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Chapter 690

Division 14

CERTIFIED WATER RIGHT EXAMINERS AND PREPARATION OF CLAIMS OF BENEFICIAL USE

Amend

690-014-0005

Introduction

(1) The purpose of these rules is to establish the criteria for certification of Water Right Examiners. They also define the minimum standards and criteria under which Certified Water Right Examiners shall conduct surveys to describe the extent of appropriation for beneficial use of public waters. The rules also describe the information required and procedure for preparing maps to accompany transfer applications. These rules are in addition to OAR 690, divisions 020, 051, 300, 310, 325, and 380, and other rules of the Commission.

(2) These rules shall not deprive or limit the Director of the Water Resources Department or the Water Resources Commission from exercising powers or duties bestowed by law. Nor shall they limit or restrict the information the Director or Commission may require from any water user or authorized agent to determine satisfactory proof.

(3) The authority for these rules ~~is are~~ found in ORS Chapters 183, 536, 537, and 540, and in particular ORS 537.797 to 537.799.

(4) These rules shall apply to Claims of Beneficial Use and other applicable documents prepared by CWREs submitted on or after ~~July 1, 2004~~ April 1, 2026. Claims of Beneficial Use and other applicable documents prepared by CWREs submitted before this date shall be subject to the rules in effect at the time of submittal.

Statutory/Other Authority: ORS 536 & 537, ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 536, ~~ORS~~ & 537, ORS 537.797 to 537.799

History:

WRD 3-2004, f. 6-15-04, cert. ef. 7-1-04

WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88

WRD 9-1987(Temp), f. & ef. 9-1-87

Rule Summary: The rule is amended to update the date when the new rules pertaining to submission of Claims of Beneficial use go into effect. The amendments also include additional rules that are applicable to the content in this introductory paragraph.

Amend

690-014-0020

Definitions

The definitions found in Oregon Administrative Rules chapter 690, divisions 300 and 380, apply. The following definitions also apply:

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(1) "Acre-Foot (AF)" means the equivalent volume of one acre covered with one foot of water (325,851 gallons).

(2) "Certified Water Right Examiner" or "CWRE" means any individual certified by OSBEELS to collect and report data and conduct surveys to describe the extent of appropriation for Claims of Beneficial Use, and also to prepare maps for transfer applications.

(3) "Claim of Beneficial Use" means documents submitted to the Department requesting a certificate of water right be issued for the authorized use or uses made. These documents shall include the report of the site inspection, calculations for the rate of flow, and the map illustrating the location of beneficial use made within the terms of the permit or transfer final order.

(4) "Commission" means the Water Resources Commission.

(5) "Cubic Foot per Second (cfs)" means a rate of water flow, equal to 448.83 gallons of water per minute.

(6) "Department" means the Water Resources Department.

(7) "Director" means the Director of the Department or the Director's authorized deputies or officers.

(8) "Measuring Device" means a structure or apparatus such as a weir, meter, or flume to determine rate of flow or volume of water.

(9) "OAR" means Oregon Administrative Rules.

(10) "ORS" means Oregon Revised Statutes.

(11) "OSBEELS" means Oregon State Board of Examiners for Engineering and Land Surveying.

(12) "Pump Test" has the meaning of the term in OAR 690-217-0010.

(13~~2~~) "Rate and Duty of Water" means the flow of water expressed in cfs or gallons per minute (instantaneous rate) and the volume of water expressed in AF (duty) as allowed in the permit or transfer final order.

(14~~3~~) "Spring" means a place where water naturally emerges from the ground.

(15~~4~~) "Source" means the surface or ground water body for each point of diversion or point of appropriation involved in a permit or transfer final order.

(16~~5~~) "Survey of Appropriation" means the field inspection and document preparation performed by a CWRE to obtain the data necessary to support the Claim of Beneficial Use.

(17~~6~~) "Water Rights Act" means the same as defined by ORS 537.010.

