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ARCHIVES DIVISION
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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 690
WATER RESOURCES DEPARTMENT

FILED
08/30/2018 2:26 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Municipal Water Management and Conservation Plan Rule Updates and Alternate Plans for Small Municipal Suppliers

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/04/2018 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Filed By:
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HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 09/24/2018

TIME: 1:00 PM - 3:00 PM

OFFICER: Chris Kowitz

ADDRESS: Oregon Water Resources

Dept.

725 Summer Street NE

Room 124 B

Salem, OR 97301

NEED FOR THE RULE(S):

OAR 690-086-0100 to 690-086-170 and 690-086-0900 to 690-086-0920 established guidelines and requirements for the preparation, submission, review, and approval of Water Management and Conservation Plans (WMCP) for municipal water suppliers. For municipal water suppliers that serve a population of less than 1,000 people or have fewer than 300 service connections, these requirements may pose significant financial or staffing burdens, and criteria may be less applicable or relevant to these smaller suppliers. Additionally, the uniform requirements of the current rule may deter some small municipalities from preparing and submitting a WMCP, forgoing the benefits of developing certain aspects of the plan that may be advantageous to the supplier (i.e., water curtailment and/or water conservation plans).

This rulemaking proposes to allow small municipal water suppliers that meet certain criteria the option to submit a plan under an alternate set of rules (OAR 690-086-0300 to OAR 690-086-0370). The rules would allow eligible small municipal water suppliers to submit an Alternate Municipal Water Management and Conservation Plan that requires a level of detail and analysis the Department has deemed appropriate for a small municipality that meets certain criteria. The information required in these rules would continue to ensure that water is being used responsibly, that emergency

plans are in place, and that water rights and diversion amounts are fully understood by the supplier. Small municipal water suppliers that do not meet the criteria will continue to submit plans under the existing rules.

In addition, sections of OAR 690-086-0100 to 690-086-170 and 690-086-0900 to 690-086-0920 are proposed to be updated to more closely align with industry standards, to streamline certain processes, correct grammar, and also accommodate the new rules related to Alternate Municipal Water Management and Conservation Plans.

Finally, rule references for agricultural water suppliers are updated to correct a rule that was previously renumbered and to account for the new Alternate Municipal Water Management and Conservation Plan rules.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Oregon Attorney General's Administrative Law Manual (2014) and rulemaking advisory committee records.

FISCAL AND ECONOMIC IMPACT:

Submittal of a water management and conservation plan is already required by rule: the proposed rule changes modify the requirements of those rules in a manner to either align with current industry standards, or to ease the burden on smaller municipal water suppliers. Therefore, the Department does not anticipate a negative fiscal impact on municipal water suppliers. For some small municipal water suppliers, the proposed rules may reduce the fiscal impact of the existing rules, by reducing the costs associated with developing a plan. This could reduce the amount charged by a consultant to develop the plan. The Department cannot estimate this positive fiscal impact for the Small Municipal Water Supplier or the potential reduction in revenue for consultants because it will depend on the specific supplier, their specific plan, and whether a consultant is used to develop that plan.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

State Agencies: There are no anticipated impacts on any other state agency as a result of these rule amendments. The Department will incur some costs to implement the new rules, and update and develop forms; however, this will be done with existing staff resources.

Local government and Public: Outside of local governments or members of the public that are a municipal water supplier required to submit a water management and conservation plan, there are no anticipated impacts on any local governments or members of the public as a result of these rule amendments. For local governments and members of the public that are municipal water suppliers, the proposed rules may reduce the cost of compliance for small municipal water suppliers that are required to submit a municipal water management and conservation plan. The Department cannot determine the potential positive fiscal impact, because this will be specific to each supplier and their plan.

No small businesses are regulated by these rules; therefore, the Department does not anticipate any costs of compliance associated with these rule amendments for small businesses.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The rules advisory committee included a consultant that develops water management and conservation plans.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

690-086-0010, 690-086-0020, 690-086-0030, 690-086-0040, 690-086-0100, 690-086-0120, 690-086-0125, 690-086-0130, 690-086-0140, 690-086-0150, 690-086-0160, 690-086-0170, 690-086-0220, 690-086-0300, 690-086-0320, 690-086-0325, 690-086-0330, 690-086-0340, 690-086-0350, 690-086-0360, 690-086-0370, 690-086-0900, 690-086-0905, 690-086-0910, 690-086-0915, 690-086-0920

AMEND: 690-086-0010

RULE SUMMARY: Updates outdated language and time period for rules to be evaluated. Clarifies when a WMCP can be used to fulfill the requirements for curtailment or conservation plans during a drought. Miscellaneous grammatical corrections.

CHANGES TO RULE:

690-086-0010

Purpose ¶

(1) The Water Resources Commission has adopted a statewide policy on Conservation and Efficient Water Use (OAR 690-410-0060). The policy requires major water users and suppliers to prepare water management and conservation plans. These rules provide a process to ensure the efficient use of the state's water resources and to facilitate water supply planning consistent with water supplier and Department capabilities. ~~The Commission shall evaluate implementation of these rules within three years and~~ Department shall update the Commission on the implementation and effectiveness of these rules every three years thereafter. ¶

(2) Many regions of Oregon face periodic and increasingly frequent water shortages during summer periods. ~~Urbanization is resulting in a continually expanding need for municipal water supplies. In addition, many communities are faced with the need to reduce their impacts on the resource in response to state or federal listings of stream-flow dependant species as sensitive, threatened or endangered, water quality problem, and other flow issues.~~ It is increasingly important to the state's economy to maintain adequate stream flows to support aquatic life, provide recreational opportunities and maintain water quality. The continued implementation of conservation measures can help restore streamflows, stabilize water supplies and provide for future needs for economic development and growth. ¶

(3) Pursuant to ORS 540.610(3) the use of water at a rate or duty which is less than the maximum amount allowed under a water right that is achieved through improved water management practices is not a forfeiture under certain circumstances. However, conserved water may only be used on additional acres or for other purposes not included in the original right after allocation of conserved water under ORS 537.455 to 537.500 or under other specific statutory authorizations. ¶

(4) Effective water management requires an evaluation of the adequacy of water supplies to meet current and future needs, identification of planned modifications in water systems, and development of new water supplies. However, the approval of a water management and conservation plan shall not substitute for compliance with Statewide Planning Goals or any other comprehensive land use planning requirement or constitute approval of applications for water rights, water reservations, water storage facilities, transfers, permit amendments, or extensions of time for permits. ¶

(5) Water management and conservation plans ~~will~~ provide information important in water resources planning and management. In addition, the plans may provide support for applications for water use permits and water right transfers, permit amendments, and requests for extensions of permits, approvals of exchanges, and

reservations of water. Due regard shall be given to any relevant approved water management and conservation plans during Department consideration of these applications and requests.¶¶

(6) Regional cooperation will improve water management and help to facilitate implementation of conservation measures. Water suppliers required under OAR 690-086-0010 to 690-086-0920 to prepare water management and conservation plans, and any other suppliers or users, may jointly submit a single plan that addresses the suppliers' conservation opportunities and water development needs.¶¶

(7) A water management and conservation plan that has been approved under these rules may, at the option of the water supplier, be ~~submitted~~ submitted to satisfy ~~a condition~~ provisions requiring preparation of a conservation plan ~~in an emergency use permit issued pursuant to OAR 690-019-0040 and a requirement for submittal of a curtailment plan in times of a declared or likely drought under an order issued pursuant to ORS 536.780 and OAR 690-019-0090 or curtailment plan pursuant to OAR 690, Division 19, and ORS 537.780. The Department shall make the determination of whether the plan meets the applicable standards at the time of submittal in accordance with those provisions.~~¶¶

(8) Many water use permits that have been issued to water suppliers include conditions requiring preparation of water conservation, long-term water supply, and other water management plans. These rules provide standards for the preparation of such plans. Unless other more specific or stringent requirements are included in a permit, water management and conservation plans that have been approved under OAR 690-086-0915 shall be deemed to meet the permit condition.

