

OREGON



WATER RESOURCES
DEPARTMENT

Groundwater Allocation Process Rulemaking

Oregon Water Resources Department

Rules Advisory Committee Meeting

August 2, 2023

The background features a stylized landscape. The top portion shows brown mountains with white snow-capped peaks and white, fluffy clouds against a light blue sky. The middle section is a solid blue horizontal band. The bottom portion consists of rolling green hills with light tan outlines.

Welcome & Agenda

Meeting Agenda

Schedule	Topic	Lead/Presenter
8:30 am	Welcome & Agenda	Annette Liebe
	RAC Meetings 4 – Draft Summary	Ben Scandella
	Revised Draft Rules – Comments & Review (with Break as needed) <ul style="list-style-type: none"> Divisions 300, 8, 9, 400, 410 	Justin Iverson
	Discussion <ul style="list-style-type: none"> Rulemaking Need Racial Equity Impacts Fiscal & Economic Impacts 	Laura Hartt
	RAC Roundtable – Discussion	Annette Liebe
Break (as needed)		
11:30 am	Public Comment	Annette Liebe
By noon	Tentative Schedule, Wrap-up & Next Steps	Annette Liebe

The background features a stylized landscape. The top portion shows a range of mountains in shades of brown and tan, with white snow-capped peaks. A large, white, fluffy cloud is positioned in the upper right. Below the mountains is a solid blue horizontal band. At the bottom, there are rolling green hills with light tan outlines, suggesting a valley or a path.

RAC 4 Meeting Summary

RAC 4 Meeting Summary

Any questions, comments, corrections?



Revised Draft Rules

Objective Reminder

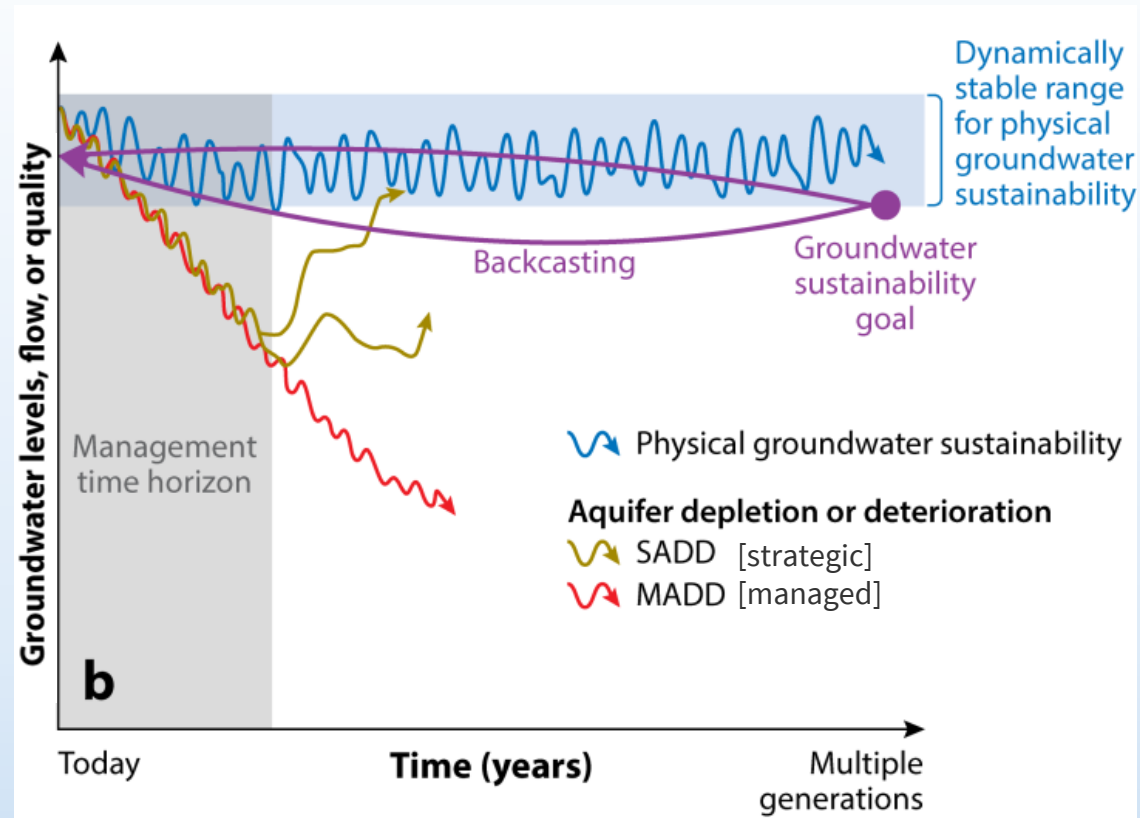
Update groundwater allocation rules to be more sustainable and protective of existing water right holders, both instream and out-of-stream.



