

implementation of the measures is **neither** feasible **nor** *[and]* appropriate for ensuring the efficient use of water and the prevention of waste:

(a) *[(A)]* A system-wide leak repair program or line replacement to reduce system leakage to 15 percent, and if the reduction of system leakage to 15 percent is found to be feasible and appropriate, to reduce system leakage to 10 percent;

[(B) Programs to encourage low water use landscaping;]

(b) *[(C) Incentive]***Technical and financial assistance** programs to *[that]* encourage **and aid residential, commercial and industrial customers in implementation of conservation measures;**

(c) *[(D)]* **Supplier financed** *[R]*retrofitting or replacement of existing inefficient water using fixtures, **including distribution of residential conservation kits and rebates for customer investments in water conservation;**

(d) *[(E)]* Adoption of rate structures, **billing schedules, and other associated programs** that support and encourage water conservation;

(e) *[(F)]* Water reuse, **recycling, and non-potable water** opportunities; and

(f) *[(G)]* Any other conservation measures identified by the water supplier that would improve water use efficiency.; *and.*

(e) A description and estimated schedule for implementation of each of the following conservation measures:

(A) An annual audit of all water supplied;

(B) If the system is not fully metered, a program to install meters on all unmetered water service connections. The program shall start immediately after the plan is approved and shall identify the number of meters to be installed each year with full metering completed within five years of approval of the plan;

(C) A regularly scheduled program for leak detection for the transmission and distribution system;

(D) A meter testing and maintenance program;

(E) A public education program on efficient water use; and

(F) Any other conservation measures identified as feasible and appropriate under subsection (d) of this section.]

Stat. Auth.: ORS 536.027, 537.211 and 540.572

Hist.: WRD 11-1994, f & cert. ef. 9-21-94; (Renumbered from OAR 690-086-0140 (2)); WRD 10-2002, f & cert. ef. 11-1-02

690-086-0160

Municipal Water Curtailment Element

*[(3) A]***The water curtailment element** *[which includes]* **shall include** at least the following:

(1) *[(a)]* A description of the **type**, frequency and magnitude of supply deficiencies within the past 10 years and current capacity limitation. The description shall include an assessment of the ability of the water supplier to maintain delivery during long-term drought or other source shortages **caused by a natural disaster, source contamination, legal restrictions on water**

use, or other circumstances;

(2) [(b)] A list of three or more stages of alert for potential shortage or water service difficulties. The stages shall range from a potential or mild alert, increasing through a serious situation to a critical emergency;

(3) [(c)] A description of pre-determined levels of severity of shortage or water service difficulties [which] **that** will trigger the curtailment actions under each stage of alert to provide the greatest assurance of maintaining potable supplies for human consumption; and

(4) [(d)] A list of specific standby water use curtailment actions for each stage of alert ranging from notice to the public of a potential alert, increasing through limiting nonessential water use, to rationing and/or loss of service at the critical alert stage.

Stat. Auth.: ORS 536.027, 537.211 and 540.572

Hist.: WRD 11-1994, f & cert. ef. 9-21-94; (Renumbered from OAR 690-086-0140(3)); WRD 10-2002, f & cert. ef. 11-1-02

690-086-0170

Municipal Water Supply Element

[(4) *A long-range*] **The water supply element shall include** [which includes] at least the following:

(1) **A delineation of the current and future service areas consistent with state land use law that includes available data on population projections and anticipated development consistent with relevant acknowledged comprehensive land use plans and urban service agreements or other relevant growth projections;**

(2) **An estimated schedule that identifies when the water supplier expects to fully exercise each of the water rights and water use permits currently held by the supplier;**

(3) [(a) *A description of the water supplier's expected future service area and*] **Based on the information provided in section (1) of this rule, an estimate of the water supplier's [long-range] water demand projections for 10 and 20 years, and at the option of the municipal water supplier, longer periods** [which are supported by a methodology which demonstrates consistency with acknowledged comprehensive land use plans of affected local governments and any relevant urban service agreements];

