



Oregon

Tina Kotek, Governor

Water Resources Department

North Mall Office Building
725 Summer St NE, Suite A
Salem, OR 97301
Phone (503) 986-0900
Fax (503) 986-0904
www.Oregon.gov/OWRD

MEMORANDUM

TO: Water Resources Commission

FROM: Rachel LovellFord, Surface Water Hydrology Manager

SUBJECT: Agenda Item L, June 16, 2023
Water Resources Commission

Water Use Reporting Waiver Request Process Overview

I. Introduction

During this informational agenda item, staff will provide an overview of the water use reporting waiver request process to prepare the Commission to consider a potential future waiver request.

II. Background

The Burnt River Irrigation District (BRID) is nearing the end of a 30-year water right remapping process. Approval of the remapping petition may result in confirming water right certificates being reissued in the name of the BRID, making them subject to water use reporting requirements for public entities (ORS 537.009) (OAR 690-085-0010(3)). BRID may request a waiver for the accuracy component of this requirement per OAR 690-085-0010(6).

III. Discussion

In Oregon, all governmental entities that hold a water right shall submit an annual water use report to the Water Resources Department (ORS 537.099; OAR 690-085). The rules governing water use reporting additionally require public entities to report water use with an accuracy level of plus or minus 15 percent (OAR 690-085-0010(3)). Per statute, governmental entities include state and federal agencies, local governments, irrigation districts formed under ORS chapter 545, and water control districts formed under ORS chapter 553.

The rules also allow for a governmental entity to seek a waiver from the Commission for the accuracy requirement (OAR 690-085-0010(6)). To qualify for the waiver, the governmental entity must demonstrate to the commission that: 1) complying with the accuracy requirement would cause an economic hardship; 2) the information collected would not materially aid water management because regulation is unlikely due to the absence of other water rights, or the use of the water is unlikely to materially affect water availability because the amount of water being used is small compared to the sources of the water; or 3) another similar situation exists.

The commission has granted a few of these waivers in the past, with the most recent being in the early 1990s. The waiver request and implementation process proceed with the following steps:

- 1) Submission of the waiver request by the governmental entity to the water use reporting program staff
- 2) Review of the waiver for completeness by the water use reporting program staff
- 3) Soon after the waiver request is received, OWRD staff and requesting governmental agency present an action item for the Commission to allow them to consider the waiver request
- 4) If approved, the waiver is documented as a special order, and the water use reporting program documents this exception

There is no impact to the water right associated with the accuracy waiver request unless the accuracy requirement is a condition of the water right. Most governmental entities in Oregon had certificated water rights before the governmental entity accuracy requirement was put in place in the late 1980s. However, there is a special case for irrigation districts undergoing the district water right mapping process that may cause them to seek a waiver and that may impact the processing of associated water rights. Water rights in the name of private individuals modified by district remapping may be issued in the name of the district if landowners agree. This benefits the district by enabling more expedient within-district transfers; however, by reissuing the water rights in the name of the district the governmental entity reporting requirement is triggered. A district may seek a water use reporting accuracy waiver in this case, and if the waiver is not issued, the district may choose to not issue the water rights in the name of the district.

IV. Conclusion

BRID has developed a petition to remap water rights within its boundaries through the district water right mapping program. As part of the process, BRID has chosen that the certificates be re-issued in the name of the district. These confirming certificates, soon to be issued in the name of BRID, will trigger the public reporting accuracy requirement under OAR 690-085-0010(3). WRD staff and BRID will likely be presenting a formal request for a waiver of the accuracy requirement at a future Commission meeting.

Attachments:

1. ORS 537.099
2. OAR 690-085-0010

Rachel LovellFord
(503) 930-7681

537.099 Water use report from governmental entity.

(1) Except as provided in subsection (3) of this section, any governmental entity that holds a water right shall submit an annual water use report to the Water Resources Department. The report shall include, but need not be limited to the amount of water used by the governmental entity, the period of use and the categories of beneficial use to which the water is applied.

(2) As used in this section, “governmental entity” includes any state or federal agency, local government as defined in ORS 294.004, irrigation district formed under ORS chapter 545 and a water control district formed under ORS chapter 553.

