



# Oregon

Kate Brown, Governor

**Water Resources Department**

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## MEMORANDUM

**TO:** Water Resources Commission

**FROM:** Racquel Rancier, Senior Policy Coordinator *RR*  
Lisa Snyder, Administrative Services Division Administrator *LS*

**SUBJECT:** Agenda Item H, November 21, 2019  
Water Resources Commission Meeting

### **Legislative, Budget, and Rulemaking Update**

#### **I. Introduction**

During this informational report, staff will provide an overview of interim work, a preview of the 2020 Legislative Session, and work that is underway for the 2021 Legislative Session.

#### **II. Interim Work**

*Legislative Days:* Interim Legislative Days are scheduled for November 18-20. The Department anticipates presenting on one item, which is related to dam safety.

The Department applied for a new funding opportunity titled the 2019 Federal Emergency Management Agency (FEMA) High Hazard Potential Dam Grant Opportunity (HHPD). For federal fiscal year 2019, the HHPD will provide funding for technical, planning, design and other pre-construction activities for deficient dams. The Department can use existing dam safety resources to comply with the thirty-five percent non-federal fund match requirement, as much of the work to be done under the grant coincides with work the Dam Safety Program needs to undertake such as hazard mitigation planning and assessing risks of specific dams. The Department will need one limited-duration position for work associated with the grant.

In September, FEMA awarded a grant of \$260,484 to the Department for the funding period beginning on September 15. The Department has submitted a letter to the November Interim Joint Committee on Ways and Means seeking retroactive permission to apply for the funding opportunity and additional expenditure and position authority for the work associated with the grant.

#### **III. Rulemaking**

*Oregon Administrative Rulemaking Process:* The Commission and Department must comply with the rulemaking requirements of the Administrative Procedures Act (APA) found within ORS Chapter 183, when adopting, amending or repealing a rule. The Department's rulemaking

process begins with the formation of a Rulemaking Advisory Committee (RAC). The Department collects feedback from RAC members about substantive language, as well as any fiscal impact that may result from a change in administrative rule. After the Department considers input from the RAC, staff file a Notice of Proposed Rulemaking with the Secretary of State’s Office (SOS), which includes information about public hearings, public comment opportunities, proposed rule language, and a statement about fiscal impact. The SOS publishes the notice in the *Oregon Bulletin*. The Department also provides notice as required by law. Once public hearings are held and the public comment period closes, staff prepare a staff report and present the Director’s final rulemaking recommendation to the Water Resources Commission for consideration.

*Upcoming Rulemaking:* The following table highlights the Department’s current rulemaking efforts, which the Department anticipates will be before the Commission for consideration during the next two Commission meetings.

<i>Division(s)</i>	<b>20</b>	<b>200/205/240</b>	<b>522</b>	<b>509</b>
<i>Subject Matter</i>	Dam Safety	Well Constructor Licensing / Armed Forces Spouses	Deschutes Basin Water Management	Powder Basin Reservation
<i>Purpose</i>	Implementation of House Bill 2085 (2019)	Compliance with House Bill 3030 and Senate Bill 668 (2019)	Changing mitigation water developed under a mitigation project into mitigation credits. Municipal incremental development plans.	Extend reservations of water for economic development that sunset in May 2020
<i>RAC Meetings</i>	October – January	TBD	September – November	November
<i>Notice of Proposed Rulemaking</i>	Early 2020	Early 2020	December	December or Early 2020

**IV. Reports to the Legislature**

*Budget Note:* A budget note from the 2019 Legislative Session directs the Department to compile information regarding actions it has taken that resulted in being party to a contested case hearing or legal action between 2015 and July 1, 2019. The report is due to the Joint Committee on Ways and Means on January 1, 2020. Work is underway and the Department will provide a copy to the Commission once it is complete.

*Professional Licensing:* SB 855 (Chapter 649, Oregon Laws 2019) requires each professional licensing board to study the manner in which persons who are immigrants or refugees become licensed, certified or otherwise authorized in the occupational or professional service regulated

by the professional licensing board. The Department licenses water well and monitoring well constructors, as such the law requires the Department to study the manner in which persons who are immigrants or refugees become licensed to construct water supply wells and monitoring wells in the state. In October, the Department issued a survey to collect information as part of the study. The Department collected comments through October 31, 2019, in order to prepare a status report due to the Legislature by November 30, 2019. The Department will provide a copy of the report to the Commission once it has been completed.

**V. 2020 Session and 2021 Session**

The next interim Legislative Days are scheduled for January 13-15. Thereafter, the “short” session is slated to begin February 3, 2020, with a Constitutional *Sine Die* date of March 8, 2020.

The Department is in the initial phases of developing legislative concept and budget package proposals for the 2021 Legislative Session and will discuss these proposals with the Commission and stakeholders in the coming months as they are refined. Commissioners will have the opportunity to provide any initial thoughts on items the Department should consider for 2021 during the meeting.

**VI. Conclusion**

The Department anticipates discussing 2021 policy option packages and legislative concepts with the Commission at the next meeting.

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