(4) [(b)] **A comparison of the projected water needs and the sources of water currently available to the municipal water supplier and to any other suppliers to be served considering the reliability of existing sources;** [system capacity and size and reliability of water rights, permits or other current water supply contracts held by the water supplier; and]

(5) **If any expansion or initial diversion of water allocated under existing permits is necessary to meet the needs shown in section (3) of this rule, an analysis of alternative sources of water that considers availability, reliability, feasibility and likely environmental impacts. The analysis shall consider the extent to which the projected water needs can be satisfied through:**

(a) **Implementation of conservation measures identified under OAR 690-086-0150;**

(b) **Interconnection with other municipal supply systems and cooperative regional water management; and**

(c) Any other conservation measures that would provide water at a cost that is equal to or lower than the cost of other identified sources.

(6) If any expansion or initial diversion of water allocated under existing permits is necessary to meet the needs shown in section (3) of this rule, a quantification of the maximum rate and monthly volume of water to be diverted under each of the permits;

(7) For any expansion or initial diversion of water under existing permits, a description of mitigation actions the water supplier is taking to comply with legal requirements including but not limited to the Endangered Species Act, Clean Water Act, Safe Drinking Water Act; and

(8) [(c)] If [future demand projections indicate that additional] acquisition of new water rights will be [required] necessary within the next 20 years to meet the needs shown in section (3) of this rule, [the plan shall include:]

[(A) A comparison between the potential] an analysis of alternative sources of the additional water[, including conservation, reuse and interconnection with other municipal supply systems, which] that considers [costs,] availability, reliability, feasibility and likely environmental impacts[.] and

[(B) An estimated] a schedule for development of the [any] new sources of water [identified in paragraph (A) as needed to meet the demand projections and a description of the criteria used in the selection of the sources]. The analysis shall consider the extent to which the need for new water rights can be eliminated through:

(a) Implementation of conservation measures identified under OAR 690-086-0150;

(b) Interconnection with other municipal supply systems and cooperative regional water management; and

(c) Any other conservation measures that would provide water at a cost that is equal to or lower than the cost of other identified sources.

[(5)(a) A proposed date for submittal of an updated water management and conservation plan based on the proposed schedule for implementation of conservation measures, any relevant schedules for other community planning activities, and the rate of growth of or other changes expected by the water supplier; or

(b) An explanation of why submittal of an updated plan is unnecessary and should not be required by the Department.]

Stat. Auth.: ORS 536.027, 537.211 and 540.572

Hist.: WRD 11-1994, f & cert. ef. 9-21-94; (Renumbered from OAR 690-086-0140 (4)); WRD 10-2002, f & cert. ef. 11-1-02

AGRICULTURAL WATER SUPPLIER WATER MANAGEMENT AND CONSERVATION PLANS

690-086-0210

(renumbered to 690-086-0040)

Stat. Auth.: ORS 536.027, 537.211 and 540.572

690-086-0220

General Provisions

(1) Certain agricultural water suppliers must have approved conservation plans to transfer water rights within the boundaries of the districts to other land within the districts (ORS 540.572 to 540.578). These rules provide the standards for those conservation plans.

(2) Each agricultural water supplier required to submit a water management and conservation plan shall exercise diligence in implementing the approved plan and shall update and resubmit a plan consistent with the requirements of OAR 690, Division 86 as prescribed during plan approval.

(3) Any agricultural water supplier participating in the water transfer provisions in ORS 540.572 to ORS 540.578 and OAR 690-021-0070 to OAR 690-021-0700 shall submit an annual report describing progress-to-date in implementing a water management and conservation plan.

(4) Water management and conservation plans submitted by agricultural water suppliers shall meet the requirements listed in OAR 690-086-[0240 (*Plan Elements and Standards*)]**0225 to 690-086-0270**.