Sustainable means:

“Groundwater sustainability is maintaining long-term, dynamically stable storage [water levels] and flows [from recharge to discharge areas] of high-quality groundwater ...”

– Gleeson et al, 2020



ORS 537.525 - Policy

(2) Rights to appropriate ground water and priority thereof be acknowledged and protected, except when, under certain conditions, the public welfare, safety and health require otherwise.

(3) Beneficial use without waste, within the capacity of available sources, be the basis, measure and extent of the right to appropriate ground water.

(7) Reasonably stable ground water levels be determined and maintained.

(9) Whenever...

impairment of or interference with existing rights to appropriate surface water,

declining ground water levels, ...

interference among wells,...

overdrawing of ground water supplies...

exists or impends,

Controlled use of the ground water concerned be authorized and imposed...

Draft Rule Text Format Guide

Black text – current rule language

Red text – proposed new/revised rule language

~~Grey strikethrough~~ – deleted current rule language

Yellow Highlight – new change(s) since last draft rule handout set (new since last meeting)



**Division 300 –
Draft Rules**

“Water is Available” Definition - 690-300-0010(57) (a), (b) - no new changes

The following definitions apply in OAR chapter 690, divisions 15, 310, 320, 330, 340, and 350 and to any permits, certificates or transfers issued under these rules:

(57) "Water is Available," when used in OAR 690-310-0080, 690-310-0110 and 690-310-0130, means:

- (a) The requested surface water source is not over-appropriated under OAR 690-400-0010 and 690-410-0070 during any period of the proposed use; or
- (b) If the requested surface water source is already over-appropriated for any portion of the period of use proposed in a new application:
 - (A) The applicant can show the proposed use requires surface water only during the period of time in which the requested source is not already over-appropriated;
 - (B) The applicant has obtained or has shown the applicant can obtain authorization to use water from an alternate source to provide water needed during any period of use in which the source is over-appropriated; or
 - (C) If the applicant has shown they can obtain authorization to use water from an alternate source during the time water is unavailable, the department conditions the approval of the application to require that prior to diversion of water the applicant obtains authorization for use of water from the alternate source.

“Water is Available” Definition - 690-300-0010(57)(c)-(f) - revised

(57) "Water is Available," when used in OAR 690-310-0080, 690-310-0110 and 690-310-0130, means:

- (c) For surface water applications received before July 17, 1992, the provisions of subsection (a) of this section shall apply except that the determination of whether a requested source is over-appropriated under OAR 690-400-0010 and 690-410-0070 shall be based upon whether the quantity of water available during a specified period is not sufficient to meet the expected demands for all water rights at least 50 percent of the time during that period.
- (d) The requested groundwater source exhibits reasonably stable water levels, as defined in OAR 690-008-0001; and
- (e) The proposed use will not ~~impair or~~ substantially interfere with existing rights to appropriate surface water, as per the rules governing groundwater interference with surface water in OAR 690-009-0010 through 0040; and
- ~~(e)~~(f)The proposed use is available within the capacity of the resource as defined in OAR 690-400-0010(4).



**Division 8 –
Revised Draft Rules**

“Annual High Water Level” Definition - 690-008-0001(1) - revised

A number of terms are used in the statutes, ORS 537.505–537.795, prescribing the management of ground water in Oregon. These rules define terms to qualify and clarify the statutes. In all statutes and rules employed in the management of ground water by the Water Resources Department and Commission, the following definitions shall apply, unless the context requires otherwise:

- (1) “Annual high water level” in a groundwater reservoir or part thereof means the highest elevation (shallowest depth) static groundwater level that exists in a year. ~~In the absence of detailed analysis, the annual high water level may be assumed to be represented by the highest water level measured during the period from January through April. For some purposes and in some cases the annual high may be estimated using measurements made during other parts of the year.~~

“Aquifer” Definition – 690-008-0001(2) - revised

(1~~2~~) “Aquifer” means a geologic formation, group of formations, or part of a formation that contains saturated and permeable material capable of transmitting water in sufficient quantity to supply wells or springs and that contains water that is similar throughout or varies gradually with location with respect to its characteristics such as potentiometric head, chemistry, and temperature. ~~a water-bearing body of naturally occurring earth materials that is sufficiently permeable to yield useable quantities of water to wells and/or springs.~~

