

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

I hereby certify that the attached copy is a true, full and correct copy of PERMANENT rule(s) adopted on January 26, 1996 by the Water Resources Commission to become effective upon filing.


The matter having come before the Water Resources Commission 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 the Secretary of State's Bulletin: ___ No X Yes
Date Published: November 1, 1995

NOW, THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken: (List INDIVIDUAL Rule Number(s) on the appropriate line below).

- ADOPTED: (see attached)
- AMENDED: (see attached)
- REPEALED: (see attached)
- RENUM. TO.: (see attached)
- AMENDED AND RENUMB. To: (see attached)

as the Administrative Rules of the Water Resources Commission
Dated this 31st day of January, 1996.

By: 
Title: Director

STATUTORY AUTHORITY: ORS 536.027
OTHER AUTHORITY:
STATUTES BEING IMPLEMENTED: ORS Chapters 183, 390, 536, 537,
SUMMARY:

The rules are permanent water right application processing rules that reflect changes made by the 68th Legislative Assembly through SB 510, SB 674, SB 1032, SB 1033, and HB 2184. In addition, the rules include new divisions to better organize the department's rules by subject matter in OAR Chapter 690.

For further information, contact
RULES COORDINATOR: Beth Patrino Phone: 378-8455, ext. 299

Adopted

690-02-025; 02-035; 02-105; 02-175

690-77-019; 77-027; 77-029; 77-033; 77-037; 77-039; 77-043; 77-046; 77-047; 77-048;
77-051; 77-052; 77-053

690-310-005; 310-010; 310-020; 310-030; 310-070; 310-080; 310-100; 310-110;
310-120; 310-130; 310-140; 310-150; 310-160; 310-170; 310-180; 310-190; 310-200;
310-210; 310-220; 310-230; 310-240; 310-250; 310-260; 310-270; 310-275; 310-280

Amended

690-02-010; 02-030; 02-040; 02-050; 02-090; 02-100; 02-120; 02-130; 02-150; 02-170

690-05-040; 05-050

690-77-000; 77-010; 77-015; 77-020; 77-070;

Repealed

690-02-070

690-77-021; 77-022; 77-023; 77-026; 77-028; 77-032; 77-034; 77-036; 77-038; 77-042;

690-11-025; 11-030; 11-040; 11-050; 11-060; 11-150; 11-160; 11-170; 11-175; 11-180;
11-18311-185; 11-190; 11-195; 11-197;

Renumb. to

690-77-044 to 77-049; 77-050 to 77-054

Amended and Renumb. to

690-11-010 to 690-300-010

690-11-000 to 690-310-000; 690-11-020 to 690-310-040; 690-11-070 to 690-310-050;
690-11-048 to 690-310-060; 690-11-155 to 690-310-090; 690-11-196 to 690-310-260

690-11-200(3) to 690-320-070; 690-11-200(6) to 690-320-050; 690-11-200(7) to 690-
320-060; 690-11-205 to 690-320-010; 690-11-210 to 690-320-020; 690-11-235 to 690-
320-040; 690-11-215 to 690-320-030

690-11-225 to 690-330-010; 690-11-230 to 690-330-020; 690-11-200(6) to 690-330-
030; 690-11-200(3) - (5) to 690-330-040

690-11-014 to 690-340-010; 690-11-041 to 690-340-020; 690-11-046 to 690-340-030;
690-11-047 to 690-340-040; 690-11-049 to 690-340-050

690-77-024 to 690-77-031 ✓

**WATER RESOURCES DEPARTMENT
OAR CHAPTER 690, DIVISION 320
WATER RIGHT PERMITS**

Extension of Time Limits

690-320-010 (1) The time limit to begin construction of water use facilities shall not be extended except for municipal use of surface water by a municipality, permits involving Federal Energy Regulatory Commission projects or permits issued to irrigation districts for reclamation purposes.

(2) The time limits to complete construction or to apply the water to a beneficial use may be extended upon showing of good cause for the untimely completion. This determination shall consider the requirements of ORS 537.230 and 539.010(5).

(3) Time extensions granted shall be for one year only except for permits for municipal, quasi-municipal or group domestic uses or permits issued to districts. Municipal, quasi-municipal, group domestic and district permits may be granted time extensions of not to exceed five years.

(4) If the Director determines that some progress has been made to complete the construction or use, but if diligence is questionable, the Director may:

- (a) Deny the request for more time;
- (b) Grant the request for more time and notify the applicant that future requests for more time will not be granted; or
- (c) Grant the request for more time by an order amending the permit to include any condition or provisions needed for determining future diligence. Such new provisions or conditions shall not apply to any portion of the right developed under the time limits previously granted.

Stat. Auth.: ORS 536.025, 536.027

Statutes Implemented: 536.220, 536.300, 536.310, 537.230, 537.630, Chapters 540 and 543

Cancellation of Permit

690-320-020 When it appears from an onsite examination by the Water Resources Department that no appropriation has been made under the terms of the permit, or that use once made has undergone a period of five successive years of nonuse, a certified letter of intent to cancel the permit shall be sent to the permittee, allowing 60 days from the date of the letter for response. Failure to respond during the 60-day period shall result in cancellation of the permit.

