

CERTIFICATE AND ORDER  
FOR FILING  
**PERMANENT**  
ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

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DARRARA ROBERTS  
SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of PERMANENT rule(s) adopted on February 16, 1988  
(Date)

by the Water Resources Commission  
(Department) (Division)

to become effective February 28, 1988  
(Date)

The within matter having come before the Water Resources Commission  
(Department) (Division) after

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in Secretary of State's Bulletin: NO  YES  Date Published: October 15, 1987

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken: (List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

Adopted: Chapter 690, Division 14 rules  
(New Total Rules)

Amended: Chapter 690, Divisions 11 & 15 rules  
(Existing Rules)

(Total Rules Only)

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FEB 26 1988

LEGISLATIVE COUNSEL'S OFFICE

as Administrative Rules of the Water Resources Department and Water Resources Commission  
(Department) (Division)

DATED this 26<sup>th</sup> day of February, 19 88

By: John Bruden, Deputy Director  
(Authorized Signer)

Title: Director, Water Resources Department

Statutory Authority: ORS 536.027, 536.029 and or

Chapter(s) 542 Oregon Laws 19 87 or

House Bill(s) \_\_\_\_\_, 19 \_\_\_\_\_ Legislature; or Senate Bill(s) \_\_\_\_\_, 19 \_\_\_\_\_ Legislature

Subject Matter: Rules for certification of water right examiners, the preparation of water right application maps, and the preparation of the claim of beneficial use.

For Further Information Contact Bruce A. Estes Phone: 378-3739  
(Rule Coordinator)

WATER RESOURCES DEPARTMENT

ADMINISTRATIVE RULES

CHAPTER 690

DIVISION 14

CERTIFIED WATER RIGHT EXAMINERS

Introduction

690-14-005 The purpose of these rules is to establish the criteria for certification of Water Right Examiners. They also define the minimum standards and criteria under which Certified Water Right Examiners shall conduct surveys of appropriation for beneficial use of public waters. The rules also describe the information required and procedure for preparing maps to accompany water right applications. These rules are in addition to Chapter 690, divisions 11, 15, 20, and 51.

These rules shall not deprive or limit the Director of the Water Resources Department or the Water Resources Commission from exercising powers or duties bestowed by law. Nor shall they limit or restrict the information the Director or Commission may require from any water user or authorized agent to determine satisfactory proof.

The authority for these rules are found in Oregon Revised Statutes, Chapters 183, 536, 537, and 540, and in particular ORS 537.797 to 537.799.

Definitions

690-14-020 The definitions found in Oregon Administrative Rules Chapter 690, Division 11, apply. The following definitions also apply:

1. Acre-foot: means the equivalent volume of one acre covered with one foot of water (325,900 gallons).
2. Claim of beneficial use: means documents submitted to the Department requesting a certificate of water right be issued for the authorized use or uses made. These documents shall include the report of the site inspection, calculations for the rate of flow, and the claim map of the location of beneficial use made within the terms of the permit or transfer.
3. Commission: means the Water Resources Commission.
4. Cubic foot per second (cfs): means a rate of flow measurement for water equal to 448.83 gallons of water per minute.
5. Department: means the Water Resources Department.
6. Director: means the Director of the Department or the Director's authorized deputies or officers.

7. Measuring device: means a structure or apparatus such as a weir, meter, or flume to determine rate of flow or volume of water.
8. OAR: means Oregon Administrative Rules.
9. ORS: means Oregon Revised Statutes.
10. OSBEE: means Oregon State Board of Engineering Examiners.
11. Rate and duty of water: means quantity of water expressed in cfs (rate) and the total volume of water expressed in acre feet (duty) as allowed in the permit or transfer.
12. Spring: means a place where water naturally emerges from the ground.
13. Source: means the surface or ground water body for each point of diversion involved in a permit or transfer.
14. Survey the appropriation: means the field inspection and document preparation performed by a Certified Water Right Examiner to obtain the data necessary to support the Claim of Beneficial use.
15. Water Rights Act: means the same as defined by ORS 537.010.
16. Water Right Examiner: means any individual certified by OSBEE to collect and report data and conduct surveys of appropriation for claims of beneficial use, and also to prepare maps for water right applications.
17. Well: means any artificial opening or artificially altered natural opening, however made, by which ground water is sought or through which ground water flows under natural pressure, or is artificially withdrawn or injected. This definition shall not include a natural spring, or wells drilled for the purpose of exploration or production of oil or gas. Prospecting or exploration for geothermal resources as defined in ORS 522.005 or production of geothermal resources derived from a depth greater than 2,000 feet as defined in ORS 522.055 is regulated by the Department of Geology and Mineral Industries.