Statutory/Other Authority: ORS 536.027, 537.211, 540.572

Statutes/Other Implemented: ORS 537.230, 537.630, 539.010

AMEND: 690-086-0020

RULE SUMMARY: Makes minor grammar and reference corrections to general WMCP definitions.

CHANGES TO RULE:

690-086-0020

General Definitions ¶¶

As used in OAR 690-086-0010 to 690-086-0920:¶¶

(1) "Affected ~~L~~ocal ~~g~~overnments" means any local government as defined in OAR 690-005-0015(1), within whose jurisdiction the diversion, conveyance, or use of water is established or proposed within the context of the water management and conservation plan.¶¶

(2) "Commission" means the Water Resources Commission.¶¶

(3) "Conservation" has the meaning ~~provided~~given to that term in OAR 690-400-0010.¶¶

~~NOTE: OAR 690-400-0010(5) defines conservation as eliminating waste or otherwise improving efficiency in the use of water while satisfying beneficial uses by modifying the technology or method for diverting, transporting, applying or recovering the water; by changing management of water use; or by implementing other measures(5).~~¶¶

(4) "Department" means the Water Resources Department.¶¶

(5) "Director" means the Director of the Water Resources Department or designee.¶¶

(6) "Waste" has the meaning ~~provided~~given to that term in OAR 690-400-0010.¶¶

~~NOTE: OAR 690-400-0010(16) defines waste as the continued use of more water than is needed to satisfy the specific beneficial uses for which a right was granted. The need for water shall be based on using the technology and management practices that provide for the efficient use of water considering:¶¶~~

~~(a) The economic feasibility of use of the technology and management practices by the water user;¶¶~~

~~(b) The environmental impacts of making modifications;¶¶~~

~~(c) The available proven technology;¶¶~~

~~(d) The time needed to make modifications;¶¶~~

~~(e) Local variations in soil type and weather; and¶¶~~

~~(f) Relevant water management plans and subbasin conservation plans(16).~~

Statutory/Other Authority: ORS 536.027, 537.211, 540.572

Statutes/Other Implemented: ORS 537.230, 537.630, 539.010

AMEND: 690-086-0030

RULE SUMMARY: Updated some definitions to more closely align with industry standards and best practices. Deleted definitions that were not used. Adds definition of Small Municipal Water Supplier, Municipal WMCP, and Alternate Municipal WMCP. Miscellaneous grammatical corrections.

CHANGES TO RULE:

690-086-0030

Definitions for Municipal Water Suppliers ¶

As used in OAR 690-086-0100 to 690-086-01370 and 690-086-0900 to 690-086-0920:¶

(1) ~~"Authorized water uses|ternate Municipal WMCP"~~ means a water management and conservation plan submitted by a Small Municipal Water Supplier in accordance with OAR 690-086-0300 to OAR 690-086-0370 in lieu of submitting a plan pursuant to OAR 690-086-0120 to OAR 690-086-0170. ¶

(2) "Authorized Consumption" means all water uses known and approved by a ~~m~~Municipal ~~w~~Water ~~s~~Supplier. These uses include all metered uses and any other approved uses such as fire-fighting, fire training, system operation needs, reuse, or miscellaneous uses.¶

(23) "Benchmark" means the specific incremental activities that a ~~m~~Municipal ~~w~~Water ~~s~~Supplier plans to have completed in implementing conservation measures.¶

(34) "Extended ~~p~~Permit" means a municipal or quasi-municipal water use permit conditioned by an extension order under OAR chapter 690, division 315 or 320 to provide that diversion of water beyond the maximum rate diverted under the permit or previous extension(s) shall only be authorized upon issuance of a final order approving a water management and conservation plan.¶

(4) ~~"Low water use landscaping"~~ means conserving water through designing landscapes for low water use, irrigating efficiently, improving soil and planting low water use plants.¶

(5) "Metering" means using water meters or other continuous recording devices to measure and to maintain a record of all water diverted and delivered.¶

(6) "Municipal ~~w~~Water ~~s~~Supplier" means a publicly or privately owned water distribution system that ~~deliver~~ provides potable water for community needs, either to individual customers or another distribution system, or that ~~deliver~~provides water primarily for commercial or industrial uses.¶

(7) "System leak detection" means a program to monitor leakage throughout the transmission and distribution systems of Municipal WMCP means a water management and conservation plan submitted by a ~~m~~Municipal ~~w~~Water ~~s~~Supplier.¶

(8) ~~"System leakage"~~ means as pursuant to OAR 690-086-0120 to OAR 690-086-0170.¶

(8) "Small Municipal Water Supplier" means a Municipal ~~w~~Water that is lost from a municipal water supply system, not including major breaks that are expeditiously repaired, and un-metered authorized or unauthorized uses.¶

(9) "Water audit" means an analysis of a municipal water supply system that includes a thorough Supplier that:¶

(a) Serves a population of less than 1,000 people or has less than 300 Water Service Connections; and¶

(b) Within the previous 5 years, the water distribution system's maximum daily demand or maximum instantaneous rate, including but not limited to, the amount of water appropriated under its water rights, contracts, and/or interties, has not exceeded 2 million gallons per day (mgd) or 3.0 cubic feet per second (cfs). ¶

(9) "Water Losses" means ae countingmparison of all water into and out of the system to identify system leakage and metered or estimated use for authorized and unauthorized water uses. The audit also includes that enters into the Municipal Water Supplier's system and the Municipal Water Supplier's total Authorized Consumption.¶

(10) "Water Audit" means an analysis of thea municipal water supplier's own water use to identify alternatives to increase efficiency.y system that includes a thorough accounting of all water that enters and exits the system. ¶

(101) "Water ~~e~~Curtailment ~~e~~Element" means a program to accomplish a specific reduction in the amount of water used or lost within a specific time in response to an emergency or other short-term shortage.¶

(112) "Water ~~s~~Service ~~e~~Connections" means water supply connections to the water delivery system, including the water supplier's own connections, but does not include connections for uses such as fire hydrants, fire sprinkler

systems with flow alarms or detector-checks, water line blow-offs and drains, stand-by emergency interties, valve controlled drinking fountains or other similar intermittently used equipment or facilities.

Statutory/Other Authority: ORS 536.027, 537.211, 540.572

Statutes/Other Implemented: ORS 537.230, 537.630, 539.010

AMEND: 690-086-0040

RULE SUMMARY: Proposed changes update rule references that definitions contained in the rule apply to accommodate new rule sections for Alternate Municipal WMCPs.

CHANGES TO RULE:

690-086-0040

Definitions for Agricultural Water Suppliers ¶¶

As used in OAR 690-086-0210 to 690-086-0270 and 690-086-0900 to 690-086-0920:¶¶

(1) "Agricultural water supplier" means any public or private organization, including but not limited to an irrigation district formed under ORS Chapter 545, a drainage district formed under ORS Chapter 547, a water improvement district formed under ORS Chapter 552, a water control district formed under ORS Chapter 553, a corporation organized under ORS Chapter 554, an unincorporated private association or a ditch company, the primary purpose of which is to supply water to others for agricultural uses.¶¶

(2) "Agricultural water measurement" means using measuring devices, including but not limited to weirs, flumes, submerged orifices, gaging stations, and meters, to quantify the rate of flow and the volume of water in a water delivery system.¶¶

(3) "Water allocation/curtailment element" means a program to equitably allocate, under existing priorities, a reduced water supply among the water right holders dependent on the supply in response to an emergency or other short-term shortage.

