



**Oregon**  
Kate Brown, Governor

**Water Resources Department**


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**MEMORANDUM**

TO: Water Resources Commission  
FROM: Thomas M. Byler, Director   
SUBJECT: Agenda Item A, November 15, 2018  
Water Resources Commission Meeting

**Request for Adoption of Rules - OAR Chapter 690, Division 86, Water Management and Conservation Plans**

**I. Introduction**

During this agenda item, the Water Resources Commission will be asked to consider the adoption of modifications to Oregon Administrative Rules (OAR) Chapter 690, Division 86 related to water management and conservation plans. The proposed rules (Attachment 1) amend Division 86 by adding provisions for small municipal water suppliers and making other corrections.

**II. Background**

OAR Chapter 690, Division 86 was adopted by the Commission in 1994 and subsequently revised in 2002. The Water Management and Conservation Plan (WMCP) Program has played an important role throughout the state to promote responsible and efficient water management and planning (*IWRS Recommended Actions 10.A and 10.C*). These rules apply to municipal water suppliers, including quasi-municipal and other domestic water suppliers, and certain agricultural water suppliers.

Municipal water suppliers are encouraged to prepare a water management and conservation plan, but are not required to do so unless a plan is prescribed by a condition of a water right permit, permit extension, or other order or rule of the Commission. Since the rules were first adopted in 1994, the Department has received 298 WMCPs from 188 municipal water suppliers. In recent years, the Department has received feedback from numerous stakeholders that smaller municipal water suppliers often face financial and staffing hurdles during the development of a WMCP. The current rulemaking process is focused on creating a more feasible path for small municipal water suppliers to develop WMCPs.

The Department established a Rules Advisory Committee (RAC) to advise the Department on rule development (Attachment 2). The RAC met a total of four times.

A Notice of Proposed Rulemaking Hearing was noticed on the Department's website and appeared in the *Oregon Bulletin* on September 1, 2018. The notice was also sent by electronic

mail to the Department's listserv and other parties as required by law. The public comment period was open through October 4, 2018. A public hearing was conducted by staff on September 24, 2018, in Salem. The public comment draft of the proposed rules is included in Attachment 3.

The Department received public comments from the Oregon Water Utility Council and WaterWatch of Oregon (see Attachment 4). The Department's consideration and response to these comments are included in Attachment 5.

### **III. Discussion**

OAR 690-086-0100 to 690-086-170 and 690-086-0900 to 690-086-0920 establish the guidelines and requirements for the preparation, submission, review, and approval of WMCPs 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 may not be applicable or relevant.

The proposed amendments to the rules, Alternate Plans for Small Municipal Water Suppliers, will allow small municipal water suppliers meeting certain requirements to submit a WMCP that requires a level of detail and analysis more appropriate for a small supplier. The information required will 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.

Specifically, the added rules for Small Municipal Water Suppliers that meet the requirements proposed in OAR 690-086-0030(8) and 690-086-0300 provides:

- Department staff support, if requested, to help the supplier meet the requirements of proposed OAR 690-086-0340(3), 690-086-0340(5)(i), and 690-086-0350(g);
- More flexibility to meet the water conservation (proposed OAR 690-086-0350) and water curtailment (proposed OAR 690-086-0360) objectives of the rules; and
- The water supply element (proposed OAR 690-086-0370) requirements have been reduced to reflect that these suppliers are experiencing limited growth and/or have limited growth potential.

Miscellaneous sections of OAR 690-086-0100 to 690-086-170 and 690-086-0900 to 690-086-0920 are also proposed to be amended to more closely align with industry standards and to streamline certain processes. Significantly, the proposed amendments of OAR 690-086-0150(4) were updated after discussions with municipal water supplier stakeholders and professional organizations, including the American Water Works Association, about industry standards and practices.

Changes were made to the public comment draft of the rules to develop the final proposed rules. These changes include:

- Grammar and numbering corrections; and
- Restoration of the introductory sentence to OAR 690-086-0920 (Enforcement), which was inadvertently deleted during drafting.

- Based on the public comments received, the time period for the requirement to review the rules was changed from 10 years to 5 years.

#### **IV. Commission Action**

The Commission is asked to consider adoption of the proposed amendments to OAR Chapter 690, Division 86. The final proposed amended rules for adoption are included in Attachment 1.

#### **V. Alternatives**

1. Adopt the final proposed amended rules OAR Chapter 690, Division 86, as contained in Attachment 1.
2. Modify and adopt the proposed amended rules OAR Chapter 690, Division 86.
3. Direct Department staff to do further work on the rules and return to a future Commission meeting.

#### **VI. Recommendation**

The Director recommends Alternative 1, to adopt the final proposed amended rules OAR Chapter 690, Division 86, as contained in Attachment 1.

Dwight French  
Water Right Services Division Administrator  
503-986-0819

#### **Attachments**

- Attachment 1: Final Proposed Amended Rules – OAR Chapter 690, Division 86
- Attachment 2: RAC Members
- Attachment 3: Public Comment Draft of Proposed Amended Rules – OAR Chapter 690, Division 86
- Attachment 4: Public Comments
- Attachment 5: Department Response to Public Comments



October 29, 2018  
Final Draft - Redline

## DIVISION 86

### WATER MANAGEMENT AND CONSERVATION PLANS

#### 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-Department shall update the Commission on the implementation and effectiveness of these rules every five years. evaluate implementation of these rules within three years and 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~~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~~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.

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

6 (7) A water management and conservation plan that has been approved under these rules may, at  
7 the option of the water supplier, be ~~used~~ submitted to satisfy a ~~condition provision~~ requiring  
8 preparation of a conservation ~~plan in an emergency use permit issued pursuant to OAR 690-019-~~  
9 ~~0040 and a requirement for submittal of a curtailment plan in times of a declared or likely~~  
10 ~~drought under an order issued pursuant to ORS 536.780 and OAR 690-019-0090~~ or curtailment  
11 plan pursuant to OAR Chapter 690, Division 19, and ORS ~~537.780~~ 536.780. The Department  
12 shall make the determination of whether the plan meets the applicable standards in OAR ~~690-~~  
13 ~~019-0040, ORS 536.780, or OAR 690-019-0090~~ at the time of submittal in accordance with  
14 those provisions.

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

20 Stat. Auth.: ORS 536.027, ~~ORS~~ 537.211 & ~~ORS~~ 540.572

21 Stats. Implemented: ORS 537.230, ~~ORS~~ 537.630 & ~~ORS~~ 539.010

22 Hist.: WRD 11-1994, f. & cert. ef. 9-21-94; WRD 4 2002, f. & cert. ef. 11-1-02

### 23 **690-086-0020 General Definitions**

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

25 (1) "Affected ~~L~~local ~~G~~governments" means any local government as defined in OAR 690-005-  
26 0015, within whose jurisdiction the diversion, conveyance, or use of water is established or  
27 proposed within the context of the water management and conservation plan.

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

29 (3) "Conservation" has the meaning given to that term ~~provided~~ in OAR 690-400-0010(5).~~;~~

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

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

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

1 (6) "Waste" has the meaning given to that term~~provided~~ in OAR 690-400-0010~~(16)~~.

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

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

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

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

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

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

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

13 Stat. Auth.: ORS 536.027, ~~ORS~~ 537.211 & ~~ORS~~ 540.572

14 Stats. Implemented: ORS 537.230, ~~ORS~~ 537.630 & ~~ORS~~ 539.010

15 Hist.: WRD 11-1994, f. & cert. ef. 9-21-94; WRD 4 2002, f. & cert. ef. 11-1-02

### 16 **690-086-0030 Definitions for Municipal Water Suppliers**

17 As used in OAR 690-086-0100 to 690-086-0170, OAR 690-086-0300 to 690-086-0370, and  
18 OAR 690-086-0900 to 690-086-0920:

19 (1) "Alternate Municipal WMCP" means a water management and conservation plan submitted  
20 by a Small Municipal Water Supplier in accordance with OAR 690-086-0300 to OAR 690-086-  
21 0370 in lieu of submitting a plan pursuant to OAR 690-086-120 to OAR 690-086-0170.

22 (2) "Authorized ~~water uses~~ Consumption" means all water uses known and approved by a  
23 Municipal Water Supplier~~municipal water supplier~~. These uses include all metered uses and any  
24 other approved uses such as fire-fighting, fire training, system operation needs, reuse, or  
25 miscellaneous uses.

26 (32) "Benchmark" means the specific incremental activities that a Municipal Water Supplier  
27 ~~municipal water supplier~~ plans to have completed in implementing conservation measures.

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

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

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

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

9 ~~(7) "System leak detectionMunicipal WMCP" means a program to monitor leakage throughout~~  
10 ~~the transmission and distribution systems of a municipal water supplier.~~means a water  
11 management and conservation plan submitted by a Municipal Water Supplier pursuant to OAR  
12 690-086-0120 to OAR 690-086-0170.

13 (8) "Small Municipal Water Supplier" means a Municipal Water Supplier that:

14 (a) Serves a population of less than 1000 people or has less than 300 Water Service Connections;  
15 and

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

20 ~~(98) "System leakage-Water Losses" means a comparison of all water that enters into the~~  
21 ~~Municipal Water Supplier's or Small Municipal Water Supplier's system and the Municipal~~  
22 ~~Water Supplier's total Authorized Consumption.~~all water that is lost from a municipal water  
23 supply system, not including major breaks that are expeditiously repaired, and un-metered  
24 authorized or unauthorized uses.

25 ~~(109) "Water Audit" means an analysis of a municipal water supply system that includes a~~  
26 ~~thorough accounting of all water that enters and exits the system.~~ a thorough accounting of all  
27 water into and out of the system to identify system leakage and metered or estimated use for  
28 authorized and unauthorized water uses. The audit also includes an analysis of the water  
29 supplier's own water use to identify alternatives to increase efficiency.

30 ~~(4011) "Water eCurtailment Eelement" means a program to accomplish a specific reduction in~~  
31 ~~the amount of water used or lost within a specific time in response to an emergency or other~~  
32 ~~short-term shortage.~~

33 ~~(124) "Water Sservice Cconnections" means water supply connections to the water delivery~~  
34 ~~system, including the water supplier's own connections, but does not include connections for~~  
35 ~~uses such as fire hydrants, fire sprinkler systems with flow alarms or detector-checks, water line~~



1 blow-offs and drains, stand-by emergency interties, valve controlled drinking fountains or other  
2 similar intermittently used equipment or facilities.

