

FINAL PROPOSED RULES FOR COMMISSION CONSIDERATION

**OREGON ADMINISTRATIVE RULES
CHAPTER 690 DIVISION 22
EMERGENCY WATER PROVISIONS – KLAMATH COUNTY**

Temporary Rules Proposed for Adoption

690-022-0060

Purpose and Authority

- (1) Notwithstanding OAR 690-019-0070, the purpose of OAR 690-022-060 to OAR 690-022-063 is to implement ORS 536.750(1)(c), which authorizes the Commission, pursuant to a gubernatorial declaration that a severe, continuing drought exists, to grant a temporary preference to water rights allowing water for human consumption or stock watering use over other water uses regardless of priority date.
- (2) These rules address an immediate threat to the health and welfare of the people of Oregon that would otherwise occur if regulation for senior water rights in Klamath County curtailed or prohibited use of water rights for human consumption and stock watering.
- (3) OAR 690-022-060 to OAR 690-022-063 become effective upon filing. During the effective period of these rules, not to exceed 180 days, and pursuant to Executive Order 18-02 declaring a severe, continuing drought emergency in Klamath County, and pursuant to ORS 536.750(1)(c), the Commission grants a preference of use for water rights for human consumption or stock watering as provided in these rules.
- (4) The preferences established under these rules do not authorize a water right holder exercising the preference to make a call for water.
- (5) For the purposes of these rules, a water right allowing for human consumption may include, but is not limited to, water rights for municipal, commercial, industrial, quasi-municipal, and domestic uses.
- (6) The temporary preference provided by these rules shall remain in effect only during the effective time period of the Governor’s Executive Order no. 18-02, or 180 days from the effective date of this rule, whichever is shorter.

Stat. Auth.: ORS 536.025; 536.027; 536.750

Stats. Implemented: ORS 536.750

690-022-0061

Definitions

Unless the context requires otherwise, the words and phrases used in OAR 690-022-0060 to OAR 690-022-0063 have the following meaning:

- (1) “Commission” means the Oregon Water Resources Commission.
- (2) “Department” means the Oregon Water Resources Department.
- (3) “Human consumption” means the use of water for the purposes of drinking, cooking, and sanitation.
- (4) “Stock watering” or “stock water” means the use of water for consumption by domesticated animals and wild animals held in captivity as pets or for profit.
- (5) “Water right” means a water use established by:

Attachment 6: Final Proposed Rules

- (a) An adjudication under ORS chapter 539 as evidenced by a determined claim as provided in the Amended and Corrected Findings of Fact and Order of Determination entered in the Klamath County Circuit Court on February 28, 2014;
- (b) An adjudication under ORS chapter 539 as evidenced by a court decree;
- (c) A water right certificate;
- (d) A water use permit;
- (e) A transfer application for which an order approving the change has been issued under ORS 540.530 and for which proper proof of completion of the change has been filed with the Water Resources Commission.

Stat. Auth.: ORS 536.025; 536.027; 536.750

Stats. Implemented: ORS 536.750

690-022-0062

Applicability of Preference for Stock Watering in the Williamson River Basin

During the effective period of these rules and a drought declaration under Executive Order 18-02 in Klamath County, and notwithstanding any provision of ORS 536 to ORS 543A to the contrary, the Commission grants a temporary preference for stock watering as follows:

- (1) The stock water preference applies only to the diversion or use of water under a water right within Klamath County for the Williamson River basin, including the Sprague River, Sycan River and all tributaries.
- (2) Uses of water for stock watering, to the extent authorized under a water right, are granted a preference over other water uses regardless of the priority date of the water right for stock watering.
- (3) Water right holders in Klamath County who want to exercise the stock water preference shall provide a notice to the watermaster on a form provided by the Department. .
- (4) Upon receipt of the notice and verification that the notice is consistent with the terms of the water right and with these rules, the water right holder may exercise the preference as directed by the watermaster provided that:
 - (a) Water diverted for stock water is limited to an amount not to exceed one-tenth of one cubic foot per second, equivalent to 45 gallons per minute, per thousand head of stock as measured at the surface water point of diversion or at the well.
 - (b) The diversion of water under the stock water preference may not result in the depletion of a stream to less than 2 cubic feet per second.
 - (c) The water right holder curtails all other water uses unrelated to stock water and allows the watermaster access to confirm compliance.
 - (d) The water right holder records information on the number of days stock water is diverted, the diversion rate, and how many stock were served.
- (5) Exercise of the stock water preference only applies to a water right holder that is regulated by the watermaster in order to satisfy a senior water right.
- (6) Water right holders exercising the preference shall provide the information in subsection 4(d) to the Department upon request.