(5) A water conservation plan prepared in accordance with criteria of the Bureau of Reclamation and substantially meeting the requirements of OAR 690-086-[0240]**0225 to 690-086-0270** may be submitted to meet the requirements of [*this*] **these** rules.

(6) At least 30 days prior to submitting a draft plan to the Department, an agricultural water supplier shall make the draft plan available for review by each affected local government.

(7) Each agricultural water supplier preparing a water management and conservation plan is encouraged to develop and implement a program to involve the supplier's patrons in the preparation of the plan. Recommendations include making the plan available for public inspection and conducting public meetings to provide information and gather input on the plan.

Stat. Auth.: ORS 536.027, 537.211 and 540.572

Hist.: WRD 11-1994, f. & cert. ef. 9-21-94; WRD 10-2002, f & cert. ef. 11-1-02

690-086-0225

Agricultural Water Supplier Plan Elements

A water management and conservation plan submitted by an agricultural water supplier shall include:

(1) An agricultural water supplier description as described under OAR 690-086-0240;

(2) An agricultural water conservation element as described under OAR 690-086-0250;

(3) An agricultural water allocation/curtailment element as described under OAR 690-086-0260;

(4) An agricultural water supply element as required under OAR 690-086-0270;

(5) A list of the affected local governments to whom the draft plan was made available pursuant to OAR 690-086-0220 (6) and a copy of any comments on the plan

provided by the local governments;

(6) A proposed date for submittal of an updated plan based on the proposed schedule for implementation of conservation measures, any relevant schedules for other community planning activities, and the rate of growth of or other changes expected by the water supplier; or an explanation of why submittal of an updated plan is unnecessary and should not be required by the Department.

Stat. Auth.: ORS 536.027, 537.211 and 540.572

Hist.: WRD 10-2002, f & cert. ef. 11-1-02

690-086-0240

Agricultural Water System Description [*Plan Elements and Standards*]

[A water management and conservation plan submitted by an agricultural water supplier shall consist of the following elements:

(1) A **The description of the water system shall include** [*that includes*] at least the following information:

(1) [(a)] General I[L]ocation of water right acreage, numbers of the associated water right certificates and permits and a description of relevant conditions of the water rights including the seasons of use and the uses of any other permitted withdrawals by the supplier;

(2) [(b)] Source(s) of water; storage and regulation facilities; and a summary of any transfer, rotation, exchange or intergovernmental cooperation agreements;

(3) [(c)] A schematic of the system showing storage and distribution facilities, drainage systems, measurement stations, generalized district boundaries, points of diversion and locations of major operational spills;

(4) [(d)] Current water use, including peak and average annual diversions and, when available, water reuse and return flows;

(5) [(e)] A summary of major classifications of user accounts showing water right acreages, the number of accounts of each classification, and the beneficial uses for which water is provided (irrigation, frost protection, temperature control, agricultural use, livestock, domestic, etc.);

(6) [(f)] Types of on-farm irrigation systems [common within the supplier's accounts];

(7) [(g)] A general characterization of crops [*Crops*] commonly grown and the estimated average and peak consumptive use of the crops; and

(8) [(h)] A description of the operation and maintenance program.

Stat. Auth.: ORS 536.027, 537.211 and 540.572

Hist.: WRD 11-1994, f. & cert. ef. 9-21-94; WRD 10-2002, f & cert. ef. 11-1-02

690-086-0250

Agricultural Water Conservation Element

(2) A **The water conservation element shall include** [*which includes*] at least the following:

(1) [(a)] A progress report on the conservation measures scheduled for implementation in the water management and conservation plan previously approved by the Department, if any;

(2) [(b)] A description of the water supplier's **agricultural** water [use] measurement [and reporting] program and a statement that the program complies with the measurement **and reporting** standards in OAR **Chapter 690**, Division 85, that a time extension or waiver has been granted, or that the standards are not applicable;

(3) [(c)] A description of other conservation measures currently implemented by the water supplier;

(4) [(d)] Short- and long-term goals of the water supplier to improve water management;