3 Stat. Auth.: ORS 536.027, ~~ORS~~ 537.211 & ~~ORS~~ 540.572  
4 Stats. Implemented: ORS 537.230, ~~ORS~~ 537.630 & ~~ORS~~ 539.010  
5 Hist.: WRD 11-1994, f. & cert. ef. 9-21-94; WRD 4 2002, f. & cert. ef. 11-1-02, Renumbered  
6 from 690-086-0110

## 7 **690-086-0040 Definitions for Agricultural Water Suppliers**

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

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

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

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

21 Stat. Auth.: ORS 536.027, 537.211 and 540.572  
22 Stats. Implemented: ORS 537.230, ~~ORS~~ 537.630 & ~~ORS~~ 539.010  
23 Hist.: WRD 11-1994, f. & cert. ef. 9-21-94; WRD 4 2002, f. & cert. ef. 11-1-02, Renumbered  
24 from 690-086-0210

## 25 **690-086-0100 Municipal Water Management and Conservation Plans: Applicability**

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

29 (2) Water management and conservation plans submitted in order to comply with a permit  
30 extension order issued after November 1, 2002, are subject to the requirements pursuant to of  
31 ~~these rules~~ OAR 690-086-120 to 690-086-0170.

32 Stat. Auth.: ORS 536.027, ~~ORS~~ 537.211 & ~~ORS~~ 540.572  
33 Stats. Implemented: ORS 537.230, ~~ORS~~ 537.630 & ~~ORS~~ 539.010  
34 Hist.: WRD 4 2002, f. & cert. ef. 11-1-~~02~~

1 | **690-086-0110** [Renumbered to 690-086-0030]

2 | **690-086-0120 Municipal Water Management and Conservation Plans: General Provisions**

3 | (1) Each Municipal Water Supplier~~municipal water supplier~~ required to submit a water  
4 | management and conservation plan shall exercise diligence in implementing the approved plan  
5 | and shall update and resubmit a plan consistent with the requirements of ~~-OAR 690-086-0120 to~~  
6 | 690-086-0170 as prescribed during plan approval.

7 | (2) Benchmarks and implementation schedules for conservation measures or other actions and  
8 | other water supply development activities may be modified through the subsequent approval of  
9 | an updated plan.

10 | (3) Progress reports submitted by Municipal Water Suppliers ~~municipal water suppliers~~ will be  
11 | used in determining whether five-year B~~b~~enchmarks are being met, whether the Department will  
12 | authorize additional diversion of water under E~~e~~xtended p~~p~~ermits, and~~and~~ or if schedule changes  
13 | proposed in updated plans are reasonable and appropriate.

14 | (4) Progress reports submitted by Municipal Water Suppliers ~~municipal water suppliers~~ shall  
15 | include:

16 | (a) A list of the B~~b~~enchmarks established under pursuant to OAR 690-086-0150 and a  
17 | description of the progress of the Municipal Water Supplier~~municipal water supplier~~ in  
18 | implementing the associated conservation ~~or other~~ measures or other actions;

19 | (b) Average monthly and daily diversions under each right held by the water supplier for the  
20 | previous five years;

21 | (c) A description of the results of the annual Water Audit~~water audit~~ required under OAR 690-  
22 | 086-0150(4)(a); and

23 | (d) A comparison of quantities of water used in each sector as identified and described in OAR  
24 | 690-086-0140(6) with the quantities of water used in each sector for the previous five years.

25 | (5) Upon receipt of a progress report the Department shall give provide public notice in the  
26 | weekly Public n~~n~~Notice published by the Department and provide an opportunity for written  
27 | public comment for 30 days following publication of the notice. The Department shall provide  
28 | copies of any comments received to the Municipal Water Supplier~~municipal water supplier~~.

29 | (6) A water master plan that meets the requirements of OAR Chapter 333, Division 61 or the  
30 | water supply element of a public facilities plan that meets the requirements of OAR Chapter 660,  
31 | Division 11 that the Department has determined substantially meets the requirements of OAR  
32 | 690-086-0120 to 690-086-0170 may be submitted to meet the requirements of these rules.~~A~~  
33 | ~~water system master plan prepared under the requirements of the Department of Human~~  
34 | ~~Resources Health Division or the water supply element of a public facilities plan prepared under~~  
35 | ~~the requirements of the Department of Land Conservation and Development which substantially~~

1 ~~meets the requirements of OAR 690-086-0125 to 690-086-0170 may be submitted to meet the~~  
2 ~~requirements of these rules.~~

3 (7) In the development of a water management and conservation plan, each Municipal Water  
4 Supplier~~municipal water supplier~~ shall is encouraged to consult with the planning departments or  
5 appropriate officials of A~~affected~~ L~~local~~ G~~g~~overnments to obtain information related to demand  
6 projections in comprehensive land use plans early in the development of the plan.

7 (8) At least 30 days prior to submitting a draft plan to the Department, a Municipal Water  
8 Supplier~~municipal water supplier~~ shall make the draft plan available for review by each  
9 A~~affected~~ L~~local~~ G~~g~~overnment along with a request for comments relating to consistency with  
10 the local government's comprehensive land use plan.

11 (9) Each Municipal Water Supplier~~municipal water supplier~~ preparing a water management and  
12 conservation plan is encouraged to develop and implement a program to involve the supplier's  
13 customers in the preparation of the plan. Recommendations include making the plan available for  
14 public inspection and conducting public meetings to provide information and gather input on the  
15 plan.

16 Stat. Auth.: ORS 536.027, ~~ORS~~ 537.211 & ~~ORS~~ 540.572

17 Stats. Implemented: ORS 537.230, ~~ORS~~ 537.630 & ~~ORS~~ 539.010

18 Hist.: WRD 11-1994, f. & cert. ef. 9-21-94; WRD 4 2002, f. & cert. ef. 11-1-02

#### 19 **690-086-0125 Municipal Water Supplier Plan WMCP Elements**

20 A ~~water management and conservation plan~~ Municipal WMCP submitted by a Municipal Water  
21 Supplier~~municipal water supplier~~ shall include:

22 (1) A Municipal Water Supplier~~municipal water supplier~~ description as described under OAR  
23 690-086-0140;

24 (2) A municipal water conservation element as described under OAR 690-086-0150;

25 (3) A municipal Water Curtailment Element~~water curtailment element~~ as described under OAR  
26 690-086-0160;

27 (4) A municipal water supply element as described under OAR 690-086-0170;

28 (5) A list of the a~~A~~ffected L~~l~~ocal G~~g~~overnments to whom the draft plan was made available  
29 pursuant to OAR 690-086-0120(~~68~~) and a copy of any comments on the plan provided by the  
30 local governments;

31 (6) A proposed date for submittal of an updated plan within no more than 10 years after  
32 submittal of the plan based on the proposed schedule for implementation of conservation  
33 measures or other actions, any relevant schedules for other community planning activities, and

1 | the rate of growth ~~and/or~~ other changes expected by the water supplier; or an explanation of why  
2 | submittal of an updated plan is unnecessary and should not be required by the Department; and

3 | (7) If the ~~Municipal Water Supplier~~~~municipal water supplier~~ is requesting additional time to  
4 | implement ~~M~~metering as required under OAR 690-086-0150(4)(b) or a ~~B~~benchmark established  
5 | in a previously approved plan, documentation showing additional time is necessary to avoid  
6 | unreasonable and excessive costs.

7 | Stat. Auth.: ORS 536.027, ~~ORS~~-537.211 & ~~ORS~~-540.572  
8 | Stats. Implemented: ORS 537.230, ~~ORS~~-537.630 & ~~ORS~~-539.010  
9 | Hist.: WRD 4 2002, f. & cert. ef. 11-1-02

10 | **690-086-0130 Criteria for Approval of a ~~Plan Submitted by a Municipal Water~~**  
11 | **~~Supplier~~Municipal WMCP**

12 | In order to approve a ~~plan by a municipal water supplier~~Municipal WMCP under OAR 690-086-  
13 | 0915, the Department must find that:

14 | (1) The plan includes each of the required elements under OAR 690-086-0125;

15 | (2) The projections of future water need in the water management and conservation plan are  
16 | reasonable and consistent with available land use plans and the Municipal Water  
17 | ~~Supplier~~~~municipal water supplier~~ has demonstrated a need for the quantity of water to be  
18 | diverted during the next 20 years under each permit held by the water supplier;

19 | (3) For each of the water conservation measures required under OAR 690-086-0150(4) and, as  
20 | applicable, OAR 690-086-0150(5), the plan includes a reasonable and appropriate schedule with  
21 | five year Bbenchmarks for implementation of conservation activities;

22 | (4) If applicable, for each of the water conservation measures required under OAR 690-086-  
23 | 0150(~~6~~5), the plan includes:

24 | (a) A reasonable and appropriate schedule with five year Bbenchmarks for implementation of  
25 | conservation activities; or

26 | (b) Documentation to demonstrate that implementation of the measure is neither feasible nor  
27 | appropriate to ensure efficient use of water and the prevention of waste and the supplier has used  
28 | a suitable methodology in evaluating the measure;

29 | (5) The identification of resource issues under OAR 690-086-0140(5)(i) is accurate and  
30 | complete;

31 | (6) The Water Curtailment Element~~water curtailment element~~ required under OAR 690-086-  
32 | 0160 satisfactorily promotes water curtailment practices and the coordination of usage  
33 | regulation, taking into account state water law and local conditions, or is substantially the same

1 as a curtailment plan prepared pursuant to ORS 536.780 and OAR 690-019-0090 and approved  
2 by the Department within the previous five years;

3 (7) If during the next 20 years the maximum rate of water diverted under an Eextended Permit  
4 will be greater than the maximum rate authorized for diversion under the extension or previously  
5 approved water management and conservation plan~~;~~;

6 (a)The plan includes a schedule for development of any conservation measures that would  
7 provide water at a cost that is equal to or lower than the cost of other identified sources, unless  
8 the supplier has provided sufficient justification for the factors used in selecting other sources for  
9 development ~~or the supplier serves a population of less than 1,000;~~

10 (b) Increased use from the source is the most feasible and appropriate water supply alternative  
11 available to the supplier; and

12 (c) If mitigation is legally required to address limitations or restrictions on the development of  
13 permits for which resource issues are identified under OAR 690-086-0140(5)(i), the plan  
14 contains documentation that the supplier is complying with the mitigation requirements. The  
15 Department may consult with federal and state agencies in making this determination.

16 (8) ~~After January 1, 2042, f~~For review of water management and conservation plans that  
17 propose to increase the maximum rate of water diverted under an Eextended Permit, after  
18 January 1, 2042, that the additional diversion of water will not impair or be detrimental to the  
19 public interest.