#### Water Right Examiner Required

690-14-030 The water user or person responsible for a permit or transfer must hire a certified water right examiner to prepare:

1. The application map for a permit or transfer filed after November 29, 1987.
2. The map and claim of beneficial use if the application was filed after July 9, 1987.

### Certification of Water Right Examiners

690-14-050 Water right examiners shall be certified by the Oregon State Board of Engineering Examiners (OSBEE). In addition to these rules, OSBEE rules found in OAR Chapter 820 apply.

1. Water right examiner applicants shall be registered in Oregon as either a professional engineer or professional land surveyor.
2. To be certified as a water right examiner, an applicant shall pass a written examination administered by OSBEE and approved by the Water Resources Department to determine the applicant's ability to properly perform the surveying, mapping, hydraulic computations, and information-gathering duties required by OAR 690, Division 14.
3. All documents, drawings, or narratives required by the 1987 act or these rules shall be prepared by or under the direct supervision of a certified water right examiner. These items shall bear the seal and signature of the water right examiner.

### Revocation of Water Right Examiner's Certificate

690-14-080 Water right examiners may be decertified by OSBEE for violation of OAR Chapter 690, Division 14 rules or violation of OAR Chapter 820 rules.

1. Any violation of these rules by a certified water right examiner and brought to the attention of the Director by Department staff, the public, or other means may be submitted to OSBEE. A material misstatement of fact shall be referred to OSBEE for disciplinary action.
2. Revocation of the water right examiner's certificate does not in itself cause forfeiture of that person's professional land surveyor or professional engineer registration.

### Site Report and Calculations for Permits and Transfers

690-14-100 1. The water right examiner shall prepare a report which presents the status of conditions and limitations in permits and transfers such as:

- A. Type of use
- B. Place of use
- C. Extent of use
- D. Location of point of diversion
- E. Sources of water
- F. Rate and duty
- G. Installation of measuring devices
- H. Any other conditions or limitations

2. Permits may have three time limits: A substantial beginning of construction; completion of the construction; and the application of water to beneficial use. Transfers have one time limit: the date by which water is to be applied to beneficial use. The water right examiner shall complete the form provided by the Department with sufficient information for the Director to determine the extent of beneficial use developed within the conditions or limits of the permit or transfer.
3. Uses partially developed by the water user shall be described. Uses or areas which were not developed shall be noted. Uses determined to exist which are not authorized by the permit or transfer being examined shall also be noted in the report but not included as part of the claim of beneficial use. If they appear on the map the report must clarify.
4. The diversion works shall be accurately described by the map and report. A general narrative description of the distribution works shall be given. This description must trace the water from the point(s) of diversion to and including the place of use.

The description shall also include the return to public waters when required by the permit or transfer, such as fish propagation, mining, and power facilities. The make, capacity, serial number and description of all pumps, or measuring devices shall be described in the report.

5. Other water rights or other conveyance systems connected to the system being examined shall be described in the report. Any reservoir, diversion dam, headgate, well, canal, flume, pump and other related structures shall be described.
6. The crops raised or other beneficial use made of the water shall be identified with considerable detail and include the period of use each year.
7. The diversion rate shall be determined for each use and source when more than one use or source is involved.
8. The maximum rate of use shall be determined by actual measurement when possible. Water measurements may be made by weir, meter, rated flume, reservoir capacity table or other method of measurement acceptable to the Department. The report shall describe the method used in making the measurement, the date made and a description of the location where the measurement was taken. It shall contain sufficient information, including current meter notes, rating tables, and/or calibration information to enable the Director to check the quantity of water measured in each case. Computations for capacity of the system shall be submitted for all claims. These computations may suffice to determine the maximum rate of application if the system was not operating when the inspection was conducted.
9. The rate and duty of water shall be limited by the Commission to the lesser of: the authorized amount, the capacity of the

delivery system, or the amount beneficially used. The certified water right examiner's report shall include sufficient information to make the determination.

10. The rate of flow shall be determined in cfs to three significant figures. Examples are: 4,560 cfs; 456 cfs; 45.6 cfs; 4.56 cfs; 0.456 cfs; 0.046 cfs; and 0.005 cfs.
11. Volume measurements shall be determined in acre-feet to three significant figures with accuracy necessary only to tenths. Examples are: 4,560 af; 456 af; 45.6 af; 4.6 af; and 0.5 af.