Statutory/Other Authority: ORS 536.027, 537.211, 540.572

Statutes/Other Implemented: ORS 537.230, 537.630, 539.010

AMEND: 690-086-0100

RULE SUMMARY: Clarifies rule reference. Miscellaneous grammatical corrections.

CHANGES TO RULE:

690-086-0100

Municipal Water Management and Conservation Plans: Applicability ¶

(1) Municipal ~~w~~Water ~~s~~Suppliers are encouraged to prepare water management and conservation plans, but are not required to do so unless a plan is prescribed by a condition of a water use permit; a permit extension; or another order or rule of the Commission. ¶

(2) Water management and conservation plans submitted in order to comply with a permit extension order issued after November 1, 2002, are subject to the requirements ~~of these rules.~~ ¶

~~(3) Until November 1, 2003, water management and conservation plans submitted for purposes other than to comply with a permit extension order issued after the effective date of these rules shall be reviewed under OAR 690, division 86 adopted by the Commission in 1994, unless the water supplier requests the Department to apply the standards in these rules. After November 1, 2003, all new and updated water management and conservation plans are subject to these rules pursuant to OAR 690-086-120 to 690-086-0170.~~

Statutory/Other Authority: ORS 536.027, 537.211, 540.572

Statutes/Other Implemented: ORS 537.230, 537.630, 539.010

AMEND: 690-086-0120

RULE SUMMARY: Changes define the period of time during which public comments are accepted by the Department after issuing Public Notice. Updates and specifies under which rules a water system master plan or a public facilities plan may be submitted to meet the requirements of OAR 690-086-0120 to – 0170. Miscellaneous grammatical corrections.

CHANGES TO RULE:

690-086-0120

Municipal Water Management and Conservation Plans: General Provisions for a Municipal WMCP

- (1) Each ~~mMunicipal wWater sSupplier~~ required to submit a ~~water management and conservation plan~~ Municipal WMCP shall exercise diligence in implementing the approved plan and shall update and resubmit a plan consistent with the requirements of ~~these rules OAR 690-086-120 to 690-086-0170~~ as prescribed during plan approval.
- (2) Benchmarks and implementation schedules for conservation measures and other water supply development activities may be modified through the subsequent approval of an updated plan.
- (3) Progress reports submitted by ~~mMunicipal wWater sSuppliers~~ will be used in determining whether five-year ~~b~~ Benchmarks are being met, whether the Department will authorize additional diversion of water under ~~e~~ Extended pPermits, and/or if schedule changes proposed in updated plans are reasonable and appropriate.
- (4) Progress reports submitted by ~~mMunicipal wWater sSuppliers~~ shall include:
 - (a) A list of the ~~b~~ Benchmarks established ~~under pursuant to~~ OAR 690-086-0150 and a description of the progress of the ~~mMunicipal wWater sSupplier~~ in implementing the associated conservation ~~or other measure;~~ measures or other actions.
 - (b) Average monthly and daily diversions under each right held by the water supplier for the previous five years.
 - (c) A description of the results of the annual ~~wWater a~~ Audit required under OAR 690-086-0150(4)(a); and
 - (d) A comparison of quantities of water used in each sector as identified and described in OAR 690-086-0140(6) with the quantities of water used in each sector for the previous five years.
- (5) Upon receipt of a progress report the Department shall ~~give~~ provide public notice in the weekly ~~m~~ Public Notice published by the Department and provide an opportunity for written public comment for 30 days following publication of the notice. The Department shall provide copies of any comments received to the ~~mMunicipal wW~~ ater sSupplier.
- (6) A water master plan prepared under that meets the requirements of the Department of Human Resources ~~Health~~ OAR Chapter 333, Division 61 or the water supply element of a public facilities plan ~~prepared under that meets~~ the requirements of the Department of Land Conservation and Development which OAR Chapter 660, Division 11 that the Department has determined substantially meets the requirements of OAR 690-086-01250 to 690-086-0170 may be submitted to meet the requirements of these rules.
- (7) In the development of a ~~water management and conservation plan~~ Municipal WMCP, each ~~mMunicipal wWater sSupplier~~ shall be encouraged to consult with the planning departments or appropriate officials of affected local governments to obtain information related to demand projections in comprehensive land use plans early in the development of the plan.
- (8) At least 30 days prior to submitting a draft plan to the Department, a ~~mMunicipal wWater sSupplier~~ shall make the draft plan available for review by each ~~a~~ Affected l Local g Government along with a request for comments relating to consistency with the local government's comprehensive land use plan.
- (9) Each ~~mMunicipal wWater sSupplier~~ preparing a ~~water management and conservation plan~~ Municipal WMCP is encouraged to develop and implement a program to involve the supplier's customers 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.

Statutory/Other Authority: ORS 536.027, 537.211, 540.572

Statutes/Other Implemented: ORS 537.230, 537.630, 539.010

AMEND: 690-086-0125

RULE SUMMARY: Clarifies when ten years begins for the purposes of proposing when an updated plan must be submitted to the Department. Miscellaneous grammatical corrections.

CHANGES TO RULE:

690-086-0125

~~Municipal Water Supplier Plan~~ MCP Elements ¶

~~A water management and conservation plan~~ Municipal WMCP submitted by a ~~mMunicipal wWater sSupplier~~ shall include:¶

- (1) A ~~mMunicipal wWater sSupplier~~ description as described under OAR 690-086-0140;¶
- (2) A municipal water conservation element as described under OAR 690-086-0150;¶
- (3) A municipal ~~wWater eCurtailment eElement~~ as described under OAR 690-086-0160;¶
- (4) A municipal water supply element as described under OAR 690-086-0170;¶
- (5) A list of the ~~aAffected lLocal gGovernments~~ to whom the draft plan was made available pursuant to OAR 690-086-0120(~~68~~) and a copy of any comments on the plan provided by the local governments;¶
- (6) A proposed date for submittal of an updated plan within no more than 10 years after submittal of the plan based on the proposed schedule for implementation of conservation measures, any relevant schedules for other community planning activities, and the rate of growth ~~or~~ and 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; and¶
- (7) If the ~~mMunicipal wWater sSupplier~~ is requesting additional time to implement ~~mMetering~~ as required under OAR 690-086-0150(4)(b) or a ~~bBenchmark~~ established in a previously approved plan, documentation showing additional time is necessary to avoid unreasonable and excessive costs.

Statutory/Other Authority: ORS 536.027, 537.211, 540.572

Statutes/Other Implemented: ORS 537.230, 537.630, 539.010

AMEND: 690-086-0130

RULE SUMMARY: Miscellaneous grammatical corrections.