20 Stat. Auth.: ORS 536.027, ~~ORS~~ 537.211 & ~~ORS~~ 540.572  
21 Stats. Implemented: ORS 537.230, ~~ORS~~ 537.630 & ~~ORS~~ 539.010  
22 Hist.: WRD 4 2002, f. & cert. ef. 11-1-02

### 23 **690-086-0140 Municipal Water Supplier Description for a Municipal WMCP**

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

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

29 (2) A delineation of the current service areas and an estimate of the population served and a  
30 description of the methodology(ies) used to make the estimate;

31 (3) An assessment of the adequacy and reliability of the existing water supply considering  
32 potential limitations on continued or expanded use under existing water rights resulting from  
33 existing and potential future restrictions on the community's water supply;

- 1 (4) A quantification of the water delivered by the water supplier that identifies current and  
2 | available historic average annual water use, ~~peak seasonal~~ of use, ~~and~~ average day use, and peak  
3 day use;
- 4 | (5) A tabular list of water rights held by the Municipal Water Supplier~~municipal water supplier~~  
5 that includes the following information:
- 6 (a) Application, permit, transfer, and certificate numbers (as applicable);
- 7 | (b) Priority date(s) for each right;
- 8 | (c) Source(s) of water for each right;
- 9 | (d) Type(s) of beneficial uses specified in ~~the~~ each right;
- 10 (e) Maximum instantaneous and annual quantity of water allowed under each right;
- 11 (f) Maximum instantaneous and annual quantity of water diverted under each right to date;
- 12 | (g) Average monthly and daily diversions under each right that is conveyed through the  
13 supplier's distribution system ~~right~~ for the previous year, and if available for the previous five  
14 years;
- 15 (h) Currently authorized date for completion of development under each right; and
- 16 (i) Identification of any streamflow-dependent species listed by a state or federal agency as  
17 sensitive, threatened or endangered that are present in the source, any listing of the source as  
18 water quality limited and the water quality parameters for which the source was listed, and any  
19 designation of the source as being in a critical ground water area.
- 20 | (6) A description of customers served including other water suppliers and the estimated numbers  
21 for each sector; general water use characteristics of residences, commercial and industrial  
22 facilities, and any other uses; and a comparison of the quantities of water used in each sector  
23 with the quantities reported in the water supplier's previously submitted water management and  
24 conservation plan and progress reports;
- 25 | (7) Identification and description of interconnections with other ~~municipal water~~ supply systems;
- 26 (8) A schematic of the system that shows the sources of water, storage facilities, treatment  
27 facilities, major transmission and distribution lines, pump stations, interconnections with other  
28 ~~municipal water~~ supply systems, and the existing and planned future service area; and
- 29 (9) A quantification and description of the system's Water Losses that includes of system  
30 leakage non-revenue water that includes any available information regarding the ~~locations~~  
31 sources of significant losses and, to the extent possible, identification of those losses as either  
32 real or apparent losses.

1 Stat. Auth.: ORS 536.027, ~~ORS~~-537.211 & ~~ORS~~-540.572  
2 Stats. Implemented: ORS 537.230, ~~ORS~~-537.630 & ~~ORS~~-539.010  
3 Hist.: WRD 11-1994, f. & cert. ef. 9-21-94; WRD 4 2002, f. & cert. ef. 11-1-02

4 **690-086-0150 Municipal Water Conservation Element for a Municipal WMCP**

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

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

8 (2) A description of the water supplier's water use measurement and reporting program and a  
9 statement that the program complies with the measurement standards in OAR Cchapter 690,  
10 Division 85, that a time extension or waiver has been granted, or that the standards are not  
11 applicable;

12 (3) A description of other conservation measures, if any, currently implemented by the water  
13 supplier, including any measures required under water supply contracts;

14 (4) A description of the specific activities, along with a schedule that establishes five-year  
15 Benchmarks, for implementation of each of the following conservation measures that are  
16 required of all Municipal Water Suppliers ~~municipal water suppliers~~:

17 (a) An annual Water Audit~~water audit~~ that includes a systematic and documented methodology  
18 for estimating any un-metered authorized and unauthorized uses, and an analysis of the water  
19 supplier's own water use to identify alternatives to increase efficiency;

20 (b) If the system is not fully metered, a program to install meters on all un-metered Water  
21 Service Connections. The program shall start immediately after the plan is approved and shall  
22 identify the number of meters to be installed each year with full Metering completed within  
23 five years of approval of the water management and conservation plan;

24 (c) A meter testing and maintenance program;

25 (d) A rate structure under which customers' bills are based, at least in part, on the quantity of  
26 water metered at the service connections;

27 (e) If the annual Water Audit~~water audit~~ indicates that ~~system leakage~~ the system's Water  
28 Losses exceeds 10 percent;

29 (A) Within two years of approval of the water management and conservation plan, the water  
30 supplier shall provide a description and analysis identifying potential factors for the loss and  
31 selected actions for remedy;

1 (B) If actions identified under subsection (A) do not result in the reduction of Water Losses to 10  
2 percent or less, within five years of approval of the water management and conservation plan, the  
3 water supplier shall:

4 (i) Develop and implement a regularly scheduled and systematic program to detect and repair  
5 leaks in the transmission and distribution system using methods and technology appropriate to  
6 the size and capabilities of the Municipal Water Supplier~~municipal water supplier~~ or a line  
7 replacement program detailing the size and length of pipe to be replaced each r; and year; or,

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

10 (f) A public education program commensurate to the size of the Municipal Water  
11 Supplier~~municipal water supplier~~ to encourage efficient indoor and outdoor water use and the  
12 use of low water use landscaping that includes regular communication of the supplier's water  
13 conservation activities and schedule to customers;

14 ~~(5) If the municipal water supplier proposes to expand or initiate diversion of water under an~~  
15 ~~extended permit for which resource issues have been identified under OAR 690-086-0140(5)(i),~~  
16 ~~a description of the specific activities, along with a schedule that establishes five-year~~  
17 ~~benchmarks, for implementation of a system-wide leak repair or line replacement program to~~  
18 ~~reduce system leakage to no more than 15 percent or sufficient information to demonstrate that~~  
19 ~~system leakage on revenue water currently is no more than 15 percent.~~

20 ~~(6)(5) If the Municipal Water Supplier~~~~municipal water supplier~~ serves a population greater than  
21 1,000 and proposes to expand or initiate diversion of water under an E~~extended~~ P~~permit~~ for  
22 which resource issues have been identified under OAR 690-086-0140(5)(i), or if the Municipal  
23 Water Supplier~~municipal water supplier~~ serves a population greater than 7,500, a description of  
24 the specific activities, along with a schedule that establishes five-year B~~benchmarks~~, for  
25 implementation of each of the following measures; or documentation showing that  
26 implementation of the measures is neither feasible nor appropriate for ensuring the efficient use  
27 of water and the prevention of waste:

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

31 ~~(ab)~~ Technical and financial assistance programs commensurate to the size of the Municipal  
32 Water Supplier~~municipal water supplier~~ to encourage and aid residential, commercial and  
33 industrial customers in implementation of conservation measures;

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



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

3 | ~~(de)~~ Water reuse, recycling, and non-potable water opportunities; and

4 | ~~(ef)~~ Any other conservation measures identified by the water supplier that would improve water  
5 | use efficiency.

6 | Stat. Auth.: ORS 536.027, ~~ORS 537.211~~ & ~~ORS 540.572~~

7 | Stats. Implemented: ORS 537.230, ~~ORS 537.630~~ & ~~ORS 539.010~~

8 | Hist.: WRD 11-1994, f. & cert. ef. 9-21-94; WRD 4 2002, f. & cert. ef. 11-1-02, Renumbered  
9 | from 690-086-0140(2)

10 | **690-086-0160 Municipal Water Curtailment Element for a Municipal WMCP**

11 | The Water Curtailment Element~~water curtailment element~~ of a Municipal WMCP shall include  
12 | at least the following:

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

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

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

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

27 | Stat. Auth.: ORS 536.027, ~~ORS 537.211~~ & ~~ORS 540.572~~

28 | Stats. Implemented: ORS 537.230, ~~ORS 537.630~~ & ~~ORS 539.010~~

29 | Hist.: WRD 11-1994, f. & cert. ef. 9-21-94; WRD 4 2002, f. & cert. ef. 11-1-02, Renumbered  
30 | from 690-086-0140(3)

31 | **690-086-0170 Municipal Water Supply Element of a Municipal WMCP**

32 | The water supply element of a Municipal WMCP shall include at least the following:

- 1 (1) A delineation of the current and future service areas consistent with state land use law that  
2 includes available data on population projections and anticipated development consistent with  
3 relevant acknowledged comprehensive land use plans and urban service agreements or other  
4 relevant growth projections;
- 5 (2) An estimated schedule that identifies when the water supplier expects to fully exercise each  
6 of the water rights and water use permits currently held by the supplier;
- 7 (3) Based on the information provided in section (1) of this rule, an estimate of the water  
8 supplier's water demand projections for 10 and 20 years, and at the option of the Municipal  
9 Water Supplier~~municipal water supplier~~, longer periods;
- 10 (4) A comparison of the projected water needs and the sources of water currently available to the  
11 Municipal Water Supplier~~municipal water supplier~~ and to any other suppliers to be served  
12 considering the reliability of existing sources;
- 13 (5) If any expansion or initial diversion of water allocated under existing permits is necessary to  
14 meet the needs shown in section (3) of this rule, an analysis of alternative sources of water that  
15 considers availability, reliability, feasibility and likely environmental impacts. The analysis shall  
16 consider the extent to which the projected water needs can be satisfied through:
- 17 (a) Implementation of conservation measures identified under OAR 690-086-0150;
- 18 (b) Interconnection with other municipal supply systems and cooperative regional water  
19 management; and
- 20 (c) Any other conservation measures that would provide water at a cost that is equal to or lower  
21 than the cost of other identified sources.
- 22 (6) If any expansion or initial diversion of water allocated under existing permits is necessary to  
23 meet the needs shown in section (3) of this rule, a quantification of the maximum rate and  
24 monthly volume of water to be diverted under each of the permits;
- 25 (7) For any expansion or initial diversion of water under existing permits, a description of  
26 mitigation actions the water supplier is taking to comply with legal requirements including but  
27 not limited to the Endangered Species Act (ESA; 16 U.S.C. § 1531 et seq.), Clean Water Act  
28 (CWA; 33 U.S.C. § 1251 et seq.), and Safe Drinking Water Act (SDWA; 42 U.S.C. §  
29 300f) ~~Endangered Species Act, Clean Water Act, Safe Drinking Water Act~~; and
- 30 (8) If acquisition of new water rights will be necessary within the next 20 years to meet the needs  
31 ~~shown~~ estimated in section (3) of this rule, an analysis of alternative sources of the additional  
32 water that considers availability, reliability, feasibility and likely environmental impacts and a  
33 schedule for development of the new sources of water. The analysis shall consider the extent to  
34 which the need for new water rights can be eliminated through:
- 35 (a) Implementation of conservation measures identified under OAR 690-086-0150;

- 1 (b) Interconnection with other municipal supply systems and cooperative regional water  
2 management; and
- 3 (c) Any other conservation measures that would provide water at a cost that is equal to or lower  
4 than the cost of other identified sources.

