



Well Construction Rules Advisory Committee
Meeting #1 (1:00 – 4:00 pm December 13, 2022)
Meeting Summary

This is a summary of the Well Construction Rules Advisory Committee (RAC) Meeting held in person (Salem office, Oregon Water Resources Department) and virtually (Zoom platform), on December 13, 2022, from approximately 1:00 to 3:00 pm. For more information, see the Meeting Agenda, Meeting Presentation, Draft Rules, and other Meeting Materials, available online at <https://www.oregon.gov/owrd/programs/policylawandrules/OARS/Pages/Well-Construction.aspx>.

Meeting Attendees

RAC members in attendance were Jack Abbas, Mark Griffith, Cheyenne Holliday, Michael Klobes, Greg Kupillas, Karen Lewotsky, Kevin Gill, C.J. Nugent, Kimberley Priestly, Branden Pursinger, Eric Schneider, Floyd Sippel, Josh Thompson (as proxy for Shilah Olson), Matthew Walter, Kelly Warren, and Garry Zollman.

Oregon Water Resources Department (OWRD) staff in attendance were Kris Byrd, Danielle Gonzalez, Laura Hartt, Travis Kelly, Tommy Laird, Annette Liebe, Buffy Madrigal-Adams, and Kelly Meinz.

Janet Abbas was also in attendance.

Welcome and Introductions

Oregon Water Resource Department staff introduced themselves as did the RAC members and public attendees.

Agenda Review and Committee Guidelines

OWRD staff briefly reviewed the agenda and described the RAC process and rulemaking timeline. The RAC work must be completed in May for the Water Resources Commission (WRC) to approve the draft rule for adoption in mid-June 2023.

Overview of HB 3030/SB 688

OWRD staff described temporary licensing history for spouses of active-duty military personnel stationed in Oregon and divisions where rules will be changed to implement the legislation. Implementation of HB 3030/SB 688 was a statewide requirement, so all licensing agencies need to draft rules to implement the legislation.

Overview of HB 2145

OWRD staff provided information on HB-2145 history and effective dates for the different Sections within the legislation.

Chapter 690 “Housekeeping”

OWRD staff explained that language in Division 215 was inadvertently deleted, so this rulemaking also would restore that language.

Overview of HB 4061

Although HB 4061 primarily focuses on cannabis enforcement, OWRD staff noted that the bill contains a penalties section that applies to water resources administration, including well construction. HB 4061 extends the period for OWRD to issue a Notice of Violation after becoming aware of a violation, from 5 calendar days to 10 business days. The civil penalty rules will be aligned with the 2022 legislation.

OWRD staff then reviewed draft rule changes for Divisions 210, 215, and 225 as follows:

Draft Rules Review – Division 210

690-210-150 (b)(A) Sealing of wells into consolidated formations. Description of special standards for split seal and step down inner casing where there is no clay interval present in upper seal. Propose to remove the clay requirement to eliminate the need for Special Standards.

A RAC member asked a question regarding the phrase “shall be used” and whether it meant the well driller “must” use a temporary surface casing in all circumstances. OWRD staff responded affirmatively, noting that the way the draft rule is written, temporary surface casing is required.

A RAC member proposed that OWRD only require a temporary casing if formations cave in or tend to cave in. OWRD staff recommended using clarifying language like what is found in 690-210-0140.

A RAC member asked if there was a figure depicting the issue. OWRD staff responded that Figure 210-5 is the figure. Staff then explained that OWRD was drafting the rule language to better align with the figure.

A RAC member asked if OWRD has a definition for “significant clay interval.” OWRD staff responded in the negative, indicating that this rulemaking did not concern clarifying the definition of significant clay beds, so the well drillers best course of action is to contact OWRD when in doubt.

Draft Rules Review – Division 215

OWRD staff stated that rule 690-215-0200 was needed to restore language that was accidentally deleted during a prior rulemaking. RAC Members had no comments or questions.

Draft Rules Review – Division 225

OWRD staff noted that the title for the Division would change the reference from Figure 225-1 to Table 225-1.

OWRD staff then explained that draft rule changes for 690-225-0110 increase beginning penalty amounts from \$25 to \$50 for minor violations and \$50 to \$100 for major ones, noting that the penalty amount has not changed since 1986.

A RAC member asked how many times OWRD issues violations. OWRD staff responded that the number of enforcements depends on the year. Some years there are zero enforcements, and some years there are several.

OWRD staff reviewed draft rule changes that would add penalties for missing or late exempt use recording fees that aligned with penalty amounts for late start card submissions.

A RAC member asked how OWRD will accommodate technological glitches on OWRD's end which may inhibit the driller from timely submission of exempt use payments. OWRD staff responded that the fee won't be considered late if it is submitted within 5 days of submitting the well report if the report was submitted on time.

A RAC member asked if invoicing allows accommodation for exempt use payment requirements. The member further asked if when an invoice is generated that meant the driller was in compliance until the invoice is sent to collections. OWRD staff responded that they would consider the issue and come back to discuss at the next meeting.

OWRD staff reviewed updates to Table 225-1, which included

- Expanding minor violations concerning commencement of construction to include commencement of work notification and seal placement date notification
- Adding minor violations concerning exempt groundwater use map and recording fee

OWRD staff noted that Table 225-2 was getting replaced with a duplicate, clean copy that will be easier to read.

Draft Rules Review – Division 260

OWRD staff reviewed the draft rule changes for 690-260-0030 and -0060, noting that the timeline for issuing a notice of a violation once the OWRD Director becomes aware of the violation would be extended from 5 calendar days to 10 business days, to implement HB 4061.

OWRD staff explained that draft rule changes for 690-260-0040 adds a statutory reference (ORS 537.545 (5)). The statutory reference was added in compliance with changes from HB 2145, which includes the ability to assess penalties against drillers as well as property owners who drill their own wells. Division 260 are the enforcement rules for other than well constructors, so the reference to ORS 537.545 (5) needs to be added to Division 260 as well as Division 225, so that

the Department can enforce on property owners who do not voluntarily comply with the exempt use fee or map requirements.

RAC members had no comments or questions.

Public Comment

OWRD asked if there were any additional comments from RAC members or the general public. A RAC member asked if OWRD will be reviewing changes to the well log template in the RAC meetings. OWRD responded no but asked RAC members to send any ideas concerning items relating to HB 2145 falling outside the scope of this Rulemaking to OWRD for review.

A RAC member asked if the next meeting would address notice requirements for start cards. OWRD staff replied yes, during discussion of proposed changes to Division 205.

A RAC member asked if dedicated measuring tubes are only required in the areas listed in Division 215. OWRD staff responded affirmatively, clarifying that tube installation is required during time of pump installation. A RAC member asked if OWRD has ever had to enforce the rule. OWRD staff replied that no, drillers comply.

Wrap- Up and Next Steps

OWRD staff reminded the RAC members that the next meeting was scheduled for January 11, 2023, held both in person (Salem) and virtually (Zoom). OWRD staff noted that the next meeting would focus on the next set of draft rules (Divisions 190, 200, 205, and 240), and that meeting materials would be emailed out one week prior to the next meeting. RAC members were asked to provide any feedback they had on the draft rules and the meeting in general by December 30, 2022, for consideration prior to the next RAC meeting.