



MEMORANDUM

TO: Water Resources Commission

FROM: Ivan Gall, Interim Deputy Director
Kelly Mainz, Water Policy Analyst

SUBJECT: Agenda Item E, February 23, 2023
Water Resources Commission

Update on OAR Chapter 690 – Division 10

I. Introduction

This informational report provides an update on the status of Oregon Administrative Rules (OAR) 690-010 Critical Groundwater Area Declaration rulemaking effort.

II. Background

The Department's rules for establishing critical groundwater area (CGWA) designations and groundwater controls are out of date and inconsistent with current statutes. The Department is undertaking rulemaking to update the Division 10 rule in order to conform to the CGWA processes outlined in Oregon Revised Statutes (ORS) 537.730 to 537.742. The draft amended Division 10 rules provide a framework for establishing future CGWA designations and controls consistent with the statutes.

The rules will primarily focus on the updates necessary to conform to the statutes and will cover:

- Relevant definitions;
- Required criteria for CGWA designation as specified by statute;
- CGWA rulemaking process requirements;
- Land use planning consultation with affected local government(s) and Indian Tribes;
- CGWA rule content, filing, and review requirements as specified by statute;
- Notification process for establishing corrective control provisions;
- Contested case processes for corrective actions; and
- Procedures for making changes to existing critical groundwater areas.

III. Discussion

The Rules Advisory Committee (RAC) for this effort is comprised of 33 members representing non-governmental organizations, farmers, city planners, special districts, Tribes, and domestic well users. On December 5, 2022, the Department convened the first hybrid RAC meeting. A background presentation on the goal and intent of the rules, the statutory framework, and relevant groundwater terms were presented, followed by discussion of the proposed draft rules for OAR 690-010-0100 to-0160. Department staff made changes to the rules based on the feedback and comments received during this RAC meeting.

At the request of some of the RAC members, the Department then facilitated a meeting with the city planners to learn about the relationship between groundwater supplies and city planning requirements. On January 10, 2023, a second RAC meeting occurred, and subsequent changes were made to the rules based on comments received.

It is anticipated the final RAC meeting will be on February 16, 2023, where changes to the proposed draft rules and the required fiscal impact statement will be discussed. The proposed draft rules will then be noticed for an official public comment period of no less than 50 days.

The Department expects to provide additional opportunities for the public to provide comments beginning in April 2023. The Department is planning to convene three public meetings in strategic locations around the state based on the likelihood of interest in the rule changes. After closure of the public comment period, the Department will review all received comments and assess the need to modify the proposed draft rules. It is currently anticipated the Commission will be asked to consider adoption of the rules in June 2023.

IV. Conclusion

The Division 10 rules are currently not consistent with ORS 537.730-742 and must be aligned with the statutory requirements. These CGWA rules are expected to provide the Department the framework and process to follow when initiating processes to curtail groundwater use in basins that are experiencing diminishing groundwater supplies.

Attachments:

1. Division 10 Timeline Overview

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Division 10 Timeline Overview

Key		Months of the Year													
In progress		1-Oct	1-Nov	1-Dec	1-Jan	1-Feb	1-Mar	1-Apr	1-May	1-Jun					
Completed		O	N	D	J	F	M	A	M	J					
TASK	Percent Complete	START	END												
Division10															
Develop Draft Rules	100%	Sat 10/1/22	Mon 12/5/22	█											
RAC Meeting Number 1 (Salem and Virtual)	100%	Mon 12/5/22	Mon 12/5/22	█											
Preparation for RAC Meeting Number 2	100%	Mon 12/5/22	Mon 1/9/23	█											
Rac Meeting Number 2 (Salem and Virtual)	100%	Tue 1/10/23	Tue 1/10/23	█											
Preparation for RAC Meeting Number 3	100%	Wed 1/11/23	Mon 2/6/23	█											
RAC Meeting Number 3 (Salem and Virtual)	100%	Thu 2/16/23	Thu 2/16/23	█											
Preparation for Notice of Proposed Rulemaking	50%	Fri 2/17/23	Sat 4/1/23	█											
Notice of Proposed Rulemaking	0%	Sat 4/1/23	Sat 4/1/23				█								
Public Comment Period Begins	0%	Sat 4/1/23	Sat 4/1/23				█								
Burns Public Hearing	0%	Mon 4/24/23	Mon 4/24/23				█								
Klamath Public Hearing	0%	Tue 4/25/23	Tue 4/25/23				█								
Pendleton Public Hearing	0%	Thu 5/4/23	Thu 5/4/23				█								
Salem Public Hearing	0%	Mon 5/8/23	Mon 5/8/23				█								
End of Public Comment Period	0%	Sat 5/20/23	Sat 5/20/23				█								
Staff Report Preparation and Recommendation	0%	Sat 5/20/23	Thu 6/8/23				█								
Rule Adoption	0%	Thu 6/15/23	Thu 6/15/23				█								

Public Meeting Dates	
Action	Date and Location
RAC meetings	December 5, 2022 (Salem & virtual) January 10, 2022 (Salem & virtual) February 16, 2023 (Salem & virtual)
Notice of proposed rulemaking	April 1, 2023
Public hearings	April 24, 2023 (Burns) April 25, 2023 (Pendleton) May 4, 2023 (Klamath Falls) May 8, 2023 (Salem & virtual)
Anticipated Commission rule adoption	June 15, 2023 (Salem & virtual)