

FISCAL AND ECONOMIC IMPACTS: CLASSIFICATION

In 2016, the Greater Harney Valley Groundwater Area of Concern (GHVGAC) boundary was established in the Harney Basin, limiting groundwater use to exempt uses only. The new rules will expand this boundary to include areas of Grant and Harney counties within the Malheur Lake Administrative Basin, allowing for geothermal and exempt uses only. No new groundwater rights will be issued, preventing further development, limiting new groundwater use, and potentially affecting the growth of the local agricultural economy.

The rules expand the established 2016 classification boundary to prevent future groundwater development in the upland recharge areas of the basin. Preventing future groundwater development in the upland recharge areas may prevent reductions in recharge flowing into the lowlands of the Harney Basin where severe groundwater level declines are occurring. Any reductions in recharge will impact groundwater levels which results in impacts to the Harney Basin's agricultural economy, reduce groundwater discharge to springs and streams, and may increase the number of dry domestic wells.

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).

The new rules do not require any action by water users in the basin and, therefore, have no cost of compliance. However, the rules would prevent approval of new applications for groundwater rights. This restriction will require entities trying to gain access to water for uses not exempt by ORS 537.545 to acquire water through the purchase of a water right and subsequent transfer.

There is no way to predict the need for future water rights, nor the costs associated with the purchase and transfer of a water right in the future.

The new classification rules do not allow the Oregon Water Resources Department (OWRD) to reject a water right application outright; the rules still require processing, which consumes staff time. OWRD funds 19.93 full-time employees through water rights fees. Limiting classifications to exempt and geothermal uses could reduce fee collection, potentially impacting funding for staffing.

(2)(a) Effect on Small Businesses: Estimate the number and type of small businesses subject to the rule(s);

ORS 183.336 requires agencies to use available information to estimate the number and type of small businesses likely to be subject to the proposed rules. A small business is “a corporation, partnership, sole proprietorship or other legal entity formed to make a profit, which is independently owned and operated from all other businesses, and which has 50 or fewer employees” (ORS 183.310). Examples of small businesses that the new rules may positively or negatively impact include well drillers, private water systems, irrigators, small farms, ranches, builders, outfitters, tour guides, shops, hotels, and restaurants. According to the State of Oregon

Employment Department (2024), there are 230 small businesses in Harney County (as defined by ORS 183.310) that pay unemployment insurance (UI) taxes. The sector breakdown is as follows:

Sectors of small businesses in Harney County

Natural Resources and Mining, 40
Construction, 23
Manufacturing, 4
Wholesale trade, 7
Retail trade, 19
Transportation, warehousing, and utilities, 7
Information, 4
Financial activities, 16
Professional and business services, 21
Private education and health services, 20
Leisure and hospitality, 31
Other services, 18

All Sectors, 230

Notably, this accounting does not include many businesses within the agricultural sector that are not required to pay UI taxes. OWRD does not have information on the number of small farm businesses as defined by ORS 183.310. According to the U.S. Census of Agriculture (USDA 2022), there are 477 farms in Harney County, 22% of which are under 50 acres in size; of the 477 farms, 95% are family farms. A family farm is one where most of the business is owned by the operator and individuals related to them by blood, marriage, or adoption, including relatives who don't live in the operator's household (USDA).

(2)(b) Effect on Small Businesses: Describe the expected reporting, recordkeeping, and administrative activities and cost required to comply with the rule(s);

No direct costs for reporting, recording, and administrative activities are tied to the new classification rules. A new application for a groundwater right may still be submitted to the Department but would likely result in a denial. The new rules make it clear to the public that denial would be the likely outcome of a new application, thereby preventing unnecessary expense preparing an application and on application fees. The fees associated with applying for a new groundwater right are as follows:

1. Groundwater Right Application Base Fee: \$1,570.00

PLUS:

2. 1st cubic foot per second (cfs) or fraction thereof: \$410.00
3. Each additional CFS or fraction thereof: \$410.00
4. Each additional use, point of diversion, or well after the 1st: \$410.00

(2)(c) Effect on Small Businesses: Estimate the cost of professional services, equipment supplies, labor, and increased administration required to comply with the rule(s).

Because the new rules provide notice of probable application denial for individuals seeking to apply for new groundwater rights within the classification boundaries, there are no costs to comply with the rules.

Documents relied upon

1. Oregon Employment Department (OED), Quarterly Census of Employment and Wages, available upon request from OED (2024), <https://www.qualityinfo.org/>.
2. U.S. Department of Agriculture (USDA), Census of Agriculture County Profile (2022), available at the [Census of Agriculture website](#).
3. Oregon Water Resources Department, Fee schedule, available on the [Oregon Water Resources Department website](#)