

2/27/26

Attachment 4c - General Comments and Responses

Rule language changes made after the close of the public comment period February 5, 2026.

Theme	Commenter/Comment	Response	Changed
Process	James Fraser (RAC; TU) - TU generally supports the revisions in this rule package, but we disagree with some of the constructive edits that have been removed in the final proposed language. TU supports many of the clarifications and refinements in this rule package. WRD staff handled this rulemaking capably, were incredibly organized in documenting RAC input, and were responsive to feedback throughout the process. We appreciate the Department's attention to detail in this effort.	Comments generally in support.	No change made.
Process	Submitted by Leah Cogan (RAC; GSI) on behalf of Michael Martin (RAC; League of OR Cities); Mark Landauer (RAC; Special Districts Association of OR); Adam Denlinger (OR Water Utilities Council); Mike Buettner (OR Water Utilities Council); Jason Green (OR Assoc. of Water Utilities) - Our members appreciate the opportunity to submit the comments below regarding the changes that the Oregon Water Resources Department (OWRD) has proposed through the 2025–26 Water Rights Rulemaking process. We also want to acknowledge the hard work and responsiveness of OWRD staff throughout the rulemaking process, which involved a tremendous effort over a very compressed timeframe.	Comments in support.	No change made.
Process	Kimberley Priestley (RAC; WW) - We appreciate OWRD's efforts to address our concerns raised in our previous comments. That said, we have concerns that the hearing draft does not wholly fix problems with old rule language that is inconsistent, contrary to, or otherwise not in alignment with statute. There are also a few areas where new language is offered that is not supported by statute. We urge the OWRD to give due regard to input on these points, as the rules cannot conflict with statute	The Department has reviewed public comments and, where appropriate, revised the final proposed rules in response to public input and consistent with the rulemaking scope.	No change made.
Process	Gen Hubert (RAC; DRC) - DRC provided comments during the RAC meetings for Division 18, with written comments on October 31st, and Division 77 during the meeting, with written comments on November 11th. Additional comments for these Divisions were submitted on	Comment in support.	No change made.

2/27/26

	<p>December 5th, 2025. We are providing supplemental comments for multiple Divisions here. The efficiencies gained with updates to these rules affecting DRC programs and DRC staff are greatly appreciated. The balanced representation from water user groups and conservation groups in the 2025-2026 RAC sessions was also appreciated. Similar to the participation by the broad user groups often represented in WRD RAC committees, each conservation group - often working in specific regions of the state, has region specific knowledge, particular concerns, and expertise working within quite varied programs and rule sets. These voices are important to have at the table.</p>		
<p>Process</p>	<p>April Snell (RAC; OWRC) - Before we move into our specific comments and concerns, we want to express our appreciation to OWRD staff for their time and efforts throughout the RAC process. Staff did a great job responding to RAC feedback, providing summary documents, redline comparisons, and other helpful documents. This helped diminish the difficulty of discussing revisions to eighteen different divisions over a very short period (nine meetings between September 17 and November 21). However, most of the divisions have proposed changes that are different from the previous versions the RAC discussed and do not necessarily tie back to specific RAC feedback, which makes tracking the changes difficult.</p>	<p>The Department acknowledges that the rule drafting process has been iterative, and changes have been made in response to RAC feedback and issues identified by OWRD staff. All iterative versions and Department responses to RAC comments are available online. The RAC provided considerable helpful feedback and we appreciate their efforts. Proposed changes to the rules are documented in the rule revision tracker tables and track changes versions of the rules; these documents have been made available to the RAC, public, and the Commission.</p>	<p>No changes made.</p>
<p>Scope</p>	<p>Kimberley Priestley (RAC; WW) - We appreciate the hard work of the OWRD in this rulemaking, including providing multiple drafts for review and providing the RAC with guidance documents that tracked all comments and provided explanations for changes. As the OWRD has stated since the outset, this rulemaking is focused largely on two tasks: (1) Updating rules to incorporate new directives of HB 3342 and HB 3544 which passed in the 2025 Legislative Session, and (2) updating existing rule language to ensure that rule directives conform with statute. The latter purpose was long overdue, and we appreciate the inclusion in this rulemaking. Updating rules so they conform with statute necessarily includes deleting from rule provisions that are not supported by statute.</p>	<p>Comments in support.</p>	<p>No change made.</p>
<p>Scope</p>	<p>James Fraser (RAC; TU) - However, there are some areas where TU disagrees with the Department's final proposed rules. Late in the</p>	<p>The Department agrees that the rulemaking scope includes making policy and process</p>	<p>No change made.</p>