5 Stat. Auth.: ORS 536.027, ~~ORS 537.211~~ & ~~ORS 540.572~~  
6 Stats. Implemented: ORS 537.230, ~~ORS 537.630~~ & ~~ORS 539.010~~  
7 Hist.: WRD 11-1994, f. & cert. ef. 9-21-94; WRD 4 2002, f. & cert. ef. 11-1-02, Renumbered  
8 from 690-086-0140(4)

9 **690-086-0210** [Renumbered to 690-086-0040]

10 **690-086-0220 Agricultural Water Supplier Water Management and Conservation Plans:**  
11 **General Provisions**

12 (1) Certain agricultural water suppliers must have approved conservation plans to transfer water  
13 rights within the boundaries of the districts to other land within the districts (ORS 540.572 to  
14 540.578). These rules provide the standards for those conservation plans.

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

19 (3) Any agricultural water supplier participating in the water transfer provisions in ORS 540.572  
20 to 540.578 and OAR ~~690-385021-00100070 to 690-385021-78000700~~ 690-385-5000 to 690-385-  
21 5900 shall submit an annual report describing progress-to-date in implementing a water  
22 management and conservation plan.

23 (4) Water management and conservation plans submitted by agricultural water suppliers shall  
24 meet the requirements listed in OAR 690-086-0225 to 690-086-0270.

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

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

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

1 | Stat. Auth.: ORS 536.027, ~~ORS~~ 537.211 & ~~ORS~~ 540.572  
2 | Stats. Implemented: ORS 537.230, ~~ORS~~ 537.630 & ~~ORS~~ 539.010  
3 | Hist.: WRD 11-1994, f. & cert. ef. 9-21-94; WRD 4 2002, f. & cert. ef. 11-1-02

#### 4 | **690-086-0225 Agricultural Water Supplier Plan Elements**

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

- 7 | (1) An agricultural water supplier description as described under OAR 690-086-0240;
- 8 | (2) An agricultural water conservation element as described under OAR 690-086-0250;
- 9 | (3) An agricultural water allocation/curtailment element as described under OAR 690-086-0260;
- 10 | (4) An agricultural water supply element as required under OAR 690-086-0270;
- 11 | (5) A list of the affected local governments to whom the draft plan was made available pursuant  
12 | to OAR 690-086-0220(6) and a copy of any comments on the plan provided by the local  
13 | governments;
- 14 | (6) A proposed date for submittal of an updated plan based on the proposed schedule for  
15 | implementation of conservation measures, any relevant schedules for other community planning  
16 | activities, and the rate of growth of or other changes expected by the water supplier; or an  
17 | explanation of why submittal of an updated plan is unnecessary and should not be required by  
18 | the Department.

19 | Stat. Auth.: ORS 536.027, 537.211 and 540.572  
20 | Stats. Implemented: ORS 537.230, ORS 537.630 & ORS 539.010  
21 | Hist.: WRD 4 2002, f. & cert. ef. 11-1-02

#### 22 | **690-086-0240 Agricultural Water System Description**

23 | The description of the water system shall include at least the following information:

- 24 | (1) General location of water right acreage, numbers of the associated water right certificates and  
25 | permits and a description of relevant conditions of the water rights including the seasons of use  
26 | and the uses of any other permitted withdrawals by the supplier;
- 27 | (2) Source(s) of water; storage and regulation facilities; and a summary of any transfer, rotation,  
28 | exchange or intergovernmental cooperation agreements;
- 29 | (3) A schematic of the system showing storage and distribution facilities, drainage systems,  
30 | measurement stations, generalized district boundaries, points of diversion and locations of major  
31 | operational spills;

- 1 (4) Current water use, including peak and average annual diversions and, when available, water  
2 reuse and return flows;
- 3 (5) A summary of major classifications of user accounts showing water right acreages, the  
4 number of accounts of each classification, and the beneficial uses for which water is provided  
5 (irrigation, frost protection, temperature control, agricultural use, livestock, domestic, etc.);
- 6 (6) Types of on-farm irrigation systems common within the supplier's accounts;
- 7 (7) A general characterization of crops commonly grown and the estimated average and peak  
8 consumptive use of the crops; and
- 9 (8) A description of the operation and maintenance program.

10 Stat. Auth.: ORS 536.027, ~~ORS~~ 537.211 & ~~ORS~~ 540.572  
11 Stats. Implemented: ORS 537.230, ~~ORS~~ 537.630 & ~~ORS~~ 539.010  
12 Hist.: WRD 11-1994, f. & cert. ef. 9-21-94; WRD 4 2002, f. & cert. ef. 11-1-02

### 13 **690-086-0250 Agricultural Water Conservation Element**

14 The water conservation element shall include at least the following:

- 15 (1) A progress report on the conservation measures scheduled for implementation in the water  
16 management and conservation plan previously approved by the Department, if any;
- 17 (2) A description of the water supplier's agricultural water measurement program and a statement  
18 that the program complies with the measurement and reporting standards in OAR chapter 690,  
19 division 85, that a time extension or waiver has been granted, or that the standards are not  
20 applicable;
- 21 (3) A description of other conservation measures currently implemented by the water supplier;
- 22 (4) Short- and long-term goals of the water supplier to improve water management;
- 23 (5) An evaluation of the opportunities for improving water use efficiency which includes:
  - 24 (a) A description of losses of water from canals, pipelines, and laterals, including any operational  
25 spills;
  - 26 (b) An assessment of the extent to which water deliveries are insufficient to meet crop needs;
  - 27 (c) A list of alternative conservation measures to reduce the losses of water identified in  
28 subsection (a) of this section and address any insufficiencies of water deliveries identified in  
29 subsection (b) of this section; and

- 1 (d) An assessment of existing and future alternatives to finance conservation measures including  
2 an analysis of the possibility of applying for the allocation of conserved water (ORS 537.455 to  
3 537.500 and OAR 690-018-0010 to 690-018-0090).
- 4 (6) For each of the following conservation measures not currently being implemented, and  
5 evaluation of whether implementation of the measure is feasible and appropriate for ensuring the  
6 efficient use of water and the prevention of waste:
- 7 (a) Promotion of energy audits offered through local electric utilities for district water users;
- 8 (b) Conversion to metered, pressurized deliveries to all parcels of one acre or less;
- 9 (c) Piping or lining earthen canals;
- 10 (d) Modifying distribution facilities and district policies to increase the flexibility of water  
11 deliveries;
- 12 (e) Provision of on-farm irrigation scheduling assistance;
- 13 (f) Construction of re-regulating reservoirs;
- 14 (g) Adoption ~~of~~ of rate structures that support and encourage water conservation;
- 15 (h) Each of the conservation measures listed in OAR 690-086-0250(5)(c); and
- 16 (i) Any other conservation measures identified by the water supplier that would improve water  
17 use efficiency.
- 18 (7) A description and estimated schedule for implementation of each of the following  
19 conservation measures:
- 20 (a) An information and education program aimed at improving the efficiency of the use of water  
21 delivered. The program should address all types of uses served and include voluntary water use  
22 audits; and
- 23 (b) Any other conservation measures identified as feasible and appropriate under section (6) of  
24 this rule.
- 25 (8) A program to monitor and evaluate the effectiveness of the conservation measures which are  
26 implemented.
- 27 Stat. Auth.: ORS 536.027, ~~ORS~~ 537.211 & ~~ORS~~ 540.572  
28 Stats. Implemented: ORS 537.230, ~~ORS~~ 537.630 & ~~ORS~~ 539.010  
29 Hist.: WRD 11-1994, f. & cert. ef. 9-21-94; WRD 4 2002, f. & cert. ef. 11-1-02, Renumbered  
30 from 690-086-0240(2)

1 **690-086-0260 Agricultural Water Allocation/Curtailment Element**

2 The water allocation/curtailment element shall include at least the following:

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

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

9 (3) A description of the procedure used to allocate water during water shortages.

10 Stat. Auth.: ORS 536.027, ~~ORS~~ 537.211 & ~~ORS~~ 540.572

11 Stats. Implemented: ORS 537.230, ~~ORS~~ 537.630 & ~~ORS~~ 539.010

12 Hist.: WRD 11-1994, f. & cert. ef. 9-21-94; WRD 4 2002, f. & cert. ef. 11-1-02, Renumbered  
13 from 690-086-0240(3)

14 **690-086-0270 Agricultural Water Supply Element**

15 The long-range water supply element shall include at least the following:

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

17 (2) A comparison of the projected water needs and the size and reliability of water rights  
18 certificates and permits, or other current water supply contracts held by the water supplier;

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

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

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

24 (a) Regional options for meeting future water needs;

25 (b) Urbanization and other land-use trends;

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

1 Stat. Auth.: ORS 536.027, ~~ORS~~ 537.211 & ~~ORS~~ 540.572  
2 Stats. Implemented: ORS 537.230, ~~ORS~~ 537.630 & ~~ORS~~ 539.010  
3 Hist.: WRD 11-1994, f. & cert. ef. 9-21-94; WRD 4 2002, f. & cert. ef. 11-1-02, Renumbered  
4 from 690-086-0240(4)

5 **690-086-0300 Alternate Water Management and Conservation Plans for Small Municipal**  
6 **Water Suppliers: Applicability**

7 (1) A Small Municipal Water Supplier may submit an Alternate Municipal WMCP pursuant to  
8 OAR 690-086-0325 to 690-086-0370 in lieu of submitting a Municipal WMCP pursuant to OAR  
9 690-086-0125 to 690-086-0170, if the Small Municipal Water Supplier has documented and  
10 submitted findings that the following would not be necessary to meet current or projected demand  
11 within the next 10 years:

12  
13 (a) Acquisition of a new water right (as described in OAR 690-086-0170(8)); or

14  
15 (b) Expand or initiate diversion of water allocated under an Extended Permit (as described in OAR  
16 690-086-0170(5)).

17  
18 (2) The Department shall determine if the Small Municipal Water Supplier meets the requirements  
19 described in section (1) of this rule at the time the plan is submitted. If the Department determines  
20 that the Small Municipal Water Supplier does not meet the requirements as defined in section (1)  
21 of this rule, the Department shall:

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

23 (b) Require the Small Municipal Water Supplier to submit a Municipal WMCP that meets the  
24 requirements of OAR 690-086-0125.