CHANGES TO RULE:

690-086-0130

Criteria for Approval of a ~~Plan Submitted by a Municipal Water Supplier~~ Municipal WMCP ¶

In order to approve a ~~plan by a municipal water supplier~~ Municipal WMCP under OAR 690-086-0915, the Department must find that:¶

- (1) The plan includes each of the required elements under OAR 690-086-0125;¶
- (2) The projections of future water need in the water management and conservation plan are reasonable and consistent with available land use plans and the ~~mMunicipal wWater sSupplier~~ has demonstrated a need for the quantity of water to be diverted during the next 20 years under each permit held by the supplier;¶
- (3) For each of the water conservation measures required under OAR 690-086-0150(4) and, as applicable, OAR 690-086-0150(5), the plan includes a reasonable and appropriate schedule with five year ~~bBenchmarks~~ for implementation of conservation activities;¶
- (4) If applicable, for each of the water conservation measures required under OAR 690-086-0150(6), the plan includes:¶
 - (a) A reasonable and appropriate schedule with five year ~~bBenchmarks~~ for implementation of conservation activities; or¶
 - (b) Documentation to demonstrate that implementation of the measure is neither feasible nor appropriate to ensure efficient use of water and the prevention of waste and the supplier has used a suitable methodology in evaluating the measure;¶
- (5) The identification of resource issues under OAR 690-086-0140(5)(i) is accurate and complete;¶
- (6) The ~~wWater eCurtailment eElement~~ required under OAR 690-086-0160 satisfactorily promotes water curtailment practices and the coordination of usage regulation, taking into account state water law and local conditions, or 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;¶
- (7) If during the next 20 years the maximum rate of water diverted under an ~~eExtended pPermit~~ will be greater than the maximum rate authorized for diversion under the extension or previously approved water management and conservation plan;¶
 - (a) The plan includes a schedule for development of any conservation measures that would provide water at a cost that is equal to or lower than the cost of other identified sources, unless the supplier has provided sufficient justification for the factors used in selecting other sources for development or the supplier serves a population of less than 1,000;¶
 - (b) Increased use from the source is the most feasible and appropriate water supply alternative available to the supplier; ~~and~~¶
 - (c) If mitigation is legally required to address limitations or restrictions on the development of permits for which resource issues are identified under OAR 690-086-0140(5)(i), the plan contains documentation that the supplier is complying with the mitigation requirements. The Department may consult with federal and state agencies in making this determination; ~~and~~¶
- ~~(8) After January 1, 2042, f.¶~~
- (8) For review of water management and conservation plans that propose to increase the maximum rate of water diverted under an eExtended pPermit after January 1, 2042, that the additional diversion of water will not impair or be detrimental to the public interest.

Statutory/Other Authority: ORS 536.027, 537.211, 540.572

Statutes/Other Implemented: ORS 537.230, 537.630, 539.010

AMEND: 690-086-0140

RULE SUMMARY: Clarifies what data is required to meet rule requirements. Updates definition and quantification of system Water Losses. Miscellaneous grammatical corrections.

CHANGES TO RULE:

690-086-0140

Municipal Water Supplier Description for Municipal WMCPs

The water supplier description element of a Municipal WMCP shall include at least the following information:

- (1) A description of the supplier's source(s) of water; including diversion, storage and regulation facilities; exchange agreements; intergovernmental cooperation agreements; and water supply or delivery contracts;
- (2) A delineation of the current service areas and an estimate of the population served and a description of the methodology(ies) used to make the estimate;
- (3) An assessment of the adequacy and reliability of the existing water supply considering potential limitations on continued or expanded use under existing water rights resulting from existing and potential future restrictions on the community's water supply;
- (4) A quantification of the water delivered by the water supplier that identifies current and available historic average annual water use, peak seasonal of use, and average day use, and peak day use;
- (5) A tabular list of water rights held by the ~~m~~Municipal w~~Water s~~Supplier that includes the following information:
 - (a) Application, permit, transfer, and certificate numbers (as applicable);
 - (b) Priority date(s) for each right;
 - (c) Source(s) of water for each right;
 - (d) Type(s) of beneficial uses specified in ~~the~~each right;
 - (e) Maximum instantaneous and annual quantity of water allowed under each right;
 - (f) Maximum instantaneous and annual quantity of water diverted under each right to date;
 - (g) Average monthly and daily diversions under each right that is conveyed through the supplier's distribution system for the previous year, and if available for the previous five years;
 - (h) Currently authorized date for completion of development under each right; and
 - (i) Identification of any streamflow-dependent species listed by a state or federal agency as sensitive, threatened or endangered that are present in the source, any listing of the source as water quality limited and the water quality parameters for which the source was listed, and any designation of the source as being in a critical ground water area.
- (6) A description of customers served including other water suppliers and the estimated numbers; general water use characteristics of residences, commercial and industrial facilities, and any other uses; and a comparison of the quantities of water used in each sector with the quantities reported in the water supplier's previously submitted water management and conservation plan and progress reports;
- (7) Identification and description of interconnections with other municipal supply systems;
- (8) A schematic of the system that shows the sources of water, storage facilities, treatment facilities, major transmission and distribution lines, pump stations, interconnections with other municipal supply systems, and the existing and planned future service area; and
- (9) A quantification and description of the system leakage's Water Losses that includes any available information regarding the ~~locations of significant~~sources of significant losses and, to the extent possible, identification of those losses as either real or apparent losses.

Statutory/Other Authority: ORS 536.027, 537.211, 540.572

Statutes/Other Implemented: ORS 537.230, 537.630, 539.010

AMEND: 690-086-0150

RULE SUMMARY: Revises the Water Audit benchmark to include an analysis of the supplier's own water use. Modifies the Water Loss benchmark to more closely align with industry standards. Clarifies that public education program to be commensurate with the size of the supplier. Removes duplicative language related to implementation of a leak repair program or line replacement program, now located under the Water Loss benchmark. Clarifies that technical and financial assistance programs to be commensurate with the size of the supplier. Miscellaneous grammatical corrections.

CHANGES TO RULE:

690-086-0150

Municipal Water Conservation Element for a Municipal WMCP

The water conservation element of a Municipal WMCP shall include at least the following:

- (1) A progress report on the conservation measures scheduled for implementation in a water management and conservation plan previously approved by the Department, if any;
- (2) A description of the water supplier's water use measurement and reporting program and a statement that the program complies with the measurement standards in OAR Chapter 690, Division 85, that a time extension or waiver has been granted, or that the standards are not applicable;
- (3) A description of other conservation measures, if any, currently implemented by the water supplier, including any measures required under water supply contracts;
- (4) A description of the specific activities, along with a schedule that establishes five-year benchmarks, for implementation of each of the following conservation measures that are required of all Municipal Water Suppliers:
 - (a) An annual Water Audit that includes a systematic and documented methodology for estimating any un-metered authorized and unauthorized uses and an analysis of the water supplier's own water use to identify alternatives to increase efficiency;
 - (b) If the system is not fully metered, a program to install meters on all un-metered 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 water management and conservation plan;
 - (c) A meter testing and maintenance program;
 - (d) A rate structure under which customers' bills are based, at least in part, on the quantity of water metered at the Water Service Connections;
 - (e) If the annual Water Audit indicates that the system leakage's Water Losses exceeds 10 percent, a regularly scheduled and systematic program to detect leaks in the transmission and distribution system using methods and technology appropriate to the size and capabilities of the municipal water supplier; and
 - (f) A public education program to encourage efficient water use and the use of low water use landscaping that includes regular communication of the supplier's water.
- (A) Within two years of approval of the water management and conservation plan, the water supplier shall provide a description and analysis identifying potential factors for the loss and selected actions for remedy;
- (B) If actions identified under subsection (A) do not result in the reduction of Water Losses to less than 10% within five years of approval of the water management and conservation activities and schedule to customers; plan, the water supplier shall:
 - (5j) If the municipal water supplier proposes to expand or initiate diversion of waDevelop and implement a regularly scheduled and systematic program to detect and repair leaks in the transmission and distribution system under an extended permit for which resource issues have been identified under OAR 690-086-0140(5)(i), a description of the specific activities, along with a schedule that establishes five-year benchmarks, for implementation of a system-wide leak repairing methods and technology appropriate to the size and capabilities of the Municipal Water Supplier or a line replacement program detailing the size and length of pipe to be replaced each year; or;

