

**WATER RESOURCES DEPARTMENT
CHAPTER 690
DIVISION 512
MALHEUR LAKE BASIN PROGRAM**

690-512-0010 Definition

(1) Unless specified in these rules the definitions in OAR 690-300-0010 apply to the below rules. "Totalizing flow meter" is an instrument used to measure and display both the instantaneous flow rate of groundwater produced from the well and the total volume of groundwater produced from the well.

(2) "Exempt groundwater uses" are those defined in ORS 537.545.

(3) "Public Uses" are those uses defined in OAR 690-077-0010(27).

Statutory/Other Authority: ORS 536.300, ORS 536.027 & 537.545

Statutes/Others Implemented:

Rule Summary: This rule defines terms used in OAR chapter 690 Division 512, and ORS 537.545.

690-512-0020 Administrative Boundaries

(1) The Greater Harney Valley Groundwater Area of Concern (GHVGAC) is defined for administrative purposes and is described and shown in Exhibit 1.

(2) The Malheur Lake Basin Boundary is delineated on the agency Map 12.6, Dated January 1, 1966, shown in Exhibit 2.

(3) The Serious Water Management Problem Area (SWMPA) boundary is defined as the GHVGAC boundary shown in Exhibit 1.

(4) The Groundwater Classification Boundary is defined as the Harney Basin Groundwater Study area within the Malheur Lake Basin and within the Grant and Harney Counties as shown in Exhibit 3.

(5) The Critical Groundwater Area Boundary is defined as the GHVGAC boundary shown in Exhibit 1.

(5)

Statutory/Other Authority: ORS 537.525, ORS 537.026, ORS 536.300, ORS 540.435, ORS 536.340, ORS 537.735

Statutes/Others Implemented: ORS 536.300, ORS 540.435, ORS 536.350, ORS 537.35

Rule summary: This rule defines the administrative boundaries within the Malheur Lake Basin.

690-512-0030 Classifications

(1) Except as provided in OAR 690-512-0030(2), the groundwater and surface water of the Malheur Lake Basin are classified for direct appropriation of, or storage and use of, water for domestic, livestock, irrigation, municipal, quasi-municipal, industrial, mining, agricultural water use, commercial, power development, forest management, public uses, road watering, dust abatement and wildlife refuge management.

(2) The Boundary defined in 690-512-0030(4) is classified for Exempt groundwater uses only.

Statutory/Other Authority: ORS 537.026, ORS 537.027 ORS 536.300, 536.340, 537.621(2), 537.777(1), &537.780(1) and (1)(h) & 537

Statutes/Others Implemented: ORS 536.340

Rule Summary: This rule classifies the Malheur Lake Basin and the boundary defined in 690-512-0020(4).

690-512-0040 Serious Water Management Problem Area (SWMPA)

(1) Groundwater conditions within the SWMPA boundary defined in 690-512-0040 meet the criteria defined in 690-085-0020(1)(a) and 690-085-0020(1)(f).

(2) By no later than March 1, 2025, each water right holder, well owner, or well operator, shall properly install and thereafter properly maintain a totalizing flow meter on each well within the Harney SWMPA boundary as defined in 690-512-0030 listed as a point of appropriation on a valid water right. Totalizing flow meters shall be properly installed according to manufacturer's specifications and must meet the specifications in subsections

(3) Totalizing flow meters and the method of flow meter installation are subject to approval by Department Staff. Once installed, totalizing flow meters must be maintained in good working order. Department staff shall have access to the totalizing flow meters upon request.

(4) The water right holder, well owner, or well operator shall keep a complete record of the volume of water appropriated each month and shall submit a report which includes water use measurements to the Department on an annual basis by January 31 of each

calendar year. The Director may request submission of reports more frequently as necessary to monitor and administer the SWMPA. Reports of water use measurements shall be submitted to the Department during the month of January for the preceding year, or more frequently as required by the Director. Reports shall be submitted on a form developed by the Department.

- (5) A totalizing flow meter shall meet the following specifications:
 - a. A totalizing flow meter shall have a rated accuracy of plus or minus 2 percent of actual flow for all flow rates for which the meter is expected to measure.
 - b. A totalizing flow meter shall measure the entire discharge from the well.
 - c. A totalizing flow meter shall have a visual and recording, mechanical or digital totalizer located on or adjacent to the flow meter and shall be equipped with a sweep hand or digital readout so that instantaneous flow rate can be read.
 - d. The totalizing part of the flow meter shall have sufficient capacity to record the quantity of water authorized to be pumped over a period of 2 years. Units of water measurement shall be in acre-feet, cubic feet, or gallons and the totalizer shall read directly in one of these units. Flow meters recording in acre-feet shall, at a minimum, read to the nearest 1/10th acre foot, and the decimal multiplier shall be clearly indicated on the face of the register head.
 - e. Totalizers on each meter shall not be field reset without notice to and written permission from the Watermaster. Prior to resetting the totalizers, the final reading must be recorded and reported.
 - f. The totalizing flow meter shall be installed in accordance with all manufacturer specifications. There shall be no turnouts or diversions between the well and the flow meter. The flow meter shall be installed not less than five pipe diameters downstream from any valve, elbow, or other obstruction which might create turbulent flow, or other provisions shall be made that meet the manufacturer's specifications to control or eliminate turbulent flow.
 - g. The totalizing flow meter shall be installed no more than 100 feet away from the well head.