(5) [(e)] An evaluation of the opportunities for improving water use efficiency which includes:

(a) [(A)] A description of losses of water from canals, pipelines, and laterals, including any operational spills;

(b) [(B)] An assessment of the extent to which water deliveries are insufficient to meet crop needs;

(c) [(C)] A list of alternative conservation measures to reduce the losses of water identified in **subsection (a) of this section** [paragraph (A) of this subsection] and address any insufficiencies of water deliveries identified in **subsection (b) of this section** [paragraph (B),]; and

(d) [(D)] An assessment of existing and future alternatives to finance conservation measures including an analysis of the possibility of applying for the allocation of conserved water (OAR 690-018-0010 to OAR 690-018-0090).

(6) [(f)] For each of the following conservation measures not currently being implemented, and evaluation of whether implementation of the measure is feasible and appropriate for ensuring the efficient use of water and the prevention of waste:

(a) [(A)] Promotion of energy audits offered through local electric utilities for district water users;

(b) [(B)] Conversion to metered, pressurized deliveries to all parcels of one acre or less;

(c) [(C)] Piping or lining earthen canals;

(d) [(D)] Modifying distribution facilities and district policies to increase the flexibility of water deliveries;

(e) [(E)] Provision of on-farm irrigation scheduling assistance;

(f) [(F)] Construction of re-regulating reservoirs;

(g) [(G)] Adoption or rate structures that support and encourage water conservation;

(h) [(H)] Each of the conservation measures listed in OAR **690-086-0250(5)(c)** [690-086-0240(2)(e)(C)]; and

(i) [(I)] Any other conservation measures identified by the water supplier that would improve water use efficiency.

(7) [(g)] A description and estimated schedule for implementation of each of the following conservation measures:

(a) [(A)] An information and education program aimed at improving the efficiency of use of water delivered. The program should address all types of uses served and include voluntary water use audits; and

(b) [(B)] Any other conservation measures identified as feasible and appropriate under section (6) of this rule [subsection (f)].

(8) [(h)] A program to monitor and evaluate the effectiveness of the conservation measures which are implemented.

Stat. Auth.: ORS 536.027, 537.211 and 540.572

Hist.: Renumbered from OAR 690-086-0240 (2)); WRD 10-2002, f & cert. ef. 11-1-02

690-086-0260

Agricultural Water Allocation/Curtailment Element

[(3) A] The water allocation/curtailment element shall include [which includes] at least the following:

(1) [(a)] A description of the frequency and magnitude of past supply deficiencies and current capacity limitation. The description shall include an assessment of the ability of the water supplier to maintain delivery during drought or other source shortages.

(2) [(b)] A description of the water supply situation(s) that cause the water allocation/curtailment element to be implemented, including identification of the supply situations which trigger warnings to users or public notice of impending shortage;

(3) [(c)] A description of the procedure used to allocate water during water shortages.

Stat. Auth.: ORS 536.027, 537.211 and 540.572

Hist.: (Renumbered from OAR 690-086-0240 (3)); WRD 10-2002, f & cert. ef. 11-1-02

690-086-0270

Agricultural Water Supply Element

[(4) A] The long-range water supply element [which] shall include at least the following:

(1) [(a)] An estimate of the water supplier's long-range water demand projections for 20 years;

(2) [(b)] A comparison of the projected water needs and the size and reliability of water rights permits or other current water supply contracts held by the water supplier;

(3) [(c)] A list of potential sources of water, including conservation and reuse, to supply the long-range needs;

(4) [(d)] A comparison among the potential sources of additional water considering costs, availability, reliability, and likely environmental impacts;

(5) [(e)] An evaluation of the effects of the following factors on long-range water needs:

(a) [(A)] Regional options for meeting future water needs;

(b) [(B)] Urbanization and other land-use trends;

(c) [(C)] Provisions in affected local governments' comprehensive plans relating to agricultural lands, urbanization, water resources, water supply, public facilities and services, and any other pertinent plan element or ordinance relating to uses or lands served, or proposed to be served, under the long-term water supply plan.