(18~~7~~) "Well" means any artificial opening or artificially altered natural opening, however made, by which ground water is sought or through which ground water flows under natural pressure, or is artificially withdrawn or injected. This definition shall not include a natural spring, or wells drilled for the purpose of exploration or production of oil or gas. Prospecting or exploration for

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geothermal resources as defined in ORS 522.005 or production of geothermal resources derived from a depth greater than 2,000 feet as defined in ORS 522.055 is regulated by the Department of Geology and Mineral Industries.

Statutory/Other Authority: ORS 536 & 537, ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 536, ~~& ORS~~ 537, ORS 537.797 to 537.799

History:

WRD 3-2004, f. 6-15-04, cert. ef. 7-1-04

WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88

WRD 9-1987(Temp), f. & ef. 9-1-87

Rule Summary: The rule amendment adds a definition for “pump test” consistent with OAR 690-217-0010, to support OAR 690-014-0100(1)(k) implementation of OAR chapter 690, division 217 requirements.

Amend

690-014-0030

Certified Water Right Examiner Required for Claim of Beneficial Use

In addition to other rules contained in OAR chapter 690 requiring specified information to be prepared by a CWRE, the water right holder or person responsible for a permit, ~~transfer application,~~ or transfer final order must have a CWRE prepare:

~~(1) The map for a transfer application.~~

~~(2) The~~ Claim of Beneficial Use if the permit or transfer application was filed after July 9, 1987.

Statutory/Other Authority: ORS 536, ~~ORS &~~ 537, ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 536, ~~ORS &~~ 537, ORS 537.797 to 537.799

History:

WRD 3-2004, f. 6-15-04, cert. ef. 7-1-04

WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88

Rule Summary: This rule is amended to correct “water user” to “water right holder.” The rule also is amended to remove the requirement for the CWRE to prepare a map for a transfer application, because the map is already required by the transfer rules, and not all transfers require a CWRE to prepare the map. The rule is amended to clarify that a CWRE is required for claims of beneficial use for transfers and permits and that other rules may require a CWRE to prepare other types of documents.

Amend

690-014-0050

Certification of Water Right Examiners

CWREs shall be certified by OSBEELS. In addition to these rules, OSBEELS rules found in OAR ~~chapter~~ 820 apply.

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(1) CWRE applicants shall be registered in Oregon as a professional engineer, professional land surveyor or registered geologist.

(2) To become a CWRE, an applicant shall pass a written examination administered by OSBEELS and approved by the Department to determine the applicant's ability to properly perform the surveying, mapping, hydraulic computations, and information gathering duties required by ORS 537.798.

(3) All documents, drawings, maps, or narratives required to be prepared by a CWRE by rules of the Water Resources Commission by these rules shall be prepared by or under the direct supervision of a CWRE. These items shall bear the seal and original signature of the CWRE. A digital seal and signature are acceptable provided the rules at OAR chapter 820, division 25, are followed.

Statutory/Other Authority: ORS 536 & 537, ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 536, &ORS 537, ORS 537.797 - 537.799

History:

WRD 3-2004, f. 6-15-04, cert. ef. 7-1-04

WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88

WRD 9-1987(Temp), f. & ef. 9-1-87

Rule Summary: The rule is amended to (1) allow the Department to accept digital seal and signature as long as the CWRE meets OSBEELS rules regarding digital seal and signature; (2) clarify that the rule applies to any document required of a CWRE; and (3) add maps to the list of documents.

690-014-0080

Revocation of Certified Water Right Examiner's Certificate

CWREs may be decertified by OSBEELS for violation of OAR 690, division 014 rules or violation of OAR 820 rules.

(1) Any violation of these rules by a CWRE and brought to the attention of the Director by Department staff, the public, or other means may be submitted to OSBEELS. A material misstatement of fact shall be referred to OSBEELS for disciplinary action.

(2) Revocation of the CWRE's certificate does not in itself cause forfeiture of that person's other professional licenses or credentials.