“Declined Excessively” Definition - 690-008-0001(5)(a)-(c) - **revised**

- (45) “Declined Excessively” means any cumulative lowering of the **annual high** water levels **(OAR 690-008-0001(1))** in a ground water reservoir or a part thereof which:
- (a) Precludes, or could preclude, the perpetual use of the reservoir; or
 - (b) Exceeds the economic pumping level **(OAR 690-008-0001(6))**; or
 - (c) Constitutes a decline determined to ~~be interfering with:~~ **substantially interfere with a surface water source as defined in OAR 690-008-0001 (8).**
 - ~~(A) A surface water diversion having a priority date senior to the priority dates of the causative ground water appropriations; or~~
 - ~~(B) A surface water body that has been administratively withdrawn with an effective date senior to the priority dates of the causative ground water appropriations unless the causative ground water appropriations are for uses that are exceptions to the withdrawals; or~~
 - ~~(C) An adopted minimum stream flow or instream water right, or closure having an effective date senior to the priority dates of the causative ground water appropriations; or~~
 - ~~(D) A surface water body which has a classification that is senior to the priority date of the causative ground water appropriation(s) and the use or uses to which the ground water is being put are not included in the classification.~~

“Declined Excessively” Definition - 690-008-0001(5)(d)-(f) - revised

(45) “Declined Excessively” means any cumulative lowering of the annual high water levels (OAR 690-008-0001(1)) in a ground water reservoir or a part thereof which:

(d) Constitutes a lowering of the annual high water level (OAR 690-008-0001(1)) within a ground water reservoir, or part thereof, greater than 50 feet below the highest known static water level; or

(e) Results in ground water pollution; or

(f) Constitutes a lowering of the annual high water level (OAR 690-008-0001(1)) greater than 15% of the greatest known saturated thickness of the ground water reservoir. ~~‡~~The saturated thickness shall be calculated using pre-development water levels and the bottom of the ground water reservoir, or the economic pumping level (OAR 690-008-0001(6)), whichever is shallower.

“Excessively Declining Water Levels” Definition - 690-008-0001(7) - **revised**

(~~6~~7) “Excessively Declining Water Levels” (Note: “Excessively” as used in ORS 537.730(1)(a) is taken to modify both “are declining” and “have declined”) means any ongoing lowering of the annual high water level (OAR 690-008-0001(1)) in a ground water reservoir or part thereof which:

“Substantial interference” etc. New Definition - 690-008-0001(10)(a)(A)-(C) - revised

~~(8)(10)~~ “Impairment”, “impair”, “Substantial interference”, “substantially interfere”, “undue interference”, or “unduly interfere” ~~“Substantial or Undue Interference”~~ means the spreading of the cone of depression of a well to intersect a surface water ~~body~~ source or another well, or the reduction of the ground water ~~gradient and flow~~ levels as a result of pumping or otherwise extracting groundwater from an aquifer, which contributes to:

(a) Depletion of a surface water source with which the groundwater use has the Potential for Substantial Interference (OAR 690-009-0020(4)) and ~~A reduction in surface water availability to an extent that:~~

- (A) is already over-appropriated during any period of the year and is the source for a surface water right having a priority date senior to the priority date(s) of the contributive groundwater appropriation(s); or
- (B) is administratively or statutorily withdrawn with an effective date senior to the priority date(s) of the contributive groundwater appropriation(s); or
- (C) is restrictively classified with an effective date senior to the priority date(s) of the contributive groundwater appropriation(s); or

“Substantial interference” etc. New Definition - 690-008-0001(10)(a)(D) - revised

(8)(10) “Impairment”, “impair”, “Substantial interference”, “substantially interfere”, “undue interference”, or “unduly interfere” ~~“Substantial or Undue Interference”~~ means the spreading of the cone of depression of a well to intersect a surface water ~~body~~ source or another well, or the reduction of the ground water ~~gradient and flow~~ levels as a result of pumping or otherwise extracting groundwater from an aquifer, which contributes to:

(a) Depletion of a surface water source with which the groundwater use has the Potential for Substantial Interference (OAR 690-009-0020(4) and ~~A reduction in surface water availability to an extent that:~~