[(5)(a) A proposed date for submittal of an undated water management and conservation plan based on the proposed schedule for implementation of conservation measures, any relevant

schedules for other community planning activities, and the rate of growth of or other changes expected by the water supplier; or

(b) An explanation of why submittal of an updated plan is unnecessary and should not be required by the Department.]

Stat. Auth.: ORS 536.027, 537.211 and 540.572

Hist.: (Renumbered from OAR 690-086-0240 (4)); WRD 10-2002, f & cert. ef. 11-1-02

690-086-0900

Water Management and Conservation Plan Review, Approval And Enforcement

(1) The rules in OAR 690-086-0900 to 690-086-0920 set out the process and criteria for the Department's review, approval and enforcement of the water management and conservation plans submitted by agricultural and municipal water suppliers. The rules apply to the submittal and review of draft plans, proposed final plans, and subsequent updates.

(2) During the plan review and approval process, the Department may allow additional time for a municipal water supplier to implement water metering under OAR 690-086-0150(4)(b) or a benchmark established in a previously approved plan if the water supplier shows that additional time is necessary to avoid unreasonable and excessive costs.

(3) Notwithstanding any of the requirements of these rules, except OAR 690-086-0150 (2) and OAR 690-086-0250 (2), the Department may approve a water management and conservation plan if the plan is generally consistent with the applicable criteria and includes a schedule for completion within five years of any additional work necessary to satisfy the requirements.

(4) Any plan approval that contains a requirement that a municipal water supplier complete additional work under section (3) of this rule shall preclude additional diversion of water under an extended permit beyond the need quantified for the next two years.

Stat. Auth.: ORS 536.025 & ORS 536.027

Hist.: WRD 10-2002, f & cert. ef. 11-1-02

690-086-0905

Notice of Submittal of a Draft Plan or Updated Plan

(1) The Department shall notify affected local governments, affected Indian tribes, and all persons on the Department's weekly mailing list that a draft water management and conservation plan prepared under the requirements of OAR 690-086-0125 or OAR 690-086-0225 has been submitted to the Department and is available for review.

(2) Any person may review and submit written comments on the draft plan within 30 days of the notification in section (1) of this rule. Written comments submitted under this subsection must cite specific provisions of concern in the draft plan, describe how each of the provisions cited do or do not satisfy the requirements of OAR Chapter 690, Division 086, suggest any modification in each provision that would be necessary to satisfy the

relevant requirement, and include information to support any suggested modifications.

Stat. Auth.:ORS 536.027, 537.211 and 540.572

Hist.: (Renumbered from OAR 690-086-0910 (1) and (2)); WRD 10-2002, f & cert. ef. 11-1-02

690-086-0910

Preliminary [Plan] Review of Draft Plans [and Approval]

(1) *[The Department shall notify affected local governments, affected Indian tribes, and all persons on the Department's weekly mailing list that a draft water management and conservation plan prepared under the requirements of OAR 690-086-0140 or OAR 690-086-0240 has been submitted to the Department and is available for review.*

(2) *Any person may review and comment on the draft plan within 30 days of the notification in section (1) of this rule. The Department will consider comments submitted under this section which cite specific provisions of concern in the draft plan, describe how each of the provisions cited do or do not satisfy the requirements of OAR Chapter 690, Division 86, suggest any modification in each provision which would be necessary to satisfy the relevant requirement, and include information to support any suggested modifications.*

(3) *The Department shall undertake a preliminary review of the draft plan and the comments received pursuant to OAR 690-086-0905 to determine whether the plan includes the required elements of OAR 690-086-0120 to 690-086-0170 or OAR 690-086-0220 to 690-086-0270 [which are consistent with section (2) of this rule, identify any modifications needed to satisfy the relevant requirements of OAR 690-086-0140 or OAR 690-086-0240, and notify the water supplier within 90 days after receipt of a draft plan, in writing, of the results of the review. The Department shall include in the notification copies of any comments received].*

[(4) In determining if a plan satisfies the relevant requirements of 690-086-0140 or OAR 690-086-0240, the Department shall:]

(2) For a plan submitted by a municipal water supplier, the Department shall review the plan to determine if the information and analyses in the plan are sufficient for the Department to make the determination required under OAR 690-086-0130.