Statutory/Other Authority: ORS 536 & 537

Statutes/Other Implemented: ORS 536 & 537

History:

WRD 3-2004, f. 6-15-04, cert. ef. 7-1-04

WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88

Amend

690-014-0090

Maps for Transfer Applications

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Application maps for transfer shall comply with applicable provisions of ORS ~~c~~hapters 536, 537, and 540, and OAR chapter 690, divisions 020, 305 and 380.

Statutory/Other Authority: ORS 536, ORS- & 537, ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 536, ORS- & 537, ORS 537.797 to 537.799

History:

WRD 3-2004, f. 6-15-04, cert. ef. 7-1-04

Rule Summary: This rule amendment clarifies that only applicable provisions of rules listed apply, and that Division 305 is now governing maps.

Amend

690-014-0100

Minimum Requirements for Claims of Beneficial Use for Permits and Transfer Final Orders

(1) The CWRE shall prepare a report, using a form or format provided by the Department, which describes the status of conditions and limitations in permits and transfer final orders such as:

- (a) Type of use;
- (b) Period of use;
- (c) Place of use;
- (d) Extent of use;
- (e) Location of point of diversion or point of appropriation;
- (f) Source of water;
- (g) Rate;
- (h) Installation of measuring device;
- (i) Water use reporting;
- (j) Water level reporting;
- (k) Pump test documentation as specified in subsection 12 of this rule;
- ~~(k)~~ Fish screening;
- (m) The date of the inspection; and
- ~~(n)~~ All other conditions or limitations.

(2) The CWRE shall provide the Department with sufficient information for the Director to determine the extent of beneficial use developed within the conditions or limits of the permit or transfer final order, including any specified development time limits.

(3) Uses partially developed by the water user shall be described. Uses or areas which were not developed shall be noted. Uses determined to exist which are not authorized by the permit or transfer final order being examined shall also be noted in the report but not included as part of the Claim of Beneficial Use. All uses shown on the map must be described in the report.

(4) The diversion works shall be accurately described by the map and report. A general narrative description of the distribution works shall be given. This description must trace the water system from the point(s) of diversion or appropriation to ~~to, and include the place of use~~ the place of use and -provide information on the water system within the place of use. The description shall also include the return to public waters when required by the permit or transfer final order, such as fish propagation, mining and power facilities. The make, capacity, serial number and description of all pumps and measuring devices shall, if available, be described in the report. If the make, capacity, serial number and description of any pumps and measuring devices are not available, the report must specify why.

(5) Other water right permits, certificates, transfer final orders, or other conveyance systems connected to the system being examined shall be described in the report. Any reservoir, diversion dam, headgate, well, canal, flume, pump, and other related structures shall be described.

(6) The crops raised or other beneficial use made of the water shall be identified.

(7) The diversion rate shall be determined for each use and source when more than one use or source is involved.

(8) The maximum rate of use shall be determined by actual measurement when possible. Water measurements may be made by weir, meter, rated flume, reservoir capacity table or other method of measurement acceptable to the Department. The report shall describe the method used in making the measurement, the date made and a description of the location where the measurement was taken. It shall contain sufficient information, including current meter notes, rating tables, and/or calibration information to enable the Director to check the quantity of water measured in each case.

(9) Computations for the maximum capacity of the system shall be submitted for all claims. These computations may suffice to determine the maximum rate of application if the system was not operating when the inspection was conducted.

(10) The amount of water shall be limited by the Department to the lesser of: the authorized amount, the capacity of the delivery system, or the amount of actual beneficial use. The Claim of Beneficial Use shall include sufficient information to make the determination.

(11) Claims of Beneficial Use for reservoir permits, for storage of less than 9.2 acre-feet of water or with a dam less than 10 feet in height, that do not require approved as-built plans and specifications be on file with the Department, shall also include the following:

(a) A drawing showing the cross section of the dam at maximum section showing complete details and dimensions. The drawing should be drawn at a standard scale. Normally this

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measurement is taken from the deepest part of the channel to the top of the embankment. Vertical accuracy is required to 0.25 feet for the purpose of this measurement;

(b) A description of the outlet works; and

(c) A description of the emergency spillway.