(D) is the source for one or more senior existing surface water appropriators rights ~~are unable to use either their permitted or customary quantity of water, whichever is less that have been regulated off due to insufficient supply to satisfy senior surface water rights~~ and that have priority dates senior to the priority date(s) of the contributive groundwater appropriation(s) or is subject to a rotation agreement to address limited surface water supplies among surface water rights that have priority dates senior to the priority date(s) of the contributing groundwater appropriation(s); or

“Substantial interference” etc. New Definition - 690-008-0001(10)(a)(E) - revised

~~(8)(10)~~ “Impairment”, “impair”, “Substantial interference”, “substantially interfere”, “undue interference”, or “unduly interfere” ~~“Substantial or Undue Interference”~~ means the spreading of the cone of depression of a well to intersect a surface water ~~body~~ source or another well, or the reduction of the ground water ~~gradient and flow~~ levels as a result of pumping or otherwise extracting groundwater from an aquifer, which contributes to:

(a) Depletion of a surface water source with which the groundwater use has the Potential for Substantial Interference (OAR 690-009-0020(4) and ~~A reduction in surface water availability to an extent that:~~

(E) An adopted ~~has a~~ minimum perennial streamflow or instream water right ~~with an effective date senior to the causative ground water appropriation(s) cannot be satisfied~~ that is unmet during any period of the year and has an effective date or priority date that is senior to the priority date(s) of the contributive groundwater appropriation(s).

“Substantial interference” etc. New Definition - 690-008-0001(10)(b), (c) - revised

{8}(10) “Impairment”, “impair”, “Substantial interference”, “substantially interfere”, “undue interference”, or “unduly interfere” ~~“Substantial or Undue Interference”~~ means the spreading of the cone of depression of a well to intersect a surface water ~~body~~ source or another well, or the reduction of the ground water gradient and flow as a result of pumping, which contributes to:

...

- (b) The ground water level being drawn down to the economic pumping level (OAR 690-008-0001(6)) of the senior appropriator(s); or
- (c) One or more of the senior ground water appropriators being unable to obtain either the permitted or the customary quantity of ground water, whichever is less, from a reasonably efficient well that fully penetrates the aquifer where the aquifer is relatively uniformly permeable. However, in aquifers where flow is predominantly through fractures, full penetration may not be required as a condition of substantial or undue interference.

“Overdraw/Overdrawing” Definition - 690-008-0001(8) - revised

~~(9)~~(8) “Overdrawn” or “Overdrawing” means to issue groundwater rights from a groundwater reservoir, or part thereof, with combined annual volume that exceeds the average annual recharge to that groundwater reservoir.

~~artificially produce water, in any one-year period, from a ground water reservoir, or part thereof, at an annual rate that:~~

~~(a) — Exceeds the average annual recharge to that ground water supply over the period of record; or~~

~~(b) — Reduces surface water availability resulting in:~~

~~(A) — One or more senior appropriators being unable to use either their permitted or customary quantity of surface water, whichever is less; or~~

~~(B) — Failure to satisfy an adopted minimum streamflow or instream water right with an effective date senior to the causative ground water appropriation(s); or~~

~~(c) — Reduces the availability of surface waters that have been:~~

~~(A) — Withdrawn with an effective date senior to the priority dates of the causative ground water appropriations; or~~

~~(B) — Restrictively classified with an effective date senior to the priority date(s) of the causative ground water appropriations.~~

“Reasonably Stable Groundwater Levels” New Definition – 690-008-0001(9)(a) - revised

(10)(9) “Reasonably Stable Groundwater Levels” means

(a) The annual high water levels (OAR 690-008-0001(1)) as measured at one or more representative wells in a ground water reservoir or part thereof:

(A) indicate no decline or an average rate of decline of less than 0.5 feet per year over any immediately preceding averaging period with duration between 5 and 20 years. ~~If data are insufficient to perform this test,~~ Two measurements are sufficient to calculate the rate of change, but if there is not at least one annual high water level (OAR 690-008-0001(1)) between 5 and 20 years before the year under evaluation, then the Department will presume that water levels are not reasonably stable; and

(B) compared with the highest known static water level, have not declined or have declined by less than the smaller of 25 feet and 8% of the greatest known saturated thickness of the ground water reservoir.

“Reasonably Stable Groundwater Levels” New Definition – 690-008-0001(9)(b)-(c) - revised

(10)(9) “Reasonably Stable Groundwater Levels” means:

- (b) Water level data must be available in the year under evaluation to perform the tests in (a). However, in the absence of current data, a finding of reasonable stability may be presumed to persist for a maximum of 5 years beyond the most recent groundwater annual high water level (OAR 690-008-0001(1)) measurement in the record.
- (c) If groundwater has not yet been extracted or authorized for extraction from the groundwater reservoir, then water levels may be presumed to be reasonably stable.