2/27/26

	<p>rulemaking process, the Department notified RAC members that a number of edits not directly tied to 2025 legislation would be removed from the rule revision due to some concern about the scope and scale of the rulemaking. In our view, this is unnecessary, ineff[i]cient, and inconsistent with how WRD set up the RAC and this process. Indeed, WRD's invitation to RAC service expressly stated:</p> <p>"The purpose of this rulemaking is to implement two House Bills (HB) passed during the 2025-2026 Legislative Session: HB 3342 (2025) and HB 3544 (2025). These two bills modernize and streamline water rights transactions (HB 3342) and contested case processes (HB 3544). <u>The Department also will take the opportunity to make other policy and process improvements to impacted rule divisions.</u> The agency also will continue the prior rulemaking efforts for Oregon Administrative Rules (OAR) Chapter 690, Division 77, pertaining to instream leases.</p> <p>Similarly, at the first RAC meeting, WRD staff were clear that the rulemaking would address 2025 legislation and other policy adjustments, process improvements, and other conforming edits. Meeting materials from that meeting set an expectation that the rulemaking would include "policy & process improvements for impacted rule divisions," including policy changes that are "outside the legislation."</p> <p>RAC members knew—from before the first RAC meeting—that the rule revision would include edits beyond conforming amendments related to the 2025 legislation. This RAC process required significant capacity and resources from WRD staff—and RAC members. In TU's view, it is appropriate and timely for WRD to make adjustments in the rules which will provide clarity and fair outcomes, even if not directly required by the 2025 bills.</p>	<p>improvements beyond those required by statutory changes. While some of these improvements were carried forward, some were modified based on RAC feedback, and other concepts were postponed when the Department determined that more time is necessary to discuss or research those concepts.</p>	
<p>Scope</p>	<p>Ryan Krabill (RAC; OFB) - Encompassing 13 divisions of OAR Chapter 690, the proposed rule remains too ambitious. OFB participated as a member of the Rulemaking Advisory Committee (RAC) when it met nearly 10 times during the fall of 2025. From the beginning, OWRD staff has advised RAC members that this specific rulemaking effort was “huge” and the largest one in memory. This underlying sentiment was echoed by OWRD staff throughout the course of the RAC meetings and repeated in public forums. The aggressive breadth and depth of the</p>	<p>The Department acknowledges the ambitious scope of the long overdue rulemaking but has been consistent throughout the process in affirming that the scope of the rulemaking would pertain to recent 2025 legislation, Division 77 updates, and other policy and process improvements relating to water right transactions. In response to concerns of a</p>	<p>No change made.</p>

2/27/26

	<p>rulemaking was acknowledged by OWRD when it elected to remove and delay the consideration of five remaining divisions until the spring of 2026. While we appreciate this modest measure of relief, we continue to believe that the size and scope of the rulemaking is so large in such a condensed timeframe that it undermines the fundamental value of the rulemaking process.</p> <p>Despite the challenges associated with the excessive size and scope of the proposed rule, OFB appreciates some elements of the proposal. First, we support the emphasis on reducing backlogs and improving processing efficiency through clearer, more standardized OFB // OWRD Water Rights procedures and greater use of electronic tools, which can help provide water users with more timely decisions. Second, we appreciate steps that strengthen the consistency and defensibility of the administrative record, because predictable, enforceable processes support orderly water administration and help protect lawful water use. We also recognize the value of improved transparency and accountability in irrigation-district administration related to conserved water allocations, which can have downstream benefits to water users in the Oregon farming and ranching community.</p>	<p>subset of the RAC regarding the large scope, the Department has bifurcated the rulemaking into two phases, which should facilitate a more meaningful public process.</p> <p>The two major pieces of legislation discussed in the rulemaking impact numerous water right transaction types, necessitating updates to many rule divisions. House Bill 3342 (2025) becomes effective April 1, 2026; the rules must be updated before then to avoid discrepancies between statute and rule.</p>	
<p>Scope</p>	<p>Gen Hubert (RAC; DRC) - Thank you for the opportunity to participate in Water Resources Rule updates, provide comments to Rule updates, and for our seat on the Rules Advisory Committee (RAC). The hard work of the OWRD staff on this extensive rulemaking is appreciated. We are supportive of the objective to bring rules into alignment with HB 3342 and HB 3544 and the work toward updating rules so they conform with prior statute.</p>	<p>Comments in support.</p>	<p>No change made.</p>
<p>Scope</p>	<p>April Snell (RAC; OWRC) - Throughout the RAC process OWRC and other RAC members expressed concerns about the scope and pace of the proposed rulemaking. Some of our concerns were addressed in the final draft issued for public comment and others were not. We remain concerned that the scope and rushed process will lead to unintended consequences.</p> <p>We do also want to acknowledge and appreciate OWRD withdrawing five divisions from the final list of proposed revisions. However, the proposed revisions still include thirteen different divisions, which is still the largest rulemaking undertaken by the Department since its initial</p>	<p>See response to Ryan Krabill above.</p>	<p>No change made.</p>