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

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

32 Stat. Auth.: ORS 536.027, 537.211 & 540.572

33 Stats. Implemented: ORS 537.230, 537.630 & 539.010

34 Hist.

35 **690-086-0320 Alternate Municipal WMCP for Small Municipal Water Suppliers: General**  
36 **Provisions**



- 1 (1) Each Small Municipal Water Supplier that submits an Alternate Municipal WMCP shall  
2 exercise diligence in implementing the approved plan and shall update and resubmit a plan  
3 consistent with the requirements of these rules as prescribed during plan approval.
- 4 (2) Benchmarks and implementation schedules for conservation measures or other actions and  
5 other water supply development activities may be modified through the subsequent approval of  
6 an updated plan.
- 7 (3) Progress reports submitted by Small Municipal Water Supplier-s will be used in determining  
8 whether five-year Benchmarks are being met and/or if schedule changes proposed in updated  
9 plans are reasonable and appropriate.
- 10 (4) Progress reports submitted by Small Municipal Water Suppliers shall include:
- 11 (a) A list of the Benchmarks established under OAR 690-086-0350 and a description of the  
12 progress of the Small Municipal Water Supplier in implementing the associated conservation  
13 measures or other actions;
- 14 (b) Average monthly diversions and average daily diversions under each right held by the Small  
15 Municipal Water Supplier for the previous five years; and
- 16 (c) A description of the results of the annual Water Audit required under OAR 690-086-  
17 0350(4)(a).
- 18 (5) Upon receipt of a progress report the Department shall provide public notice in the weekly  
19 Public Notice published by the Department and provide an opportunity for written public  
20 comment for 30 days following publication of the notice. The Department shall provide copies of  
21 any comments received to the Small Municipal Water Supplier.
- 22 (6) A water master plan that meets the requirements of OAR Chapter 333, Division 61 or the  
23 water supply element of a public facilities plan prepared that meets the requirements of OAR  
24 Chapter 660, Division 11 -which substantially meets the requirements of OAR 690-086-0320 to  
25 690-086-0370 may be submitted to meet the requirements of these rules.
- 26 (7) In the development of an Alternate Municipal WMCP, each Small Municipal Water Supplier  
27 is encouraged to consult with the planning departments or appropriate officials of Affected Local  
28 Governments to obtain information related to demand projections in comprehensive land use  
29 plans early in the development of the plan.
- 30 (8) At least 30 days prior to submitting a draft plan to the Department, a Small Municipal Water  
31 Supplier shall make the draft plan available for review by each Affected Local Government  
32 along with a request for comments relating to consistency with the local government's  
33 comprehensive land use plan.
- 34 (9) Each Small Municipal Water Supplier preparing an Alternate Municipal WMCP is  
35 encouraged to develop and implement a program to involve the supplier's customers in the

1 preparation of the plan. Recommendations include making the plan available for public  
2 inspection and conducting public meetings to provide information and gather input on the plan.

3 Stat. Auth.: ORS 536.027, 537.211 & 540.572  
4 Stats. Implemented: ORS 537.230, 537.630 & 539.010  
5 Hist.

6 **690-086-0325 Alternate Municipal WMCP: Water Supplier Plan Elements for Small**  
7 **Municipal Water Suppliers**

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

9 (1) A water supplier description for Small Municipal Water Suppliers as described under OAR  
10 690-086-0340;

11 (2) A water conservation element for Small Municipal Water Suppliers as described under OAR  
12 690-086-0350;

13 (3) A Water Curtailment Element for Small Municipal Water Suppliers as described under OAR  
14 690-086-0360;

15 (4) A water supply element for Small Municipal Water Suppliers as described under OAR 690-  
16 086-0370;

17 (5) A list of the Affected Local Governments to whom the draft plan was made available  
18 pursuant to OAR 690-086-0320(8) and a copy of any comments on the plan provided by the  
19 local governments;

20 (6) A proposed date for submittal of an updated plan within no more than 10 years after  
21 submittal of the plan based on the proposed schedule for implementation of conservation  
22 measures, and as available, any relevant schedules for other community planning activities, the  
23 rate of growth, and any other changes expected by the water supplier; or an explanation of why  
24 submittal of an updated plan is unnecessary and should not be required by the Department; and

25 (7) If the Small Municipal Water Supplier is requesting additional time to implement Metering as  
26 required under OAR 690-086-350(4)(b) or a Benchmark established in a previously approved  
27 plan, documentation showing additional time is necessary to avoid unreasonable and excessive  
28 costs.

29 Stat. Auth.: ORS 536.027, 537.211 & 540.572  
30 Stats. Implemented: ORS 537.230, 537.630 & 539.010  
31 Hist.

32 **690-086-0330 Criteria for Approval of an Alternate Municipal WMCP Submitted by Small**  
33 **Municipal Water Suppliers**

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

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

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

7 (3) The Water Curtailment Element required under OAR 690-086-0360 satisfactorily promotes  
8 water curtailment practices and the coordination of usage regulation, taking into account state  
9 water law and local conditions, or is substantially the same as a curtailment plan prepared  
10 pursuant to ORS 536.780 and OAR 690-019-0090 and approved by the Department within the  
11 previous five years; and

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

16 Stat. Auth.: ORS 536.027, 537.211 & 540.572

17 Stats. Implemented: ORS 537.230, 537.630 & 539.010

18 Hist.

19 **690-086-0340 Alternate Municipal WMCP: Water Supplier Description for Small**  
20 **Municipal Water Suppliers**

21 The Small Municipal Water Supplier description element of an Alternate Municipal WMCP shall  
22 include at least the following information:

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

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

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

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

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

3 (a) Application, permit, transfer, and certificate numbers (as applicable);

4 (b) Priority date(s) for each right;

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

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

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

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

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

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

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

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

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

22 Stat. Auth.: ORS 536.027, 537.211 & 540.572

23 Stats. Implemented: ORS 537.230, 537.630 & 539.010

24 Hist.

25 **690-086-0350 Alternate Municipal WMCP: Water Supplier Conservation Element for**  
26 **Small Municipal Water Suppliers**

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

29 (1) A progress report on the conservation measures or other actions scheduled for  
30 implementation in a water management and conservation plan previously approved by the  
31 Department, if any;

1 (2) A statement that the Small Municipal Water Supplier's water use measurement and reporting  
2 program complies with the measurement standards in OAR Chapter 690, Division 85, that a time  
3 extension or waiver has been granted, or that the standards are not applicable;

4 (3) A description of other conservation measures, if any, currently implemented by the Small  
5 Municipal Water Supplier, including any measures required under water supply contracts; and

6 (4) A description of the specific activities, along with a schedule that establishes five-year  
7 Benchmarks, for implementation of each of the following conservation measures that are  
8 required of all Small Municipal Water Suppliers:

9 (a) An annual Water Audit that compares the quantity of water that enters and exits the system;

10 (b) If the system is not fully metered, a program to install meters on all un-metered Water  
11 Service Connections. The program shall start immediately after the plan is approved and shall  
12 identify the number of meters to be installed each year with full Metering completed within ten  
13 years of approval of the water management and conservation plan;

14 (c) A meter testing and maintenance program;

15 (d) A rate structure under which customers' bills are based, at least in part, on the quantity of  
16 water metered at the service connections;

17 (e) If the annual Water Audit indicates that Water Losses exceed 15 percent and the Small  
18 Municipal Water Supplier serves a population greater than 300 people or has more than 100  
19 service connections:

20 A) Within two years of approval of the water management and conservation plan, the water  
21 supplier shall provide a description identifying potential factors for the loss and possible actions  
22 for remedy;

23 (B) If actions identified under subsection (A) do not result in the reduction of water loss to less  
24 than 15 percent, within five years of approval of the water management and conservation plan,  
25 the water supplier shall develop and implement a program to detect and repair leaks in the  
26 transmission and distribution system using methods and technology appropriate to the size and  
27 capabilities of the Small Municipal Water Supplier, a line replacement program detailing the size  
28 and length of pipe to be replaced each year, or a similar program that will result in a reduction of  
29 Water Losses.

30 (f) If the annual Water Audit indicates that Water Losses exceed 15 percent and the Small  
31 Municipal Water Supplier serves a population of 300 or fewer people or has 100 or fewer service  
32 connections, the water supplier shall provide a description of how the supplier will identify  
33 potential factors for the loss and decrease Water Losses over time by implementing a leak

1 detection program, a line replacement program, or other methodology that will result in a  
2 reduction of Water Losses; and

3 (g) A public education program to encourage efficient water use that, at a minimum, distributes  
4 conservation materials prepared by the Department or other existing sources to all customers  
5 prior to July 1st of each year.

6 Stat. Auth.: ORS 536.027, 537.211 & 540.572  
7 Stats. Implemented: ORS 537.230, 537.630 & 539.010  
8 Hist.

9 **690-086-0360 Alternate Municipal WMCP: Water Supplier Curtailment Element for**  
10 **Small Municipal Water Suppliers**

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

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

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

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

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

19 Stat. Auth.: ORS 536.027,537.211 & 540.572  
20 Stats. Implemented: ORS 537.230, 537.630 & 539.010  
21 Hist.

22 **690-086-0370 Alternate Municipal WMCP: Water Supply Element for Small Municipal**  
23 **Water Suppliers**

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

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

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

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

1 Stat. Auth.: ORS 536.027, 537.211 & 540.572  
2 Stats. Implemented: ORS 537.230, 537.630 & 539.010  
3 Hist.

#### 4 **690-086-0900 Water Management and Conservation Plan Review, Approval and** 5 **Enforcement**

6 (1) The rules in OAR 690-086-0900 to 690-086-0920 set out the process and criteria for the  
7 Department's review, approval, and enforcement of Municipal WMCPs, the water management  
8 and conservation plans submitted by ~~municipal, Agricultural, and, municipal water~~ Water  
9 Suppliers, and Alternate Municipal WMCPs-suppliers. The rules apply to the submittal and  
10 review of draft plans, proposed final plans, and subsequent updates.

11 (2) ~~During the plan review and approval process,~~ The Department may allow additional time for  
12 a Municipal Water Supplier~~municipal water supplier (under OAR 690-086-0150(4)(b)) or Small~~  
13 Municipal Water Supplier (under OAR 690-086-0350(4)(b)) to implement water Mmetering  
14 ~~under OAR 690-086-0150(4)(b)) or a B~~enchmark established in a previously approved plan if  
15 the water supplier shows that additional time is necessary to avoid unreasonable and excessive  
16 costs.