#### Maps for Permit or Transfer Applications

- 690-14-150
1. Applications for permit or transfer shall comply with ORS Chapters 536, 537, and 540, and OAR Chapter 690, Divisions 11, 15, and 20.
  2. Application maps shall comply with the provisions of OAR Chapter 690, Division 11 rules.
  3. Under some circumstances a previously approved final proof map may be substituted for the map required by these rules when requested by the applicant. The Director may allow use of such substitution where an existing final proof map or report describes the proposed project to the standards set forth in these rules.

#### Maps for Permit or Transfer Claims of Beneficial Use

- 690-14-170
1. Maps submitted as part of the claim of beneficial use shall be drawn in ink on permanent-quality linen or 0.003-inch mylar and otherwise conform to all the requirements for application maps as noted in OAR 690-11-070(5). If for irrigation, the area cross-hatched shall not exceed the total acreage authorized in the permit or transfer involved. More than one permit or transfer may be entered on the same map if clearly identified by different cross-hatching. The map scale shall be 1" = 1320', 1" = 400', or the scale of the county assessor map for the location. The preferred map size is 8-1/2" x 11". The maximum size shall be 30" x 30" unless prior approval is obtained from the Department. Standard symbols shall be used as indicated in Department handouts.
  2. Horizontal accuracy is required only to ten feet for the purpose of locating and quantifying water rights. Maps shall be developed from any standard survey method or drawn from aerial photos at 1" = 1320' scale or better. Traverse closures are not required.
  3. Maps shall clearly designate the place of use and point of diversion for each source and use when more than one is involved.
  4. A statement shall be placed on each map that the map is for the purpose of identifying the location of the water right only and is not intended to provide legal dimensions or locations of property ownership lines.

#### Time Limit for Filing Claim of Beneficial Use

690-14-190 The claim of beneficial use shall be submitted to the Department within one year after the use was reported to the Department as being complete or the beneficial use date allowed in the permit or transfer, whichever occurs first. Failure to comply with this section shall cause the Director to initiate permit cancellation proceedings as provided by ORS 537.260.

#### Claim of Beneficial Use

690-14-200 The claim of beneficial use shall be prepared by a Certified Water Right examiner and submitted by the holder of the permit or transfer or by an authorized agent.

1. In addition to the rules of professional conduct found in OAR Chapter 820, certified water right examiners must be aware of the public interest regarding examiner investigations about water use. Uses not authorized or not completed within the terms of the permit or transfer, or water not beneficially used shall not be included in the claim of beneficial use. Claims of beneficial use shall not violate any of the provisions of the water rights act or these rules.
2. All claims of beneficial use shall be made to match with existing valid water rights, unless an error in the original location is identified. If an error in an existing water right record is found, then evidence of the correct location as it pertains to the current claim shall be submitted to the Department.
3. The Director may refuse to accept claims of beneficial use which do not conform to these rules and regulations.
4. The form provided by the Department for claim of beneficial use shall question whether beneficial use was made. If the permittee or transferee claims that beneficial use was made, the claim must be supported with a sufficient description of the use prepared by the Certified Water Right Examiner to enable the Department to decide that issue. Where there is a questionable beneficial use, the permittee, transferee, or water right examiner shall contact the Department for a determination. The Director may request a final decision from the Commission.
5. On-site inspections of claims may be made by the Department.

#### Time Limit to Cure Defects in a Claim of Beneficial Use

690-14-220 A claim of beneficial use which needs corrections or additions shall be returned to the certified water right examiner to correct the deficiencies. The corrected claim shall be returned to the Department within the written time limit allowed. The time allowed will be determined by the Director, but shall not be less than 30 days. Any claims not returned within the specified time shall cause the Director to submit the name and certificate number of the water right examiner involved to OSBE for disciplinary action.

WATER RESOURCES DEPARTMENT

TEMPORARY ADMINISTRATIVE RULES

Effective September 1, 1987 to not later than February 27, 1988

CHAPTER 690

DIVISION 14

CERTIFIED WATER RIGHT EXAMINERS

690-14-005 Introduction

In addition to Chapter 690, Divisions 11, 15, 20 and 51, these rules pertain to all permits and transfers effective July 1, 1987, for the proof of appropriation phase, and beginning November 30, 1987, will include the application maps as well.

These rules shall not deprive or limit the Director of the Water Resources Department or the Water Resources Commission from exercising powers or duties bestowed by law, nor limit or restrict the information they may require from any water user or authorized agent to determine satisfactory proof.

The requirements listed in these rules are the minimum standards to be met by the certified water right examiners in preparing application maps and completing the provisions of claim of beneficial use. The water right examiner may include additional information in the report to properly describe the actual beneficial use.