Stat. Auth.: ORS 536.025; 536.027; 536.750

Stats. Implemented: ORS 536.750

690-022-0063

Applicability of Preference for Human Consumption in Klamath County

During the effective period of these rules and a drought declaration under Executive Order 18-02 in Klamath County, and notwithstanding any provision of ORS 536 to ORS 543A to the contrary, the Commission grants a temporary preference for water for human consumption as follows:

- (1) Water right holders in Klamath County who want to exercise the human consumption preference shall provide a notice to the Watermaster on a form prescribed by the Department.
- (2) Upon receipt of the notice and verification that the notice is consistent with the terms of the water right and with these rules, the water right holder may exercise the preference as directed by the watermaster, provided that the water right holder exercising the human consumption preference shall:
 - (a) Use the most efficient means of delivery available to them to divert the minimum amount necessary to meet human consumption water needs
 - (b) Curtail all other water uses unrelated to human consumption; and
 - (c) Allow the watermaster access to confirm compliance.
- (3) The option for a water right holder to exercise the human consumption preference only applies to a water right holder that is regulated by the watermaster in order to satisfy a senior water right.

Stat. Auth.: ORS 536.025; 536.027; 536.750

Stats. Implemented: ORS 536.750

Old Rules Proposed for Suspension [Strikethrough]

~~**690-022-0020**~~

~~**Purpose and Statutory Authority**~~

- ~~(1) The purpose of these rules is to implement ORS 536.750(1)(c), which authorizes the Commission, pursuant to a gubernatorial declaration that a severe, continuing drought exists, to grant a temporary preference to water rights for human consumption or stock watering use over other water uses regardless of priority date.~~
- ~~(2) These rules, pursuant to the Governor's Executive Order no.14-01, dated February 13, 2014, are effective upon filing, and shall remain effective until December 31, 2014. During the effective period of these rules and a drought declaration under ORS 536.740 in Klamath County, the Commission grants a preference in Klamath County of use for water rights for human consumption or stock watering as provided in this rule. The temporary preference of use shall only apply to Klamath County and shall remain in effect only during the effective time period of the Governor's drought declaration in Klamath County while these rules are in effect.~~
- ~~(3) These rules are repealed on December 31, 2014.~~

690-022-0025

Definitions

Unless the context requires otherwise, the words and phrases used in division 22 have the following meaning:

- (1) “Commission” means the Oregon Water Resources Commission.
- (2) “Department” means the Oregon Water Resources Department.
- (3) “Human Consumption” means the use of water for the purposes of drinking, cooking, and sanitation.
- (4) “Stock Watering” means the use of water for consumption by domesticated animals and wild animals held in captivity as pets or for profit.

690-022-0030

Applicability and Preference

During the effective period of a drought declaration under ORS 536.740 in Klamath County, and notwithstanding any provision of law to the contrary, the Commission grants a temporary preference for human consumption and/or stock watering as follows:

- (1) The preference described in these rules applies only to the diversion or use of water within Klamath County.
- (2) Uses of water for human consumption and stock watering, to the extent authorized under a water right certificate, permit, decree, or findings of fact and order of determination issued in an adjudication subject to ORS Chapter 539, are granted a preference over all other water uses regardless of the priority date of the water right for stock watering or human consumption.
- (3) The Department will regulate water rights in Klamath County in accordance with the preference for water rights for human consumption and stock watering use as provided in subsection (2) of this section.
- (4) Water right holders exercising the human consumption or stock water preferences established in this rule shall assure curtailment of water uses unrelated to the preference.
- (5) This preference does not authorize a water right holder exercising the preference to make a call for water.
- (6) The option for a water right holder to exercise the preference only applies to a water right holder being regulated by the watermaster in order to satisfy a senior water right.