17 (3) Notwithstanding any of the requirements of these rules, except OAR 690-086-0150(2)~~and,~~  
18 690-086-0250(2), and 690-086-0350(2), the Department may approve a water management and  
19 conservation plan if the plan is generally consistent with the applicable criteria and includes a  
20 schedule for completion within five years of any additional work necessary to satisfy the  
21 requirements.

22 (4) Any Municipal WMCP plan approval that contains a requirement that a Municipal Water  
23 Supplier~~municipal water supplier~~ complete additional work under section (3) of this rule shall  
24 preclude additional diversion of water under an Extended permit beyond the need quantified  
25 for the next two years.

26 Stat. Auth.: ORS 536.025 & ~~ORS~~ 536.027  
27 Stats. Implemented: ORS 537.230, ~~ORS~~ 537.630 & ~~ORS~~ 539.010  
28 Hist.: WRD 4 2002, f. & cert. ef. 11-1-02

#### 29 **690-086-0905 Notice of Submittal of a Draft Plan or Updated Plan**

30 (1) The Department shall notify Aaffected Local Governments, affected Indian tribes, and all  
31 persons on the Department's weekly Public Notice mailing list that a draft water management  
32 and conservation plan prepared under the requirements of OAR 690-086-0125~~or,~~ 690-086-0225,  
33 or 690-086-0325 has been submitted to the Department and is available for review.

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

1 modification in each provision that would be necessary to satisfy the relevant requirement, and  
2 include information to support any suggested modifications.

3 Stat. Auth.:ORS 536.027, ~~ORS~~ 537.211 & ~~ORS~~ 540.572  
4 Stats. Implemented: ORS 537.230, ~~ORS~~ 537.630 & ~~ORS~~ 539.010  
5 Hist.: WRD 11-1994, f. & cert. ef. 9-21-94; WRD 4 2002, f. & cert. ef. 11-1-02, Renumbered  
6 from 690-086-0910(1) & (2)

## 7 **690-086-0910 Preliminary Review of Draft Plans**

8 (1) The Department shall undertake a preliminary review of the draft plan and the comments  
9 received pursuant to OAR 690-086-0905 to determine whether the plan includes the required  
10 elements of OAR 690-086-0120 to 690-086-0170 for a Municipal WMCP, ~~or OAR 690-086-~~  
11 ~~0220 to 690-086-0270~~ for a water management and conservation plan submitted by an  
12 Agricultural Water Supplier, ~~or OAR 690-086-0320 to 690-086-0370 for an Alternate Municipal~~  
13 WMCP, as applicable.

14 (2) For a Municipal WMCP ~~plan~~ submitted by a Municipal Water Supplier ~~municipal water~~  
15 ~~supplier~~, the Department shall review the plan to determine if the information and analyses in the  
16 plan are sufficient for the Department to make the determination required under OAR 690-086-  
17 0130.

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

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

21 (b) The water supplier has complied with the requirements of OAR 690-086-0250 and has  
22 included a description of the actions to be taken in the implementation of water conservation  
23 measures that are feasible and appropriate for ensuring the efficient use of water delivered and  
24 the prevention of waste; considering:

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

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

27 (C) Whether the measures are available and proven;

28 (D) The time needed to implement the measures;

29 (E) The effects of local variations in soil type and weather on the potential for successful  
30 implementation of the measures; and

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



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

6 (d) The water supplier has included the information required in OAR 690-086-0270, and, in the  
7 list of potential sources of water to meet projected demands, included the development of any  
8 conservation measures which are available at a cost which is lower than the cost of other  
9 identified sources or has provided sufficient justification for the factors used in selecting other  
10 sources for development.

11 (4) For an Alternate Municipal WMCP submitted by Small Municipal Water Supplier that meets  
12 the applicability requirements of OAR 690-086-0300, the Department shall review the plan to  
13 determine if the information and analyses in the plan are sufficient for the Department to make  
14 the determination required under OAR 690-086-0330.

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

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

20 (b) After considering public comments if the Department determines that the draft plan includes:

21 (A) The required plan elements under OAR 690-086-0125 for a Municipal WMCP, or OAR  
22 690-086-0225 for a water management and conservation plan submitted by an Agricultural  
23 Water Supplier, or OAR 690-086-0325 for an Alternate Municipal WMCP; and

24 (B) For municipal water supply plans a Municipal WMCP, that the plan meets the criteria under  
25 OAR 690-086-0130; or

26 (C) For an Alternate Municipal WMCP, that the plan meets the criteria under OAR 690-086-  
27 0330.

28 (c) The Department shall -issue a final order approving the plan pursuant to OAR 690-0086-  
29 0915(4), or (5), or (7) and notify any person who submitted comments pursuant to OAR 690-  
30 086-0905 of the issuance of the order.

31 (65) The Department shall include in its written comments prepared under section (54) of this  
32 rule:

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

1 (b) To the extent necessary and possible, identification of any constraints to implementation of  
2 the water management and conservation plan and recommendations on appropriate actions to  
3 conserve water or to secure any identified new sources of water;

4 (c) An evaluation of the extent to which a request for additional time under OAR 690-086-  
5 0900(2) satisfies the relevant requirements of the rules;

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

9 ~~(e) Identified in consultation with the water supplier, a~~ A prescribed reasonable period of time of  
10 not more than 120 days for the water supplier to submit a final plan to the Department; and

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

12 (7) If the water supplier fails to submit a final plan to the Department within 120 days after  
13 receipt of the Department's preliminary review, the Department may:

14 (a) Issue a final order denying approval of the plan; or

15 (b) Issue a final order approving the plan as it is understood by the Department at the time of  
16 preliminary review as defined under section (1) of this rule.

17 ~~(68)~~ If the Department does not meet the 90-day deadline for preliminary review in section ~~(45)~~  
18 of this rule:

19 (a) For purposes of ORS 540.572 to 540.578, a water management and conservation plan  
20 submitted by an ~~agricultural~~ Agricultural water ~~Water supplier~~ Supplier after November 1, 2002,  
21 is deemed approved for the period from the expiration of the 90-day deadline until 120 days after  
22 the Department provides written comments under section (5) of this rule; and

23 (b) For Municipal Water Supplier ~~municipal water suppliers~~ whose additional diversion of water  
24 under an ~~E~~extended ~~P~~permit is only authorized upon issuance of a final order approving a water  
25 management and conservation plan, notwithstanding OAR chapter 690, division 315, the  
26 Director may by order authorize diversion of an additional specified quantity of water as  
27 necessary to prevent harm to public welfare, safety and health.

28 Stat. Auth.: ORS 536.027, ORS 537.211 & ORS 540.572

29 Stats. Implemented: ORS 537.230, ORS 537.630 & ORS 539.010

30 Hist.: WRD 11-1994, f. & cert. ef. 9-21-94; WRD 4 2002, f. & cert. ef. 11-1-02

### 31 **690-086-0915 Final Review of Plans**

32 (1) Upon receipt of a proposed final plan, the Department shall evaluate the plan to determine if  
33 it includes the required elements of OAR 690-086-0125 to 690-086-0170 for a Municipal

1 | ~~WMCP municipal water suppliers, or~~ OAR 690-086-0225 to 690-086-0270 for a water  
2 | management and conservation plan submitted by an Agricultural wWater sSuppliers-, or OAR  
3 | 690-086-0325 to 690-086-0370 for an Alternate Municipal WMCP. The evaluation shall be  
4 | limited to a review of modifications in the plan and issues that were identified in the  
5 | Department's written comments provided under OAR 690-086-0910 and, if any deficiencies are  
6 | identified, the Department's review shall cite the relevant statute or rule.

7 | (2) If the Department determines that the final plan does not include the required elements of  
8 | OAR 690-086-0120 to 690-086-0170 ~~for a Municipal WMCPs, or~~ OAR 690-086-0220 to 690-  
9 | 086-0270 for a water management and conservation plan submitted by an Agricultural Water  
10 | Suppliers, or OAR 690-086-0325 to 690-086-0370 for an Alternate Municipal WMCPs, the  
11 | Department shall consult with the water supplier and may provide additional time to correct any  
12 | discrepancies.

13 | (3) For a ~~water management and conservation plan~~Municipal WMCP submitted by a Municipal  
14 | Water Supplier~~municipal water supplier~~, the Department shall review the plan to determine if the  
15 | information and analyses in the plan are sufficient for the Department to make the determination  
16 | required under OAR 690-086-0130.

17 | (4) For a ~~water management and conservation plan~~Municipal WMCP submitted by a Municipal  
18 | Water Supplier~~municipal water supplier~~, if the Department determines that the proposed final  
19 | plan includes the required elements under OAR 690-086-0120 to 690-086-0170 and meets the  
20 | applicable criteria under OAR 690-086-0130, the Department shall issue a final order approving  
21 | the plan and notify the water supplier and any person who submitted comments pursuant to 690-  
22 | 086-0905 of the approval. The Department's order shall include the following:

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

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

31 | (c) Provided the date specified in subsection (b) for submittal of an updated plan is greater than 5  
32 | years, A a schedule for submittal of a five-year progress reports on implementation of the water  
33 | conservation and supply measures described in the plan.

34 | (5) For a water management and conservation plan submitted by an ~~agricultural~~ Agricultural  
35 | ~~water~~ Water supplierSupplier, if the Department determines that the proposed final plan satisfies  
36 | the relevant requirements or if the water supplier satisfactorily corrects any identified  
37 | discrepancies, the Department shall issue a final order approving the plan and notify the water  
38 | supplier and any person who submitted comments pursuant to OAR 690-086-0905 of the  
39 | approval. The Department shall specify in the order approving the plan if an updated plan shall

1 be required and, if so, the date on which the updated plan shall be submitted to the Department.  
2 The Department shall not require submittal of an updated plan earlier than five years after  
3 issuance of the order approving the plan.

4 (6) For an Alternate Municipal WMCP submitted by a Small Municipal Water Supplier, the  
5 Department shall review the plan to determine if the information and analyses in the plan are  
6 sufficient for the Department to make the determination required under OAR 690-086-0330.