(3) A governmental entity that acquires land because of default in repayment of loans or other debts owed to the state is not required to file an annual water use report under this section. [1987 c.649 §3]

Water Resources Department

Chapter 690

Division 85

ANNUAL REPORTS AND SERIOUS WATER MANAGEMENT PROBLEM AREAS

690-085-0010

Governmental Entities to Submit Annual Water-use Reports

(1) By December 31 of each year, any governmental entity holding water rights shall submit to the Department a report detailing monthly water use under the rights for each point of diversion. Reporting shall be for the previous water year (October 1 to September 30). A governmental entity shall not be required to submit a report under this rule for water rights held because of default in repayment of loans or other debts owed to the state.

(2) The report shall be submitted on forms supplied by, or in a format acceptable to the Department. It shall include:

(a) The name and address of the reporting entity;

(b) The monthly volume of water diverted or pumped from natural flow and/or stored water for each major category of use at each point of diversion listed on the water rights, except as noted in subsections (2)(c), (d), and (e) of this rule. The volume of water diverted or pumped shall be determined as prescribed in OAR 690-085-0015;

(c) For in-reservoir uses, the volume of water impounded on approximately the same day each month;

(d) For instream water rights, the monthly volume of water flowing through the channel for at least one point covered by the water right;

(e) For instream uses supplied from storage, the volume of stored water released every month.

(3) Except as provided in section (4) of this rule, the reported monthly volumes of water shall be accurate within plus or minus 15 percent by October 1992.

(4) The governmental entity may assume the volume of water used each month, if any, is the maximum quantity allowed under the right and report that volume if:

(a) The water right is for storage of less than 9.2 acre-feet of water for in-reservoir use or specifies a rate less than 0.1 cfs; or

(b) The Director has approved a time extension for compliance with section (3) of this rule or the Commission has waived compliance with any of the requirements of OAR 690-085-0015.

(5) The Director may grant a time extension for compliance with section (3) of this rule:

(a) To qualify for an extension, the governmental entity shall:

(A) Show that compliance with section (3) of this rule would cause an economic hardship;

(B) Show that an allowance of additional time would enable it to meet the accuracy standards prescribed in section (3) of this rule; and

(C) Submit a compliance schedule detailing the steps, including the implementation time of those steps, it will take to meet section (3) of this rule.

(b) Once the time extension is approved, the governmental entity shall submit a progress report on the compliance schedule in conjunction with each annual water use report;

(c) The Director may rescind his approval if the governmental entity fails to comply with the compliance schedule;

[OARD Home](#)

[Search Current Rules](#)

[Search Filings](#)

[Access the Oregon Bulletin](#)

[Access the Annual Compilation](#)

[FAQ](#)

[Rules Coordinator / Rules Writer Login](#)

(d) The Director may modify the terms of any compliance schedule under this rule at the request of the governmental entity.

(6) The Commission may waive compliance with section (3) of this rule and/or any of the requirements of OAR 690-085-0015. To qualify for a waiver, the governmental entity shall show that:

(a) Complying with the rule(s) would cause an economic hardship on the governmental entity; and

(b) The information to be collected would not materially aid water management because:

(A) The regulation for or of the use is unlikely due to the absence of other water rights; or

(B) Use of water is unlikely to materially affect water availability from the source since the quantity of water allowed by the right in relation to the quantity of water available from the source is de minimis; or

(C) Another similar situation exists.

Statutory/Other Authority: ORS 537 & 540

History:

WRD 7-1991, f. & cert. ef. 8-7-91

WRD 13-1988, f. & cert. ef. 8-10-88

[Please use this link to bookmark or link to this rule.](#)

v2.0.10

[System Requirements](#) [Privacy Policy](#) [Accessibility Policy](#) [Oregon Veterans](#) [Oregon.gov](#)

Oregon State Archives • 800 Summer Street NE • Salem, OR 97310

Phone: 503-373-0701 • Fax: 503-373-0953 • Adminrules.Archives@sos.oregon.gov

© 2022 Oregon Secretary of State

All Rights Reserved