

Background

The purpose of Oregon's well construction program is to protect public health and safety by preventing wells from serving as a conduit for groundwater contamination and to protect groundwater resources for existing and future uses by preventing the draining of aquifers and groundwater declines from improperly constructed wells. Activities of the well construction program include licensing well drillers, administering a continuing education program, enforcing well construction standards and issuing special standards, accepting "start cards" from drillers for beginning work and receiving "well logs" once work is complete, inspecting wells and work on wells for deficiencies, and other activities.

The 2016 Secretary of State Audit identified a need for the Department to "enhance its well regulation efforts, including driller licensing and education, and inspections of new, abandoned, and known wells," stating that "Limited well inspections and drilling requirements jeopardize groundwater quality." Oregon's 2017 Integrated Water Resources Strategy and the Department's 2019 Strategic Plan also calls for protections of groundwater through the well construction program and identifies the need for updates.

Objectives of Modernization

There are more than 250,000 wells in Oregon, with approximately 3,000 new water wells drilled each year on average. For new wells, the Department typically only has resources to inspect around 30 percent, which means that deficiencies on uninspected wells are left unaddressed. In 2019, 10 percent of the newly constructed wells that were inspected had a deficiency. 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.

Since OWRD is unable to inspect all new wells across the state, it is critical that the Department: (1) Prevent Deficiencies: ensure that licensed well drillers have the necessary knowledge of best practices to prevent well construction deficiencies; (2) Address Deficiencies: maximize limited resources by improving the Department's ability to plan and efficiently conduct inspections; (3) Timely Corrective Action: facilitate timely voluntary correction of issues, and when warranted, more timely enforcement; (4) Driller Responsibility: address driller concerns about time responsible for deficiencies, while considering the Department's limited resources and the burden on landowners; and (5) Provide Assistance: establish a program to help well owners address well issues.

What the bill does

The current bill, which is likely to change with further stakeholder feedback and engagement, proposes the following updates to modernize and increase efficiency within the well construction program to better protect groundwater resources for Oregonians.

Well constructor skills (*Operative July 1, 2023*): Requires evidence of welding skill to obtain new license. Allows Department to require an existing driller to provide proof of welding ability or undertake training if a deficiency is found. Requires existing licensee to place seals on at least two wells in the presence of the Department for license renewal. Requirement may be waived by the Department. Allows the Department to establish alternate schedule based on resources or licensee's ability.

Continuing education (*Effective January 1, 2022*): Modifies representation on the Continuing Education Committee to include one person with expertise in groundwater quality, public health or employee safety.

Provides that the fee for one continuing education credit for Department sponsored courses may “not exceed” \$40 and extends the continuing education program sunset date from 2022 to 2030.

Documentation and Notice to Allow Timely Inspections and Tracking of Work (Operative July 1, 2023 unless noted): Requires start cards to be submitted between 60 days to no later than 72 hours before work begins on wells. Provides that start card expires if work does not begin within 60 days of submission. Requires drillers to provide the GPS location of the well, owner information, and proposed construction start and end dates on start cards. Requires drillers to provide notification to the Department the day that work begins and to provide estimate of day on which seal placement will occur. Requires notification to Department if seal placement date is different. Requires electronic submission of start cards and well logs by July 2024, unless waived.

Injunction for Timely Enforcement (Operative July 1, 2023): 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.

Driller Responsibility (Operative July 1, 2024): Reduces the length of time the Department may hold a driller responsible for well deficiencies from the life of the driller’s license to a time following submittal of the well report based upon the level of review a well receives: 3 years if Department observes seal placement, reviews well log, and determines standards are met and 10 years if well log is reviewed and the Department determines standards are met. If no review occurs, driller liability shall not extend beyond 15 years. Limitation on driller responsibility does not apply in instances of fraud or negligence, misrepresentation, or misstatements of fact. Applies to wells with logs submitted and fees paid on or after July 1, 2024.

Well Repair, Replacement, and Abandonment Fund (Effective January 1, 2022): 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; or to abandon, repair, or replace wells as specified in rule to address water management purposes.

No staff resources are requested at this time. Operative dates for most provisions in the bill are either July 1, 2023 or July 1, 2024 to allow time for the Department to update databases, forms, rules, and procedures, and to communicate with the well driller community. As such, the Department believes that the regulatory portions of the bill can be implemented within existing resources, assuming that the program performs similar to how it has in the past. No funding for the Well Repair, Replacement, and Abandonment Fund is included in the Governor’s Budget.

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