~~(ii) Develop and implement a water loss control program consistent with American Water Works Association's standards.~~

~~(f) A public education program commensurate to the size of the Municipal Water Supplier to encourage efficient information to demonstrate that system leakage currently is no more than 15 percent door and outdoor water use that includes regular communication of the supplier's water conservation activities and schedule to customers;~~

~~(65) If the Municipal Water Supplier serves a population greater than 1,000 and proposes to expand or initiate diversion of water under an Extended Permit for which resource issues have been identified under OAR 690-086-0140(5)(i), or if the Municipal Water Supplier serves a population greater than 7,500, a description of the specific activities, along with a schedule that establishes five-year Benchmarks, for implementation of each of the following measures; or documentation showing that implementation of the measures is neither feasible nor appropriate for ensuring the efficient use of water and the prevention of waste:~~

~~(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, Technical and financial assistance programs commensurate, to reduce system leakage to 10 percent;~~

~~(b) Technical and financial assistance programs commensurate to the size of the Municipal Water Supplier to encourage and aid residential, commercial and industrial customers in implementation of conservation measures;~~

~~(e) Supplier financed retrofitting or replacement of existing inefficient water using fixtures, including distribution of residential conservation kits and rebates for customer investments in water conservation;~~

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

~~(e) Water reuse, recycling, and non-potable water opportunities; and~~

~~(f) Any other conservation measures identified by the water supplier that would improve water use efficiency.~~

Statutory/Other Authority: ORS 536.027, 537.211, 540.572

Statutes/Other Implemented: ORS 537.230, 537.630, 539.010

AMEND: 690-086-0160

RULE SUMMARY: Grammatical corrections

CHANGES TO RULE:

690-086-0160

Municipal Water Curtailment Element for a Municipal WMCP

The ~~w~~Water ~~e~~Curtailment ~~e~~Element of a Municipal WMCP shall include at least the following:

- (1) 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) 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) A description of pre-determined levels of severity of shortage or water service difficulties 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) 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.

Statutory/Other Authority: ORS 536.027, 537.211, 540.572

Statutes/Other Implemented: ORS 537.230, 537.630, 539.010

AMEND: 690-086-0170

RULE SUMMARY: References were added for Federal Acts in existing rule language. Miscellaneous grammatical corrections.

CHANGES TO RULE:

690-086-0170

Municipal Water Supply Element of a Municipal WMCP

The water supply element of a Municipal WMCP shall include 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) Based on the information provided in section (1) of this rule, an estimate of the water supplier's water demand projections for 10 and 20 years, and at the option of the ~~m~~Municipal ~~w~~Water ~~s~~Supplier, longer periods;
- (4) A comparison of the projected water needs and the sources of water currently available to the ~~m~~Municipal ~~w~~Water ~~s~~Supplier and to any other suppliers to be served considering the reliability of existing sources;
- (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~~ (ESA; 16 U.S.C. § 1531 et seq.), ~~Clean Water Act~~ (CWA; 33 U.S.C. § 1251 et seq.), and ~~Safe Drinking Water Act~~ (SDWA; 42 U.S.C. § 300f); and
- (8) If acquisition of new water rights will be necessary within the next 20 years to meet the needs ~~shown~~estimated in section (3) of this rule, an analysis of alternative sources of the additional water that considers availability, reliability, feasibility and likely environmental impacts and a schedule for development of the new sources of water. 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.

Statutory/Other Authority: ORS 536.027, 537.211, 540.572

Statutes/Other Implemented: ORS 537.230, 537.630, 539.010

AMEND: 690-086-0220

RULE SUMMARY: Corrects rule references in section (3) to reference rules that were renumbered in 2003.

CHANGES TO RULE:

690-086-0220

Agricultural Water Supplier Water Management and Conservation Plans: 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 540.578 and OAR ~~690-021385-00710~~ to ~~690-021-07385-7800~~ 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 690-086-0225 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 690-086-0225 to 690-086-0270 may be submitted to meet the requirements of 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.

Statutory/Other Authority: ORS 536.027, 537.211, 540.572

Statutes/Other Implemented: ORS 537.230, 537.630, 539.010

ADOPT: 690-086-0300

RULE SUMMARY: New rule. This section allows Small Municipal Water Suppliers to submit an Alternate Municipal Water Management and Conservation Plan (WMCP) under OAR 690-690-0320 to -0370 instead of a Municipal WMCP OAR 690-086-0120 to -0170, if certain eligibility criteria are met.

CHANGES TO RULE:

690-086-0300

Alternate Municipal Water Management and Conservation Plans for Small Municipal Water Suppliers:

Applicability

(1) A Small Municipal Water Supplier may submit a Alternate Municipal WMCP pursuant to OAR 690-086-0325 to 690-086-0370 in lieu of submitting a Municipal WMCP pursuant to OAR 690-086-0125 to 690-086-170, if the Small Municipal Water Supplier has documented and submitted findings that the following would not be necessary to meet current or projected demand within the next 10 years:¶

(a) Acquisition of a new water right as described in OAR 690-086-0170(8); or¶

(b) Expansion or initiate diversion of water allocated under an Extended Permit (as described in OAR 690-086-0170(5)).¶

(2) The Department shall determine if the Small Municipal Water Supplier meets the requirements described in section (1) of this rule at the time the Alternate Municipal WMCP is submitted. If the Department determines that the Small Municipal Water Supplier does not meet the requirements as defined in section (1) of this rule, the Department shall:¶

(a) Return the Alternate Municipal WMCP to the Small Municipal Water Supplier; and¶

(b) The Small Municipal Water Supplier shall be required to submit a Municipal WMCP that meets the requirements of OAR 690-086-0125.¶

(3) If the acquisition of a new water right, as described in OAR 690-086-0170(8), occurs after the submittal and approval Alternate Municipal WMCP, the Small Municipal Water Supplier shall submit an updated Municipal WMCP pursuant to OAR 690-086-0125 as required by a final order approving a previous plan or by any other order of the Department. ¶

(4) A Small Municipal Water Supplier may submit a Alternate Municipal WMCP pursuant to OAR 690-086-0325 to meet the requirements of OAR Chapter 690, Division 315 so long as section (1) of this rule is met at the time the plan is submitted.

Statutory/Other Authority: ORS 536.027, 537.211, 540.572

Statutes/Other Implemented: ORS 537.230, 537.630, 539.010

ADOPT: 690-086-0320

RULE SUMMARY: New rule. Identifies general provisions for Small Municipal Water Suppliers to submit Alternate Municipal Water Management and Conservation Plans under OAR 690-690-0320 to -0370, including procedures for benchmarks, progress reports, and public engagement.