7 (7) For an Alternate Municipal WMCP submitted by a Small Municipal Water Supplier, if the  
8 Department determines that the proposed final plan includes the required elements under OAR  
9 690-086-0320 to 690-086-0370 and meets the applicable criteria under OAR 690-086-0330, the  
10 Department shall issue a final order approving the plan and notify the water supplier and any  
11 person who submitted comments pursuant to OAR 690-086-0905 of the approval. The  
12 Department's order shall include the following:

13 (a) A quantification of the maximum amount of water to be diverted during the next 20 years  
14 under each Extended Permit, or for a longer period as specified for an extended reservoir permit  
15 (not to exceed existing development limitations established by a final order(s) issued by the  
16 Department);

17 (b) The date on which an updated plan shall be submitted to the Department. A Small Municipal  
18 Water Supplier may submit an updated plan at any time prior to the date specified if necessary to  
19 accommodate unanticipated events. The Department shall not require submittal of an updated  
20 plan earlier than five years after issuance of the order approving the plan; and,

21 (c) Provided the date specified in subsection (b) for submittal of an updated plan is greater than 5  
22 years, a schedule for submittal of five-year progress reports on implementation of the water  
23 conservation and supply measures described in the plan.

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

27 (a) The Department determines that the proposed final plan does not contain the plan elements  
28 required under OAR 690-086-0125 for a Municipal WMCP, or 690-086-0225 for a water  
29 management and conservation plan submitted by an Agricultural Water Supplier, or 690-086-  
30 0325 for an Alternate Municipal WMCP;

31 ~~(b) For municipal water suppliers, t~~The plan does not meet the criteria under OAR 690-086-0130  
32 for a Municipal WMCP or under 690-086-0330 for an Alternate Municipal Water WMCP;

33 (c) The ~~Municipal Water Supplier~~~~municipal water supplier~~ has failed to adequately justify a  
34 request for additional time to implement water ~~M~~metering under OAR 690-086-0150(4)(b) for a  
35 Municipal WMCP, -or a Bbenchmark established in a previously approved plan; or

1 (d) The Small Municipal Water Supplier has failed to adequately justify a request for additional  
2 time to implement water Metering under OAR 690-086-0350(4)(b) for an Alternate Municipal  
3 WMCP, or a Benchmark established in a previously approved plan; or

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

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

9 ~~(108) If the Department issues a final order denying approval of the plan, the water supplier may~~  
10 ~~request that the Department reconsider the order and the Director appoint a five-member review~~  
11 ~~board to review the plan. The board shall include at least two individuals from the basin in which~~  
12 ~~the supplier is located who are engaged in similar uses of water, the local watermaster, and other~~  
13 ~~individuals knowledgeable about water use practices and water conservation. After reviewing the~~  
14 ~~plan and evaluating any additional information presented by the water supplier and the~~  
15 ~~Department, the board may recommend that the Department:~~

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

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

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

20 ~~(119) The Department shall notify the water supplier, the members of the review board, and any~~  
21 ~~person who submitted comments pursuant to OAR 690-086-0905 of any action taken based on~~  
22 ~~the board's recommendation.~~

23 ~~(120) The water supplier or a person who has submitted comments pursuant to OAR 690-086-~~  
24 ~~0905 may, within 30 days of a notification pursuant to OAR 690-086-0910(65)(b) or section (4),~~  
25 ~~(5), (86), or (119) of this rule, appeal a decision by the Department to approve or to not approve~~  
26 ~~a plan to the Commission. The Commission may deny the appeal or may accept the appeal and~~  
27 ~~remand the plan to the Department to seek resolution of the issues identified in the appeal and, if~~  
28 ~~the issues are not resolved, to initiate a contested case proceeding pursuant to ORS 183.413 and~~  
29 ~~OAR chapter 690, divisions 1 and 2.~~

30 Stat. Auth.: ORS 536.027, ORS 537.211 & ORS 540.572

31 Stats. Implemented: ORS 537.230, ORS 537.630 & ORS 539.010

32 Hist.: WRD 11-1994, f. & cert. ef. 9-21-94; WRD 4 2002, f. & cert. ef. 11-1-02, Renumbered  
33 from 690-086-0910(7)

34 **690-086-0920 Enforcement**

1 If the Director determines that a water supplier has failed to submit a water management and  
2 | conservation plan as required under OAR 690-086-0010 to 690-086-03270-or has failed to  
3 satisfactorily implement an approved water management and conservation plan, the Director may  
4 proceed with one or more of the following actions:

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

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

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

9 | (34) Rescind a previous approval of a water management and conservation plan; and

10 | (45) If the submittal of the water management and conservation plan is required under a  
11 condition of a permit or an extension approved under OAR eChapter 690, dDivision 315 or 320,  
12 assess a civil penalty under OAR 690-260-0005 to 690-260-0110 or cancel the permit.

13 | Stat. Auth.: ORS 536.027, ~~ORS~~ 537.211 & ~~ORS~~ 540.572

14 | Stats. Implemented: ORS 537.230, ~~ORS~~ 537.630 & ~~ORS~~ 539.010

15 | Hist.: WRD 11-1994, f. & cert. ef. 9-21-94; WRD 11-1994, f. & cert. ef. 9-21-94



# Oregon

Kate Brown, Governor

**Water Resources Department**

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## OAR 690, Division 86 - Rules Advisory Committee

### Participating Members

<u>Name</u>	<u>Affiliation</u>
Tracy Rutten	League of Oregon Cities
Jason Green	Oregon Association of Water Utilities
Lisa Brown	WaterWatch of Oregon
Jay MacPherson	Oregon Health Authority – Drinking Water Program
Anna Pakenham Stevenson	Oregon Department of Fish and Wildlife
Kristel Fesler	City of Hillsboro / Joint Water Commission
Adam Sussman	GSI Water Solutions, Inc.
Bill Ferber	BK Water Rights Consulting
Micah Olson	Small Utility Representative
Mark Landauer	Special Districts Association of Oregon





OFFICE OF THE SECRETARY OF STATE  
DENNIS RICHARDSON  
SECRETARY OF STATE  
  
LESLIE CUMMINGS  
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION  
MARY BETH HERKERT  
DIRECTOR  
  
800 SUMMER STREET NE  
SALEM, OR 97310  
503-373-0701

**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.*

CONTACT: Racquel Rancier                      725 Summer Street NE Ste. A  
503-986-0828                                      Salem, OR 97301  
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Filed By:  
Racquel Rancier  
Rules Coordinator

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.

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#### DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

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

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#### FISCAL AND ECONOMIC IMPACT:

Submission 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.

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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 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 mMunicipal wWater sSupplier. 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 mMunicipal wWater sSupplier plans to have completed in implementing conservation measures.¶¶

(34) "Extended pPermit" 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 wWater sSupplier" 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 deliverprovides water primarily for commercial or industrial uses.¶¶

(7) "System leak detection" means a program to monitor leakage throughout the transmission and distribution systems ofMunicipal WMCP" means a water management and conservation plan submitted by a mMunicipal wWater sSupplier.¶¶

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

(8) "Small Municipal Water Supplier" means a Municipal wWater 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 thoroughSupplier 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 includethat 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 eCurtailment eElement" 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 sService eConnections" 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 ~~m~~Municipal ~~w~~Water ~~s~~Supplier 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 ~~m~~Municipal ~~w~~Water ~~s~~Suppliers 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 ~~p~~ Permits, ~~and/or~~ if schedule changes proposed in updated plans are reasonable and appropriate. ¶
- (4) Progress reports submitted by ~~m~~Municipal ~~w~~Water ~~s~~Suppliers 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 ~~m~~Municipal ~~w~~Water ~~s~~Supplier 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 ~~w~~Water ~~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 ~~n~~ 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 ~~m~~Municipal ~~w~~Water ~~s~~Supplier. ¶
- (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 ~~m~~Municipal ~~w~~Water ~~s~~Supplier shall 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 ~~m~~Municipal ~~w~~Water ~~s~~Supplier 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 ~~m~~Municipal ~~w~~Water ~~s~~Supplier 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 ~~municipal water supplier~~ shall include:¶

- (1) A ~~municipal water supplier~~ description as described under OAR 690-086-0140;¶
- (2) A municipal water conservation element as described under OAR 690-086-0150;¶
- (3) A municipal ~~water curtailment element~~ 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 ~~affected local governments~~ 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 ~~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 ~~municipal water supplier~~ is requesting additional time to implement ~~metering~~ as required under OAR 690-086-0150(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

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 ~~m~~ Municipal w Water s Supplier 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 ~~b~~ B enchmarks 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 ~~b~~ B enchmarks 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 ~~w~~ W ater e urtailment e lement 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 ~~e~~ E xtended p ermit 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 e Extended p ermit 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: ¶
  - (5i) If the municipal water supplier proposes to expand or initiate diversion of wa Develop 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 in formation 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~~ Water Supplier to encourage and aid residential, commercial and industrial customers in implementation of conservation measures;

~~(c) 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 ~~690-021-385-00710~~ 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. ¶¶

(ó) 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~~ 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 690-086-04350(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~~ Extended p Permit 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, ~~e~~Division 086, suggest any modification in each provision that would be necessary to satisfy the relevant requirement, and include information to support any suggested modifications.

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 Municipal Water Supplier, the Department shall review the plan to determine if the information and analyses in the plan are sufficient for the Department to make the determination required under OAR 690-086-0130.¶

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

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

(b) 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 690-086-04330;~~
  - (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 m~~Municipal ~~w~~Water ~~s~~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 ~~m~~Municipal water suppliers or WMCPs, OAR 690-086-02250 to 690-086-0270 for a ~~A~~Agricultural wWater sSuppliers, 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 ~~m~~Municipal wWater sS upplier, 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 ~~m~~Municipal wWater sS upplier, 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 eE xtended pPermit, 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 ~~m~~Municipal wWater sSupplier 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 ~~ord~~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) ~~The Department determines that the proposed final plan does not contain the plan~~ includes the required elements required under OAR 690-086-0125 or 320 to 690-086-0225;
- (b) ~~For municipal water suppliers, the plan does not meet th~~ 370 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 of the water supplier agreeing to specified modifications; or ~~conservation and supply measures described in the plan.~~
- (e) ~~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 of 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 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, ¶ Division 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





**OREGON WATER UTILITY COUNCIL**  
Pacific Northwest Section, American Water Works Association

**PNWS-AWWA**

Racquel Rancier, Rules Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Ste. A  
Salem, OR 97301

October 4, 2018

RE: Proposed Rules – OAR Chapter 690, Division 86 – Water Management and Conservation Plans

Dear Racquel:

These comments are being provided on behalf of the Oregon Water Utility Council (OWUC). The Oregon Water Utility Council is made up of water utilities large and small from across the state of Oregon and is a committee of the Pacific Northwest Section of AWWA. The mission of OWUC is to promote and monitor legislation, public policies, and regulations that will ensure our communities are provided drinking water of highest quality and sufficient quantities at a reasonable cost.

OWUC appreciates the Department's efforts to update the Division 86 rules and the opportunity to have representatives on the Rules Advisory Committee. Overall, OWUC is supportive of the proposed rules and the Department's attempts to resolve issues that have been identified since the last Division 86 rulemaking in 2002.

