

Modernizing Oregon's Well Construction Program: New Laws

As Oregon faces increased droughts and water supply challenges, there has been a greater interest from the public in sustaining Oregon's groundwater supplies for current and future uses. As you know, one way to protect existing and future groundwater users – your customers – is by ensuring that wells are properly constructed, altered, repaired, maintained, and abandoned. The well drilling community is a critical partner in helping us to reach our goal to protect groundwater resources; only through collaboration and joint efforts of the well drilling community, well owners, the public, and the Department, can we protect groundwater resources for current and future generations.

The Department's well construction program has struggled over the years to protect groundwater resources and to serve well owners and the well drilling community, due in part to limited resources, inadequate funding, and inefficient practices due to our statutory authorities. In 2016, an audit by the Secretary of State found that the agency was understaffed, overworked, and without a plan and made a number of recommendations related to groundwater and the Department's well construction program. The 2017 Integrated Water Resources Strategy identified a need to focus on the well construction program. In 2019, the Department developed its 2019-2024 Strategic Plan, which called for modernization of the well construction program, including increasing inspections and well log reviews as a key objective to "increase protection of public safety and health."

The Department began meeting with a group of members of the Oregon Ground Water Association (OGWA) in 2018 about potential options to address some of the challenges associated with the well construction program. Initially, we struggled to find consensus on matters and the efforts between 2018 and 2019 ultimately failed. However, in 2020, efforts were renewed and the group recognized that we had some common goals: (1) to protect groundwater resources and well owners, and (2) to enable the Department to create a fair playing field for the regulated community ensuring that responsible drillers following the law and protecting the resource were not at a disadvantage.

This led to countless hours of work with the Department and volunteers of the OGWA listening to each other's concerns about each side's proposals and thinking outside of the box to try to identify solutions. The volunteers from OGWA included several well drillers as well as members from the water treatment and consulting community. Other stakeholders representing water users and conservation groups were also interested in the legislation and were involved in the negotiations, reflecting an increasing interest in the management of groundwater resources.

Based on the negotiations, the Department introduced legislation. Throughout the session, the Department worked with the OGWA legislative committee and other stakeholders to improve the bill to reduce impacts on the well drilling community, share concerns about proposals, and work to find opportunities to improve the likelihood that well construction deficiencies are identified *early* to minimize the longer-term burden of responsibility on well drillers. The negotiations resulted in numerous changes to the legislation. After countless hours of work and many efforts to modify the legislation to address concerns, House Bill 2145 (Chapter 610, Oregon Laws 2021) was passed by the legislature.

Passage of House Bill 2145 is the first step in the Department's efforts to modernize and increase efficiency within the well construction program to prevent well deficiencies that can lead to contamination or waste of groundwater, to better protect groundwater resources for

Oregonians, and to give the well construction industry timely assurance that their work is being performed in a manner that is consistent with State requirements.

The Department looks forward to implementing the bill in order to improve the program to better serve well owners and the well drilling community. We recognize that for some well drillers, the changes will be significant. We will do our best to help you adapt to the modernization of the program and to understand the changes both before, and after they occur. We ask for your collaboration, and hope that along the way you will work with us to help us to identify and understand if something needs to be changed so that it works better for everyone. Please know that while we work to modernize our systems in service to the public to sustain groundwater resources for current and future generations, our goal is to not make this process overly burdensome; rather we will work to streamline new processes as much as possible to reduce the impacts on your operations, . We hope that you will be our partners in this effort and we are committed to working with you and hearing your concerns and suggestions along the way!

If you are interested in helping us implement the bill, by serving on any rules advisory committees or workgroups that may be formed, please contact Travis Kelly at (503) 302-8618 or Travis.N.Kelly@oregon.gov.

A Guide to Oregon’ New Well Construction Laws (Chapter 610, Oregon Laws 2021)

There are more than 250,000 wells in Oregon, with more than 3,000 new water wells drilled each year on average. In 2020, 9 percent of the newly constructed wells that were inspected had a deficiency, and the Department only had resources to conduct technical well log reviews on 15 percent of the well logs. For new wells, the Department typically only has resources to inspect around 30 percent, which means that deficiencies on uninspected wells are left unaddressed. This is concerning considering that roughly 1 out of every 10 new wells appears to have some type of deficiency.

In brief House Bill 2145:

- Seeks to reduce deficiencies proactively by ensuring well drillers have the necessary skills to properly construct wells.
- Maximizes the effectiveness of current staff at the Department to better serve well owners and well drillers, increasing efficiency while minimizing the impacts on the regulated community.
- Helps the Department better protect the groundwater resources for current and future uses, while ensuring a level playing field among the well drilling community.
- Expands the Department’s resources to identify well deficiencies through technical well log reviews.
- Helps well owners whose wells used for household purposes have been impacted by groundwater level declines, natural disasters such as wildfires, or who are lower or moderate income and need assistance in repairing or replacing their wells.
- Helps facilitate abandonment of wells, which can pose a safety hazard to people and risk to groundwater resources.

Below is a more detailed look at what the new law does.

