

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
A Statement of Need and Fiscal Impact accompanies this form

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| FILED 2-12-15 11:12 AM ARCHIVES DIVISION SECRETARY OF STATE |
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| Water Resources Department Agency and Division | 690 Administrative Rules Chapter Number |
| Joshua Spansail Rules Coordinator | (503) 986-0874 Telephone |
| Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301 Address | |

RULE CAPTION

Amends Division 522 to Clarify Adjustment of Allocation Cap and Mitigation Credit Reassignment Upon Cancellation.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

| Hearing Date | Time | Location | Hearings Officer |
|--------------|-----------|---|------------------|
| 3-30-15 | 3:00 p.m. | 231 SW Scalehouse Loop, Suite 103, Bend, OR 97702 | Laura Wilke |

RULEMAKING ACTION

Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND:

690-522-0030
690-522-0050

REPEAL:

RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

AMEND AND RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

Statutory Authority:

ORS 536.025; ORS 536.027; ORS 537.746; ORS 390.835

Other Authority:

Statutes Implemented:

Chapter 669, 2005 Oregon Laws (HB 3494); Chapter 694, 2011 Oregon Laws (HB 3623)

RULE SUMMARY

OAR Chapter 690, Division 522 is used in conjunction with the Deschutes Basin Ground Water Mitigation Rules in OAR Chapter 690, Division 505, and the Deschutes Basin Mitigation Bank and Mitigation Credit rules in OAR Chapter 690, Division 521. In addition to other provisions, the Division 522 rules allow water to be added back to a 200 cubic foot per second allocation cap on new groundwater use and permanent mitigation credits to be reassigned under certain circumstances, including permit and certificate cancellation. However, the rules unintentionally limit cancellation to specific statutes. Division 522 cites ORS 537.410 (cancellation of a permit for failure to meet construction conditions), ORS 540.621 (voluntary cancellation of a certificate), and ORS 540.610 (forfeiture of a certificated water right). This limits reassignment of permanent mitigation credits and inclusion of water back to the allocation cap if cancellation occurs under another statute. The purpose of this rulemaking is to remove the references to specific cancellation statutes and allow water to be added back to the allocation cap and mitigation credits to be reassigned regardless of which cancellation process is exercised.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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| 03-31-2015 5:00 p.m. | Joshua Spansail | joshua.a.spansail@wrdd.state.or.us |
| Last Day (m/d/yyyy) and Time for public comment | Rules Coordinator Name | Email Address |

*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation.