(3) For a plan submitted by an agricultural water supplier the Department shall review the plan to determine whether:

(a) The plan includes the information required in OAR 690-086-0240;

(b) [(a)] The water supplier has [Review the water conservation element to determine if the water supplier has included] complied with the requirements of OAR 690-086-0250 and has included a description of the actions to be taken in the implementation of water conservation measures [which] that are feasible and appropriate for ensuring the efficient use of water and the prevention of waste; considering:

(A) The economic feasibility of the measures for the water supplier;

(B) Any likely adverse environmental impacts of implementation of the measures;

(C) Whether the measures are available and proven;

(D) The time needed to implement the measures;

(E) The effects of local variations in soil type and weather on the potential for successful

implementation of the measures; and

(F) Whether the measures are consistent with other relevant water management plans and subbasin conservation plans.

(c) [(b)] **The water allocation/curtailment element prepared under OAR 690-086-0260 satisfactorily promotes water curtailment practices and the coordination of usage regulation, taking into account state water law and local conditions, or [Approve any water curtailment element which]** is substantially the same as a curtailment plan prepared pursuant to ORS 536.780 and OAR 690-019-0090 and approved by the Department within the previous five years; and

(d) [(c) *Review the long-range water supply element to determine if*] **T**[(t)]he water supplier has included **the information required in OAR 690-086-0270, and,** in the list of potential sources of water to meet projected demands, **included** the development of any conservation measures which are available at a cost which is lower than the cost of other identified sources or has provided sufficient justification for the factors used in selecting other sources for development.

(4) Upon completion of the preliminary review and no later than 90 days after receipt of a draft plan, the Department shall:

(a) After considering public comments, provide the Department's written comments on the plan to the water supplier and any person who submitted comments pursuant to OAR 690-086-0905; or

(b) After considering public comments if the Department determines that the draft plan includes the required plan elements under OAR 690-086-0125 or OAR 690-086-0225, and for municipal water supply plans, that the plan meets the criteria under OAR 690-086-0130, issue a final order approving the plan pursuant to OAR 690-0086-0915 (4) or (5) and notify any person who submitted comments pursuant to OAR 690-086-0905 of the issuance of the order.

(5) The Department shall include in its written comments prepared under section (4) of this rule:

(a) For each deficiency identified in the review, a citation of the relevant statute or rule;

(b) [(5)] To the extent possible, identification [the Department shall advise the water supplier] of any constraints to implementation of the water management and conservation plan and recommendations on [shall recommend] appropriate actions to secure any identified new sources of water[.];

(c) An evaluation of the extent to which a request for additional time under OAR 690-086-0900 (2) satisfies the relevant requirements of the rules;

(d) A prescribed reasonable period of time of not less than 60 days, identified in consultation with the water supplier, for the water supplier to respond to the Department's review and to submit a proposed final plan; and

(e) Copies of any written comments received pursuant to OAR 690-086-0905.

(6) If the Department does not meet the 90-day deadline in section (4) of this rule:

(a) For purposes of ORS 540.572, a plan submitted by an agricultural water

supplier after November 1, 2002, is deemed approved for the period from the expiration of the 90-day deadline until 120 days after the Department provides written comments under section (5) of this rule; and

(b) For municipal water suppliers whose additional diversion of water under an extended permit is only authorized upon issuance of a final order approving a water management and conservation plan, notwithstanding OAR Chapter 690, Division 315, the Director may by order authorize diversion of an additional specified quantity of water as necessary to prevent harm to public welfare, safety and health.

