



**Well Construction Rules Advisory Committee
Meeting #2 (1:00 – 4:00 pm January 11, 2023)
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 January 11, 2023, from approximately 1:00 to 4:00 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, Kevin Gill, Mark Griffith, Cheyenne Holliday, Michael Klobes, Greg Kupillas, Karen Lewotsky, C.J. Nugent, Shilah Olson, Eric Schneider, Floyd Sippel, Matthew Walter, Kelly Warren, and Garry Zollman.

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

Dane Maben also was in attendance.

Welcome, Introductions, and Agenda - Review

Oregon Water Resource Department staff introduced themselves as did the RAC members and public attendees. OWRD staff also briefly reviewed the agenda.

RAC Guidelines, Rulemaking Process/Timeline, Legislative Background/Need - Review

OWRD staff reviewed the RAC meeting guidelines, rulemaking 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.

OWRD staff also reviewed the legislative basis for the rulemaking, including House Bill (HB) 3030 (2019), Senate Bill (SB) 688 (2019), HB 2145 (2021), and HB 4061 (2022).

A RAC member asked how rule 690-215-0200 was deleted. OWRD staff explained that the deletion occurred when the rule was uploaded to the Secretary of State website.

A RAC member noted the benefit of having consistent timeframes for issuing notices of violations (NOV) among agencies. Oregon Department of Agriculture's NOV timeline under the pesticide licensing program is also 10 business days. The rule change proposed in these rules to align with HB 4061 is 10 business days from discovery of the violation.

RAC Meeting #1 Meeting Summary and Follow Up

OWRD staff asked the RAC members if they had any questions or comments regarding the draft summary for RAC Meeting #1. No RAC members had any questions or comments.

OWRD staff then reviewed additional proposed changes made to Division 210 in response to RAC member feedback during RAC Meeting #1. No RAC members had any further recommended changes.

OWRD staff reviewed draft rule changes for Divisions 190, 200, and 205 as follows:

Draft Rules Review – Division 190

With respect to 690-190-0005, a RAC member asked for clarification regarding who was responsible for the recording fees, either the landowner or the well driller. OWRD staff responded that either the well driller, or the landowner with a landowner permit, are responsible.

With respect to 690-190-0100(1), a RAC member asked if there were any precision requirements for reporting locations by global positioning system (gps) coordinates. Another RAC member noted that gps coordinates for locations may be limited by cell coverage. Several RAC members commented that the term “exact” was not well-defined, recommending its removal or replacement with language referring to “best information available at the time of construction.” OWRD staff suggested that, if necessary, this information could be updated at the time of a well inspection.

A RAC member asked if OWRD reviews Start Cards for location accuracy. OWRD responded affirmatively, noting that the Department’s online e-file has validations to help ensure accuracy.

Draft Rules Review – Division 200, including Figures 200-1 and 200-7

With respect to 690-200-0021(2)(1), a RAC member asked what happens if an original well report is unavailable or incorrect. OWRD staff responded that they would clarify the language, omitting the requirement when an original well report does not exist.

With respect to Figure 200-1, a RAC member asked what “classified” in the map key meant. OWRD staff responded that “classified” means permitted uses. Another RAC member asked why the Walla Walla basin was not identified on the map as a control area. OWRD responded that the designation was not official yet.

Draft Rules Review – Division 205

With respect to 690-205-0010, a RAC member commented that the phrase “basic information on ground water geology” was not scientifically sensible, and recommended replacing “geology” with either “hydrology” or “hydrogeology.” He also recommended updating “ground water” to “groundwater” in this rule and throughout the rules. Several other RAC members also questioned why “ground water” was the convention rather than “groundwater.”

With respect to 690-205-0020(1)(c)(A), a RAC member asked why as many as 15 drilled wells are required as evidence of experience, noting it can take several months to drill that many wells. Another RAC member responded that the number of wells drilled is dependent on the type of machine that is used.