690-14-020 Definitions

The definitions found in Oregon Administrative Rules Chapter 690, Division 11, apply here in addition to the following:

1. Acre-foot (af): The volume of water sufficient to cover one acre of land one foot deep or 43,560 cubic feet.
2. Claim of beneficial use: Documents submitted to the Department requesting a certificate of water right be issued for the authorized use made. These shall include the report of the site inspection, calculations for the rate of flow, and the claim map of the location of beneficial use made within the terms of the permit or transfer.



3. Commission: The Water Resources Commission.
4. Cubic foot per second (cfs): A rate of flow measurement for water equal to 448.83 gallons of water per minute.
5. Department: The Water Resources Department.
6. Director: The Director of the Water Resources Department.
7. Duty of water: The maximum volume of water expressed in acre feet allowed for the beneficial use in a given area.
8. Measuring device: A generally accepted structure or apparatus used to determine rate of flow or volume of water such as weirs, meters, or flumes.
9. OAR: Oregon Administrative Rules.
10. ORS: Oregon Revised Statutes.
11. OSBEE: Oregon State Board of Engineering Examiners.
12. Spring: A place where water naturally emerges from the ground.
13. Source: The water body for each point of diversion involved in a permit or transfer.
14. Water Rights Act: Defined by ORS 537.010.
15. Well: Defined in OAR 690-200-050(71).

690-14-030 Certification of Water Right Examiners

Water right examiners shall be certified by the Oregon State Board of Engineering Examiners (OSBEE). The time and place for certification examination shall be established by OSBEE. OSBEE shall also determine the fees and deadlines for applications. Applicants may be required to furnish education and experience background, an identification photo, and references. Unsuccessful water right examiner applicants may review their test under the supervision of OSBEE but shall not be allowed to take notes during the review.

1. To be certified as a water right examiner, an applicant shall meet the following criteria:
  - A. All water right examiner applicants shall be registered in Oregon as either a professional engineer or professional land surveyor.
  - B. The registration as either a professional land surveyor or professional engineer shall be valid to maintain status as a certified water right examiner.
  - C. Water right examiner applicants shall pass a written examination, conducted by OSBEE, to determine the applicant's ability to properly perform the surveying, mapping, hydraulic computations, and information-gathering duties required by OAR 690, Division 14.

2. Water right examiners must also recognize that:
  - A. In addition to the rules of professional conduct found in OAR Chapter 820, certified water right examiners must be aware of the public's interest in conducting their investigations about water use. Uses not authorized or not completed within the terms of the permit or transfer, or water not beneficially used shall not be included in the claim of beneficial use.
  - B. Each certified water right examiner shall be required to obtain a seal bearing the name of the examiner, date of certification, number of certificate, and the legend "certified water right examiner." The seal shall be oval in shape and be approximately 2" x 1-1/4" in size. A facsimile of the seal is:
    - C. All documents, drawings, or narratives required by this 1987 act or these rules shall be prepared by or under the supervision of a certified water right examiner. These items shall bear the seal and signature of the water right examiner.
    - D. OSBEE has the authority to revoke, suspend, or refuse to renew a water right examiner certificate upon a determination following formal review that a violation of OAR Chapter 690, Chapter 820 or the Water Rights Act was made. Revocation of water right examiner certificate does not in itself cause forfeiture of that person's professional land surveyor or professional engineer registration.
    - E. Only those persons certified under the provisions of the 1987 act under Senate Bill 131 and these rules are authorized to advertise or perform the services of a water right examiner. For purposes of these rules, those services are defined as drawing the application maps and the preparation of the claim of beneficial use.

690-14-100 Site Report and Calculations for Permits and Transfers filed after June 30, 1987

1. Deadlines involved in permits and transfers must be met. Permits have three deadlines: A substantial beginning of construction, completion of the construction, and the application of water to beneficial use. Transfers have only one deadline, the date by which water was applied to beneficial use. Additionally, the terms of permits and transfers authorize a certain type of use, place and extent of use, point of diversion, source, and quantity of water. The water right examiner shall check for compliance with these terms.
2. The report form provided by the Department shall be completed with sufficient information for the Director to determine the extent of beneficial use developed within the terms of the permit or transfer.
3. Uses partially developed by the water user shall be described. Uses or areas which were not developed shall be noted. Uses determined to exist which are not authorized by the permit or transfer being examined shall also be noted but not included as part of the claim of beneficial use. They may appear on the map as a reference.
4. The diversion works shall be accurately described and a general description of the distribution works shall be given. This description must trace the water from the point of diversion to and including the place of use and the return to a public water source, if any. The make, capacity, serial number and model number of all pumps, or measuring devices shall be described in the report.
5. Interconnection of the water use being examined with other water rights or with other conveyance systems shall be described in the report. Any reservoir, diversion dam, headgate, well, canal, flume, pump and other related structures shall be included. This shall be in the form of a concise description of the storage of water, if stored, its release, redirection and conveyance to the place of use.
6. Water returned to a public water source after use shall require a legal description of the point where the water is returned and source to which discharge is made shall be provided. Examples of uses which generally have an effluent discharge include fish propagation, mining, and power facilities.
7. Holding/rearing ponds and the dimensions and volume of the ponds shall be shown on the report for projects such as mining or fish rearing or propagation use.
8. The crops raised or other beneficial use made of the water shall be identified with considerable detail and shall include when the use was made each year of its use.
9. The diversion rate shall be determined for each use and source when more than one is involved.

