

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

<b>FILED</b> 2-12-16 1:40 PM ARCHIVES DIVISION SECRETARY OF STATE
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<u>Water Resources Department</u> Agency and Division	690 Administrative Rules Chapter Number
<u>Diana Enright</u> Rules Coordinator	(503) 986-0874 Telephone
<u>Water Resources Department, 725 Summer St. NE, Salem, OR 97301</u> Address	

**RULE CAPTION**

Malheur Lake Basin Program Provisions  
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

Hearing Date	Time	Location	Hearings Officer
3-30-16	10:00 a.m.	Harney County Community Center, 484 N. Broadway, Burns, OR, 97720	Bruce Corn
3-30-16	10:00 a.m.	Oregon Water Resources Department, 725 Summer St. NE, Rogue	Machelle Bamberger

**RULEMAKING ACTION**

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

**ADOPT:**  
690-512-0010, 690-512-0020, 690-512-0090

**AMEND:**

**REPEAL:**  
690-512-0040

**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 and 537

**Other Authority:**  
ORS 536.340(1)(a); 537.525(3), (5), (7) and (8); 537.621(2); 537.777(1); 537.780(1) and (1)(h)

**Statutes Implemented:**  
ORS 536.310; 537.249; 537.356; 537.358

**RULE SUMMARY**

OAR Chapter 690, Division 512 is the Malheur Lake Basin Program. In general, a Basin Program describes how water may be used in major river and lake basins and their tributaries. The Malheur Lake Basin Program currently describes that new uses may only be established if water is available unless the use is for an instream right, permit to store water between March 1 and May 31, use of stored water, and multipurpose storage projects authorized under OAR 690-512-0100. The Malheur Lake Basin Program also reserves water for future economic development in the Home Creek sub-basin.

Current data, comprising substantial evidence, indicate that groundwater levels are declining in areas of the Greater Harney Valley Groundwater Area of Concern. Additional allocation of groundwater within this area may exacerbate these declines. A comparison between estimated annual recharge and previously allocated groundwater volumes indicates that groundwater is fully allocated in some areas of the basin. The Department is proposing to establish the Greater Harney Valley Groundwater Area of Concern in part of the Malheur Lake Basin, which will allow some pending applications to be approved if offset water can be provided, and limit future applications from being approved while a groundwater study is completed. Exempt uses will not be limited.

The Department is also proposing to repeal OAR 690-512-0040, which describes how water availability is determined for new surface water and groundwater uses. The process described in this rule is obsolete and has been replaced by a water availability model. The determination

of water availability is made consistent with OAR Chapter 690, Division 310 using the definition of "water is available" under OAR-690-300-010.

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.

<u>03-30-2016 5:00 p.m.</u>	<u>Diana Enright</u>	<u>diana.m.enright@wrд.state.or.us</u>
Last Day ( <i>m/d/yyyy</i> ) 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.