2/27/26

	<p>inception. We remain concerned that proposed the rule changes will lead to unintended consequences, including missed errors, incongruent language across divisions, and additional time and cost by WRD and applicants to figure out what the new rules mean. This is counter to the rulemaking’s purported purpose and grossly beyond the three legislative measures that precipitated the rulemaking.</p>		
<p>Scope; Voluntary water management plans</p>	<p>Ryan Krabill (RAC; OFB) - Finally, OFB is concerned about any aspect of this package that could be read to require, compel, or regulate “cooperative” or “voluntary” water management plans as a condition of retaining or exercising water rights, completing transactions, or avoiding enforcement consequences. OFB explicitly oppose mandatory or regulatory implementation of cooperative, voluntary water management plans or arrangements. If OWRD intends any coordinated-management tools to remain strictly optional, OFB asks that the rules say so plainly and include guardrails to prevent informal expectations from becoming practical mandates over time due to regulatory creep</p>	<p>The concerns raised do not appear to pertain to any divisions in this rulemaking.</p>	<p>No change made.</p>
<p>Water Availability; drought; Deschutes</p>	<p>Nunzie Gould (N/A; Deschutes County) - I would like to reiterate that we here in the Deschutes Basin are in a mega drought. Snow and precipitation are lowest in at least 50 years. Whilst I understand a desire to streamline water use approvals, I wonder what protections OWRD is offering to waters in our springs, seeps and rivers especially here in the Deschutes Basin. Yesterday hit a record 72 degrees which is 28 degrees higher than our average 30 year past daytime temperature. Evenings are warmer; our climate has changed. I encourage OWRD to allocate water not just for people but for fish, rivers, ESA, beavers, birds and wildlife. We cannot sustain the pumping of our aquifers and expect them to magically replenish; the ice age is over; glaciers are not growing; glaciers are disappearing here in Oregon. I support comments made in December 2025 by Water Watch of Oregon, Trout Unlimited and Central Oregon LandWatch. I don't believe any quasi-municipal water rights or municipal water rights should be moved to exempt wells because exempt wells have not been evaluated for groundwater connectivity or for surface water connectivity here in Deschutes; furthermore I have yet to see a water metering device on any exempt well here in Deschutes. Analysis of where waters are drawn from the ground matter and there should not be</p>	<p>The rulemaking proposes to streamline not only consumptive use water right transaction processes, but also those for instream transfers, instream leases, and state agency-requested instream water rights.</p> <p>OWRD assumes comments about exempt wells may be related to Division 310 proposed rule changes to implement Senate Bill 1154 (2025). Those rule updates are strictly to implement the statutory changes. The changes do not change water use from quasi-municipal or municipal to exempt wells. Instead, Senate Bill 1154 streamlines the public interest review of groundwater applications in a groundwater quality area that would consolidate drinking water wells under a public water system. In other words, water used under exempt wells would be replaced by water used under a public water system.</p>	<p>No change made.</p>

