

## MEMORANDUM

TO: Water Resources Commission

FROM: Paul R. Cleary, Director

SUBJECT: Agenda Item E, February 14, 2003  
Water Resources Commission Meeting

### **Request for Adoption of Administrative Rules for Continuing Education for Well Constructors, OAR Chapter 690, Divisions 200, 205, and 240**

#### **I. Issue Statement**

The Commission is asked to adopt amendments to OAR Chapter 690, Divisions 200, 205, and 240. The final proposed rules are located in Attachment 1. The proposed rule amendments would implement statutory changes adopted in the 2001 Legislative Session establishing a continuing education requirement for licensed well constructors.

#### **II. Background**

As part of the Ground Water Act of 1955, the Department is authorized to regulate and license well constructors (ORS 537.747). As originally enacted, after a license was issued a well constructor could renew a license by simply paying a statutorily determined fee.

In 2001 the Oregon Legislative Assembly passed Senate Bill 579 (Chapter 496, Oregon Laws 2001) establishing a well constructor continuing education program. The bill is codified in ORS 537.765. The goal of the continuing education program is to maintain a high level of competence in well constructors, which in turn helps to ensure wells are constructed in a manner that protects the ground water resource. With the passage of Senate Bill 579, well constructors must meet continuing education requirements to renew their license on or after June 30, 2005.

Senate Bill 579 provides specific guidance for developing the well constructor continuing education program. The bill establishes a Well Constructor Continuing Education Committee to make recommendations to the Water Resources Commission for developing the continuing education program. It also directs the Commission to adopt rules necessary for the administration of the continuing education program. The law sunsets in January 2008.

As set in statute, the Well Constructor Continuing Education Committee consists of three licensed well constructors and one representative from a regulatory agency. Members of the Well Constructor Continuing Education Committee are provided in Attachment 2. The Committee began meeting in November 2001 and has played a lead role in developing the final proposed rules.

### **III. Discussion**

The final proposed rules implement the continuing education program established in Senate Bill 579. Specifically, the proposed rules clarify continuing education requirements, documentation, course approval and assignment of continuing education credits, and course sponsor requirements.

Major provisions of the final proposed rules are:

- Well constructors are required to obtain 14 continuing education credits (CEC) each two-year licensing cycle (as directed by ORS 537.765).
- A CEC is defined as a minimum of 50 minutes of instruction approved by the Well Constructor Continuing Education Committee.
- Well constructors are responsible for maintaining their continuing education records.
- Any source or organization may submit an application to the Well Constructor Continuing Education Committee for approval of a continuing education course.
- Consistent with statutory requirements, continuing education requirements can be waived or exempted upon a request demonstrating inability to attend courses due to health, military duty or other circumstances beyond a well constructor's control.

A public rulemaking hearing was held in Bend on December 2, 2002. Two additional public rulemaking hearings were held in Salem -- one the evening of December 3, 2002; and one the morning of December 4, 2002. One person attended the hearing in Bend and expressed a concern that 14 CECs would be a burden to well constructors in the eastern part of the state, especially in the initial phase of the program. Staff explained that 14 CECs are required over a two-year cycle, not each year, and that for the initial license renewal period well constructors can count education credits back to January 1, 2002. No members of the public attended either of the Salem hearings.

Two written comments were received during the public comment period from November 1, 2002, through December 20, 2002, and are provided in Attachment 3.

A summary of written comments and the Department's response to comments are provided below. Written comments are shown in italics.

- *Requiring continuing education is not necessary.*

SB 579 requires continuing education for well constructors. The final proposed rules implement this statutory requirement.

- *The state should provide continuing education classes at a reasonable charge and classes should be made available around the state and during the drilling "off-season"-- December, January and February.*

The Department and other sponsors will provide continuing education classes. The Department and the Well Constructor Continuing Education Committee do not have control over charges, location, or scheduling of courses by other sponsors. However, the Department plans to offer classes at various locations around the state. Classes have not been scheduled, but the drilling season will be considered during scheduling. Class fees to be charged, if any, have not been established. Since the law sunsets in 2008, there will be an opportunity to evaluate whether the continuing education program provides a valuable service and whether it is too burdensome.

The Department presented the proposed final rules to the Ground Water Advisory Committee (GWAC) at their January 17, 2003, meeting. GWAC recommended adoption of the proposed final draft rules with no changes. Since the GWAC meeting, staff have made minor revisions to the final proposed rules. Specifically, staff have modified the rules to clarify licensees' ability to accumulate credits, without pre-approval, for their first license renewal requiring continuing education credits.

#### **IV. Summary**

Based on recommendations of the Well Constructor Continuing Education Committee, the Department has developed final proposed rules implementing a well constructor continuing education program as required by statute. The final proposed rules are located in Attachment 1.

#### **V. Alternatives**

The Commission may consider the following alternative actions:

1. Adopt the final proposed rule amendments to OAR Chapter 690, Divisions 200, 205, and 240.
2. Adopt amended final proposed rules to OAR Chapter 690, Divisions 200, 205, and 240.
3. Not adopt rules and request the Department further evaluate the issues.

#### **VI. Director's Recommendation**

The Director recommends Alternative 1, that the Commission adopt the final proposed rules in Attachment 1 to amend OAR Chapter 690, Divisions 200, 205, and 240.

Attachments:

1. Final Proposed Rules, OAR Chapter 690, Water Supply Well Construction Standards  
Division 200 – Introduction; Division 205 – Licensing; and Division 240 - Well Construction  
Standards: Construction, Maintenance, Alteration, Conversion and Abandonment of  
Monitoring Wells, Geotechnical Holes, and Other Holes In Oregon
2. Well Constructor Continuing Education Committee Members
3. Written Comments Received

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**Well Constructor Continuing Education Committee Members:**

Floyd Sippel, Sippel Well Drilling Inc., Salem

Greg McInnis, Geo Tech Explorations Inc., Tualatin

Terry Daugherty, Riverside Inc., Adrian

Mike McCord, Water Resources Department