Given the magnitude of the proposed changes in three areas – (1) definitions and approach to "water loss" under 690-086-0150; (2) alternate municipal WMCPs under 690-086-0320 to 0370; and (3) final review of plans under 690-086-0915 OWUC would strongly encourage the Department to review implementation of the proposed rules in the near-term. Specifically, under OAR 690-086-0010 (1), the Department should evaluate the implementation and effectiveness of the proposed rules within **no more than five years** as compared to the ten year period in the proposed rules.

Again, we appreciate the Department's efforts and look forward to continuing our productive working relationship.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen Kelley".

Karen Kelley, Chair Oregon Water Utility Council

[Karen.Kelley@cityofalbany.net](mailto:Karen.Kelley@cityofalbany.net)





Lisa Brown  
WaterWatch of Oregon  
213 SW Ash St., STE 208  
Portland, OR 97204

October 4, 2018

Racquel Rancier  
OWRD

**RE: Proposed amendments to the OAR 690-086 rules**  
**Sent via: email to [racquel.r.rancier@oregon.gov](mailto:racquel.r.rancier@oregon.gov)**

Thank you for the opportunity to comment on the proposed Division 86, Water Management and Conservation Plan (WMCP), rule amendments. Rather than reiterate comments we previously made as a member of the Rules Advisory Committee (RAC), our comments focus on a few larger points.

1. The RAC process highlighted the weakness of the conservation standards in the existing WMCP rules for both municipalities and for agricultural users. Amending those parts of the rules was not within this RAC's purview. Further, while the proposed rules may facilitate development and adoption of some form of WMCPs by small municipal water providers that will likely be important for water management, the actual "conservation" element in these plans is also extremely light. (Proposed OAR 690-086-0350).

We urge the agency to proactively embark on a project to establish, either through subsequent WMCP rule amendments or some other mechanism(s), more robust conservation standards required by today's realities—including increasing droughts and climate change, and the challenges of maintaining Oregon's salmon, steelhead and other native fish. It is imperative that Oregon improve on water conservation for all water use types and the WMCP rules are clearly not adequate to accomplish this critical objective.

2. The RAC process also again highlighted the fact that the curtailment plan triggers in the WMCP rules are based on supply deficiencies, failing to explicitly incorporate consideration of flows needed for fish or water quality. (OAR 690-086-0160; Proposed OAR 690-086-0360). Under the existing curtailment plan rules, for example, during droughts large-scale salmon die-offs can occur in rivers where municipal entities are withdrawing water but are not (and are not required to) implement curtailment plans and associated conservation measures. This issue was not within the purview of the RAC but deserves the agency's attention.

3. WaterWatch supports the effort to provide tools that enable each small municipal water provider to develop a plan to better understand its water supply and identify strategies for shortages. While the rules do not mandate such plans for all providers (absent a WMCP trigger), with increasing droughts and climate change, this should be a requirement for all municipal water providers. As we have seen in the recent drought of 2015, lack of such planning can put communities in difficult situations. Our understanding is that facilitating the development of such plans for small municipal providers was an important goal of the rule amendment effort.

To that end, upon reflection since the termination of the RAC, we think that the rules should include a relatively short-term assessment regarding whether the rules are achieving the goal of development of such plans for small municipal providers. The rules require that the Department “update the Commission on the implantation and effectiveness of the[] rules every ten years” (Proposed OAR 690-086-0010), but this does not seem timely for assessing whether this important goal is being met. We would propose a three-year assessment and check-in regarding whether small municipal water providers are developing plans under these rules.

4. WaterWatch has serious concerns regarding how the proposed amendments work with OAR 690-086-0150(5). WaterWatch does not support this provision in the context of the amended rules. The Proposed rules provide an alternate, less complex and less substantively robust WMCP pathway for small municipalities, while still requiring small municipalities to use the standard WMCP rules under certain circumstances. Those circumstances include expansion or initiation of diversion under and extended permit. (Proposed OAR 690-086-0300(1)(b)). However, the rules then continue to excuse small municipal providers (i.e. those not serving a population greater than 1000) from the WMCP requirements specifically designed for expansion or diversion of water where listed or sensitive fish or other resource issues are present, as defined in OAR 690-086-0140(5)(i). (OAR 690-086-0150(5)). This exemption for providers serving fewer than 1000 people should be struck from OAR 690-086-0150(5); in the alternative, a meaningful suite of similar but tailored provisions should be added for small municipal providers initiating or expanding diversion under an extended permit where listed or sensitive fish or other resource issues are present, as defined in OAR 690-086-0140(5)(i).
5. Proposed OAR 690-086-0920 (Enforcement) appears to contain an editing error; the introductory sentence should not have been deleted (but may need editing to reflect new WMCP rule numbers)

Thank you for considering these comments and for the opportunity to participate on the RAC.

Sincerely,

/s/ Lisa A. Brown

Lisa A. Brown  
Staff Attorney





**Oregon**  
Kate Brown, Governor

**Water Resources Department**  
725 Summer St NE, Suite A  
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## Department Response to Public Comments

### Public Comment #1 – Oregon Water Utility Council

“Given the magnitude of the proposed changes in three areas...OWUC would strongly encourage the Department to review implementation of the proposed rules in the near-term. Specifically, under OAR 690-086-0010(1), the Department should evaluate the implementation and effectiveness of the proposed rules within **no more than five years** as compared to the ten year period in the proposed rules.”

### Public Comment #2 – WaterWatch of Oregon

“...upon reflection since the termination of the RAC, we think that the rules should include a relatively short-term assessment regarding whether the rules are achieving the goal of development of such plans for small municipal providers. The rules require that the Department “update the Commission on the implantation and effectiveness of the [] rules every ten years” (Proposed OAR 690-086-0010), but this does not seem timely for assessing whether this important goal is being met. We would propose a three-year assessment and check-in regarding whether small municipal water providers are developing plans under these rules.”

### Department Response to #1 and #2

The Department staff reviewed this comment and have made changes to the draft rule. After review, the proposed language under OAR 690-086-0010(1) was revised to stipulate that, “the Department shall update the Commission on the implementation and effectiveness of these rules every five (5) years”.

### Public Comment #3 – WaterWatch of Oregon

“We urge the agency to proactively embark on a project to establish, either through subsequent WMCP rule amendments or some other mechanism(s), more robust conservation standards required by today’s realities—including increasing droughts and climate change, and the challenges of maintaining Oregon’s salmon, steelhead and other native fish. It is imperative that Oregon improve on water conservation for all water use types and the WMCP rules are clearly not adequate to accomplish this critical objective.”

### Department Response #3

This comment extends beyond the scope of this rulemaking. The Department is continually looking for water conservation opportunities to ensure that water infrastructure is reliable and efficient, and that water is available for fish. The current efforts underway through to implement the Integrated Water Resource Strategy, offers a venue for the Department to engage with stakeholders and water users to further this common goal. While more work remains, the

Department's WMCP Program, Allocation of Conserved Water Program, and Funding Programs all provide avenues for promoting water conservation.

#### **Public Comment #4 – WaterWatch of Oregon**

“The RAC process also again highlighted the fact that the curtailment plan triggers in the WMCP rules are based on supply deficiencies, failing to explicitly incorporate consideration of flows needed for fish or water quality. (OAR 690-086-0160; Proposed OAR 690-086-0360). Under the existing curtailment plan rules, for example, during droughts large-scale salmon die-offs can occur in rivers where municipal entities are withdrawing water but are not (and are not required to) implement curtailment plans and associated conservation measures. This issue was not within the purview of the RAC but deserves the agency's attention.”

#### Department Response #4

Thank you for your comment. As background, the rules require 3 main components of a water curtailment plan (OAR 690-086-0160):

- (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.

#### **Public Comment #5 – WaterWatch of Oregon**

“WaterWatch has serious concerns regarding how the proposed amendments work with OAR 690-086-0150(5). WaterWatch does not support this provision in the context of the amended rules. The Proposed rules provide an alternate, less complex and less substantively robust WMCP pathway for small municipalities, while still requiring small municipalities to use the standard WMCP rules under certain circumstances. Those circumstances include expansion or initiation of diversion under an extended permit. (Proposed OAR 690-086-0300(1)(b)). However, the rules then continue to excuse small municipal providers (i.e. those not serving a population greater than 1000) from the WMCP requirements specifically designed for expansion or diversion of water where listed or sensitive fish or other resource issues are present, as defined in OAR 690-086-0140(5)(i). (OAR 690-086-0150(5)). This exemption for providers serving fewer than 1000 people should be struck from OAR 690-086-0150(5); in the alternative, a meaningful suite of similar but tailored provisions should be added for small municipal providers initiating or expanding diversion under an extended permit where listed or sensitive fish or other resource issues are present, as defined in OAR 690-086-0140(5)(i).”

## Department Response #5

Under the current rules, OAR 690-086-0150(4)(e) requires that:

If the annual water audit indicates that system leakage exceeds 10 percent, [the municipal water supplier shall develop] 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.

In addition, OAR 690-086-0150(5) requires that:

If the municipal water supplier 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), a description of the specific activities, along with a schedule that establishes five-year benchmarks, for implementation of a system-wide leak repair or line replacement program to reduce system leakage to no more than 15 percent or sufficient information to demonstrate that system leakage currently is no more than 15 percent.

The differing system leakage (referred to as Water Loss in the proposed rules) thresholds described in the above provisions of the current rules often cause confusion for municipal water suppliers as to which target is required by the rules. During this rulemaking, OAR 690-086-0150(5) above was struck and the line replacement program requirement under that rule was added to OAR 690-086-0150(4)(e) to create a more robust set of actions that must be undertaken if a system's annual water audit indicates water losses exceed 10 percent. Additionally, it was determined that a 10 percent Water Loss threshold should be the common requirement for all sections of the Municipal WMCP rules. These changes were made to make the rule requirement clear and to allow municipal water suppliers more options to reduce their Water Loss.

The Small Municipal Water Suppliers (as proposed in the amended rules) that are not requesting additional water under an extended permit must complete a similar analysis and corrective action(s); however, the Water Loss threshold was discussed during the RAC process and a 15 percent threshold was proposed for these suppliers (proposed OAR 690-086-0350(4)(e)).

## **Public Comment #6 – WaterWatch of Oregon**

“Proposed OAR 690-086-0920 (Enforcement) appears to contain an editing error; the introductory sentence should not have been deleted (but may need editing to reflect new WMCP rule numbers)”

## Department Response #6

This section of the rule was erroneously deleted during the review process. This language is included in the proposed final draft rules.