2/27/26

	<p>a pass to such an evaluation just because a well is 'exempt' or a city needs water to meet a city's needs or a development 'needs' water for their private gain.</p> <p>We today are stewards of our precious water resources and what seems to be missing is Water Conservation in the face of drought... This isn't piping, or modernization. What I mean by water conservation is USING less water.</p> <p>Further, the mitigation rules in Deschutes are woefully out of date and so is consumptive use formulas. Also Oregon is missing river gages in the Deschutes Basin to adequately measure surface flows and water quality in each river reach. So I encourage first OWRD to fund river gages in each of the REACHES of our rivers here in Deschutes before it tries to speed up issuing water permits.</p> <p>Perhaps it is time for Oregon to think about where it places its municipal populations?... perhaps where there is sustainable water instead of where water resources are being depleted from the eco-system and not being replenished in the face of today's climate change.</p>	<p>The other concerns raised are outside the scope of this rulemaking.</p>	
<p>Land Use Compatibility</p>	<p>Mary Powell (League of Women Voters of Deschutes; Bend) - We appreciate the time and effort of the department in reviewing and clarifying the statutes and rules with community involvement. While perhaps outside the scope of this RAC, we want to take this opportunity to support the testimony of Central Oregon LandWatch urging collaboration between OWRD and DLCD to integrate surface and ground water availability and quality with land use decisions. Without coordination from the State, local decision makers are left with competing directives or none.</p> <p>Gen Hubert (RAC; DRC) - DRC supports OWRD in working to align rules with statewide planning goals (such as with Land Use) where statute allows. Land Use Planning and Conservation intersects with Water Rights and Water Management, but not always neatly. Improving coordination between agencies will be helpful where programs intersect.</p> <p>Jeremy Austin (RAC; COLW) - LandWatch wants to reiterate our support of increasing coordination across state agencies on the intersection of land use and water use and appreciate Oregon Water</p>	<p>While the proposed rules maintain some of the changes discussed with the Rulemaking Advisory Committee, the Department has determined that any broader changes around land use should be addressed at a later time that allows for a more comprehensive review. Discussions with the Commission about future updates to the State Agency Coordination program began with the February 2026 Commission meeting.</p>	<p>No change made.</p>

2/27/26

	<p>Resource Department’s (“OWRD”) attention to this topic throughout the rulemaking process.</p> <p>Our state land use system is unique in the country for how it prioritizes farm and forest uses in rural areas, while directing population growth inside cities’ urban growth boundaries. Among others, this rulemaking provides an important opportunity for the two agencies (OWRD and DLCDC) to grapple with questions related to the sequencing of water right decision-making and land use decision-making, how water permitting might better align with the goals of the land use system, and overall improving how these two areas of regulation interact.</p> <p>As a general example of an opportunity to better improve how these two areas of regulation interact, consider how land use conditions have changed in the Upper Deschutes Basin over the past 120 years since water rights were first established. In 1900, the Basin had a small population and water rights were granted for the beneficial use of irrigated agriculture. Today, while productive irrigated agriculture is still an important part of the regional economy, many of the lands first irrigated in 1900 have been converted to other land uses. Some are within urban growth boundaries. Some have been taken out of agricultural production and rezoned or developed with non-farm, often residential uses, yet still possess agricultural irrigation water rights. We encourage the Department to work with DLCDC to coordinate their existing regulatory authority to ensure that our state’s public water resources are allocated in line with the goals of the land use system. We support moving forward with addressing these important issues as part of this rulemaking process.</p>		
<p>Form Letter</p> <p>Land Use</p> <p>Instream</p> <p>Other items</p>	<p>See Department summary of form letter comments and analysis table in Attachment 2b of the Commission staff report. Comments pertained to land use, instream differences, and other items.</p>	<p>See response to Land Use Compatibility above (Mary Powell, Gen Hubert, and Jeremy Austin). Note that land use compatibility strategies required by the Department’s State Agency Coordination program differ between instream water right transactions and certain consumptive water use transactions. The State Agency Coordination program is comprised of OAR Chapter 690, Division 5; rule divisions associated with the Department’s land use programs (e.g., Division 77 for instream water</p>	<p>No change made.</p>

2/27/26

		<p>rights); and the Department’s Land Use Planning Procedures Guide. The Department’s Guide provides that the compatibility strategy for instream water rights and minimum perennial streamflows is to “rely on local government response to notification of pending action, or “Deeming. [sic]. WRD will presume compatibility if no response is received.” For new water right applications, the Guide states the Department “rel[ies] on land use information supplied by applicants and confirmed by local planning officials.” Potential updates to the Guide are outside the scope of this rulemaking but are part of ongoing discussions between Oregon Water Resources Department, Department of Land Conservation and Development, and the two agencies’ commissions.</p> <p>With respect to consistency between instream and out-of-stream water right processes, the Department has proposed process improvements for water right transactions related not only to out-of-stream use, but also instream use, including instream water rights instream leases, instream transfers, and allocation of conserved water. Some rule differences remain because we would ideally make out-of-stream rules have the same detail as instream rules; but did not have capacity to undertake that in this rulemaking.</p> <p>Some comments raised in the form letters were outside of the scope of this rulemaking.</p>	
--	--	--	--