Requirements of New Law	Background
<i>Continuing Education:</i>	<i>Well Driller Skills to Prevent Deficiencies:</i>

<p>Extends the continuing education program sunset date from 2022 to 2030. Modifies representation on the Continuing Education Committee to include members with public health or water quality expertise, and worker safety expertise. (Effective January 1, 2022).</p>	<p>Ensuring well drillers have the skills to properly complete the work benefits both well drillers and well owners, by proactively reducing the likelihood that a well construction deficiency will occur. Prior to passage of the bill, the Continuing Education Program was set to sunset in 2022 and its small size limited representation and resulted in difficulties meeting quorum requirements.</p>
<p><i>Welding:</i></p> <p>Requires completion of an arc welding training, professional certification, or proficiency test to obtain a new license. Allows the Department to require an existing driller to complete an arc welding training, professional certification, or proficiency test, if a welding deficiency is found. (Operative July 1, 2023).</p>	<p><i>Well Driller Skills to Prevent Deficiencies</i></p> <p>Welding deficiencies identified during inspections. Improper welding and seal placement can contribute to contamination or commingling, and potentially the need for costly repairs. Welding training or certification can help new and existing well drillers learn or improve welding abilities, reducing the number of welding deficiencies and the potential for enforcement action.</p>
<p><i>Technical Well Log Reviews and Supporting Well Construction Program:</i></p> <p>Requires the Department to conduct a technical review of well logs to assess for deficiencies and compliance with construction standards within 120 days. (Effective July 1, 2022).</p> <p>Requires well drillers to submit the exempt use fee and map along with the well log, to maximize existing staff for reviews. Increases start card fee by \$125 to \$350. (Effective January 1, 2022).</p> <p>Budget law (complimentary to HB 2145) also adds three General Fund positions to assist technical well log reviews and follow up on deficiencies.</p>	<p><i>Timely Identification and Correction of Deficiencies:</i></p> <p>One way to spot potential construction deficiencies is during the technical review of the well log and to further investigate inconsistencies. The Department had not had the staffing capacity to conduct a full review of well logs and provide adequate follow up on potential deficiencies.</p> <p>Currently, one person is dedicated to collecting the exempt use fee and map from landowners, who often have difficulties completing the map and express confusion about a fee after they have paid for the construction of the well. There has not been a start card fee increase since 2009, while costs have continued to rise leading to insufficient funds to pay for existing staff and services.</p> <p>The well construction program has in the past been primarily supported by fees, with very little investment from the General Fund.</p>
<p><i>Changes to Start Cards and Well Logs</i></p> <p>Requires start cards to be submitted between 60 days to no later than 72 hours before work</p>	<p><i>Timely Correction of Deficiencies: Efficient Inspections</i></p>

<p>begins on wells and provides that the start card expires if work does not begin within 60 days of submission. Provides exceptions to the timeframes including for wells drilled on the same tax-lot, water emergencies, and casing height adjustments. Allows waiver of timeframes in exigent situations. Requires notification on day work begins and notification at least 4 hours prior to seal placement, if seal placement date different than on the start card.</p> <p>Requires on start card, the GPS location of the well, owner information, proposed construction start and end dates, and to provide estimate of day on which seal placement will occur.</p> <p>Requires the bonded driller as well as those that did the work to be identified on well log (driller and any helpers).</p> <p>Allows Department to apply to a court for an injunction if a person has engaged or is engaging in an activity that violates well construction laws.</p> <p>Clarifies that a start card and well log is required for individuals constructing their own well on their own land.</p> <p>(All above: Operative July 1, 2023)</p> <p>Requires electronic submission of start cards and well logs by July 2024, unless waived. (Operative July 1, 2024).</p>	<p>The well drilling community relies on the Department to ensure a fair, level playing field. In order to do so, the Department must have the opportunity to observe and inspect work performed on wells. The Department needed to improve its ability to conduct inspections efficiently to maximize these limited resources. Currently, the Department does not know when actual work begins or when seal placement will occur, which makes it difficult to plan well inspections and to conduct them efficiently.</p> <p>Well locations are not always accurate or specific, requiring some time to find wells. Further, the Department often has difficulty contacting the well owner to seek permission to inspect after work has been completed. Cumulatively, these factors hinder well inspections.</p> <p>Without well driller information on well logs it is difficult to identify patterns in deficiencies and difficult to track when helpers have met licensing eligibility requirements.</p> <p>Enforcements involve legal processes that take time and during that time, wells can continue to be drilled.</p> <p>The Department has required individuals drilling their own wells to submit start cards and well logs and associated fees, in addition to the landowner permit; however, the well drilling industry wanted to make this clearer.</p> <p>Mailed start cards may not be received timely and are sometimes not received until after the well log is received. Paper start cards and logs also require manual data entry by department data technicians.</p>
<p><i>Well Repair, Replacement, and Abandonment Fund</i></p> <p>Establishes a program to provide funding assistance to repair, replace, or abandon deficient wells; repair or replace wells used for household purposes by persons of lower or moderate income, or in areas of declining groundwater levels; to abandon, repair, or</p>	<p><i>Provide Assistance to Well Owners</i></p> <p>Owners of deficient, damaged, or aging wells, or a well impacted by declining groundwater levels, may not be able to afford to pay the costs to abandon, repair, or replace a well, which may serve as their source of water for household and drinking purposes. Wildfires</p>

<p>replace wells as specified in rule to address water management purposes; or to abandon, repair, or replace wells damaged by natural disasters such as floods, wildfires, or earthquakes. (Effective January 1, 2022)</p> <p>Budget Laws: \$100,000 in General Fund was deposited into the fund along with \$2 million in American Rescue Plan Act funds.</p>	<p>and droughts have further exacerbated challenges.</p>
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