

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

**FILED**  
12-15-15 12:49 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

Water Resources Department  
Agency and Division

690  
Administrative Rules Chapter Number

Extending Reservations of Water for Economic Development for Burnt River Areas of the Powder Basin.

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 509 to Extend Reservations of Water for Economic Development for the Three Burnt River Area Reservations and Related Rule Modifications

**Statutory Authority:**

ORS 536 & 537

**Other Authority:**

OAR 690-079-0160 (temporary rule)

**Statutes Implemented:**

ORS 536.220, 536.310, 537.249, 537.356 & 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 Burnt River reservations of water are set to expire on March 8, 2016, unless extended by rule by the Water Resources Commission. This rule would extend reservations of water for future economic development for the South Fork Burnt River, North Fork Burnt River, and Burnt River Subbasins of the Powder River Basin for an additional 20 years, to 2036, and changes reporting requirements. Without these rules, the Burnt River area reservations will expire. In addition, the rules include corrections to clarify that the uses for the reservations are classified uses and to address inconsistencies in terminology.

**Documents Relied Upon, and where they are available:**

Status of Reservations and Adoption of Temporary Rules,  
Report to the Nov. 19, 2015 Water Resources Commission meeting  
[http://apps.wrd.state.or.us/apps/misc/vault/vault.aspx?Type=WrdNotice&notice\\_item\\_id=6542](http://apps.wrd.state.or.us/apps/misc/vault/vault.aspx?Type=WrdNotice&notice_item_id=6542)

**Fiscal and Economic Impact:**

A reservation of water for future economic development sets aside a quantity of water for storage for future use. This rule extends existing reservations that are set to expire and changes certain reporting requirements. The reporting requirements apply to the Water Resources Department ("Department") and the Oregon Department of Agriculture; therefore, impacts on other entities to comply with the reporting requirements will only be incurred to the extent the Department of Agriculture seeks information to include in their reports. The Department expects that its own costs to comply with the requirements of the rule will be no more than three hours of staff time per biennium to compile the reports for the Water Resource Commission ("Commission"). The Department cannot estimate the costs that will be incurred by the Department of Agriculture or other entities, because the Department does not know if or how frequent such reports will be required by the Department or the Commission. A reservation of water does not in itself provide economic benefits to a community; however, it does provide the opportunity to develop water for economic development in the future. Therefore, if these reservations were to expire, future opportunity to develop water under the reservation would be foreclosed. Extension of the reservation, however, does not mean that the water will actually be developed. If the reservations are developed, the Department would expect economic benefits resulting from activities such as improved agricultural production, power generation, reservoir and associated recreation, and possibly other uses. Agriculture is the primary industry that is interested in developing water. 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. These economic benefits cannot be estimated until an actual project is proposed, as the Department would need to know whether the water would be for new agricultural lands, or to enhance and build resilience of existing agricultural production, whether the project resulted in positive or negative impacts to recreational fisheries, to what extent the project would be open for and cater to reservoir and associated recreation, and whether the reservoir would supply water to other uses.

**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 the Oregon Water Resources Department to provide biennial reports to the Water Resources Commission on how much water has been utilized under the reservations. The Department expects that this will take minimal time for staff to compile, likely no more than three hours per biennium. The rules also require the Oregon Department of Agriculture to provide periodic updates on the reservations. The Department believes that this will minimize the impact on all entities involved, except for the Water Resources Department. Prior rules required five-year updates to the Commission by the Department of Agriculture, which would have required time and resources to compile. These rules provide authority to the Department and Commission to request progress reports, but do not mandate reporting. The Department cannot estimate the cost of the reporting requirement because it is unclear if or how many times a report will be required to be submitted over the course of the reservation. In addition, the amount of time needed to prepare the reports will be based on whether or not the Department of Agriculture, the Burnt River Irrigation District, and any other entities continue to track their own progress on developing the reservations.

**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 (ODA), which may in turn ask for information from parties, including small businesses, about efforts to develop water under the reservations. Should businesses be asked for information to assist ODA in their report, the time to prepare that information likely would require no more than a few hours, if at all, with the costs depending on the amount per hour the business pays their employee.

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

The reporting requirements of Department of Agriculture are the only potential identified impacts to small business. These impacts are expected to be minimal, but cannot be quantified because it is unclear how many businesses will actually take steps to seek development of water under the reservation. Regardless, the reporting requirements should not require more than a few hours of work per year, if at all. In contrast, development of water is an economic benefit to businesses and communities. Efforts to undertake water development under the reservations are voluntary and not mandatory. Aside from the cost of tracking efforts to develop the reservations, 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 Oregon Cattleman's Association, Oregon Water Resources Congress, and Oregon Farm Bureau as well as the Burnt River Irrigation District. These organizations represent agricultural businesses. Individual members of these organizations include small businesses.

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

<u>02-04-2016 5:00 p.m.</u>	<u>Diana Enright</u>	<u>diana.m.enright@wrdd.state.or.us</u>
Last Day (m/d/yyyy) and Time for public comment	Printed Name	Email Address