CHANGES TO RULE:

690-086-0320

Alternate Municipal WMCPs for Small Municipal Water Suppliers: General Provisions

(1) Each Small Municipal Water Supplier that submits a Alternate Municipal WMCP shall exercise diligence in implementing the approved plan and shall update and resubmit a plan consistent with the requirements of these rules as prescribed during plan approval.¶

(2) Benchmarks and implementation schedules for conservation measures and other water supply development activities may be modified through the subsequent approval of an updated plan. ¶

(3) Progress reports submitted by Small Municipal Water Suppliers will be used in determining whether five-year Benchmarks are being met and/or if schedule changes proposed in updated plans are reasonable and appropriate.¶

(4) Progress reports submitted by Small Municipal Water Suppliers shall include:¶

(a) A list of the Benchmarks established under OAR 690-086-0350 and a description of the progress of the Small Municipal Water Supplier in implementing the associated conservation measures or other actions; ¶

(b) Average monthly diversions and average daily diversions under each right held by the Small Municipal Water Supplier for the previous five years; and¶

(c) A description of the results of the annual Water Audit required under OAR 690-086-0350(4)(a).¶

(5) Upon receipt of a progress report the Department shall provide public notice in the weekly Public Notice published by the Department and provide an opportunity for written public comment for 30 days following publication of the notice. The Department shall provide copies of any comments received to the Small Municipal Water Supplier.¶

(6) A water master plan that meets the requirements of OAR Chapter 333, Division 61 or the water supply element of a public facilities plan prepared that meets the requirements of OAR Chapter 660, Division 11 which substantially meets the requirements of OAR 690-086-0320 to 690-086-0370 may be submitted to meet the requirements of those rules.¶

(7) In the development of a Alternate Municipal WMCP, each Small Municipal Water Supplier is encouraged to consult with the planning departments or appropriate officials of Affected Local Governments to obtain information related to demand projections in comprehensive land use plans early in the development of the plan. ¶

(8) At least 30 days prior to submitting a draft plan to the Department, a Small Municipal Water Supplier shall make the draft plan available for review by each Affected Local Government along with a request for comments relating to consistency with the local government's comprehensive land use plan.¶

(9) Each Small Municipal Water Supplier preparing a Alternate Municipal WMCP is encouraged to develop and implement a program to involve the supplier's customers 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.

Statutory/Other Authority: ORS 536.027, 537.211, 540.572

Statutes/Other Implemented: ORS 537.230, 537.630, 539.010

ADOPT: 690-086-0325

RULE SUMMARY: New rule. Identifies elements required in a Alternate Municipal Water Management and Conservation Plan for a Small Municipal Supplier submitting under OAR 690-690-0320 to 0370.

CHANGES TO RULE:

690-086-0325

Alternate Municipal WMCP: Water Supplier Plan Elements for Small Municipal Water Suppliers

An Alternate Municipal WMCP submitted by a Small Municipal Water Supplier shall include:

- (1) A water supplier description for Small Municipal Water Suppliers as described under OAR 690-086-0340;
- (2) A water conservation element for Small Municipal Water Suppliers as described under OAR 690-086-0350;
- (3) A Water Curtailment Element for Small Municipal Water Suppliers as described under OAR 690-086-0360;
- (4) A water supply element for Small Municipal Water Suppliers as described under OAR 690-086-0370;
- (5) A list of the affected local governments to whom the draft plan was made available pursuant to OAR 690-086-0320(8) and a copy of any comments on the plan provided by the local governments;
- (6) A proposed date for submittal of an updated plan within no more than 10 years after submittal of the plan based on the proposed schedule for implementation of conservation measures, and as available, any relevant schedules for other community planning activities, the rate of growth, and any 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; and
- (7) If the Small Municipal Water Supplier is requesting additional time to implement Metering as required under OAR 690-086-350(4)(b) or a Benchmark established in a previously approved plan, documentation showing additional time is necessary to avoid unreasonable and excessive costs.

Statutory/Other Authority: ORS 536.027, 537.211, 540.572

Statutes/Other Implemented: ORS 537.230, 537.630, 539.010

ADOPT: 690-086-0330

RULE SUMMARY: New rule. Specifies findings the Department must make in approving a water management and conservation plan for a Small Municipal Supplier submitting under OAR 690-690-0320 to 0370.

CHANGES TO RULE:

690-086-0330

Criteria for Approval of an Alternate Municipal WMCP Submitted by Small Municipal Water Suppliers

In order to approve an Alternate Municipal WMCP under OAR 690-086-0915, the Department must find that:¶

(1) The plan includes each of the required elements under OAR 690-086-0325;¶

(2) For each of the water conservation measures required under OAR 690-086-0350(4), the plan includes a reasonable and appropriate schedule with five year Benchmarks for implementation of conservation activities; ¶

(3) The Water Curtailment Element required under OAR 690-086-0360 satisfactorily promotes water curtailment practices and the coordination of usage regulation, taking into account state water law and local conditions, or 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¶

(4) If mitigation is legally required to address limitations or restrictions on the development of permits for which resource issues are identified under OAR 690-086-0340(5)(i), the plan contains documentation that the supplier is complying with the mitigation requirements. The Department may consult with federal and state agencies in making this determination.

Statutory/Other Authority: ORS 536.027, 537.211, 540.572

Statutes/Other Implemented: ORS 537.230, 537.630, 539.010

ADOPT: 690-086-0340

RULE SUMMARY: New rule. Specifies elements describing the water supply system that must be included in a Alternate Municipal Water Management and Conservation Plan for a Small Municipal Supplier submitting under OAR 690-690-0320 to 0370.

CHANGES TO RULE:

690-086-0340

Alternate Municipal WMCP: Water Supplier Description for Small Municipal Water Suppliers

The Small Municipal Water Supplier description element of a Alternate Municipal WMCP shall include at least the following information:¶

(1) A description of the supplier's source(s) of water, including diversion, storage and regulation facilities, exchange agreements, intergovernmental cooperation agreements, and water supply or delivery contracts;¶

(2) A delineation of the current service areas, an estimate of the population served and a description of how the estimate was calculated;¶

(3) An assessment of the adequacy and reliability of the existing water supply considering system reliability and redundancy. The Department may, at the request of the Small Municipal Water Supplier, assist with identifying potential limitations on continued use under existing water rights resulting from existing and potential future restrictions.¶

(4) A quantification of the water delivered by the Small Municipal Water Supplier that identifies current and available historic average annual water use, average day use, and peak day use;¶

(5) A tabular list of water rights held by the Small Municipal Water Supplier that includes the following information:¶

(a) Application, permit, transfer, and certificate numbers;¶

(b) Priority date(s) for each right;¶

(c) Source(s) of water for each right;¶

(d) Type(s) of beneficial uses specified in each right;¶

(e) Maximum instantaneous and annual quantity of water allowed under each right;¶

(f) Maximum instantaneous and annual quantity of water diverted under each right to date;¶

(g) Average monthly and daily diversions under each right that is conveyed through the supplier's distribution system for the previous year, and if available for the previous five years;¶

(h) Currently authorized date for completion of development under each right; and¶

(i) Identification of any streamflow-dependent species listed by a state or federal agency as sensitive, threatened or endangered that are present in the source, any listing of the source as water quality limited and the water quality parameters for which the source was listed, and any designation of the source as being in a critical ground water area. The Department shall, at the request of the Small Municipal Water Supplier, provide the information necessary to meet the requirements of this rule. ¶

(6) Identification and description of interconnections with other water supply systems; and¶

(7) A schematic of the system that shows the sources of water, storage facilities, treatment facilities, major transmission and distribution lines, pump stations, interconnections with other municipal supply systems, and the existing and planned future service area.

Statutory/Other Authority: ORS 536.027, 537.211, 540.572

Statutes/Other Implemented: ORS 537.230, 537.630, 539.010

ADOPT: 690-086-0350

RULE SUMMARY: New rule. Specifies elements related to water conservation that must be included in an Alternate Municipal Water Management and Conservation Plan for a Small Municipal Supplier submitting under OAR 690-690-0320 to 0370.