[(6) The Department may deny approval of a water management and conservation plan if the water supplier does not submit a final plan to the Department within 90 days after receipt of the Department's review.]

Stat. Auth.: ORS 536.027, 537.211 and 540.572

Hist.: WRD 11-1994, f. & cert. ef. 9-21-94; WRD 10-2002, f. & cert. ef. 11-1-02

690-086-0915

Final Review of Plans

(1) *[(7)]* Upon receipt of a proposed final plan, the *[The]* Department shall evaluate the *[final]* plan to determine if it *[the plan]* includes the required elements *[satisfies the relevant requirements]* of OAR 690-086-0125 to OAR 690-086-0170 for municipal water suppliers *[690-086-0140]* or OAR 690-086-0225 to 690-086-0270 for agricultural water suppliers *[690-086-0240]*. The evaluation *[by the Department]* shall be limited to a review of modifications in the plan and issues *[on which the Department has]* that were identified in the Department's written comments provided under OAR 690-086-0910 and, if any deficiencies are identified, the Department's review shall cite the relevant statute or rule *[commented under section (3) of this rule]*.

(2) *[(8)]* If the Department determines that the final plan does not include the required elements *[satisfy the relevant requirements]* of OAR 690-086-0120 to OAR 690-086-0170 *[690-086-0140]* or OAR 690-086-0220 to 690-086-0270 *[690-086-0240]*, the Department *[may]* shall consult with the water supplier and may provide additional time to correct any discrepancies.

(3) For a water management and conservation plan submitted by a municipal water supplier, the Department shall review the plan to determine if the information and analyses in the plan are sufficient for the Department to make the determination required under OAR 690-086-0130.

(4) For a water management and conservation plan submitted by a municipal water supplier, if the Department determines that the proposed final plan includes the required elements under OAR 690-086-0120 to OAR 690-086-0170 and meets the applicable criteria under OAR 690-086-0130, the Department shall issue a final order approving the plan and notify the water supplier and any person who submitted comments pursuant to OAR 690-086-0905 of the approval. The Department's order shall include the following:

(a) A quantification of the maximum amount of water to be diverted during the next 20 years under each extended permit, or for a longer period as specified for an extended reservoir permit;

(b) The date on which an updated plan shall be submitted to the Department. A municipal water supplier may submit an updated plan at any time prior to the date specified if necessary to accommodate unanticipated events, but the Department shall not require submittal of an updated plan earlier than five years after issuance of the order approving the plan; and

(c) A schedule for submittal of five-year progress reports on implementation of the water conservation and supply measures described in the plan.

(5) [(9)] For a water management and conservation plan submitted by an agricultural water supplier, if [If] the Department determines that the proposed final plan satisfies the relevant requirements or if the water supplier satisfactorily corrects any identified discrepancies, the Department shall issue a final order approving [approve] the plan and notify the water supplier and any person who submitted comments pursuant to OAR 690-086-0905 [section (2) of this rule] of the approval. The Department shall specify in the order approving the plan if an updated plan shall be required and, if so, the date on which the updated plan shall be submitted to the Department. The Department shall not require submittal of an updated plan earlier than five years after issuance of the order approving the plan.

(6) The Department shall issue a final order denying approval of the plan and notify the water supplier and any person who submitted comments pursuant to OAR 690-086-0905 of the issuance of the order if:

(a) The Department determines that the proposed final plan does not contain the plan elements required under OAR 690-086-0125 or OAR 690-086-0225;

(b) For municipal water suppliers, the plan does not meet the criteria under OAR 690-086-0130;

(c) The municipal water supplier has failed to adequately justify a request for additional time to implement water metering under OAR 690-086-0150(4)(b) or a benchmark established in a previously approved plan; or

(d) The work plan submitted under OAR 690-086-0900(3) is insufficient for completing the additional work necessary to satisfy the requirements of these rules.

(7) The Department may deny approval of a water management and conservation plan if the water supplier fails to submit a final plan to the Department within 120 days after receipt of the Department's preliminary review.