Several RAC members recommended retaining the language “or a demonstration of equivalent experience in the operation of well drilling machinery.” OWRD staff responded that they would review the proposed changes.

With respect to 690-205-0020(1)(e), several RAC members discussed the evidentiary requirements needed to demonstrate welding proficiency. Recommendations included:

- Allowing for group certification by a certified welding instructor;
- Allowing for third-party certification;
- Removing the requirement (A) concerning successful completion of an American Welding Society (AWS) weld test from an accredited test facility (ATF), noting the expense and lack of sites available for ATF testing, and noting that the requirement (C) concerning a certified copy of a professional welding certification satisfies AWS criteria
- Incorporating proficiency requirements by referencing AWS code D1.1; noting that the Oregon Structure Specialty Code references AWS D1.1; and
- Clarifying that completion of an arc welding training course from a community college must include a passing grade.

Some RAC members noted that the Oregon Structure Specialty Code references AWS D1.1.

Other RAC members responded that welding in this context is not the same as a structural weld because these welds are not holding loads; therefore, not they are not same as welds for buildings. Other RAC members raised concerns about field conditions not being the same as those in a lab. Some RAC members wanted to ensure that this proficiency requirement would not create an unnecessary barrier to drillers trying to enter the industry.

A RAC member suggested that other proficiency requirements outside of AWS requirements might be appropriate, including the need for a watertight multi pass. A RAC member responded that proficiency could be demonstrated by doing a multiple pass, full penetration weld on an 8” casing/pipe with a 0.25” sidewall/thickness and then cutting out two “coupons” (small pieces of metal) to test.

There was broad agreement that the draft language referencing community college training and a professional welding certification was consistent with the statute. The group focused their discussion on defining the language in the statute related to “passing a welding proficiency test or otherwise completed professional welding training.” Who can offer the proficiency test or the professional welding training? There was also broad agreement that these opportunities must be provided by a third party. OWRD staff asked the RAC members to provide draft language to address their concerns. Representatives from the Oregon Groundwater Association offered to provide suggested language.

A RAC member asked what welding certification is required by a landowner for a landowner permit. OWRD responded that because the landowner is not getting a license, certification does not apply.

A RAC member asked if there are any issues when properties are sold with landowner wells on them. OWRD staff replied not to their knowledge.

One RAC member wanted clarification as to the liability of a driller of a well for use versus construction.

With respect to 690-205-0200, a RAC member noted that information pertaining to transfers is not included in the information required on Start Cards and suggested adding that information. OWRD staff responded that they would take another look at the language.

With respect to 690-205-0205(1), several RAC members noted confusion regarding the following language (see red highlight) and asked for clarification:

(a) Start cards submitted electronically shall be transmitted by a Department-approved method and shall be submitted **not earlier than 60 days and not later than 72 hours** before beginning construction, alteration, conversion or abandonment work on any water supply well.

OWRD staff replied that the language was taken straight from House Bill 2145, but they would take another look to see if the timeframe could be clarified.

A RAC member wanted clarification concerning when less than 72-hours' notice would be acceptable, noting the potential for exigent circumstances. OWRD staff responded that there is draft language in the rules to address water emergencies and exigent circumstances.

Another RAC member asked for clarification regarding sealing notification when a seal is placed after the proposed date, i.e., is there a requirement to notify that the seal will not be placed by the proposed date. OWRD staff replied that if the seal will not be placed as noted on the start card, then a notification to OWRD is required four hours in advance of seal placement.

OWRD then asked if there were any additional comments from RAC members or the public. No one had comments.

Wrap- Up and Next Steps

OWRD staff reminded the RAC members that the next meeting was scheduled for February 15, 2023, held both in person (Salem) and virtually (Zoom). OWRD staff noted that the next meeting would focus on review of proposed draft rule changes made to date as well as the draft Statement of Need and Fiscal Impact.

RAC members were asked to provide any feedback they had on the draft rules and the meeting in general by January 27, 2023, for consideration prior to the next RAC meeting.