“Reasonably Stable Groundwater Levels” New Definition – 690-008-0001(9)(d)-(e) - revised

~~(10)(9)~~ “Reasonably Stable Groundwater Levels” means:

~~(e)~~ (d) Part (a) of ~~¶~~ this definition may be superseded by a basin program rule adopted pursuant to the Commission’s authority in ORS 536.300 and 536.310, but such a definition may not be less stringent than OAR 690-008-0010(10).

(e) Notwithstanding other components of this definition, groundwater levels may not be reasonably stable if they are either “declined excessively” by OAR 690-008-0001(5)(a), (b), (d), or (f), or “excessively declining by OAR 690-008-0001(7)(a), (b), or (c).



**Division 9 –
Revised Draft Rules**

“Basis for Regulatory Authority, Purpose, and Applicability” 690-009-0010 - revised

- (1) The right to reasonable control of the ~~ground water groundwater~~ of the State of Oregon has been declared to belong to the public. Through the provisions of the Ground Water Act of 1955, ORS 537.505 to 537.795, the Water Resources Commission has been charged with administration of the rights of appropriation and use of the ground water resources of the state. ~~These rules govern the use of ground waters, pursuant to 537.730 and 537.775, where the ground water is hydraulically connected to, and the use interferes with, surface waters.~~
- (2) ~~These rules establish criteria to guide the Department in determining whether a proposed or existing groundwater use will impair, substantially interfere, or unduly interfere with a surface water source. These rules apply to all wells, as defined in ORS 537.515 (9), and to all proposed and existing appropriations of groundwater except the exempt uses under ORS 537.545. The authority under these rules may be locally superseded where more specific direction is provided by the Commission after the effective date of adoption of these rules.~~

“Potential for Substantial Interference” New Definition - 690-009-0020(1) - slight revision to preamble

Unless the context requires stated otherwise, as used in these rules:

- ~~(1) “Confined Aquifer” means an aquifer in which ground water is under sufficient hydrostatic head to rise above the bottom of the overlying confining bed, whether or not the water rises above land surface.~~
- ~~(2) “Commission” means the Water Resources Commission.~~
- ~~(3) “Confining Bed” means a layer of low permeability material immediately overlying a confined aquifer.~~
- (4)(1) “Department means the Water Resources Department, its Director, and all personnel employed by the Department. , and consists of the Director of the Department and all personnel employed in the Department including but not limited to all watermasters appointed under ORS 540.020 (536.039).**

“Potential for Substantial Interference” New Definition - 690-009-0020(2), (3) – no other new changes

Unless the context requires stated otherwise, as used in these rules:

(2) “Effective and timely manner” is a determination made on a case-by-case basis considering the best available information and reasonably accepted hydrogeologic methods and taking into consideration whether regulation will result in the addition of any water to the surface water source during the relevant time period.

~~(5) “Director” means the Water Resources Director.~~

(36) “Hydraulic Connection” or “Hydraulic Interconnection” means saturated conditions exist that allow water to move between two or more sources of water, either between groundwater and surface water or between groundwater sources. ~~means that water can move between a surface water source and an adjacent aquifer.~~

“Potential for Substantial Interference” New Definition - 690-009-0020(4),(5) - revised

Unless the context requires stated otherwise, as used in these rules:

- (4) “Potential for Substantial Interference”, or “PSI”, means that a groundwater use will cause streamflow depletion based on the assessments described in OAR 690-009-0040, and therefore may cause or has caused impairment to, substantial interference with, or undue interference with a surface water source, based on the definitions in OAR 690-008-0001.
- (5) “Proposed groundwater use” means an application to appropriate groundwater pursuant to ORS 537.621 that is under consideration with the Department.

“Potential for Substantial Interference” New Definition - 690-009-0020(6) - no other new changes

Unless the context requires stated otherwise, as used in these rules:

(6) “Streamflow depletion” means a reduction in the flow of a surface water source due to pumping a hydraulically connected groundwater source. Streamflow depletion encompasses both:

(a) captured groundwater that would otherwise discharge to a surface water source; and,

(b) induced infiltration from a surface water source to recharge the hydraulically connected groundwater source.