10. The maximum rate of use shall be determined by actual measurement whenever possible. Water measurements may be made by weir, meter, rated flume, reservoir capacity table or other acceptable method of measurement. The report shall describe the method used in making the measurement, the date made, a description of the location where the measurement was taken and shall include sufficient information, including current meter notes, rating tables, and/or calibration information to enable the Director to check the quantity of water measured in each case. Computations for capacity of the system shall be submitted for all claims. These computations may suffice to determine the maximum rate of application if the system was not operating when the inspection was conducted.
11. The rate and duty of water shall be limited by the lessor of the authorized amount, the capacity of the delivery system, the amount beneficially used, or in the case of irrigation, the authorized rate and duty for the acreage developed.
12. Rate of flow shall be determined in cfs to three significant figures. Examples are: 4,560 cfs; 456 cfs; 45.6 cfs; 4.56 cfs; 0.456 cfs; 0.046 cfs; and 0.005 cfs.
13. Volume measurements shall be determined in acre-feet to three significant figures with accuracy to tenths. Examples are: 4,560 af; 456 af; 45.6 af; 4.6 af; and 0.5 af.

690-14-150 Maps or Drawings for Permits, Transfers or Claims of Beneficial Use filed after June 30, 1987

1. Applications for permit or transfer shall comply with ORS Chapters 537 and 540 and the rules adopted under OAR Chapter 690, Divisions 11, 14, 15 and 20.
2. Application maps shall comply with the provisions of OAR Chapter 690, Division 11 rules.
3. Maps submitted as part of the claim of beneficial use shall be drawn in ink on permanent-quality linen or 0.003-inch mylar and otherwise conform to all the requirements for application maps as noted in OAR 690-11-070(5). If for irrigation, the area cross-hatched shall not exceed the total acreage authorized in the permit or transfer involved. More than one permit or transfer may be entered on the same map if clearly identified by different cross-hatching. The map scale shall be 1" = 1320', 1" = 400', or the scale of the county assessor map for the location. The preferred map size is 8-1/2" x 11". The maximum size shall be 30" x 30" unless prior approval is obtained from the Department. Standard symbols shall be used as indicated in the Department handout.
4. Accuracy is required only to plus or minus five feet for the purpose of locating and quantifying water rights. Maps may be drawn from aerial photos at 1" = 1320' or larger scale or may be developed from any standard survey method. Plane table alidade method is acceptable.

5. Maps shall clearly designate the place of use and point of diversion for each source and use when more than one is involved.
6. A statement shall be placed on each map that the preparation of the map was for the purpose of identifying the location of the water right only and has no intent to provide dimensions or location of property ownership lines.

690-14-200 Claim of Beneficial Use

Claim of beneficial use may be submitted by the holder of the permit or transfer or by his/her authorized agent.

1. No claim of beneficial use shall be submitted for a use not authorized by the permit or transfer and shall only include the beneficial use made within the terms of the permit or transfer. Claim of beneficial use shall not violate any of the provisions of the water rights act or these regulations.
2. Claims of beneficial use required by these rules and regulations which are incomplete when submitted shall be returned to the certified water right examiner for completion. All proofs returned to correct deficiencies shall be required back to the Department within a certain time frame. This time limit shall not be less than 30 days. Any proofs not returned within the specified time shall cause the Director to submit the name and certificate number of the water right examiner involved to OSBEE for disciplinary action. Any violation of the water rights act or these rules by a certified water right examiner and brought to the attention of the Director may be submitted to OSBEE.
3. Beneficial use of water does not lend itself to a finite definition for all cases. The form provided by the Department for claim of beneficial use shall question whether beneficial use was made. If the water right examiner affirms that beneficial use was made, such decision must be supported with a sufficient description of the use made for the Department to decide that issue. Where there is a questionable beneficial use, the water right examiner shall contact the Department for a determination. The Director may request a final decision from the Commission.
4. On-site inspections of claims shall be made by the Department or Commission whenever deemed advisable.