

Draft Division 512 Critical Groundwater Area Rule Language

690-512-0010

Definitions

Unless specified in these rules the definitions in OAR 690-300-0010 apply to the below rules.

- (1) “Adaptive Management Checkpoint” means the scheduled interval at which the Department adaptively manages the groundwater resource and adjusts the schedule for reductions in groundwater use.
- (2) “Groundwater Level Change Envelope” means the trajectory for groundwater levels within each subarea relative to the groundwater levels in 2028 that are modeled with the Harney Basin Groundwater Model.
- (3) “Initial Allocation” means the quantity of water authorized for use by each groundwater right upon completion of the contested case.
- (4) “Permissible Total Withdrawal” means the total volume of groundwater allowed to be pumped annually within a subarea of the critical groundwater area. The unit of measurement for the permissible total withdrawal is acre-feet.
- (5) “Subarea” means a portion of the critical groundwater area defined for administrative purposes.
- (6) “Target Groundwater Level Trend” means the goal for the rate of change in groundwater levels within a subarea of the critical groundwater area.

Statutory/Other Authority: ORS 536.300, ORS 536.027, ORS 537.735, ORS 537.780

Statutes/Others Implemented:

Rule Summary: This rule defines terms used in OAR chapter 690 Division 512.

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 boundary of the Harney Basin Groundwater Reservoir is coincident with the Harney Basin boundary as shown in Exhibit 2.
- (3) The boundary of the Harney Basin Critical Groundwater Area is defined as the GHVGAC boundary shown in Exhibit 1 and contains, in part, the Harney Basin Groundwater Reservoir.

Statutory/Other Authority: ORS 537.525, ORS 536.300, ORS 537.780

Statutes/Others Implemented: ORS 536.300, ORS 537.735

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

690-512-0040 Harney Basin Critical Groundwater Area

- (1) The target groundwater level trend within the Harney Basin Critical Groundwater Area is a median groundwater level decline rate of no more than 0 feet per year in each subarea. The median will be calculated for each subarea using representative wells with sufficient data as determined by the Department.
- (2) A review of the Harney Basin Critical Groundwater Area rules shall be completed once every 3 years. The review shall be presented at a Commission meeting which has been publicly noticed and provides opportunity for public comment.
- (3) A review of the conditions in the Harney Basin Critical Groundwater area shall be completed no less frequently than once every 10 years and the findings reported at a Commission meeting which has been publicly noticed and provides opportunity for public comment.
- (4) Except as defined in rule 690-512-0030(#) Classifications, the Department will not accept new applications for groundwater permits within the Harney Basin Critical Groundwater Area.
- (5) The Harney Basin Critical Groundwater area defined in section 690-512-0020(5) shall be divided into seven subareas for the purpose of management as shown in Exhibit 3.
 - a. The Dog Mountain subarea is shown in Exhibit 4.
 - b. The Lower Blitzen-Voltage subarea is shown in Exhibit 5.
 - c. The Northeast-Crane subarea is shown in Exhibit 6.
 - d. The Silver Creek subarea is shown in Exhibit 7.
 - e. The Silvies subarea is shown in Exhibit 8.
 - f. The Upper Blitzen subarea is shown in Exhibit 9.
 - g. The Weaver Springs subarea is shown in Exhibit 10.

Statutory/Other Authority: ORS 537.525, ORS 537.780

Statutory/Others Implemented: ORS 537.735, OAR 690-010-130(3)(a) – (c)

Rule Summary: This rule characterizes the Harney Basin Groundwater Reservoir and defines the seven subareas within the Harney Basin Critical Groundwater Area. This rule also requires the department to conduct a periodic review once every ten years and three years.

690-512-0050 Permissible Total Withdrawal for Each Subarea Within the Harney Basin Critical Groundwater Area

- (1) The permissible total withdrawal for the Dog Mountain subarea shall be 4,200 acre-feet per year.

- (2) The permissible total withdrawal for the Lower Blitzen-Voltage subarea shall be 8,300 acre-feet per year.
- (3) The permissible total withdrawal for the Northeast-Crane subarea shall be 35,000 acre-feet per year.
- (4) The permissible total withdrawal for the Silver Creek subarea shall be 15,200 acre-feet.
- (5) The permissible total withdrawal for the Silvies subarea shall be 21,200 acre-feet per year.
- (6) The permissible total withdrawal for the Upper Blitzen subarea shall be 76 acre-feet per year.
- (7) The permissible total withdrawal for the Weaver Springs subarea shall be 4,800 acre-feet per year.

Statutory/Other Authority: ORS 537.780, ORS 537.525

Statutory/Others Implemented: ORS 537.735

Summary: This rule sets the total permissible withdrawal for the seven subareas in the Harney Basin Critical Groundwater Area.

690-512-0060 Determination of Initial Allocation for All Groundwater Rights

- (1) To establish a schedule for reductions in groundwater use, the Department will determine an initial allocation for each groundwater right within the critical groundwater area which will be implemented through an order after completion of the contested case process as required in OAR 690-010. The initial allocation shall not exceed the total quantity of water authorized on the water right.
- (2) In determining the initial allocation for each groundwater right with an irrigation use, the Department will:
 - a. Use a duty of 2.7 acre-feet per acre for groundwater rights for primary and supplemental irrigation and
 - b. Consider the historical, beneficial use when identifying the number of acres that will be allocated water.
- (3) The initial allocation for municipal and quasi-municipal rights shall be a quantity of water equal to 110% of the greatest single-year quantity reported to the Department in the six years preceding the adoption of these rules.
- (4) In determining the initial allocation for each groundwater right with use types other than irrigation, municipal, and quasi-municipal. The department will consider:
 - a. The limits of the groundwater rights;
 - b. Historical beneficial use;
 - c. Whether or not a water user is physically capable of pumping and putting the allocated water to a beneficial use; and
 - d. Any other factors deemed appropriate by the Department

Statutory/Other Authority: ORS 537.780, ORS 537.525

Statutory/Others Implemented: ORS 537.735

Summary: This rule describes how the Department will determine the initial allocation for each groundwater right within the critical groundwater area.