(8) [(10)] If the Department issues a final order denying approval of [does not approve] the plan, the water supplier may request that the Department reconsider the order and the Director appoint a five-member review board to review the plan. The board shall include at least two individuals from the basin in which the supplier is located who are engaged in similar uses of water, the local watermaster, and other individuals knowledgeable about water use practices and [or the environmental impacts of] water conservation. After reviewing the plan and evaluating any additional information presented by the water supplier and the Department, the board may recommend that the Department:

(a) Reconsider the decision not to approve the plan;

(b) Reconsider the decision not to approve the plan contingent on the water supplier agreeing to specified modifications; or

(c) Reaffirm the original decision not to approve the plan.

(9) [(11)] The Department shall notify the water supplier, the members of the review board, and any person who submitted comments pursuant to **OAR 690-086-0905** [section (2) of this rule] of any action taken based on the board's recommendation.

(10) [(12)] The water supplier or a person who has submitted comments pursuant to **OAR 690-086-0905** [section (2) of this rule] may, within 30 days of a notification pursuant to **OAR 690-086-0910(5)(b)** or section (4), (5), (6), or (9) [or (11)] of this rule, appeal a decision by the Department to approve or to not approve a plan to the Commission. The Commission may deny the appeal or may accept the appeal and remand the plan to the Department to seek resolution of the issues identified in the appeal and, if the issues are not resolved, to initiate a contested case proceeding pursuant to ORS 183.413 and OAR Chapter 690, Divisions 1 and 2.

[(13)] *During the plan review and approval process, the Department may extend the time allowed for implementation of any conservation or metering measures if the water supplier shows that an extension is necessary to avoid unreasonable and excessive costs.*

(14) *During the plan review and approval process, the Department may, on request of a water supplier, waive the requirements for implementation of any of the required measures listed in OAR 690-086-0140 or OAR 690-086-0240. In determining if implementation of any measure should be waived, the Department shall consider whether:*

(a) *Implementation of the measure is impractical or unreasonable;*

(b) *The water supplier has an adequate and secure water supply sufficient to serve present and projected future demands; or*

(c) *The water supplier is implementing other, equally effective conservation measures which may include an aggressive leak detection program, anti-waste provisions in a supplier's ordinances, rules or regulations, or other policies showing a commitment to water use without waste.*

(15) *Notwithstanding any of the requirements of OAR Chapter 690, Division 86, except OAR 690-086-0140(2)(b) and OAR 690-086-0240(2)(b), the Department may approve a water management and conservation plan if the plan is generally consistent with the relevant requirements and includes a schedule for completion within five years of any additional work necessary to satisfy the relevant requirements.]*

Stat. Auth.: ORS 536.027, 537.211 and 540.572

Hist.: (Renumbered from OAR 690-086-0910 (7)); WRD 10-2002, f & cert. ef. 11-1-02

690-086-0920

Enforcement

If the Director determines that a water supplier has failed to submit a **water management and conservation** plan as required under OAR 690-086-0010 to OAR **690-086-0270** [690-086-0240] or has failed to satisfactorily implement an approved water management and conservation plan, the Director may proceed with one or more of the following actions:

(1) Provide an additional, specified amount of time for remedy;

(2) Initiate an evaluation of the supplier's water management practices and facilities to determine if the use of water is wasteful;

(3) Initiate regulation of water use under OAR 690-250-0050 to eliminate waste;

- (4) Rescind a previous approval of a water management and conservation plan; and
- (5) If the submittal of the water management **and conservation** plan is required under a **condition of a permit or an extension approved under OAR Chapter 690, Division 315 or 320** [*condition*], assess a civil penalty under OAR 690-260-0005 to OAR 690-260-0110 or cancel the permit.

Stat. Auth.: ORS 536.027, 536.900, 537.211 and 540.572

Hist.: WRD 11-1994, f. & cert. ef. 9-21-94; WRD 10-2002, f & cert. ef. 11-1-02