

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form.

FILED
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ARCHIVES DIVISION
SECRETARY OF STATE

Water Resources Department
Agency and Division

690
Administrative Rules Chapter Number

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

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

In the Matter of:

Proposed modification to OAR Chapter 690, Division 522.

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)

Need for the Rule(s):

OAR Chapter 690, Division 522 is used in conjunction with the Deschutes Basin Ground Water Mitigation Rules in Division 505, and the Deschutes Basin Mitigation Bank and Mitigation Credit Rules in Division 521. Division 522 allows water to be added back to a 200 cubic foot per second allocation cap on new groundwater use and reassignment of permanent mitigation credits under certain provisions, including permit or certificate cancellation. However, the rules unintentionally limit cancellation to certain statutes; specifically 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). The purpose of the proposed changes 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.

Documents Relied Upon, and where they are available:

OAR Chapter 690, Divisions 505, 521, and 522; available for review at: <http://www.oregon.gov/owrd/pages/law/oar.aspx>

Fiscal and Economic Impact:

The Department does not anticipate a negative fiscal or economic impact resulting from the implementation of the proposed modifications to Division 522. Instead, the Department anticipates that the proposed modifications, if implemented, will have a positive fiscal and economic impact by providing additional accounting clarity under the allocation cap and flexibility to reassign unused mitigation credits.

Statement of Cost of Compliance:

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

Since the proposed modifications to Division 522 provide for greater flexibility, the Department does not anticipate additional costs of compliance by state and local government and the public.

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

a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:

The Department does anticipate that small businesses or business and industries with small businesses may be among the population of entities affected by this rulemaking. However, the Department does not have specific information regarding the number of small businesses and types of businesses and industries with small businesses that may be subject to the rules.

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

The Department does not anticipate significant additional costs associated with reporting and other administrative activities.

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

The Department does not anticipate additional costs of compliance for equipment, supplies, labor or increased administration due to the implementation of the rules.

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

The interests of small businesses and business and industries with small businesses subject to the proposed rules are represented in the

rules advisory committee engaged by the Department in the development of these rules.

Administrative Rule Advisory Committee consulted?: Yes
If not, why?:

<u>03-31-2015 5:00 p.m.</u>	<u>Joshua Spansail</u>	<u>joshua.a.spansail@wrd.state.or.us</u>
Last Day (m/d/yyyy) and Time for public comment	Printed Name	Email Address