~~(7) “Unconfined Aquifer” means an aquifer in which the hydrostatic head at the upper surface of the ground water is atmospheric.~~

Determination of Hydraulic Connection and Potential for Substantial Interference

- (1) Hydraulic connection and the potential for substantial interference with a surface water source shall be determined by the Department according to these rules. These determinations shall be based upon the application of generally accepted hydrogeologic principals using best available information concerning the hydrologic system of interest and the well(s) under consideration.
- (a) ~~Appropriate~~ Any information that is provided in the application or in the public comment period for the application by potentially affected parties shall be considered in the process of making these determinations.
- (b) Best available information includes, but is not limited to, pertinent water well reports, aquifer test analyses, hydrologic and geologic studies and reports, groundwater and surface water elevation data, available numerical and analytical groundwater flow models, and any other information that is used in applying generally accepted hydrogeologic principals and methodologies.

Determination of Hydraulic Connection/PSI 690-009-0040(2), (3) – no new changes

Determination of Hydraulic Connection and Potential for Substantial Interference

- (2) A determination of hydraulic connection is a prerequisite for a determination of the potential for substantial interference.
- (3) A determination of the potential for substantial interference with a surface water source shall at a minimum include application of the generally accepted hydrogeological principles described in the following subsections to the specific use and wells under consideration:
 - (a) “The Source of Water Derived from Wells: Essential Factors Controlling the Response of an Aquifer to Development” by C. V. Theis, 1940; and,
 - (b) “Streamflow Depletion by Wells – Understanding and Managing the Effects of Groundwater Pumping on Streamflow” by P. M. Barlow and S. A. Leake, 2012.

Determination of Hydraulic Connection/PSI 690-009-0040(4)-(6) - revised

Determination of Hydraulic Connection and Potential for Substantial Interference

- (4) The potential for substantial interference with a surface water source exists if the well(s) under consideration will, over the full term of the proposed or authorized groundwater use, obtain water from streamflow depletion.
- (5) For the purposes of issuing a permit for a proposed groundwater use, a finding of potential for substantial interference with a surface water source may mean that water is not available for the proposed groundwater use if the use will **impair**, substantially interfere, or unduly interfere with a surface water source as per the definitions in OAR 690-008-0001 and OAR 690-300-0010.
- (6) For the purposes of groundwater controls in OAR 690-009-0050, a finding of potential for substantial interference with a surface water source may precede the control actions described in that rule.

Ground Water Controls 690-009-0050(1) – no new changes

These rules apply to the control or regulation of groundwater where it is determined that an existing groundwater appropriation will cause or has caused substantial or undue interference with a surface water source as described in OAR 690-009-0040.

- (1) The Department shall review existing ~~ground water~~ groundwater appropriations to determine the potential to cause substantial interference with a surface water source on a case-by-case basis, in accordance with OAR 690-009-0040, whenever the Department has cause to believe that substantial interference with a surface water ~~source is suspected to exist by the Department~~ may exist.

Ground Water Controls 690-009-0050(2)(a) – no new changes

- (2) Whenever the Department determines that substantial interference with a surface water supply exists, the Department shall control those groundwater appropriations that have been determined under section (1) of this rule to have the potential to cause substantial interference. The controls shall be similar to or compatible with, but not more restrictive than controls on the affected surface water source, in accordance with the relative dates of priorities of the ground water and surface water appropriations:
- (a) Prior to controlling the use of any well greater than 500 feet from a surface water source, the Department shall determine whether any control would provide relief to the surface water supply in an effective and timely manner. The Department shall make the determination on the basis of the best available information, employing at least one of the following methods: ~~set forth in OAR 690-009-0040(4)(d);~~
- (A) Suitable equations and graphical techniques that are described in pertinent publications (such as “Computation of Rate and Volume of Stream Depletion by Wells,” by C.T. Jenkins, in Techniques of Water-Resources Investigations of the United States Geological Survey: Book 4, Chapter D1);
- (B) A computer program or groundwater model that is based on such or similar equations or techniques

Ground Water Controls 690-009-0050(2)(b),(3) – no new changes

- (2) Whenever the Department determines that substantial interference with a surface water supply exists, the Department shall control those groundwater appropriations that have been determined under section (1) of this rule to have the potential to cause substantial interference. The controls shall be similar to or compatible with, but not more restrictive than controls on the affected surface water source, in accordance with the relative dates of priorities of the ground water and surface water appropriations:
- (b) The Department shall control the use of wells greater than one mile from a surface water source only through a critical ~~ground water~~ groundwater area determination in accordance with ORS 537.730 through 537.740.
- (3) As necessary, the Department shall determine the horizontal distance between any well in question and the nearest surface water source on the basis of the edge of the surface water source as also determined by the Department.



