

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Water Resources Department
Agency and Division

690
Administrative Rules Chapter Number

Preference for Human Consumption and Stock Water Use in Klamath County during Governor-Declared Drought
Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Preference of Water Use for Human Consumption and Stock in Klamath County

Statutory Authority: ORS 536.025; ORS 536.027; ORS 536.750

Other Authority: OAR 690-019-0070

Stats. Implemented: ORS 536.750

Need for the Rule(s):

The combination of drought conditions and regulation of water in favor of senior water right holders will preclude junior water right holders from using water for stock watering or human consumption. ORS 536.750 provides specific statutory authority for the Commission to grant a preference for these uses when, the Governor has declared the existence of a severe, continuing drought.

The purpose of this rule is to prioritize stock and human consumption uses of water during a Governor-declared drought in Klamath County. Human consumption purposes include drinking, cooking and sanitation, which are essential to maintaining basic human health. Stock watering purposes includes the use of water for consumption by animals held in captivity as pets or for profit, a necessity for animal welfare. The rules would allow the continued use of water for stock watering and human consumption purposes by junior water right holders in Klamath County, who would otherwise be regulated off in order to meet the call of senior surface water rights in the Klamath Basin during a Governor-declared drought.

The rules allow holders of rights for appropriating water for stock watering or human consumption use under a junior priority date to continue using water for these purposes, notwithstanding regulation of water in favor of senior water rights. Failure of the Commission to timely act during a Governor-declared drought will result in serious prejudice to the junior water users who would not, but for this rule, have access to water for human consumption or stock watering uses.

A lack of water for human consumption and stock watering uses would have significant negative health and welfare consequences for the affected junior water users.

Documents Relied Upon, and where they are available:

U.S. Department of Agriculture, National Agricultural Statistics Service. 2012 Census of Agriculture, Volume 1, Chapter 2: County Level Data for Oregon.

http://www.agcensus.usda.gov/Publications/2012/Full_Report/Volume_1,_Chapter_2_County_Level/Oregon/

United States Census Bureau. United States Census State and County Quick Facts. Accessed 2014, June 2.

<http://quickfacts.census.gov/qfd/states/41/41035.html>.

Cullinane Thomas, C., C. Huber, and L. Koontz. 2014. 2012 National Park visitor spending effects: Economic contributions to local communities, states, and the nation. Natural Resource Report NPS/NRSS/EQD/NRR—2014/765. National Park Service, Fort Collins, Colorado. http://www.nature.nps.gov/socialscience/docs/NPSVSE2012_final_nrss.pdf

Fiscal and Economic Impact:

According to the 2012 Census of Agriculture, Klamath County had approximately 74,371 heads of cattle and calves, and approximately 3,491 sheep and lambs. Other types of livestock and poultry are raised in the basin, representing much smaller numbers than these two. Cattle are an important industry in the basin with 48,282 cattle and calves sold in 2012. The value of cattle and calves sold in the basin was \$50,129,000, while the value of milk sold was \$25,036,000. In sum, the market value of agricultural products sold in the basin including livestock, poultry and products was \$78,907,000.

Without these rules, water right holders with human consumption or stock uses could be regulated off during a Governor-declared drought in Klamath County, which could require the purchase of water from another source, such as bottled water or arranging to have water trucked in. In addition, without the preference, cattle could be shipped out of the basin to other areas or sold off prematurely. These rules result in cost savings to those water right holders as they can use their traditional water supply.

This also could result in cost savings to political subdivisions and their customers, should they need to exercise the preference. Despite having to assure curtailment of other uses, the preference allows these entities to continue to serve water for human consumption and stock purposes, thereby preventing them from having to contract or truck in water for human health and welfare.

In 2013, it was estimated that the cost of trucking water to meet the needs of Crater Lake National Park would have been approximately \$210,000 per month. According to the 2012 National Park Visitor Spending Effects report, Crater Lake National Park contributes to the regional economy, with non-local visitors to the Park spending approximately \$36 million.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

These rules could reduce the costs of state agencies, local government, and the public in obtaining water during a Governor-declared drought, by preventing the need to purchase bottled water or truck water to meet stock and human consumption needs. The cost of compliance for political subdivisions and other water right holders in complying with the rule includes the costs to assure that other uses of water are curtailed. This may result in costs to conduct public outreach campaigns, or to modify operations. However, these costs are only incurred if the water right holder chooses to exercise the preference, and they are expected to be less costly than the alternative of not receiving water and having to purchase bottled water or truck in water. These costs would be dependent upon the actions that a water right holder chooses to take, and the water right holder would not have to exercise the preference if less costly options were available.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: According to the United States Census, there were approximately 1,552 business establishments in Klamath County. The 2012 Census of Agriculture estimates that there were 588 farms with livestock or poultry. The Census definition of a farm is any place from which \$1,000 or more of agricultural products were produced and sold, or normally would have been sold, during the census year. Any business that has a water right for human consumption or stock purposes, or that would receive water from a political subdivision for such water use, could benefit from this rule in order to maintain drinking, cooking, and sanitation uses of water for humans, and water for animal's consumption. Since most businesses provide water for employee sanitation purposes, this could benefit businesses to the extent that the preference is needed and exercised. Since a political subdivision is unlikely to exercise the preference unless it is unable to serve its customers, businesses receiving water from a political subdivision would also be receiving water when they otherwise would not.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

The Department does not expect any costs of compliance for small businesses. Small businesses that choose to exercise the preference will receive water when they would otherwise not be receiving water. The cost to comply with refraining from other uses outside of the preference would be less of a cost than not receiving water for these purposes; however, any costs incurred would be dependent upon the actions that a water right holder chooses to take.

c. Equipment, supplies, labor and increased administration required for compliance:

The Department does not expect any costs of compliance for small businesses. Small businesses that choose to exercise the preference will receive water when they would otherwise not be receiving water. The cost to comply with refraining from other uses outside of the preference would be less of a cost than not receiving water for these purposes; however, any costs incurred would be dependent upon the actions that a water right holder chooses to take.

How were small businesses involved in the development of this rule?

The Department consulted with the Cattleman's Association, the Oregon Farm Bureau, the Oregon Water Resources Congress and Rangeland Consultants, who represent farming and ranching business interests in the basin.

Administrative Rule Advisory Committee consulted?: Yes.

If not, why?:

Nancy A Pustis
Signature

Nancy A Pustis
Printed name

6/13/14
Date