

## Introduction:

Not later than five years after adopting a rule, Oregon Revised Statute 183.405(1) requires state agencies to review the rule to determine:

- Whether the rule has had the intended effect;
- Whether the anticipated fiscal impact of the rule was over or underestimated;
- Whether subsequent changes in the law require the rule to be amended or repealed;
- Whether there is continued need for the rule; and
- What impacts the rule has on small businesses.

## Exemptions:

Oregon Revised Statute 183.405 does not apply to the amendment or repeal of a rule. ORS 183.405 also does not apply to rules adopted to implement court orders or the settlement of civil proceedings, rules that adopt federal laws or rules by reference, rules adopted to implement legislatively approved fee changes, or rules adopted to correct errors or omissions.

## Publication:

Reports prepared in response to ORS 183.405 are provided to the Secretary of State (for inclusion in its annual report to the Legislative Assembly), the Small Business Rules Advisory Committee, and the rules advisory committee appointed by the state agency (if such a committee was appointed).

## Rule Reviews:

The Department has adopted five rules subject to review in 2021.

Rule Number	Rule Title	Effective Date
690-079-0160	Extension of Reservation Requests	4/19/2016
690-079-0170	Information Requirements to Request Extension of Reservation in Rule	4/19/2016
690-512-0010	Classifications	4/15/2016
690-512-0020	Groundwater use in the Greater Harney Valley Groundwater Area of Concern	4/15/2016
690-512-0090	Whitehorse and Willow Creeks	4/15/2016

# Five Year Rule Review

## OAR 690-512

***Under ORS 183.405(4), a report on rule reviews shall be provided to the Secretary of State, the Small Business Advisory Committee, and to the applicable rules advisory committee. Reviews apply to new rules adopted since 2006, unless exempt under ORS 183.405(6).***

**Division Name:** Malheur Lake Basin Program

**Rule Name(s):** Classifications; Groundwater use in the Greater Harney Valley Groundwater Area of Concern; Whitehorse and Willow Creeks

**Rule Number(s):** 690-512-0010; 690-512-0020; 690-512-0090

**Exempt:**

Yes ☐ No ☒

**Reason Exempt:**

ORS 183.405(6)(a)—Rules implement court orders or settlement of civil proceedings ☐

ORS 183.405(6)(b)—Rules adopt federal laws or rules by reference ☐

ORS 183.405(6)(c)—Rules adopted to implement legislatively approved fee changes ☐

ORS 183.405(6)(d)—Rules adopted to correct errors or omissions ☐

**Commission Adoption Date:** 4/13/2016

**Effective Date:** 4/15/2016

**Rule Advisory Committee Used:**

Yes ☒ No ☐

**Review Date:** 6/15/2021

**Reviewer and Title:** Justin Iverson, Groundwater Section Manager

**ORS 183.405(1)(a): Has the rule had the intended effect?**

690-512-0010:

690-512-0020: Yes. The basin is experiencing declining groundwater levels and this rule classifies and limits future use to exempt uses under ORS 537.545 only. The rule also requires a groundwater basin study be conducted in coordination with a local Groundwater Study Advisory Committee, which is nearing completion.

690-512-0090:

**ORS 183.405(1)(b): Was the anticipated fiscal impact of the rule underestimated or overestimated?**

690-512-0010; 0020; 0090: Unknown. The Department does not have specific information regarding the number of small businesses and industries with small businesses that have been affected by these rules.

**ORS 183.405(1)(c): Do law changes require repealing or amending the rule?**

690-512-0010; 0020; 0090: No.

**ORS 183.405(1)(d): Is there a continued need for the rule?**

690-512-0010; 0020; 0090: Yes. Water levels trends continue to support restrictive classification of future groundwater uses.

**ORS 183.405(1)(e): What impacts has the rule had on small businesses?**

690-512-0010; 0020; 0090: Unknown. The Department does not have specific information regarding the number of small businesses and industries with small businesses that have been affected by these rules.

☒ **We used available information to review the rule**

**Explain Action Required:** 690-512-0020(12) requires: "Within 1 year after the Groundwater Study discussed in subsection 11 has been published by the Department, the Department will convene a Rules Advisory Committee to explore whether there is a need for updates or changes to these rules. Members of the Groundwater Study Advisory Committee will be invited to participate on the Rules Advisory Committee." This RAC is expected to be convened in late 2021 or early 2022 and is expected to result in changes to these rules.

# Five Year Rule Review

## OAR 690-079

***Under ORS 183.405(4), a report on rule reviews shall be provided to the Secretary of State, the Small Business Advisory Committee, and to the applicable rules advisory committee. Reviews apply to new rules adopted since 2006, unless exempt under ORS 183.405(6).***

**Division Name:** Reservations of Water for Future Economic Development

**Rule Name(s):** Extension of Reservations; Information Requirements to Request Extension of Reservations in Rule

**Rule Number(s):** 690-079-0160; 690-079-0170

**Exempt:**

Yes ☐ No ☒

**Reason Exempt:**

ORS 183.405(6)(a)—Rules implement court orders or settlement of civil proceedings ☐

ORS 183.405(6)(b)—Rules adopt federal laws or rules by reference ☐

ORS 183.405(6)(c)—Rules adopted to implement legislatively approved fee changes ☐

ORS 183.405(6)(d)—Rules adopted to correct errors or omissions ☐

**Commission Adoption Date:** 4/13/2016

**Effective Date:** 4/19/2016

**Rule Advisory Committee Used:**

Yes ☒ No ☐

**Review Date:** 7/7/2021

**Reviewer and Title:**

**ORS 183.405(1)(a): Has the rule had the intended effect?**

690-079-0160:

690-079-0170:

**ORS 183.405(1)(b): Was the anticipated fiscal impact of the rule underestimated or overestimated?**

690-079-0160; 0170: Unknown. The Department does not have specific information regarding the number of small businesses and industries with small businesses that have been affected by these rules.

**ORS 183.405(1)(c): Do law changes require repealing or amending the rule?**

690-079-0160; 0170: No.

**ORS 183.405(1)(d): Is there a continued need for the rule?**

690-079-0160; 0170: Yes.

**ORS 183.405(1)(e): What impacts has the rule had on small businesses?**

690-079-0160; 0170: Unknown. The Department does not have specific information regarding the number of small businesses and industries with small businesses that have been affected by these rules.

☒ **We used available information to review the rule**

**Explain Action Required:** None required.