Divisions 400 – Revised Draft Rules

“Capacity of the Resource” Definition 690-400-0010(4) - revised

- (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~~ contribute ~~ing~~ 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: other wise significantly impairmenting of the function or character of the resource.

“Over-Appropriation” Definition 690-400-0010(11) – no new changes

(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~~

(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.



Divisions 410 – Revised Draft Rules

Conservation and Efficient Water Use 690-410-0060(1) – no new changes

- (1) Policy — The elimination of waste and improving the efficiency of water use are high priorities. Use of water without waste is required by state statute and the prior appropriation doctrine. Programs to eliminate waste shall be implemented. In addition, improving the efficiency of water use through implementation of voluntary conservation measures can help restore instream flows and provide for future needs including public uses and continued economic development. Priority shall be given to developing subbasin conservation plans and providing public assistance in areas of known over-appropriation of surface water, ~~and~~ overdrawn groundwater, and of water quality problems.

“Water Allocation” Principles - 690-410-0070(1) – no new changes

- (1) Policy. The waters of the state shall be allocated within the capacity of the resource and consistent with the principle that water belongs to the public to be used beneficially without waste. Water shall be allocated among a broad range of beneficial uses to provide environmental, economic, and social benefits. The waters of the state shall be protected from over-appropriation by new out-of-stream uses of surface water or from being overdrawn by new uses of groundwater.

“Water Allocation” Principles 690-410-0070(1) – no new changes

- (2) Principles. Programs to achieve the policy in section (1) of this rule shall be guided by the following principles: ...
- (b) The groundwater of the state shall be allocated to new beneficial uses only when water is available for a proposed use as per the definitions in OAR 690-300-0010, OAR 690-008-0001, OAR 690-009-0010, and 690-400-0010 ~~the allocations will not contribute to the over-appropriation of~~ groundwater sources. Restrictions on allocations of water for exempt groundwater uses may be considered when a groundwater source is over-~~appropriated~~ drawn;



Rulemaking Need - Discussion

Rulemaking Need – Review

Overview

Protection of existing water rights holders

More sustainable management of groundwater and surface water resources

- Declining groundwater levels
- Overallocated surface waters

Statutory obligation to preserve public welfare

Direction from Commission to modernize allocation process

Comments?

The background features a stylized landscape. The top portion shows a range of mountains in shades of brown and tan, with white snow-capped peaks. A large, white, fluffy cloud is positioned in the upper center. Below the mountains is a solid blue horizontal band. At the bottom, there are rolling green hills with light tan outlines, suggesting a valley or a path.

Racial Equity Impacts -Discussion

Racial Equity Impacts – RAC Comments

RAC Comments

- Request for data/information concerning prior appropriation and racial inequity

Oregon Environmental Council & Oregon Water Futures, 2022, State of Water Justice in Oregon: A Primer on How Oregon Water Infrastructure Challenges Affect Frontline Communities Across the State.


Oregon Secretary of State, 2023, Advisory Report: State Leadership Must Take Action to Protect Water Security for All Oregonians (Report 2023-04)

Available here:

<https://www.oregon.gov/owrd/programs/GWWL/GW/Pages/Groundwater-Rulemaking.aspx>

- Some Tribes may benefit from rulemaking due to objective of protecting senior water rights holders
- Robust agriculture economy benefits everyone
- Look at case studies (e.g., Klamath & Lower Umatilla Basins)

Other Comments?



Fiscal & Economic Impacts - Discussion

RAC Comments include

- Emphasize importance of agriculture to the state's economy
- Economic benefits derived from supporting sport and commercial fishing, river-related recreation, and travel economy due to improved surface water flows and water quality
- Economic benefits derived from maintaining water quality through groundwater discharges to stream and rivers and avoiding costs of compliance and restoration
- Economic costs derived from failure to act to address declining groundwater levels, especially protection of domestic and irrigation wells (e.g., Harney Basin CREP program)
- Economic costs for growing municipalities to meet future water demands

Other Comments?



