

ing or have been substantially altered except as specified in ORS 537.796.

(2) The proceeding to designate a critical ground water area shall be conducted according to the provisions under ORS chapter 183 applicable to the adoption of rules by an agency, except that a hearing on a critical ground water declaration shall occur at least 60 days after notice has been given.

(3) In addition to the notice requirements under ORS 183.335, the department shall give notice by regular mail to:

(a) The owners of record of all ground water registrations, permits and certificates for water use within the affected area; and

(b) Each water well constructor licensed under ORS 537.747.

(4) If the department satisfies the notice requirements under ORS 183.335 and subsection (3) of this section, a person shall not contest a critical ground water area designation on grounds of failure to receive notice by regular mail. [1955 c.708 §26; 1957 c.341 §8; 1981 c.589 §5; 1985 c.673 §62; 1987 c.442 §1; 1989 c.201 §4; 1991 c.400 §4]

537.735 Rules designating critical ground water area. (1) A rule adopted by the Water Resources Commission under ORS 537.730 shall:

(a) Define the boundaries of the critical ground water area and shall indicate which of the ground water reservoirs located either in whole or in part within the area in question are included within the critical ground water area. Any number of ground water reservoirs which either wholly or partially overlie one another may be included within the same critical ground water area.

(b) Contain a provision requiring a periodic review of conditions in the critical ground water area. The review shall be in sufficient detail to evaluate the continuing need for the critical ground water area designation and shall occur no less frequently than once every 10 years.

(2) In adopting the rule, the commission shall consider any orders or permits applicable to the reservoir issued by the governing board or State Geologist of the State Department of Geology and Mineral Industries under ORS chapter 522.

(3) A rule by the commission under subsection (1) of this section may include any one or more of the following corrective control provisions:

(a) A provision closing the critical ground water area to any further appropriation of ground water, in which event the commission shall thereafter refuse to accept any application for a permit to appropriate

ground water located within such critical area.

(b) A provision determining the permissible total withdrawal of ground water in the critical area each day, month or year.

(c) The disposition of any application for a water right permit for the use of water in the area that is pending at the time the commission initiates the rulemaking process or that is received during the rulemaking process.

(d) Any one or more provisions making such additional requirements as are necessary to protect the public welfare, health and safety in accordance with the intent, purposes and requirements of ORS 537.505 to 537.795 and 537.992.

(e) A provision closing all or part of the critical ground water area to further appropriation of ground water for its thermal characteristics.

(f) A provision determining the permissible change in thermal characteristics of ground water in all or part of the critical ground water area each day, month or year. Insofar as may be reasonably done, the Water Resources Director shall apportion the permissible total temperature impact among those appropriators whose exercise of valid rights in the critical area affect the thermal characteristics of the ground water, in accordance with the relative dates of priority of such rights. [1955 c.708 §27; 1981 c.589 §6; 1981 c.919 §1; 1985 c.673 §63; 1989 c.201 §5; 1991 c.400 §5]

537.740 Filing rules designating critical ground water area. In addition to any applicable requirements under ORS chapter 183, the Water Resources Commission shall file a copy of any rules designating a critical ground water area under ORS 537.730 to 537.740 with the county clerk of each county within which any part of the critical ground water area lies, and the county clerk shall record the designation in the deed records of the county. [1955 c.708 §28; 1985 c.673 §64; 1991 c.400 §6]

537.742 Contested case proceeding to limit use of ground water in critical ground water area. (1) Any time after the Water Resources Commission adopts a rule under ORS 537.730 designating a critical ground water area, the commission may initiate a contested case proceeding to limit the use of ground water in the area if the commission has reason to believe that any of the qualifying criteria of ORS 537.730 (1) exists.

(2) Upon the conclusion of a contested case proceeding initiated under subsection (1) of this section and upon finding that the problems that resulted in the designation of a critical ground water area under ORS 537.730 can be resolved by implementing one