

**Water Resources Department
Chapter 690
Division 400**

STATE WATER RESOURCES POLICY

690-400-0000

Purpose and Authorization

(1) These rules, and those contained in division 410, establish statewide policies and principles pertaining to a wide range of water-related topics. All Water Resources Commission and Department activities, including but not limited to:

(a) Basin planning;

(b) Interagency coordination; and

(c) Development and adoption of rules, standards, and implementing strategies to govern Department programs and activities, shall be compatible with these rules and those contained in division 410.

(2) ORS 536.220 authorizes a single state agency, the Water Resources Commission, to formulate and implement an integrated, coordinated state water resources policy. The Water Resources Commission shall progressively formulate plans and programs to develop the water resources of the state and provide for the enforcement of state water policy. State water resources policy must promote the maximum beneficial use of the waters of the state. Multiple water uses shall be preferred over single-purpose uses. Existing water rights shall be protected in accordance with relative priority dates except as they may be temporarily modified under emergency drought circumstances. The Commission shall, in adopting policies that affect the appropriation and control of water resources, design those policies to best protect and promote the general public welfare.

(3) The Water Resources Commission is required by ORS 536.300(2) to develop a state program for managing Oregon's water. The Commission has established the Oregon Water Management Program which consists of statewide policies (OAR 690, divisions 400 and 410), basin programs (OAR 690, divisions 500 to 520) and non-rule program direction for implementing statewide policies and basin level actions (ORS 536.430).

(4) In formulating the Oregon Water Management Program, the Commission shall consider declarations of policy provided in ORS 536.310. These declarations mandate the consideration of existing rights, economic development, human consumptive needs, multiple uses, groundwater quality, protection of wildlife, recreation, watershed management, and other priorities outlined by the Legislature. These rules, and those contained in division 410, are adopted as statements for inclusion in the integrated, coordinated state water resources policy required under ORS 536.300.

(5) The programs and plans of the Commission are to reflect all laws that relate to or affect the use and control of the water resources of the state (ORS 536.330). The Legislature, in ORS 536.360, directs every state agency and public corporation to conform to statements of state water resources policy as adopted by the Water Resources Commission.

Statutory/Other Authority: ORS 536
Statutes/Other Implemented: ORS 536
History:
WRD 8-1990, f. & cert. ef. 6-25-90

690-400-0010

Definitions

As used in the rules contained in divisions 400 and 410, unless the context requires otherwise:

(1) "Allocate" means to determine allowable new uses by classifying waters through basin program rules, withdrawing waters, reserving water for future economic development by order, or issuing water rights for waters of the state.

(2) "Artificial Groundwater Recharge" means the intentional addition of water to a groundwater reservoir by diversion from another source (OAR 690-011-0010(2)).

(3) "Beneficial Use" means an instream public use or a use of water for the benefit of an appropriator for a purpose consistent with the laws and the economic and general welfare of the people of the state and includes, but is not limited to, domestic, fish life, industrial, irrigation, mining, municipal, pollution abatement, power development, recreation, stockwater and wildlife uses.

(4) "Capacity of the Resource" means the ability of a surface water or groundwater resource to sustain a balance of public and private uses. A proposed use is not within the capacity of the resource if best available science indicates that the proposed use will, without causing contributing to any of the following negative impacts:

(a) for a proposed surface water right: over-appropriation of the surface water source as defined in OAR 690-400-0010, or

(b) overdrawing of the groundwater source as defined in OAR 690-008-0001, for a proposed groundwater right: -negative impacts as defined in OAR 690-008-0001: (5)((a), (b), (d), (e), or (f)) "Declined Excessively", (7) "Excessively Declining Water Levels", (8) "Overdraw", (11) "Substantial Thermal Alteration", (12) "Substantial Thermal Interference", or (13) "Wasteful Use"; or,

(c) for any application: otherwise significantly impairing of the function or character of the resource.

(5) "Conservation" means 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.

(6) "Customary Quantity" means the rate or annual amount of appropriation or diversion of water ordinarily used by an appropriator within the terms of that appropriator's water right (OAR 690-008-0001(3)).

(7) "Emergencies" means situations, including but not limited to wildfire, flooding, and toxic spills, which pose an immediate and significant threat to life, health, property, or water or riparian resources.

(8) "Management Activity" means an activity in a riparian area which is planned and undertaken to extract, manipulate, or control natural resources or natural processes. Management activities include but are not limited to timber harvest, reforestation, road construction or reconstruction, spraying of herbicides or pesticides, grazing, mining, or cultivation.

(9) "Mitigation" means the reduction of adverse effects of a proposed project or activity by considering, in the following order:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action;
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
- (c) Rectifying the impact by repairing, rehabilitating or restoring the affected environments;
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate corrective measures; and
- (e) Compensating for the impact by replacing or providing conditions of comparable substitute value.

(10) "Non-Structural" refers to processes that primarily utilize the natural watershed or natural aquifer storage, rather than structural means.

(11)~~(a)~~ "Over-Appropriated" means a condition of water allocation in which:

~~(Aa)~~ The quantity of surface water available during a specified period is not sufficient to meet the expected demands from all water rights at least 80 percent of the time during that period; ~~or~~

~~(B) The appropriation of groundwater resources by all water rights exceeds the average annual recharge to a groundwater source over the period of record or results in the further depletion of already over-appropriated surface waters~~

~~or~~

(b) The standards for determining over-appropriation described in paragraph ~~(Aa)~~ of this subsection shall apply to water availability determination for permit applications submitted after July 17, 1992.

(12) "Public Interest," as a standard for reviewing new uses of water, means a beneficial use which is consistent with state law and includes providing the greatest good for the people of the state based on current values, protecting water rights and conserving water resources for present and future generations.

(13) "Public Use" means an instream use of water that is available to the public at large. It includes but is not limited to:

- (a) Recreation;
- (b) Protection and enhancement of fish life, wildlife, fish and wildlife habitat and any other ecological values;

- (c) Pollution abatement;
- (d) Navigation;
- (e) Scenic attraction; and
- (f) Any other similar or related use.

(14) “Riparian Area” means the zone of transition from an aquatic ecosystem to a terrestrial ecosystem, dependent upon surface or subsurface water, that reveals through the zone’s existing or potential soil-vegetation complex, the influence of such surface or subsurface water. A riparian area may be located adjacent to a lake, reservoir, estuary, pothole, bog, wet meadow, muskeg, or ephemeral, intermittent or perennial stream.

(15) “Storage” means the retention or impoundment of surface or groundwater by natural and/or artificial means for public or private uses and benefits.

(16) “Waste” means 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.

(17) “Watershed” means the entire land area drained by a stream or system of connected streams such that all stream flow originating in the area is discharged through a single outlet.

Statutory/Other Authority: ORS 536.025, 536.220 & 536.300 - 536.340, [ORS 537.505 - 537.795](#)
Statutes/Other Implemented: ORS 536.025, 536.220 & 536.300 - 536.340, [ORS 537.535 - 537.629](#), [ORS 537.775 - 537.780](#)

History:

- WRD 3-1993, f. & cert. ef. 7-27-93
- WRD 10-1992, f. & cert. ef. 7-31-92
- WRD 22-1990, f. & cert. ef. 12-14-90