(12) For groundwater permits with priority dates on or after December 20, 1988, the Claim of Beneficial Use shall either provide documentation that the pump test or exemption request as required under OAR 690-217 has been submitted for each well or include the required pump test or exemption request for each well with the claim.

(1~~32~~) The rate of flow shall be determined to three significant figures with reporting necessary only to thousandths. Examples are: 4,560 cfs; 456 cfs; 45.6 cfs; 4.56 cfs; 0.456 cfs; 0.046 cfs; and 0.005 cfs.

(1~~43~~) When computing the storage capacity of reservoirs, the volume of water shall be determined to three significant figures with reporting, for the purpose of the Claim of Beneficial Use, necessary only to tenths. Examples are: 4,560 af; 456 af; 45.6 af; 4.6 af; and 0.5 af.

(1~~54~~) The following statement, signed by the CWRE, shall appear at the end of the Claim of Beneficial Use: "The facts contained in this Claim of Beneficial Use are true and correct to the best of my knowledge."

(1~~65~~) The following statement, signed or acknowledged by the permittee or transferee, shall appear at the end of the Claim of Beneficial Use: "The facts contained in this Claim of Beneficial Use are true and correct to the best of my knowledge. I request that the Department issue a water right certificate."

(1~~76~~) A CWRE may make a written request to the Director for a waiver of one or more of the Claim of Beneficial Use standards. Waivers cannot be requested for elements relating to conditions or other limitations of the permit or transfer final order. The Director will determine whether the waiver shall be allowed and will respond to such requests in writing.

Statutory/Other Authority: ORS 536, ORS- & 537, ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 536, ORS- & 537, ORS 537.797 to 537.799, ORS 537.230, ORS 537.630, ORS 537.772

History:

WRD 3-2004, f. 6-15-04, cert. ef. 7-1-04

WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88

WRD 9-1987(Temp), f. & ef. 9-1-87

Rule Summary: Pursuant the OAR chapter 690, division 217, the Department cannot process a claim of beneficial use on a groundwater permit until the pump test requirement has been satisfied, but there is no requirement to submit that information with the claim of beneficial use, which leads to inefficiencies, confusion for applicants about what information is due with a claim of beneficial use, and backlogs when pump tests cannot be secured. The rule amendment requires pump tests or pump test exemption requests to be submitted prior to, or with, claims of beneficial

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use for groundwater permits. The rule also clarifies an existing unclear provision related to describing the water system from the point of diversion/appropriation to the place of use and within the place of use.

690-014-0110

Claim of Beneficial Use: General Standards

The Claim of Beneficial Use shall be prepared by a CWRE and submitted by the holder of the permit or transfer final order or by an authorized agent.

(1) In addition to the rules of professional conduct found in OAR 820, CWREs should be aware of the public interest regarding Examiners' investigations of water use. Uses not authorized or not completed within the terms of the permit or transfer final order, or water not beneficially used, shall not be included in the Claim of Beneficial Use. Claims of Beneficial Use shall not violate any of the provisions of the Water Rights Act or these rules.

(2) All Claims of Beneficial Use shall be made to match with existing water rights of record, unless an error in the original location is identified. If an error in an existing water right record is found, then evidence of the correct location as it pertains to the current claim shall be submitted to the Department as part of the Claim of Beneficial Use.

(3) The Director may refuse to accept Claims of Beneficial Use which do not conform to these rules and regulations.

(4) The form or format provided by the Department for Claim of Beneficial Use shall question whether beneficial use was made. If the permittee or transferee claims that beneficial use was made, the claim must be supported with a sufficient description of the use prepared by the CWRE to enable the Department to decide if beneficial use was made under the terms and conditions of a permit or transfer final order.

(5) Follow up inspections may be made by the Department.

