$250) for each occurrence defined in the rules as a minor violation.
- (b) Not less than fifty dollars (\$50) nor more than one thousand dollars (\$1000) for each occurrence defined in the rules as a major violation.
- (c) First occurrence, in a calendar year, of a missing or late start card fee shall be one hundred fifty dollars (\$150).
- (d) Second occurrence, in a calendar year, of a missing or late start card fee shall be two hundred fifty dollars (\$250).
- (e) Third occurrence, in a calendar year, of a missing or late start card fee shall be two hundred fifty dollars (\$250) and may include suspension of well constructors license, and any other action authorized by law.

(2) For the purposes of assessing a civil penalty, the start card fee referred to in (c), (d) and (e) of section 1 above shall not be considered late if it is received in the Salem office of the Water Resources Department within five (5) days of the receipt of the start card.

(3) Table 1 located at the end of this division, lists minor violations of well construction standards. All other violations are declared to be major.

TABLE I
(690-225-110(3))

OREGON STATUTE REFERENCE	VALUE ASSIGNMENT	TITLE
ORS 537.762	MINOR	REPORT OF COMMENCEMENT OF CONSTRUCTION
ORS 537.765	MINOR	WELL REPORT
ADMINISTRATIVE RULE REFERENCE	VALUE ASSIGNMENT	TITLE
RULE 690-205-060	MINOR	DRILLING MACHINE IDENTIFICATION
RULE 690-210-290	MINOR	LINER PIPE
RULE 690-210-270	MINOR	PITLESS WELL ADAPTERS AND UNITS
RULE 690-210-370	MINOR	WELL TEST
RULE 690-210-280	MINOR	ACCESS PORT OR AIRLINE
RULE 690-205-080	MINOR	WELL REPORT
RULE 690-230-050	MINOR	DESCRIPTION OF PROPOSED USE
RULE 690-230-060	MINOR	IDENTIFICATION OF INTENDED USE
RULE 690-230-080	MINOR	PUMP TESTING OF LOW TEMPERATURE
		GEOTHERMAL REINJECTION WELLS
RULE 690-230-090	MINOR	WATER TEMPERATURE MEASUREMENT

OREGON ADMINISTRATIVE RULES
CHAPTER 690, DIVISION 225 - WATER RESOURCES DEPARTMENT

DIVISION 225

ENFORCEMENT

(See Figure 18, 1986)

Investigation of Alleged Violations

690-225-020 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:

- (1) Any well constructor involved; or
- (2) The landowner, if the violation involves construction, alteration, operation, or abandonment of a well.

Stat. Auth.: ORS Ch. 183, 536, 537 & 540
Hist.: WRD 13-1986, f. 10-7-86, ef. 11-1-86

Enforcement Actions

690-225-030 (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 690-225-110;
- (c) Suspend, revoke, or refuse to renew the licenses when one or more persons responsible for the violation hold a well constructor's license;
- (d) Require that a person whose license has been refused renewal pass the constructor test before a new license is issued;
- (e) Impose any reasonable conditions on the 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;
 - (B) Requiring additional advance notice to be given to the watermaster of construction, alteration or abandonment of any well;
 - (C) Requiring a seal placement notice be given to the watermaster 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 well constructor's bond or on the landowner's bond. This may occur only if the Director has given the notice required in OAR 690-225-020 to the persons responsible for the violation within three years after the date the water well report is filed with the Department. If no water well report has been filed, the three year limitation shall not apply until such time as a water 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 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 Ch. 183, 536, 537 & 540
Hist.: WRD 13-1986, f. 10-7-86, ef. 11-1-86

Multiple Violations and Consolidation of Proceedings

690-225-040 In cases of multiple or continuing violations, each occurrence of substantially the same activity and each day's 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

Factors Affecting Selection of Type and Degree of Enforcement

690-225-050 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, after the initial field investigation, 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; or
- (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

Change in Enforcement Status

690-225-060 (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 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

OREGON ADMINISTRATIVE RULES
CHAPTER 690, DIVISION 225 - WATER RESOURCES DEPARTMENT

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

Civil Penalties

Assessment of Civil Penalties

690-225-100 Under OAR 690-225-030(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

Schedule of Civil Penalties

690-225-110 (1) The amount of civil penalty shall be determined consistent with the following schedule:

(a) Not less than twenty five dollars (\$25) nor more than two hundred fifty (\$250) for each occurrence defined in the rules as a minor violation.

(b) Not less than fifty dollars (\$50) nor more than one thousand dollars (\$1,000) for each occurrence defined in the rules as a major violation.

(2) Table 1, located at the end of this Division, lists minor violations of well construction standards. All other violations are declared to be major.

Stat. Auth.: ORS Ch. 183, 536, 537 & 540
Hist.: WRD 13-1986, f. 10-7-86, ef. 11-1-86

OREGON ADMINISTRATIVE RULES
CHAPTER 690, DIVISION 225 - WATER RESOURCES DEPARTMENT

TABLE 1
(690-225-110(2))

Oregon Statute Reference	Value Assignment	Title
ORS 537.762	Minor	REPORT OF COMMENCEMENT OF CONSTRUCTION
ORS 537.765	Minor	WELL REPORT
Administrative Rule Reference	Value Assignment	Title
Rule 690-205-060	Minor	DRILLING MACHINE IDENTIFICATION
Rule 690-210-290	Minor	LINER PIPE
Rule 690-210-270	Minor	PITLESS WELL ADAPTERS and UNITS
Rule 690-210-370	Minor	WELL TEST
Rule 690-210-280	Minor	ACCESS PORT OR AIRLINE
Rule 690-205-080	Minor	WELL REPORT
Rule 690-230-050	Minor	DESCRIPTION OF PROPOSED USE
Rule 690-230-060	Minor	IDENTIFICATION OF INTENDED USE
Rule-690-230-080	Minor	PUMP TESTING OF LOW TEMPERATURE GEOTHERMAL REINJECTION WELLS
Rule 690-230-090	Minor	WATER TEMPERATURE MEASUREMENT