RAC Roundtable

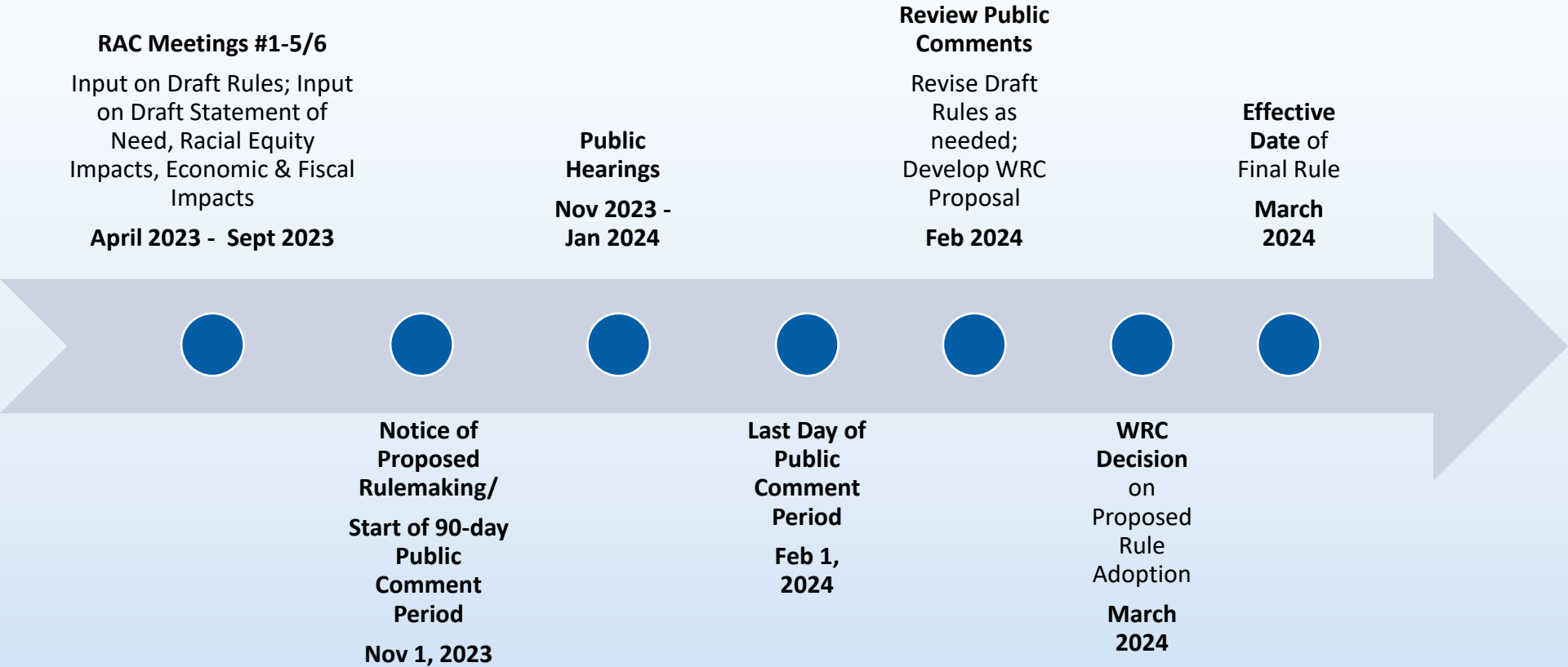
The background features a stylized landscape. The top portion shows brown mountains with white snow-capped peaks and white, fluffy clouds against a light blue sky. The middle section is a solid blue horizontal band. The bottom portion consists of rolling green hills with light tan outlines.

Public Comment

The background features a stylized landscape. The top half shows a range of mountains in shades of brown and tan, with white snow-capped peaks. A large, white, fluffy cloud is positioned in the center of the sky. The bottom half of the image consists of rolling green hills with a light tan border, set against a solid blue background.

Tentative Schedule/ Wrap Up/Next Steps

Tentative Schedule



Wrap Up/Next Steps

Email Rules Coordinator (laura.a.hartt@water.oregon.gov)

- Any additional input regarding today's draft rules and statement of need/ racial equity impacts/ economic & fiscal impacts by **COB, August 11.**

Next RAC Meeting

- **When:** September 13, from 8:30 am - noon
- **Where:** Room 124, North Mall Office Building (OWRD, Salem) & via Zoom
- **Tentative Topics**
 - Draft Water Rights Application Review Form
 - Relationship of Allocation Rules to Aquifer Recharge (AR)/Aquifer Storage & Recovery (ASR)
 - Limited Licenses/Drought Permits
 - Final Rule Changes & “Housekeeping” Items (Division 25)

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