690-512-0070 Scheduling Water Use Reductions to Meet the Permissible Total Withdrawal

- (1) Notwithstanding adjustments made by the adaptive management methodology defined in OAR 690-512-0080, upon consideration of all water rights and determining the initial allocation for each:
 - a. Water use within the Weaver Springs subarea will be scheduled to be reduced to the permissible total withdrawal with 75% of the total reduction being scheduled for 2028 and the remaining 25% of the reduction scheduled for 2034.
 - b. Water use within all remaining subareas of the Critical Groundwater Area will be scheduled for reduction to the permissible total withdrawal with 40% of the total reduction scheduled in 2028, 30% of the total reduction scheduled for 2034, 15% of the total reduction scheduled for 2040, 10% of the total reduction scheduled for 2046, and 5% of the total reduction scheduled for 2052.
 - c. The schedule for reductions will be based on the relative priority dates of the water rights within each subarea, with the most junior water rights being curtailed first.
 - d. Municipal and quasi-municipal water use will be evaluated at each adaptive management checkpoint and the schedule of reductions may be adjusted so that the allocation for each municipal or quasi-municipal right is increased or decreased to 110% of the greatest single year quantity reported to the Department in the preceding 6 years. The allocation shall not exceed the total quantity of water authorized on the water right.
 - e. Uses exempt under ORS 537.545 are not subject to reduction.
 - f. Corrective control orders reducing use will not be enforced until the completion of the contested case process specified in OAR 690-010-0170 through 230.
 - g. If reductions in use are unable to be implemented as scheduled in 2028, then at the time when reductions in use are implemented through regulatory orders, all reductions scheduled to be implemented by that point in time will be enforced including any adjustments that should have occurred at the adaptive management checkpoints defined in 690-512-0080.

Statutory/Other Authority: ORS 537.780, ORS 537.742, ORS 537.525, ORS 537.735

Statutory/Others Implemented: ORS 537.742

Rule Summary: This rule describes how the Department will reduce groundwater use at each 6-year interval over 24 years.

690-512-0080 Adaptive Management of the Harney Basin Critical Groundwater Area

The purpose of this section is to define how the Department will adaptively manage the Harney Basin

Critical Groundwater Area over a 30-year period starting in calendar year 2028 with adaptive management checkpoints in calendar years 2033, 2039, 2045, and 2051.

- (1) Weaver Spring subarea is exempt from the adaptive management process as defined in this rule.
- (2) Groundwater level changes will be evaluated using representative wells with sufficient data as determined by the Department.
 - a. For each representative well the groundwater level change will be evaluated based on a reference groundwater level determined by the Department. The reference groundwater level for a well shall be the spring high static water level measurement in calendar year 2028, if one exists. Otherwise, the Director may establish the reference groundwater level based on an analysis of other water-level data.
 - b. For each representative well, the groundwater level change will be calculated as the difference between the current spring high static water level at the adaptive management checkpoint and the reference groundwater level.
- (3) The median groundwater level change for each subarea will be evaluated at each adaptive management checkpoint using representative wells with sufficient data as determined by the Department.
- (4) The groundwater level change envelope for each subarea is defined in Exhibit 11.
- (5) At each adaptive management checkpoint, the Department will compare the median groundwater level change for each subarea defined in OAR 690-512-0040 with the groundwater level change envelope. If the median groundwater level change for a subarea is:
 - a. Below the 10th percentile, the scheduled quantity of reduction will be doubled.
 - b. Between the 10th and 25th percentiles, the scheduled quantity of reduction will be increased by one and a half times.
 - c. Between the 25th and 75th percentiles, no adjustment will be made.
 - d. Between the 75th and 90th percentiles, the scheduled quantity of reduction will be halved.
 - e. Above the 90th percentile, the scheduled quantity of reduction will be reduced to zero.
- (6) At the end of each adaptive management checkpoint and after the Department has completed sections 1 through 4 of this rule, the Department will hold at least one public meeting at a location within the critical groundwater area boundary at which the Department will present:
 - a. The findings of the evaluation of groundwater level changes.
 - b. The comparison to the groundwater level change envelope.
 - c. Any adjustments to the scheduled reductions.
- (7) No sooner than 2058, the Department will evaluate the groundwater level decline rate to identify if the target groundwater level trend has been achieved. The groundwater level decline rate will be calculated using the Sen's slope method using annual high measurements for representative wells with sufficient data as determined by the Department from the 6 years preceding the evaluation.
- (8) After the evaluation in section 7 of this rule, if the target water level trend has not been achieved and all scheduled reductions have not been implemented, the Department will

evaluate groundwater conditions and implement additional reductions as needed to achieve the target water level trend. Pumping in each subarea shall not be reduced below the permissible total withdrawal as defined in OAR 690-512-0050.

Statutory/Other Authority: ORS 537.780, ORS 537.525,
Statutory/Others Implemented: ORS 537.742, ORS 537.735

Summary: This rule describes how the Department will adaptively manage the Harney Basin Critical Groundwater Area

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