CHANGES TO RULE:

690-086-0350

Alternate Municipal WMCP: Water Supplier Conservation Element for Small Water Suppliers

The water conservation element of an Alternate Municipal WMCP shall include at least the following:

- (1) A progress report on the conservation measures scheduled for implementation in a water management and conservation plan previously approved by the department, if any;
- (2) A statement that the Small Municipal Water Supplier's water use measurement and reporting program complies with the measurement standards in OAR Chapter 690, Division 85, that a time extension or waiver has been granted, or that the standards are not applicable;
- (3) A description of other conservation measures, if any, currently implemented by the Small Municipal Water Supplier, including any measures required under water supply contracts; and
- (4) A description of the specific activities, along with a schedule that establishes five-year Benchmarks, for implementation of each of the following conservation measures that are required of all Small Municipal Water Suppliers:
 - (a) An annual Water Audit that compares the quantity of water that enters and exits the system;
 - (b) If the system is not fully metered, a program to install meters on all un-metered 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 ten years of approval of the water management and conservation plan;
 - (c) A meter testing and maintenance program;
 - (d) A rate structure under which customers' bills are based, at least in part, on the quantity of water metered at the Water Service Connections;
 - (e) If the annual Water Audit indicates that Water Losses exceed 15% and the Small Municipal Water Supplier serves a population greater than 300 people or has more than 100 Water Service Connections:
 - (A) Within two years of approval of the water management and conservation plan, the water supplier shall provide a description identifying potential factors for the discrepancy and possible actions for remedy;
 - (B) If actions identified under section (A) do not result in the reduction of water loss to less than 15%, within five years of approval of the water management and conservation plan, the water supplier shall develop and implement a program to detect and repair leaks in the transmission and distribution system using methods and technology appropriate to the size and capabilities of the Small Municipal Water Supplier, a line replacement program detailing the size and length of pipe to be replaced each year, or a similar program that will result in a reduction of Water Losses.
 - (f) If the annual Water Audit indicates that Water Losses exceed 15% and the Small Municipal Water Supplier serves a population of 300 or fewer people or has 100 or fewer service connections, the water supplier shall provide a description of how the supplier will identify potential factors for the discrepancy and decrease loss over time by implementing a program to monitor leakage throughout the transmission and distribution system, a line replacement program, or other methodology that will result in a reduction of Water Losses; and
 - (g) A public education program to encourage efficient water use that, at a minimum, distributes conservation materials prepared by the Department or other existing sources to all customers prior to July 1st of each year.

Statutory/Other Authority: ORS 536.027, 537.211, 540.572

Statutes/Other Implemented: ORS 537.230, 537.630, 539.010

ADOPT: 690-086-0360

RULE SUMMARY: New rule. Specifies water curtailment elements that must be included in a Alternate Municipal Water Management and Conservation Plan for a Small Municipal Supplier submitting under OAR 690-690-0320 to -0370.

CHANGES TO RULE:

690-086-0360

Alternate Municipal WMCP: Water Supplier Curtailment Element for Small Municipal Water Suppliers

The Water Curtailment Element of an Alternate Municipal WMCP shall include at least the following:

(1) A description of any supply deficiencies experienced within the past 10 years and current capacity limitation(s);

(2) A list of two or more stages of alert for potential shortage or water service difficulties;

(3) A description of pre-determined levels of severity of shortage or water service difficulties that will trigger the curtailment actions under each stage of alert; and

(4) A list of specific standby water use curtailment actions for each stage of alert.

Statutory/Other Authority: ORS 536.027, 537.211, 540.572

Statutes/Other Implemented: ORS 537.230, 537.630, 539.010

ADOPT: 690-086-0370

RULE SUMMARY: New rule. Specifies water supply demand elements that must be included in an Alternate Municipal Water Management and Conservation Plan for a Small Municipal Supplier submitting under OAR 690-690-0320 to 0370.

CHANGES TO RULE:

690-086-0370

Alternate Municipal WMCP: Water Supply Element for Small Municipal Water Suppliers

The water supply element of an Alternate Municipal WMCP shall include the following:

(1) A description of the current and future service areas, including population projection estimates or other relevant growth projections;

(2) Based on the information provided in section (1) of this rule, an estimate of the water supplier's water demand projections for 10 and 20 years; and

(3) A comparison of the projected water needed and the quantity of water currently available to the Small Municipal Water Supplier, and a description of how the Small Municipal Water Supplier will meet future system demand.

Statutory/Other Authority: ORS 536.027, 537.211, 540.572

Statutes/Other Implemented: ORS 537.230, 537.630, 539.010

AMEND: 690-086-0900

RULE SUMMARY: Updates rule to add references to new rules for Alternate Municipal Water Management and Conservation Plans for Small Municipal Water Suppliers. Miscellaneous grammatical corrections.

CHANGES TO RULE:

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~~Municipal WMCPs, water management and conservation plans submitted by ~~a~~Agricultural and municipal water supplier~~Water Suppliers, and Alternate Municipal WMCPs~~. 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 ~~m~~Municipal w~~Water s~~Supplier to implement water metering~~under OAR 690-086-0150(4)(b) or Small Municipal Water Supplier~~ under OAR 690-086-01350(4)(b) to implement water Metering or a ~~b~~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), 690-086-0250(2), and 690-086-02350(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~~Municipal WMCP approval that contains a requirement that a ~~m~~Municipal w~~Water s~~Supplier complete additional work under section (3) of this rule shall preclude additional diversion of water under an ~~e~~E~~xtended p~~ermit beyond the need quantified for the next two years.

Statutory/Other Authority: ORS 536.025, 536.027

Statutes/Other Implemented: ORS 537.230, 537.630, 539.010

AMEND: 690-086-0905

RULE SUMMARY: Adds references to new rules for Alternate Municipal Water Management and Conservation Plans for Small Municipal Water Suppliers. Miscellaneous grammatical corrections.

CHANGES TO RULE:

690-086-0905

Notice of Submittal of a Draft Plan or Updated Plan ¶

(1) The Department shall notify ~~a~~Affected ~~L~~Local ~~g~~Governments, affected Indian tribes, and all persons on the Department's weekly Public Notice mailing list that a draft water management and conservation plan prepared under the requirements of OAR 690-086-0125, 690-086-0225, or 690-086-02325 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, dDivision 086, suggest any modification in each provision that would be necessary to satisfy the relevant requirement, and include information to support any suggested modifications.

Statutory/Other Authority: ORS 536.027, 537.211, 540.572

Statutes/Other Implemented: ORS 537.230, 537.630, 539.010

AMEND: 690-086-0910

RULE SUMMARY: Clarifies the period of time in which a water supplier must respond to the Department's review of a water management and conservation plan. Revises the period of time in which a water supplier must submit a final plan to the Department. Clarifies language related to what action(s) the Department may take if an updated plan is not submitted in the prescribed period of time. Updates existing language to add references to Alternate Municipal WMCP rules. Miscellaneous grammatical corrections.

