

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

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Water Resources Department
Agency and Division

690
Administrative Rules Chapter Number

Updates to Malheur Basin Program and Extension of Reservations

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

In the Matter of:

Amending OAR 690, Division 510 to Extend Reservation of Water for Economic Development for the Malheur Basin Reservations and Related Rule Modifications.

Statutory Authority:

ORS 536 & 537

Other Authority:

Statutes Implemented:

ORS 536.220, 536.300, 536.310, 537.249, & 537.358

Need for the Rule(s):

A reservation of water for future economic development sets aside a quantity of water for storage to meet future needs. The rules establishing the Malheur Basin reservations of water are set to expire on January 7, 2017, unless extended by rule by the Water Resources commission. This rule would extend reservations of water for future economic development for the Malheur Reservations of the Malheur Basin for an additional 20 years, and would change the reporting requirements that apply to the Oregon Department of Agriculture and Oregon Water Resources Department. Without these rules, the Malheur Basin reservations will expire. In addition, the rules include expansion of classified uses to clarify that the allowable uses include agricultural, commercial, and flow augmentation for instream use, and to address inconsistencies in terminology.

Documents Relied Upon, and where they are available:

Reservations: Preview of Basin Program, Report to the May 20, 2016 Water Resources Commission meeting. http://apps.wrd.state.or.us/apps/misc/wrd_notice_view/Default.aspx?notice_id=41

Applications for an Extension for Reservation received on May 31, 2016 for the Malheur Reservations (On file at the Water Resources Department).

Fiscal and Economic Impact:

The reporting requirements only apply to the Oregon Water Resources Department (Department) and the Oregon Department of Agriculture; therefore, costs to others will only be incurred to the extent the Department of Agriculture seeks information to include in its periodic reports. The Department believes the staff work is within the scope of effort planned to compile biennial reports for the Water Resources Commission (Commission).

A reservation of water does not in itself provide economic benefits to a community; however, it does provide the opportunity to develop water projects for agricultural economic development in the future. Therefore, if these reservations were to expire, there would be no future opportunity to develop water under the reservation. Extension of the reservation, however, does not guarantee that water projects will actually be developed. If the reservations are developed, the Department expects economic benefits resulting from those activities such as improved agricultural production, power development, recreation, and possibly other uses. Although agriculture is the primary industry that is interested in developing water under these reservations, development of water can provide a significant economic benefit to an area, including supporting small businesses that provide services for agricultural producers and the surrounding community.

Statement of Cost of Compliance:

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

The rules require that the Oregon Water Resources Department (Department) provide biennial reports to the Water Resources Commission (Commission) about how much water has been utilized under the reservations. The Department believes that the staff work in producing the report can be accomplished with existing resources. The rules may require the Oregon Department of Agriculture to provide periodic updates on the reservations to the Department and/or the Commission on the continued interest in the reservation, efforts undertaken to develop the

reservation, and any challenges to developing the reservation.

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:

These rules do not regulate businesses, but rather set aside a quantity of water for future economic development. The tracking requirements are for the Oregon Department of Agriculture, which may request information from other entities, including small business, about efforts to develop water under the reservations. Should businesses be asked for information to assist the Oregon Department of Agriculture in their report, the time to prepare that information likely would require no more than two hours per biennium.

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

The reporting requirements of the Department of Agriculture are the only potential identified impacts to small business. These impacts are expected to be minimal, as the reporting requirements should not require more than a few hours of work per biennium, if at all. By contrast, development of water is an economic benefit to businesses and communities. Efforts to undertake water development under the reservations are voluntary, not mandatory. Aside from the cost of Oregon Department of Agriculture's tracking efforts, there are no other costs expected.

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

The Department does not expect any costs to business as a result of this rule, other than the potential reporting requirements above.

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

The Department sought input from its rules advisory committee, which included representatives from Barlow Farms, Y-1 Farms Inc., Irrigation Districts, and Malheur Watershed Council. Individual members of these latter two organizations include small businesses.

Administrative Rule Advisory Committee consulted?: Yes

If not, why?:

07-29-2016 5:00 p.m.	Diana Enright	diana.m.enright@wrд.state.or.us
Last Day (m/d/yyyy) and Time for public comment	Printed Name	Email Address