Statutory/Other Authority: ORS 536 & 537

Statutes/Other Implemented: ORS 536 & 537

History:

WRD 3-2004, f. 6-15-04, cert. ef. 7-1-04

Amend

690-014-0170

Minimum Requirements for Maps for Permit or Transfer Final Order Claims of Beneficial Use

(1) Maps submitted by a CWRE as part of the Claim of Beneficial Use shall meet the standards in OAR chapter 690, division 305 ~~be drawn in ink on at least 0.003-inch polyester film and otherwise conform to all the requirements for application maps as noted in OAR 690-310-0050. If for irrigation, the area cross-hatched shall not exceed the total acreage authorized in the permit or transfer final order involved. More than one permit or transfer may be entered on the same map if clearly identified by different cross-hatching. The map scale shall be 1" = 1320',~~

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~~1" = 400', or the original full size scale of the county assessor map for the location. The preferred map size is 8 1/2" x 11". The maximum size shall be 30" x 30" unless prior approval is obtained from the Department. Standard symbols shall be used as indicated in Department handouts. In addition, the map shall meet the following criteria:~~

(~~2a~~) Horizontal accuracy is required only to ten feet for the purpose of locating and quantifying water rights. Maps shall be developed from any standard survey method. Traverse closures are not required.

(~~b3~~) Maps shall clearly designate the place of use and point of diversion or appropriation for each source and use. ~~Maps for permits or transfer final orders involving surface water must illustrate the source.~~

(~~c4~~) The map shall indicate by description, in relation to the point of diversion or appropriation, the location of any fish screens, by-pass devices, and measuring devices required by the permit or transfer final order.

(~~d5~~) The following statement shall be placed on the map: "This map is not intended to provide legal dimensions or locations of property ownership lines."

~~(6) Maps depicting municipal place of use need only show the township, range, section, and quarter quarter sections where use has occurred under the subject permit. The scale for a municipal place of use map should be sufficient to identify the quarter quarters involved in the place of use.~~

(~~27~~) A CWRE may make a written request to the Director for a waiver of one or more mapping standards. The Director will determine whether the waiver shall be allowed and will respond to such requests in writing.

Statutory/Other Authority: ORS 536, ~~ORS & 537~~, ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 536, ~~ORS & 537~~, ORS 537.797 to 537.799, ORS 537.230, ORS 537.630

History:

WRD 3-2004, f. 6-15-04, cert. ef. 7-1-04

WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88

Rule Summary: This rule section has been amended to refer to the mapping standards established in OAR chapter 690, division 305 for greater clarity and consistency in mapping requirements across water right transactions. This should lead to greater efficiencies for both applicants and their CWRE's as well as Department staff by having a standardized set of map criteria in one location, which can be adjusted to meet the particular components of specific types of transactions.

690-014-0190

Time Limit for Filing Claim of Beneficial Use

The Claim of Beneficial Use shall be submitted to the Department within one year after the use was reported to the Department as being complete or the beneficial use date allowed in the

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permit or transfer final order, whichever occurs first. Failure to comply with this section shall cause the Director to initiate permit cancellation proceedings as provided by ORS 537.260.

Statutory/Other Authority: ORS 536 & 537

Statutes/Other Implemented: ORS 536 & 537

History:

WRD 3-2004, f. 6-15-04, cert. ef. 7-1-04

WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88

690-014-0220

Time Limit to Cure Defects in a Claim of Beneficial Use

A Claim of Beneficial Use which needs corrections or additions shall be returned to the CWRE to correct the deficiencies. The corrected claim shall be returned to the Department within the written time limit allowed. The time allowed will be determined by the Director, but shall not be less than 30 days. Any claims not returned within the specified time may result in the Director submitting the name and certificate number of the CWRE involved to OSBEELS for disciplinary action.

Statutory/Other Authority: ORS 536 & 537

Statutes/Other Implemented: ORS 536 & 537

History:

WRD 3-2004, f. 6-15-04, cert. ef. 7-1-04

WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88