Stat. Auth.: ORS 536.025, 536.027

Statutes Implemented: 536.220, 536.300, 536.310, 537.260, 537.410 to 537.450, Chapters 540 and 543

January 31, 1996

Claims of Beneficial Use for Applications Filed After June 30, 1987

690-320-030 Except for applications filed under the provisions of OAR 690-340-220, all final proof surveys and claims of beneficial use for applications filed after July 9, 1987 shall be performed by Certified Water Right Examiners. Applicants prior to July 10, 1987 may either wait for the Department to perform the final proof survey on its own schedule or may hire a certified Water Right Examiner.

Stat. Auth.: ORS 536.027

Statutes Implemented: ORS 537.797, 537.798, 537.799

Incremental Perfection of a Municipal Water Right

690-320-040 (1) A municipal supplier may incrementally perfect a portion of the quantity of water authorized by any of its municipal water use permits. For the purpose of incrementally perfecting water rights, a municipal supplier means:

- (a) Any incorporated city, village, or town;
- (b) A port formed under ORS 777.005 to 777.725 and ORS 777.915 to 777.953;
- (c) A domestic water supply district formed under ORS Chapter 264; or
- (d) A water supply authority formed under ORS Chapter 450.

(2) The portion of water use that may be incrementally perfected by a municipal supplier shall not be less than 25 percent of the quantity originally authorized by permit. The perfection, or proof of appropriation, of each increment of water shall conform to the proof of appropriation requirements of OAR 690-330-010.

(3) When a portion of a permit issued for municipal use is perfected by a municipal supplier, the remaining unperfected quantity of water shall remain in permit status without loss of priority. The increment of water perfected and confirmed by certificate shall be subtracted from the quantity of water originally authorized by permit. The remainder shall be the quantity of water subject to future perfection under the terms of the permit.

(4) A municipal supplier shall notify the Department, in writing, of its intent to incrementally perfect a portion of its water right. Written notice shall include the following information:

(a) The quantity of water diverted from each point of diversion, by month, for the preceding three years;

(b) A plan of how the municipal supplier intends to develop successive increments of its water right; and

(c) Maps that show where water will be put to use. Maps accompanying notification of intent to perfect an increment of a water right shall be prepared to the specifications described in OAR 690-310-050, except that a standard even scale less than 4" = 1 mile may be used if appropriate.

(5) Municipal suppliers that incrementally perfect less than the full quantity of water authorized by permit may request further extension of the time limit to complete construction and apply water to beneficial use for the

remaining, unperfected quantity of water. OAR 690-320-010 governing extension of time limits applies to unperfected municipal water rights.

Stat. Auth.: ORS 536.025, 536.027,

Statutes Implemented: ORS 536.220, 536.300, 536.310, 537.260 & Ch. 540

Temperature Control

690-320-050 Where a permit has been issued for use of water for temperature control (either heat or cold), a report detailing the amount of water used, the times of application and conditions requiring the use of water for temperature control shall be required annually. These shall be required as an element of proof of appropriation to the satisfaction of the Department prior to issuance of a confirming water right certificate.

Statutory Authority: ORS 536.027

Statutes Implemented: ORS 537.170, 537.250, 537.525 & 537.630

Assignment or Change of Ownership of a Permit or Groundwater Registration

690-320-060 (1) When a change of interest or ownership occurs in lands covered by a permit or groundwater registration, the record holder may request, in writing, the Director to record the assignment of a new owner.

(2) Should the record holder of the permit or groundwater registration be unavailable, the current owner of the property involved may furnish proof of such ownership to the Commission to obtain ownership of the permit or registration. The Department shall also record a change in ownership to an heir or devisee under a will upon receiving proof of a transfer to trust by the record holder. Proof of ownership of the involved lands shall include, but not be limited to one or more of the following documents:

- (A) A copy of the deed to the land;
- (B) A copy of a land sales contract;
- (C) A court order or decree; or
- (D) Documentation of survivorship of property held jointly.

Statutory Authority: ORS 536.025, 537.027

Statutes Implemented: ORS 537.220 & 537.635

Primary and Supplemental Rights

690-320-070 (1) Cancellation of primary rights:

(a) A notice given pursuant to ORS 540.631 for the proposed cancellation of a primary water right for irrigation of certain lands shall include notice of the proposed cancellation of any supplemental water right for irrigation of the same lands;

(b) If the primary right is determined to have been forfeited by non-use and the supplemental right is not determined also to have been forfeited by non-use, the owner of the land to which the right is appurtenant may apply to

transfer the supplemental right, without loss of priority, to become the primary right.

(2) Diminution of a water right: A primary right may, at the request of the owner of the right, be diminished to a supplemental status to allow for a new primary right application from a more dependable source of water.

(3) Supplemental rights: Where more than one right exists, water shall be used from the primary source so long as there is sufficient quantity to satisfy the terms of the permit or certificate. Nevertheless, if requested by the applicant, a permit may be issued which describes a surface water source as supplemental to a groundwater right and shall provide that, in the interest of conserving the groundwater supplies, the supplemental right may be exercised at time when water is available from the surface water supply.

Statutory Authority: ORS 536.027

Statutes Implemented: ORS 540.610 to 540.650