CHANGES TO RULE:

690-086-0910

Preliminary Review of Draft Plans ¶

(1) 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 for a Municipal WMCP, OAR 690-086-0220 to 690-086-0270.¶

~~(2) For a plan for a plan submitted by an Agricultural Water Supplier, or OAR 690-086-0320 to 690-086-0370 for an Alternate Municipal WMCP, as applicable.~~¶

(2) For a Municipal WMCP submitted by a ~~m~~Municipal w~~Water s~~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) The water supplier has 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 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) 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 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) The 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) For an Alternate Municipal WMCP submitted by Small Municipal Water Supplier that meets the applicability requirements of OAR 690-086-0300, 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 690-086-0330.~~¶

(5) 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:
- (A) ~~The required plan elements under OAR 690-086-0125 for 690-086-0225, and for municipal water supply plans, a Municipal WMCP, OAR 690-086-0225 for a plan submitted by an Agricultural Water Supplier, or OAR 690-086-0325 for an Alternate Municipal WMCP; and~~
 - (B) ~~For a Municipal WMCP, that the plan meets the criteria under OAR 690-086-0130; or~~
 - (C) ~~For an Alternate Municipal WMCP that the plan meets the criteria under OAR 690-086-01330;~~
- (c) ~~The Department shall~~ issue a final order approving the plan pursuant to OAR 690-0086-0915(4), (5), or (57) and notify any person who submitted comments pursuant to OAR 690-086-0905 of the issuance of the order.
- (56) ~~The Department shall~~ include in its written comments prepared under section (45) of this rule:
- (a) For ~~each~~ any deficiency identified in the review, a citation of the relevant statute or rule;
 - (b) To the extent necessary and possible, identification of any constraints to implementation of the water management and conservation plan and recommendations on appropriate actions to conserve water or 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;~~
 - (e) A period of time of not more than 120 days for the water supplier to submit a proposed final plan to the Department; and
 - (ef) Copies of any written comments received pursuant to OAR 690-086-0905.
- (67) ~~If the water supplier fails to submit a final plan to the Department within 120 days after receipt of the Department's preliminary review, the Department may:~~
- (a) ~~Issue a final order denying approval of the plan; or~~
 - (b) Issue a final order approving the plan as it is understood by the Department at the time of preliminary review as defined under section (1) of this rule.
- (8) ~~If the Department does not meet the 90-day deadline in section (45) 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 ~~e~~Extended ~~p~~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.

Statutory/Other Authority: ORS 536.027, 537.211, 540.572

Statutes/Other Implemented: ORS 537.230, 537.630, 539.010

AMEND: 690-086-0915

RULE SUMMARY: Adds new language detailing approval process for Alternate Municipal WMCPs for Small Municipal Water Suppliers. Removes existing appeal process to align with current APA guidelines. Updates existing language to add references to Alternate Municipal WMCPs for Small Municipal Water Suppliers' rules. Miscellaneous grammatical corrections.

CHANGES TO RULE:

690-086-0915

Final Review of Plans ¶

(1) Upon receipt of a proposed final plan, the Department shall evaluate the plan to determine if it includes the required elements of OAR 690-086-01250 to 690-086-0170 for ~~municipal water suppliers or~~ Municipal WMCPs, OAR 690-086-02250 to 690-086-0270 for a Agricultural w Water s Suppliers, or OAR 690-086-0320 to 690-086-0370 for Alternate Municipal WMCPs. The evaluation shall be limited to a review of modifications in the plan and issues 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.¶

(2) If the Department determines that the final plan does not include the required elements of OAR 690-086-0120 to 690-086-0170 for Municipal WMCPs, OAR 690-086-0220 to 690-086-0270 for Agricultural Water Suppliers, or OAR 690-086-0320 to 690-086-0370 for Alternate Municipal WMCPs, the Department shall consult with the water supplier and may provide additional time to correct any discrepancies.¶

(3) For a ~~water management and conservation plan~~ Municipal WMCP submitted by a ~~municipal w~~ Water s 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~~ Municipal WMCP submitted by a ~~municipal w~~ Water s Supplier, if the Department determines that the proposed final plan includes the required elements under OAR 690-086-0120 to 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 ~~e~~ Extended p ermit, 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 w~~ Water s Supplier may submit an updated plan at any time prior to the date specified if necessary to accommodate unanticipated events; ~~but t~~ 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) For a water management and conservation plan submitted by an agricultural water supplier, 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 the plan and notify the water supplier and any person who submitted comments pursuant to OAR 690-086-0905 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 not~~ For an Alternate Municipal WMCP submitted by a Small Municipal Water Supplier, the Department shall review the plan to determine if ~~the water supplier and any person who submitted comments pursuant to OAR 690-086-0905 of the issuance of the o~~ rd information and analyses in the plan are sufficient for the Department to make the determination required under OAR 690-086-0330.¶

(7) For an Alternate Municipal WMCP submitted by a Small Municipal Water Supplier, if:¶

- ~~(a) If the Department determines that the proposed final plan does not contain the plan elements required under OAR 690-086-0125 or 320 to 690-086-0225;~~
- ~~(b) For municipal water suppliers, the plan does not meet th370 and meets the applicable criteria under OAR 690-086-01330;~~
- ~~(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, 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 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) If the Department issues a final order denying approval of the plan, the water supplier may request that to be diverted during the next 20 years under each Extended Permit, or for a longer period as specified for an extended reservoir permit (not to exceed existing development limitations established by a final order(s) issued by 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 water conservation. After reviewing the plan and evaluating any additional information presented by the water supplier);~~
- ~~(b) The date on which an updated plan shall be submitted to the Department. A Small Municipal Water Supplier may submit an updated plan at any time prior to the date specified if necessary to accommodate unanticipated events. The Department shall not require submittal of an updated plan earlier and the Department, the board may recommend that the Department:~~
- ~~(a) Reconsider the decision not to than five years after issuance of the order approving the plan; and,~~
- ~~(b) Reconsider the decision not to approve the plan contingent A schedule for submittal of five-year progress reports on implementation onf the water supplier agreeing to specified modifications; or conservation and supply measures described in the plan.~~
- ~~(c) Reaffirm the original decision not to The Department shall issue a final order denying approval of the plan.~~
- ~~(9) The Department shall notify the water supplier, the members of the review board, and notify the water supplier and any person who submitted comments pursuant to OAR 690-086-0905 of any action taken based the issuance onf the board's recommendation.~~
- ~~(10) The water supplier or a person who has submitted comments pursuant to OAR 690-086-0905 may, within 30 days of a notification pursuant to OAR 690-086-0910(5)(b) or section (4), (5), (6), or (9) 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 690, divisions 1 and 2 order if:~~
- ~~(a) The Department determines that the proposed final plan does not contain the plan elements required under OAR 690-086-0125 for a Municipal WMCP, 690-086-0225 for Agricultural Water Suppliers, or 690-086-0325 for an Alternate Municipal WMCP;~~
- ~~(b) The plan does not meet the criteria under (b) OAR 690-086-0130 for a Municipal WMCP or under 690-086-0330 for an Alternate Municipal WMCP;~~
- ~~(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) for a Municipal WMCP, or a Benchmark established in a previously approved plan;~~
- ~~(d) The Small Municipal Water Supplier has failed to adequately justify a request for additional time to implement~~

water Metering under OAR 690-086-0350(4)(b) for an Alternate Municipal WMCP, or a Benchmark established in a previously approved plan; or

(e) 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.

Statutory/Other Authority: ORS 536.027, 537.211, 540.572

Statutes/Other Implemented: ORS 537.230, 537.630, 539.010

AMEND: 690-086-0920

RULE SUMMARY: Updates existing rule to add references to Small Municipal Water Suppliers rules. Removed language allowing the Department to provide additional time for a water supplier to submit a plan. Miscellaneous grammatical corrections.

CHANGES TO RULE:

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 690-086-0270 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)(1) 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, dDivision 315 or 320, assess a civil penalty under OAR 690-260-0005 to 690-260-0110 or cancel the permit.~~

Statutory/Other Authority: ORS 536.027, 537.211, 540.572

Statutes/Other Implemented: ORS 537.230, 537.630, 539.010