- (6) A water user shall report broken flow meters to the local watermasters office within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter.

- (7) Failure to have and maintain a properly installed, functioning totalizing flow meter by March 1, 2025, will result in the Watermaster regulating and controlling an unmetered well such that no groundwater may be pumped or appropriated until a flow meter is obtained

and installed consistent with these rules.

- (8) Consistent with ORS 536.900, Chapter 183, and OAR Chapter 690 division 260, the Department may assess civil penalties for violation of these rules.

Statutory/Other Authority: ORS 537.026, ORS 540.435

Statutes/Others Implemented: ORS 540.435

Rule Summary: This rule describes the Serious Water Management Problem Area requirements for the Greater Harney Valley Groundwater Area of Concern.

690-512-0050 Critical Ground Water Area

690-512-0060 Voluntary Agreements

690-512-0070 Whitehorse and Willow Creeks

Willow Creek and tributaries, and Whitehorse Creek and tributaries are withdrawn from future appropriations except as described in the order of the Water Resources Commission effective April 24, 1992.

Statutory/Other Authority: ORS 536.410

Statutes/Other Implemented: ORS 536.410

Rule Summary:

690-512-0080 Home Creek Reservation

1) Reservations of water for economic development are established pursuant to ORS 537.249 and 537.356 economic benefits through both instream and out-of-stream uses of water. 4,550 acre-feet of unappropriated water in Home Creek and tributaries are reserved for multipurpose storage for future economic development as allowed under ORS 537.356 with a priority date of February 25, 2009.

(2) "Multipurpose reservoir", as used in OAR 690-512-0100 means a reservoir storing water to serve more than two potential beneficial uses including but not limited to irrigation, power generation, municipal water supply, recreation and flow augmentation for instream purposes.

(3) Reservations of water for future economic development allocate surface water for storage in multipurpose reservoirs.

(4) For the purposes of review of applications to store reserved water under OAR chapter 690, division 310, and subject to the provisions of section (6), the reserved quantities of water listed in OAR 690-512-0100(1) are available for appropriation.

(5) The determination of water availability under section (4) shall not substitute for consideration during the public interest review of site-specific information related to the capacity of the resource to support the proposed project, as required under OAR chapter 690, division 310.

(6) In addition to the requirements of ORS Chapter 537 and applicable rules, the Department will only issue an order approving an application for a permit to store water in the Home Creek basin reserved under any reservation if it first finds:

(a) The proposed reservoir and any water rights secondary with the storage right are consistent with the purpose and intent of the reservation following consultation with Harney County Court;

(b) The proposed reservoir and any water rights secondary to the storage right will protect instream values, including but not limited to instream flows and water quality based upon a written assessment of these values developed in consultation with Department of Fish and Wildlife and Department of Environmental Quality; and

(c) Whether minimum bypass flows are required.

(7) In addition to the requirements of ORS Chapter 537 and applicable rules, any final order approving an application for a permit to store water and any order for water rights secondary with the storage right under the Home Creek Reservation shall contain the findings required in (6)(a)–(c) above, and will also contain conditions that:

(a) Set the appropriate storage season,

(b) Ensure no injury to senior water rights, including instream water rights,

(c) Protect instream values; and

(d) Set minimum bypass flows if identified under (6)(c) above.

(8) If the Department has not received applications for multipurpose reservoir permits for the full quantity of reserved water by July 1, 2014, the Department shall provide the Parties involved in the Home Creek Settlement Agreement with a progress report on development of the reservations. The report shall include information on the continued need for the reservations and the quantities of water reserved. The Department shall continue to provide progress reports at five year intervals while these rules are in effect unless the Department receives applications for multipurpose reservoir permits for the full quantity of reserved water.

(9) If the Department has not received applications for multipurpose reservoir permits for the full quantity of water reserved by July 1, 2029, applications for remaining quantities of unallocated water under OAR 690-0512-0100(1) may not be accepted after July 1, 2029, unless this deadline is extended through rulemaking by the Water Resources Commission.

Statutory/Other Authority: ORS 536 & 537

Statutes/Other Implemented: ORS 536.310, 537.249, 537.356 & 537.358

Rule Summary: