



# Staff Report

**TO:** Water Resources Commission

**FROM:** Kim Fritz-Ogren, Field Services Division Administrator  
Kelly Mainz, Water Policy Analyst

**DATE:** June 11, 2026

**SUBJECT:** Agenda Item H

## SCOPING DISCUSSION FOR WATER DISTRIBUTION, ENFORCEMENT, AND EXEMPT USE RULEMAKING

### I. Introduction

The Department will share why Divisions 250, 260, 300, and 340 of Oregon Administrative Rule (OAR) Chapter 690 need to be updated and consult the Commission on their policy priorities for this rulemaking and provide feedback on the rulemaking scope.

### II. Integrated Water Resources Strategy Recommended Action

- 10.A – Improve Water-Use Efficiency and Water Conservation
- 10.F - Provide an Adequate Presence in the Field

### III. Background

The Department is scoping out a potential rulemaking relating to water distribution, enforcement, and exempt uses (Table 1 and Attachment 1).

**Table 1. Rules Under Consideration for Rulemaking**

Rule	Topic	Attachment
<a href="#">OAR-690-250</a>	Water Distribution	2
<a href="#">OAR-690-260</a>	Civil Penalties for Other Than Well Construction	3
<a href="#">OAR-690-340-0010</a>	Exempt Uses	4
<a href="#">OAR-690-300</a>	Definitions	5

These rules are fundamental to water management by the Department. Staff rely on them daily to enforce laws that protect water rights and address unlawful or unpermitted water use. Divisions 250 and 260 were last amended in 1988 and 1990, respectively. Updates are necessary to modernize the Department’s processes, improve efficiency, increase clarity, and align the rules with recent statutory changes, including House Bill (HB) 4061 (2021), HB 2010 (2023), HB 2929 (2023), HB 3372 (2025), Senate Bill (SB) 326 (2023), and SB 85 (2023). Please see Attachment 6 for a copy of each bill.

#### **IV. Discussion**

During the months of May and June 2026 the Department is hosting open houses in nine different cities across the state to explain required rule changes from recent legislation, including changes related to exempt use and water hauling, as well as gather input on certain topics as part of its scoping efforts. These topics include:

1. Waste of water (Attachment 7)
2. Bulges in the system (Attachment 8)
3. Exempt uses (Attachment 9)
4. Violations and penalties (Attachment 10)
5. Rotation agreements (Attachment 11)

The Department will review all input received during the open houses to understand community concerns, identify any potential impacts, and determine scope and content of rules, considering this input alongside legal requirements, scientific data, and policy goals. While not every suggestion can be incorporated due to statutory requirements, scientific constraints, and policy obligations, community feedback helps OWRD ensure the final rules are clear, practical, and appropriately responsive to the public's needs.

As the Department develops the scope for rulemakings under Divisions 250, 260, 300, and 340, we request the Commission's input on the potential scope. Specifically, we ask Commissioners:

- What are Commissioners' views on including these topics in the rulemaking scope?
- Are there specific topics you would like the Department to prioritize or additional topics you would like to address?

#### **V. Conclusion**

Updates are necessary for Divisions 250, 260, 340, and 300 rules to modernize the Department's processes, improve efficiency, increase clarity, and align the rules with recent statutory changes. The Department seeks input from the Commission on the rulemaking scope.

#### **Attachments:**

1. Overview of rulemaking handout
2. OAR 690 Division 250 Water Distribution
3. OAR 690 Division 260 Civil Penalties for Other Than Well Construction
4. OAR 690 Division 230 Rule 0010 - Exempt Uses
5. OAR 690 Division 300 – Definitions
6. Statutory Changes
7. Waste of Water Handout
8. Bulges in the System Handout

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9. Exempt Uses Handout

10. Violation and Penalties Handout

11. Rotation Agreements Handout

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# Overview of Water Distribution, Enforcement, and Exempt Use Rulemaking

The Oregon Water Resources Department (OWRD) is preparing to undergo a rulemaking to update the rules for water distribution, enforcement, and exempt uses.

## Anticipated rule divisions included in the rulemaking

**What is a rule?** Any agency directive, standard, regulation, or statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of any agency.

- **Oregon Administrative Rules (OAR) Chapter 690 Division 250:** guides Watermaster field regulation, including how to respond to unlawful use, waste, and measurement problems.
- **OAR Chapter 690 Division 260:** explains how civil penalties are assessed, including the types of violations, daily penalties, and notice requirements.
- **OAR Chapter 690 Division 300:** contains definitions for permits, certificates, transfers, and limited licenses.
- **OAR Chapter 690 Division 340:** covers the rules for exempt uses. These are activities that do not need water right, such as domestic uses.

## Why is rulemaking needed

Divisions 250 and 260 were last amended in 1988 and 1990, respectively. Since then, legislators have added new statutes and clarified expectations for lawful water use, including House Bill (HB) 4061 (2022), HB 2010 (2023), Senate Bill (SB) 326 (2023), SB 85 (2023), and HB 3372 (2025). While these rules are open to revision, OWRD is also interested in making other improvements. The new or amended rules would seek to:

- Align rules with current statutory authority
- Modernize watermaster regulation process
- Build regulatory consistency
- Add and clarify definitions

## Summary of legislative changes to statute

A statute is a law enacted by the Oregon Legislature that provides, directs, or authorizes OWRD activity. Since 2021, several legislative bills have changed statute, requiring OWRD to amend its rules.

- **HB 4061 (2022):** Requires water suppliers and persons hauling water for irrigation or nursery purposes to retain records of purchases and deliveries. A person may not haul water to an unregistered cannabis site. Increases criminal penalties for using water without a water right and adds penalties for hauling water to an unregistered cannabis site. Additionally, increasing the time allowed for the issuing of a Notice of Violation from 5 days to 10 days.
- **HB 2010 (2023):** Grants OWRD the authority to require measurement reporting where a water use authorization is already conditioned to require use or storage be measured.
- **SB 85 (2023):** Caps the stockwater exemption at 12,000 gallons/day for new or expanding operations in a critical groundwater area.
- **SB 326 (2023):** Prohibits use of water at a location not licensed or registered for growing cannabis. Allows the Department to impose civil penalties for violations and increases criminal penalties.
- **HB 3372 (2025):** Allows up to 3,000 gallons per day of groundwater to irrigate a half-acre of lawn, personal garden, or commercial garden from an exempt well. Caps the total use when combined with commercial or industrial exempt uses at 5,000 gallons per day. This does not apply to watering cannabis.

## Next steps

The current goal is to complete scoping this summer and initiate a rulemaking with Rules Advisory Committee meetings in the fall of 2026. After developing proposed rules, the agency would take public comments and present rules for adoption by the Water Resources Commission in 2027. This timeline is subject to change, to keep the most up to date on the rulemaking sign up for GovDelivery using the link below.

## Share Your Thoughts

### Feedback Opportunity

OWRD is interested in your thoughts on what should be included in the scope of this rulemaking effort. You are welcome to provide general feedback via the rulemaking website below. We are also seeking feedback on the specific topic areas listed in the table below.

Topic (listed alphabetically)	Questions
Bulges in the system	<ul style="list-style-type: none"> <li>How frequently is water delivered or is your system designed to pump?</li> <li>What are the problems or challenges with bulges?</li> <li>What are the benefits and values of bulges?</li> </ul> When, how frequently, and at what rate does your bulge empty?
Exempt uses	<ul style="list-style-type: none"> <li>As defined in OAR <a href="#">690-300-0010</a>(14), "Domestic Water Use" means the use of water for human consumption, household purposes, domestic animal consumption that is ancillary to residential use of the property or related accessory uses." What do you consider "ancillary to residential use of the property or related accessory uses?"</li> <li>Are there other improvements to the exempt use rules (OAR 690-340-0010) and corresponding definitions in OAR 690-300 that you would like OWRD to pursue?</li> </ul>
Rotation agreements	<ul style="list-style-type: none"> <li>How far in advance do you or would you set up a rotation agreement?</li> <li>How would you improve the rotation agreement process?</li> </ul>
Violations and civil penalties	<ul style="list-style-type: none"> <li>What aspects of violations or penalties feel unclear or confusing?</li> <li>What types of enforcement issues do you see in your community?</li> <li>What makes enforcement feel fair and consistent to you?</li> <li>What information would help water users better understand their responsibilities?</li> </ul>
Waste of water	<ul style="list-style-type: none"> <li>How would you define waste?</li> </ul>

## Stay Engaged

Sign up for email updates on this and other rulemakings:  
<https://owrd.info/rulemakingupdates>

Learn more visit our rulemaking website by scanning the QR code (on right) or visiting <https://owrd.info/rulemaking>



OWRD reviews all feedback to understand community concerns, identify potential impacts, and determine scope and content of rules, considering this input alongside legal requirements, scientific data, and policy goals. While not every suggestion can be incorporated due to statutory requirements, scientific constraints, and policy obligations, community feedback helps OWRD ensure the final rules are clear, practical, and appropriately responsive to community needs.

**WATER RESOURCES DEPARTMENT  
CHAPTER 690  
DIVISION 250  
Water Distribution**

**690-250-005 Purpose of Rules**

The purpose of these administrative rules is to give guidance in the administration of Oregon water laws. The rules provide instruction on how regulatory actions are to be done where statutes are unclear. Statutory authority to adopt administrative rules for water distribution is in ORS 540.145.

**Statutory/Other Authority:** ORS 540

**Statutes/Other Implemented:** ORS 540

**690-250-0010 Definitions**

- (1) "Appropriator": Water user, trustee or agent in charge of the works.
- (2) "Basin Program": A program adopted by the Water Resources Commission to establish water management policies and objectives for a specified basin. Basin programs establish rules for appropriation and use of surface and ground water within each river basin. Water use regulations include classification of surface and ground waters according to permitted uses, the withdrawal or surface and ground waters from further appropriation, the reservation of waters for specific future uses, and the establishment of minimum perennial streamflow requirements.
- (3) "Beneficial Use": Reasonably efficient use of water without waste for a purpose consistent with the laws and the best interests of the people of the state.
- (4) "Commission": Water Resources Commission.
- (5) "Compensation": Salary and related payroll expenditures
- (6) "Enforceable Rotation Agreement": Written agreement between two or more appropriators to rotate the use of water, to bring about more economical use of the available supply to which they are collectively entitled.
- (7) "Exempt Uses": Uses of water for which no registration, certificate of registration, application for a permit, permit, certificate of completion of water right certificate is required.
- (8) "Expenses": Includes but is not limited to, lodging, meals, mileage, and supplies.
- (9) "Irrigation Seasons": Time period(s) during the year when a water right for irrigation purposes can be legally used.
- (10) "Legally Stored Water": Any water impounded in a reservoir under the provisions of an established right to store water.

- (11) "Point of Diversion": For surface water, the point at which water is physically diverted from the natural source of manmade works for the beneficial use and, unless specified otherwise, includes point of appropriation as in a well or ground water development.
- (12) "Rate and Duty of Water for Irrigation": Maximum quantity of water in cubic feet per second or gallons per minute (rate) and the total quantity of water in acre-feet per acre per year that may be diverted for irrigation (duty).
- (13) "Reservoir": A natural or artificial lake or pond in which water is collected for beneficial use or purpose.
- (14) "Substantial or undue interference": As defined in OAR 690-008-0001
- (15) "Transfer": Legal process for change of use, change in place of use, or change of point of diversion of a water right.
- (16) "Wasteful Use of Ground Water": As defined in OAR 690-008-0001.
- (17) "Water Right Subject to a Transfer": Right established by a court decree or evidenced by a valid water right certificate, or a right for which proof of beneficial use of water under a water right permit or transfer has been submitted to and approved by the Director but for which a certificate has not been issued.

**Statutory/Other Authority:** ORS 540

**Statutes/Other Implemented:** ORS 540

**OAR 690-250-0020    Futile Calls**

- (1) A call for distribution of surface water is futile when a junior appropriator has been denied the use of water and, in the judgement of the watermaster, an inadequate amount of water, or no water, reaches the senior appropriator or minimum flow point or reach or instream water right. Factors for consideration by the watermaster in making such a judgement may include, but are not limited to, the following:
  - a. Soil moisture conditions;
  - b. Temperature;
  - c. Evaporation rate;
  - d. Moisture condition of the stream channel;
  - e. Conveyance characteristics of the stream channel; or
  - f. Previous records that show the conveyance characteristics of the stream.

**Statutory/Other Authority:** ORS 540

**Statutes/Other Implemented:** ORS 540

**OAR 690-250-0030    Appropriator Obligated to Maintain a Functional Point of Diversion**

The watermaster shall have no obligation to increase flows of surface water to reach the elevation of a diversion or to overcome friction losses caused by clogged diversion facilities of the person calling for water. The appropriator shall be responsible for diversion and conveyance of water from the natural source to the place of use.

**Statutory/Other Authority:** ORS 540

**Statutes/Other Implemented:** ORS 540

**OAR 690-250-0040    Protection of Water Involved in a Transfer of Point of Diversion**

The quantity of water available under a right that has been transferred to a new point of diversion is protected only to the extent of the terms of the certificate for that right and the quantity available at the original point of diversion. The quantity of water does not include an allowance for losses or return flows in the stream channel between the original point of diversion and the new point of diversion. Transmission losses incurred in transporting stored water through a natural stream channel shall not be made up from natural flow. The watermaster may deny water to an appropriator using an unauthorized point of diversion.

**Statutory/Other Authority:** ORS 540

**Statutes/Other Implemented:** ORS 540

**OAR 690-250-0050    Controlling Waste and Unlawful Use of Water**

- (1) Unlawful use of water subject to corrective action by watermasters includes, but is not limited to, the following:
  - (a) Irrigating land without a right;
  - (b) Using water for a purpose not authorized in the right;
  - (c) Irrigating land or using water for a purpose with a priority different than the priority under which the water is diverted from the source; or
  - (d) Wasting water.
- (2) If, after oral or written notice to the appropriator to stop unlawful use, the unlawful water use is continued, the watermaster or assistant watermaster may take control of the diversion works or controlling works of a well and reduce the amount of water diverted by the amount being wasted or unlawfully used. If such waste or unlawful use continues, the watermaster may further reduce the amount of water diverted by the amount wasted or unlawfully used, and so on until the unlawful use is eliminated. When taking control of the diversion works or controlling works of a well, the watermaster shall post a notice of control. Any person that interferes with the watermaster's regulation may be prosecuted under ORS 540.710.
- (3) If wasteful use of groundwater is determined to occur, within an individual well, due to the nature of the construction of that well, the watermaster may post a notice of control and achieve compliance pursuant to OAR, division 225 (690-225-0030).

**Statutory/Other Authority:** ORS 540

**Statutes/Other Implemented:** ORS 540

**OAR 690-250-0060      Diversion Works and Measuring Device Installation Notices for Surface Water and Ground Water**

- (1) Water use controlling devices and/or measuring devices shall be required when necessary for regulation or management purposes. When, in the watermaster's judgement, it becomes necessary to require such devices, the watermaster shall use a notice form furnished by the Water Resources Department. For each water use control or measuring device installation, a separate form must be filled out completely for each appropriator and submitted in duplicate to the Director (these notices are not valid unless signed by the Director). The original signed notice shall be returned to the watermaster to be delivered in person with date of delivery entered on each notice. When it is impractical for the watermaster or the appointed representative to deliver the notice in person, it shall be sent by certified mail. The date of delivery shall be the date of mailing.
- (2) All required water use controlling devices and measuring devices shall be approved by the watermaster prior to installation. If the appropriator refuses or neglects to construct and install the required water use control or measuring devices or have an approved construction schedule for such installation after 10 days notice, the watermaster may close the diversion (ORS 540.320) or open the reservoir outlet (ORS 540.330), or regulate the controlling works of a well. The appropriator may request an extension of time from the watermaster and submit another construction schedule.
- (3) If the appropriator fails to meet an approved construction schedule, the watermaster may close the diversion or close the controlling works of the well.

**Statutory/Other Authority:** ORS 540

**Statutes/Other Implemented:** ORS 540

**OAR 690-250-0070      Irrigation Seasons**

- (1) Whenever the dates or times of the year within which an irrigation right may be exercised are not specified in decree, permit, certificate, order or basin program, the watermaster shall recognize the entitlement of the permits and certificates on adjudicated streams to be exercised during the same season as adjudicated rights, and permits and certificates in unadjudicated areas to be exercised between March 1 and October 31.
- (2) When adopting or amending a basin plan, the Commission may designate a different period of use for rights described in section (1) of this rule, after considering soils, climate, topography, crop patterns or other circumstances.

**Statutory/Other Authority:** ORS 540

**Statutes/Other Implemented:** ORS 540

**OAR 690-250-0080 Water Rotations Agreements**

- (1) Appropriators may rotate use of the supply to which they may be collectively entitled. The nature of potential agreements are subject to the limitations in section (3) of this rule.
- (2) An agreement shall identify the duration of the agreement which shall be no less than one irrigation season. The agreement shall not be terminated within an irrigation season, and the rotation agreement shall be signed by all participants and dated. A copy of the agreement shall be filed with the watermaster for the area. Unless the rotation agreement provides otherwise, any member of the agreement may notify the watermaster after the end of the irrigation season, and before the beginning of the next season's use, that they are terminating the agreement.
- (3) A watermaster shall distribute water only under those enforceable agreements that include the provisions of section (2) of this rule. A watermaster shall not implement a rotation agreement that violates existing water statutes, court decrees, instream water rights, minimum flows, other rules of the Commission, or interferes with the rights of any appropriator not a member of such agreement. If distribution of water by the rotation agreement requires substantially more of the watermaster's time than distribution among the relative priorities, then the watermaster may require payment by the appropriators for an assistant watermaster, as described in ORS 540.100.
- (4) The agreement may contain language describing how a call from an appropriator or minimum flow senior to one or more appropriators in the rotation will be honored.

**Statutory/Other Authority:** ORS 540

**Statutes/Other Implemented:** ORS 540

**OAR 690-250-0090 Entry on Private Property**

- (1) ORS 536.037(1)(e) empowers the director to "enter upon any private property in the performance of the duties of the director, doing no unnecessary injury to the private property." The director may delegate authority to a watermaster or any other staff member. Authority to enter private property to inspect wells is granted in ORS 537.780(4).
- (2) Entry as stated above is restricted to open areas and does not include entry into the house or immediate out buildings except with permission. If an owner or occupant refuses permission to enter or threatens physical harm or obstruction of the watermaster's performance of duties, the watermaster may seek a court order or an administrative search warrant with the aid of the district attorney or a police officer. If the owner or occupant refuses permission to enter, the watermaster may regulate a diversion that is not on the property if it is accessible.
- (3) If a watermaster has reason to believe that water is being used illegally, the watermaster may enter private property to inspect, gather evidence, and/or post any unauthorized uses found, if the watermaster restricts entry to open areas. The watermaster may enter open areas of private property if there exists probable cause that the property contains evidence of a violation of the water laws and urgent circumstances justify warrantless entry. If the owner or occupant is present or has been contacted and refuses permission to enter, the watermaster may seek a search warrant or other court order to enter the property.

**Statutory/Other Authority:** ORS 540

**Statutes/Other Implemented:** ORS 540

**OAR 690-250-0100 Regulation of Surface Water**

- (1) The watermaster shall investigate and respond to all complaints of water shortages or unlawful use based on a review of appropriate records and performance of field inspections, as judgement may require. The watermaster's response may be oral or written communication to appropriators involved in the complaint or shortages, or by personal visits by the watermaster or assistant watermaster.
- (2) The watermaster may begin regulation if investigation reveals a valid complaint of water shortage or unlawful use. Water shall be regulated in accordance with the relative rights or rotation agreements of the appropriators involved in the complaint or shortage.

**Statutory/Other Authority:** ORS 540

**Statutes/Other Implemented:** ORS 540

**OAR 690-250-0110 Regulation Ground Water**

- (1) The watermaster shall respond to complaints based on a review of appropriate records and performance of necessary field inspections as judgement may require. The watermaster may request the assistance of a ground water geologist. The watermaster's response may be by oral or written communication to appropriators involved in the complaint or by personal visits by the watermaster or assistant watermaster.
- (2) The watermaster shall distribute the ground water within the affected areas if substantial interference, or substantial thermal interference, is determined. Ground water shall be distributed in accordance with the relative rights or rotation agreements of the appropriators involved in the complaint. The watermaster may request the assistance of a ground water geologist during any phase of ground water distribution.

**Statutory/Other Authority:** ORS 537 & 540

**Statutes/Other Implemented:** ORS 537 & 540

**OAR 690-250-0120 Regulation of Ground Water/Surface Water**

- (1) The watermaster shall respond to complaints based on a review of appropriate records and performance of necessary field inspections as judgement may require. The watermaster may request the assistance of a ground water geologist. The watermaster's response may be by oral or written communication to the ground water and surface appropriators involved in the complaint, or by personal visits by the watermaster or assistant watermaster.
- (2) The watermaster shall distribute the surface water and ground water by relative priority within the affected area if ground water and surface water connection and substantial interference are determined. The watermaster may request the assistance of a ground water geologist during any phase of ground water/surface water distribution.

**Statutory/Other Authority:** ORS 540

**Statutes/Other Implemented:** ORS 540

**OAR 690-250-0130 Regulation of Exempt Groundwater Uses Under ORS 537.545**

- (1) In addition to non-exempt uses, the watermaster may regulate exempt uses of groundwater based on the priority of the exempt uses. The priority date shall be the date the well was completed as shown on the well log.
- (2) If no completion date is shown on the well log or if no well log is available for the well, the owner of the well may provide other documentation that shows when water use began, to establish the date of priority. Examples of such documentation include but are not limited to the following:
  - (a) Copies of building permits for houses served by the well;
  - (b) Records of power use to pump the well; and
  - (c) Affidavits from people stating when water use began.
- (3) If no completion date is shown on the well log or if no well log is available, the Director or Director's designee may interpret the documentation furnished by the well owner or obtained from Department records and determine a priority date. The watermaster shall use the priority date determined to regulate the exempt use.

**Statutory/Other Authority:** ORS 540

**Statutes/Other Implemented:** ORS 540

**OAR 690-250-0140 Special Problem Area Regulation**

The watermaster may prohibit the diversion or use of water by anyone who has failed to comply with a Commission rule or order pursuant to a declaration of a serious water management problem area under ORS 540.435.

**Statutory/Other Authority:** ORS 540

**Statutes/Other Implemented:** ORS 540

**OAR 690-250-0150 Management of Stored Water**

- (1) Water which has been illegally stored is under the complete control of the watermaster. When water has been illegally stored, the watermaster shall notify the owner of the reservoir containing the illegally stored water of how much was illegally stored and how it is to be released. If necessary, the watermaster may take control of the outlet controls to effect the appropriate release. Such release shall be done in a manner which will make the most effective use of the water for downstream uses. Releases recommended by the Oregon Fish and Wildlife Department to prevent damage to fish and wildlife resources may be considered.
- (2) Downstream storage right holders can demand water from upstream storage right holders when the actions of upstream storage right holders, junior in priority, have prevented the fulfillment of the downstream, senior storage rights. When storable water is made available to downstream storage interests, any of the storable water which they fail to store shall be deducted from the amount that could be demanded from the upstream rights holders. While downstream senior rights must be protected, they have a duty to store when it is

available. The senior right holder's failure to do so shall not work to the disadvantage of an upstream junior right. When releases from upstream storage are made, the recommendations of the Department of Fish and Wildlife may be considered to prevent damage to fish and wildlife resources.

- (3) When physical circumstances permit, and when all interests involved agree, the watermaster shall coordinate the storage and release of waters from multiple reservoirs in a manner which results in the most effective use of the storage space available. However, such action shall not deprive any water right holder of water to which the holder would otherwise have been entitled. The purpose of this section is to allow the watermaster to deviate from the storage program dictated by the storage right holders involved when such deviation would result in mutual benefits to all parties, including the public. Such deviations may include water exchanges between consenting storage interests. Releases recommended by the Oregon Fish and Wildlife Department to prevent damage to fish and wildlife resources may be considered.
- (4) Use of legally stored water is governed by the water rights, if any, which call on that source of water. Any legally stored water released in excess of the needs of water rights calling on that source of water shall be considered natural flow, unless such release is part of a water exchange under the approval and control of the watermaster.

**Statutory/Other Authority:** ORS 540

**Statutes/Other Implemented:** ORS 540

**OAR 690-250-0160 Collections Authority**

- (1) The Water Resources Department has collection authority through the provisions of ORS 540.080, 540.100 to 540.135, 540.220 to 540.260, and 540.410.
- (2) The Director may bill for services where authorized by statute. With the exception of ORS 540.410 any billable activity shall be paid in advance by the user before services are rendered.
- (3) When the demand for services exceeds the personnel available to provide the services requested, and county funds do not provide the funding for the assistant watermasters, the appropriators demanding the service may pay the assistant's compensation and expenses. If the users requesting the service pay the compensation and expenses of an assistant watermaster, payment shall be in advance, based on an estimation of the compensation and expenses. If funding is provided, the services may be continued as long as the funding covers the earned compensation and expenses. If no funding is provided, the services requested may be provided by the watermaster or assistant watermaster as time is available.
- (4) Upon a written request for the watermaster to distribute water on a private water delivery system, the watermaster shall prepare an estimate for expenses and compensation to do the distribution. The Director shall require the appropriators requesting the distribution to pay in advance the estimated compensation and expenses. It shall be the responsibility of the appropriators requesting the distribution to proportion the compensation and expenses, as described in ORS 540.100, to the users of the water delivery system.

**Statutory/Other Authority:** ORS 540  
**Statutes/Other Implemented:** ORS 540

**WATER RESOURCES DEPARTMENT  
CHAPTER 690  
DIVISION 260**

**Civil Penalty Assessment For Other Than Well Constructors**

**690-260-0005 Purpose of Rules**

(1) The purpose of these rules is to provide guidance for enforcement and assessment of civil penalties for violations of state water law. Notice requirements, classification of violations, a penalty schedule and a hearing process are described in the rules.

(2) These rules are intended to carry out authority granted to the Commission in ORS 536.900 to 536.935. Except as provided in OAR 690-262-0090, the Commission delegates to the Director the authority to implement the provisions of OAR 690-260. These rules are in addition to civil penalty rules authorized by the 1985 Legislature for violations by well constructors (OAR 690-225).

**Statutory/Other Authority:** ORS 540

**Statutes/Other Implemented:** ORS 540

**History:**

WRD 5-1990, f. & cert. ef. 5-15-90

**690-260-0010 Definitions**

The following definitions apply in OAR 690, division 260.

(1) "Acceptable Schedule" means a compliance schedule that is acknowledged and signed by the Director.

(2) "Agency" means any state board, commission, department or division thereof, or any officer authorized by law to make rules or to issue orders, except those in the legislative and judicial branches of government.

(3) "Beneficial Use" means the reasonably efficient use of water without waste for a purpose consistent with the laws and the best interests of the people of the state.

(4) "Burden of Proof" means the necessity or duty of affirmatively proving a fact or facts in a dispute.

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

(6) "Corrective Action" means actions to be taken by the responsible party, as specified by the Director, to correct violations reflected in a notice of violation or notice of assessment of civil penalty.

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

(8) "Director" means the Director of the Water Resources Department.

(9) “Financial Gain” means the amount of economic gain realized by the responsible party from non-compliance with the state water law from the date specified in a notice of violation until corrective action is taken.

(10) “Hearing” means a contested case hearing as defined in the Oregon Administrative Procedure Act.

(11) “Notice of Assessment of Civil Penalty” means a written notice which includes a reference to the statute, rule, order, permit condition or standard involved; a statement of the matters asserted or charged; the amount of the penalty imposed; and a statement of the right of the person to request a hearing.

(12) “Notice of Violation” means a written notice which includes a reference to the statute, rule, order, permit condition or standard violated; the date of the violation; and the time specified for correction of the violation.

(13) “Person” means any individual, partnership, corporation, association, governmental subdivision or public or private organization of any character other than an agency.

(14) “Responsible Party” means the person or agency that is in control and is either in violation as specified in a notice of violation or who may benefit from that violation.

(15) “Similar Violation” means a violation of a statute, rule, order, permit condition, or standards for which the person or agency has previously received a notice of violation.

(16) “Waste” means for purposes of assessing civil penalties, when the quantity of water diverted exceeds the quantity required to meet the beneficial use specified in a water right, not including reasonable system losses, return flows, or diversion rates of water allowed in a water right or a rotation agreement.

**Statutory/Other Authority:** ORS 540

**Statutes/Other Implemented:** ORS 540

**History:**

WRD 5-1990, f. & cert. ef. 5-15-90

**690-260-0020 Violation Policy**

(1) Upon the Director’s own initiative, or in response to a complaint alleging violation of certain statutes, rules, orders, permit conditions or standards, the Director may investigate to determine if a violation occurred.

(2) If the investigation indicates a violation is occurring, or has occurred, the Director, following appropriate notice, may impose a civil penalty against the responsible party for the violation. The Director bears the burden of proof to establish a violation. Assessment of a civil penalty shall not prevent the Director from taking other regulatory actions permitted by law.

**Statutory/Other Authority:** ORS 540

**Statutes/Other Implemented:** ORS 540

**History:**

WRD 5-1990, f. & cert. ef. 5-15-90

**690-260-0030 Notice of Violation**

The responsible party shall be notified of a violation within 10 business days of confirmation by the Director of the violation. Notice of the violation occurs when the Department has either delivered the notice of violation in person or mailed the notice to the responsible party by certified or registered mail. Notice may be given, if reasonably possible, by personal delivery to the responsible party. The notice shall include the statute, rule, order, permit condition or standard violated; the date the violation occurred; and a specified time for correction. If the violation is not corrected within the time given in the notice, a civil penalty and damages related to enforcement may be imposed.

**Statutory/Other Authority:** ORS 540, Or Laws 2022, ch 52, ORS 183, ORS 536.027, ORS 536.900-536.935, ORS 537.505-537.795 & ORS 537.992

**Statutes/Other Implemented:** ORS 540, Or Laws 2022, ch 52, ORS 536.900-536.935, ORS 537.505-537.795 & ORS 537.992

**History:**

[WRD 5-2023, amend filed 06/22/2023, effective 07/01/2023](#)

WRD 5-1990, f. & cert. ef. 5-15-90

**690-260-0040 Classification of Violations**

(1) Violations are classified as follows:

(a) Class I — Violations of the terms or conditions of a permit, certificate or license issued under ORS 536 to 543; Violation of ORS 537.130 or 537.535; Violation of ORS 540.045, 210, 320, 340, 435, 710, 720; or rules adopted under ORS 540.145;

(b) Class II — Violation of ORS 540.310, 330, and 730;

(c) Class III — Violation of any rule or order of the Water Resources Commission that pertains to well maintenance; violation of ORS 537.545(5); and violation of ORS 540.440.

(2) Violations shall be further divided into major, moderate, and minor categories as follows:

(a) MAJOR is when substantial harm to other water rights, minimum flows, instream water rights, the public health or safety, or other water-based resources is immediate or imminent;

(b) MODERATE is when substantial harm is not immediate or imminent, but could occur if left uncorrected;

(c) MINOR is when no substantial harm is apparent.

**Statutory/Other Authority:** ORS 540, ORS 537.505-537.795, ORS 537.992, ORS 536.027, ORS 536.900-536.935 & ORS 183

**Statutes/Other Implemented:** ORS 540, ORS 537.505-537.795, ORS 537.992 & ORS 536.900-536.935

**History:**

[WRD 5-2023, amend filed 06/22/2023, effective 07/01/2023](#)

WRD 5-1990, f. & cert. ef. 5-15-90

**690-260-0050 Reasonable Time for Correction of Violation**

No civil penalty shall be assessed for a violation if the person or agency causing the violation, corrects the violation within the time given for correction in the notice of violation. Reasonable Time for Correction Guidelines:

(1) Class I:

(a) Major, same day;

(b) Moderate, 2 days;

(c) Minor, 10 days.

(2) Class II:

(a) Major, 5 days;

(b) Moderate, 10 days;

(c) Minor, acceptable correction schedule in 10 days and compliance within limits of schedule.

(3) Class III:

(a) Major, acceptable correction schedule in 5 days and compliance within limits of schedule;

(b) Moderate, acceptable correction schedule in 10 days and compliance within limits of schedule;

(c) Minor, acceptable correction schedule in 30 days and compliance within limits of schedule.

**Statutory/Other Authority:** ORS 540

**History:**

WRD 5-1990, f. & cert. ef. 5-15-90

**690-260-0055 Repeat Violations and Continuing Notice of Violation**

Any similar violation for which the person or agency responsible has received a notice of violation within the last three years is a repeat violation. Such notice shall serve as a continuing notice of the violation. In the case of repeat violations, a civil penalty may be imposed without providing additional time for correction.

**Statutory/Other Authority:** ORS 540

**Statutes/Other Implemented:** ORS 540

**History:**

WRD 5-1990, f. & cert. ef. 5-15-90

**690-260-0060 Notice of Assessment of Civil Penalty**

(1) Persons or agencies who have received a notice of violation, as prescribed in OAR 690-260-0030, and have not corrected the violation within the time specified in the notice or have been previously served a notice for a similar violation may be assessed a civil penalty. A notice of assessment of civil penalty shall be delivered either in person or sent by certified or registered mail to the responsible party.

(2) The notice shall include the following:

(a) A reference to the particular sections of the statute, rule, order, permit condition or standard involved;

(b) A short and plain statement of the matters asserted or charged;

(c) A statement of the amount of the penalty or penalties imposed; and

(d) A statement of the right of the person to request a hearing.

(3) In cases of continuing violations, each occurrence of substantially the same activity and each day's continuance of a violation after the responsible party has been notified is a separate and distinct violation, but not for purposes of the 10 business day notice requirement. A civil penalty may be imposed for each day of violation of ORS 537.130, 537.535, 540.045, 540.310, 540.330, 540.710, 540.720, or 540.730. Such violations include, but are not limited to, the following:

(a) Using water without a water right permit, certificate, order or claim of appropriation;

(b) Failure to maintain a well and well equipment as required in OAR 690, division 215;

(c) Failure to maintain a headgate, valve or measuring device as required by the watermaster;

(d) Failure to install and maintain a measuring device(s) above and/or below a reservoir as required by the watermaster;

(e) Tampering with a headgate following regulation by the watermaster;

(f) Illegal or unauthorized use or storage of water; or

(g) Interfering with the diversion and distribution works of another.

**Statutory/Other Authority:** ORS 540, Or Laws 2022, ch 52, ORS 183, ORS 536.027, ORS 536.900-536.935, ORS 537.505-537.795 & ORS 537.992

**Statutes/Other Implemented:** ORS 540, Or Laws 2022, ch 52, ORS 536.900-536.935, ORS 537.505-537.795 & ORS 537.992

**History:**

[WRD 5-2023, amend filed 06/22/2023, effective 07/01/2023](#)

WRD 5-1990, f. & cert. ef. 5-15-90

**690-260-0070 Schedule of Civil Penalties**

(1) Base penalties shall be determined through the use of the following matrix:

(a) Class I:

(A) Major, \$1000;

(B) Moderate, \$500;

(C) Minor, \$250.

(b) Class II:

(A) Major, \$500;

(B) Moderate, \$250;

(C) Minor, \$125.

(c) Class III:

(A) Major, \$200;

(B) Moderate, \$100;

(C) Minor, \$50.

(2) Penalty Formula:

$$P = BP \times R$$

(The formula may include adjustments as described in OAR 690-260-0080). Where P = Penalty in dollars

(a) BP = Base Penalty in dollars from matrix in section (1) of this rule;

(b) R = Repeat factor from numbers below:

(A) 1st Violation, R = 1;

(B) 2nd similar violation, R = 2;

(C) 3rd similar violation, R = 3;

(D) 4th similar violation, R = 4;

(E) 5th similar violation, R = 5.

**Statutory/Other Authority:** ORS 540

**Statutes/Other Implemented:** ORS 540

**History:**

WRD 5-1990, f. & cert. ef. 5-15-90

**690-260-0080 Adjustments to Schedule of Civil Penalties**

(1) In addition to the repeat factor listed in OAR 690-260-0070(2), the Director shall consider:

(a) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation;

(b) Any prior violations of statutes, rules or orders pertaining to water use;

(c) The economic and financial conditions of the person incurring the penalty, including any financial gains resulting from the violation; and

(d) The immediacy and extent to which the violation threatens other rights to the use of water or the public health or safety or the public interest in the waters of this state. The Director may consider any other relevant factor, when imposing a civil penalty.

(2) If the Director finds that the financial gain of non-compliance exceeds the dollar value of the penalty calculated from the formula, the Director may increase the penalty to equal the financial gain, as long as the increased penalty does not exceed \$5,000 for each violation.

(3) The Director may recommend that the Commission reduce or remit a civil penalty if appropriate and consistent with the protection of the public interest in the waters of this state.

(4) In any contested case proceeding or settlement in which a person or agency receiving a civil penalty has raised economic condition as a reason to reduce the penalty, the person or agency has the burden of proof to provide evidence concerning economic condition.

**Statutory/Other Authority:** ORS 540

**Statutes/Other Implemented:** ORS 540

**History:**

WRD 5-1990, f. & cert. ef. 5-15-90

**690-260-0090 Opportunity for Hearing**

(1) Persons or agencies receiving a notice imposing a civil penalty may request a hearing within 10 days from the date of mailing the notice. Notice may be served personally or by mail. In the case of service by mail, the date of mailing shall serve as the notice date. The request for hearing shall be considered made on the date that the request is postmarked.

(2) The Commission delegates to the Director the authority to schedule and conduct a contested hearing if one is requested. The Director may issue a proposed order following the hearing. If no

exceptions are filed, the proposed order becomes final. If exceptions are filed to the proposed order, the Commission shall issue the final decision.

(3) The Director may recommend that the Commission reduce or remit the amount of the penalty if evidence, or negotiations presented in preparation for the hearing, indicates that the amount of the penalty was inappropriate. The following factors may be considered when reducing or remitting a civil penalty:

- (a) History of similar violations;
- (b) Willingness to comply;
- (c) impact on other water rights;
- (d) Economic gain resulting from the violation;
- (e) Financial ability of the violator to pay the penalty; and
- (f) Incorrect identification of the responsible party.

**Statutory/Other Authority:** ORS 540

**Statutes/Other Implemented:** ORS 540

**History:**

WRD 5-1990, f. & cert. ef. 5-15-90

**690-260-0100 Liability for Damages Related to Enforcement**

(1) Persons or agencies who have been ordered to take correction action by the Water Resources Commission, and who fail to do so without sufficient cause, are liable for damages. The calculation of damages may include all expenses incurred by the Department after the time for corrective action specified in the notice of violation has passed, that are the result of the person's or agency's failure to act. The damages shall not exceed the amount of all expenses incurred by the Water Resources Department in carrying out enforcement duties related to the corrective action. Damages are in addition to the civil penalties assessed for violations.

(2) As used in this rule, "sufficient cause" includes, but is not limited to, the following:

- (a) Failure of notice to be given to the appropriate person or agency through no fault of the person or agency; and
- (b) Failure to take the corrective action because of conditions or circumstances outside the control of the person or agency.

(3) As used in this rule, "all expenses" include, but are not limited to, the following:

- (a) That portion of the salaries and other personnel expenses of the watermaster, assistant watermaster, other Department employee, or fees or legal advisors for time spent on enforcement duties related to corrective action;

(b) The travel and equipment costs of the watermaster, assistant watermaster, other Department employee or legal advisor spent on enforcement duties directly related to corrective action;

(c) The court costs of the Department spent on enforcement duties related to correction action;  
and

(d) The notice, publishing, copying or other supplies and miscellaneous costs of the Department spent on enforcement duties related to corrective action.

(4) Notices of assessment of damages may be included with the notice of assessment of civil penalty, or be issued at any time after the time for correction has elapsed. A notice of assessment of damages shall be served in person or mailed to the person or agency who is liable for damages. The notice shall include the following:

(a) A reference to the statute, rule, order, permit condition or standard involved in the corrective action;

(b) A short and plain statement of the matters asserted or charged;

(c) A statement of the amount of the damages imposed; and

(d) A statement of the right of the person or agency to request a hearing.

**Statutory/Other Authority:** ORS 540

**Statutes/Other Implemented:** ORS 540

**History:**

WRD 5-1990, f. & cert. ef. 5-15-90

**690-260-0110 Notice of Violation to Water Providing Organizations**

(1) When a member of a water providing organization is notified of a violation, a duplicate notice of violation shall be served in person or by registered or certified mail on the organization.

(2) The purpose of notification to the organization is to encourage the organization to assist in obtaining compliance from the individual member.

**Statutory/Other Authority:** ORS 540

**Statutes/Other Implemented:** ORS 540

**History:**

WRD 5-1990, f. & cert. ef. 5-15-90

**WATER RESOURCES DEPARTMENT  
CHAPTER 690  
DIVISION 340  
Water Use Authorizations**

**690-340-0010 Exempt Uses**

The uses of water listed below do not require a water right permit under ORS 537.211 or a water right certificate under 537.250:

(1) The statutory exemptions from permit requirements for use of groundwater include watering any lawn or noncommercial garden not exceeding 1/2 acre in area. Not more than 1/2 acre of lawn and noncommercial garden in total area may be irrigated through a group delivery system under such exemption. The statutory exemptions from permit and certificate requirements for use of groundwater include:

(a) Stockwater use;

(b) Lawn or non-commercial garden watering of not more than 1/2 acre in total can be irrigated from any groundwater source under the exemptions listed in ORS 537.545(1)(b);

(c) Single or group domestic water uses of no more than 15,000 gallons per day;

(d) Industrial or commercial water uses not exceeding 5,000 gallons per day based on peak daily use. A commercial or industrial operation shall be allowed only one well system and exemption under ORS 537.545(1)(f) on each ownership or tax lot, whichever is larger.

(2) The statutory exemptions from permit and certificate requirements for use of surface water include:

(a) Use of waste, spring or seepage waters which are exempt under ORS 537.800;

(b) Water used for egg incubation projects under the Salmon and Trout Enhancement Program (STEP);

(c) Fish screens, fishways and fish by-pass structures. A fish screen, fish way or fish by-pass structure is an exempt use if it either:

(A) Is part of a hydroelectric project permitted or licensed by the Department; or

(B) Is found to not be harmful to fish or wildlife after consultation with the Oregon Department of Fish and Wildlife and causes no injury to existing water rights.

(d) Water uses that divert water to water tanks or troughs from a reservoir for a use allowed under an existing water permit or certificate for the reservoir;

(e) Reservoirs that store less than 9.2 acre feet of water or with a dam less than 10 feet in height; that are located off-channel and outside the immediate riparian area; that do not divert water

directly from a natural stream, lake or other on-channel source; that were constructed before January 1, 1993; and for which a written notice is submitted under section (4) of this rule.

(3) Water used for emergency firefighting is exempt from permit and certificate requirements regardless of the source of water.

(4) To qualify as an exempt water use under subsection (2)(e) of this rule, the landowner shall provide written notice of the use to the Department on or before January 1, 1995. Such notice shall be on a form provided by the Department and signed and verified by the owner of the land or the owner's authorized agent upon which the reservoir is located. The notice shall include the following:

(a) The volume of water stored;

(b) The source of the water used to fill the reservoir;

(c) The height of the dam measured at its highest point above natural ground elevation;

(d) A U.S. Geological Survey topographic map or a tax lot map showing the location of the reservoir;

(e) Evidence that the reservoir existed on or before January 1, 1993 as described in OAR 690-340-0020; and

(f) A statement describing the off-channel nature of the reservoir.

(5) The Commission may require other information from the landowner regarding an exempt use including, but not limited to, estimates of the quantity of water used; diversion location; place of use; or photographs showing the scale of the project and the immediate area above, below and surrounding a reservoir.

**Statutory/Other Authority:** ORS 536.027, 595 & 654

**Statutes/Other Implemented:** ORS 537.141

**History:**

WRD 1-1996, f. & cert. ef. 1-31-96, Renumbered from 690-011-0014

WRD 5-1994, f. & cert. ef. 4-13-94

**WATER RESOURCES DEPARTMENT  
CHAPTER 690  
DIVISION 300  
Definitions**

**690-300-0010 Definitions**

The following definitions apply in OAR chapter 690, divisions 310, 320, 330, 340, 350, 380, 382, and 385 and to any permits, certificates, limited licenses, or transfers issued under these rules:

- (1) "Affected Local Government" means any local government as defined in OAR 690-005-0015 within whose jurisdiction water is or would be diverted, conveyed, or used under a proposed or approved permit, water right transfer, or certificate.
- (2) "Agricultural Water Use" means the use of water related to the production of agricultural products. These uses include, but are not limited to, construction, operation and maintenance of agricultural facilities and livestock sanitation at farms, ranches, dairies and nurseries. Examples of these uses include, but are not limited to, dust control, temperature control, animal waste management, barn or farm sanitation, dairy operation, and fire control. Such use shall not include irrigation.
- (3) "Aquatic Life Water Use" means the use of water to support natural or artificial propagation and sustenance of fish and other aquatic life.
- (4) "Artificial Groundwater Recharge" means the intentional addition of water to a groundwater reservoir by diversion from another source.
- (5) "Beneficial Use" means the reasonably efficient use of water without waste for a purpose consistent with the laws, rules and the best interests of the people of the state.
- (6) "Commercial Water Use" means use of water related to the production, sale or delivery of goods, services or commodities by a public or private entity. These uses include, but are not limited to, construction, operation and maintenance of commercial facilities. Examples of commercial facilities include, but are not limited to, an office, resort, recreational facility, motel, hotel, gas station, kennel, store, medical facility, and veterinary hospital. Examples of water uses in such facilities include, but are not limited to, human consumption, sanitation, food processing, and fire protection. Such uses shall not include irrigation or landscape maintenance of more than 1/2 acre. Notwithstanding this definition, exempt commercial water use under Division 340 does not include irrigation or landscape maintenance.
- (7) "Comment" means a written statement concerning a particular proposed water use. The comment may identify elements of the application which, in the opinion of the commenter, would conflict with an existing water right or would impair or be detrimental to the public interest.
- (8) "Commission" means the Water Resources Commission.

(9) "Contested Case" means a hearing before the Department or Commission as defined in ORS 183.310(2) and conducted according to the procedures described in ORS 183.413 - 183.497, Or Laws 2025, ch 575, and OAR chapter 690, division 2.

(10) "Cranberry Use" means all necessary beneficial uses of water for growing, protecting and harvesting cranberries. Examples of these uses include, but are not limited to, irrigation of cranberries or other crops in rotation, chemical application, flooding for harvesting or pest control, and temperature control.

(11) "Deficiency of Rate Right" means an additional right allowed from the same source for the same use at the same place of use when an earlier right does not allow a full duty or rate of flow of water.

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

(13) "Director" means the Director of the Department.

(14) "Domestic Water Use" means the use of water for human consumption, household purposes, domestic animal consumption that is ancillary to residential use of the property or related accessory uses.

(15) "Domestic Use Expanded" means the use of water, in addition to that allowed for domestic use, for watering up to 1/2-acre of lawn or noncommercial garden.

(16) "Drainage Basin", as used in OAR 690-340-0020, 690-340-0030 and 690-340-0050, means hydrologic unit delineated as a cataloging unit by the U.S. Geological Survey Office of Water Data Coordination on the State Hydrologic Unit map.

(17) "Fire Protection Water Use" means the use and storage of water for the purpose of extinguishing fires or reducing the potential outbreak of fires.

(18) "Fish Bypass Structure", as used in OAR 690-340-0010, means any pipe, flume, open channel or other means of conveyance that transports fish that have entered a water diversion structure back to the body of water from which the fish were diverted.

(19) "Fish Screen", as used in OAR 690-340-0010, means a screen, bar, rack trap or other barrier at a water diversion to entrap or provide adequate protection for fish populations, including related improvements necessary to ensure its effective operation.

(20) "Fishway," as used in OAR 690-340-0010, means any structure, facility or device used to facilitate upstream or downstream passage of fish through, over or around any man-made or natural barrier to free movement.

(21) "Forestland and Rangeland Management," as used in Chapter 595, Oregon Laws 1993, means water used for operations conducted on or pertaining to forestlands and rangelands. Such uses may include, but are not limited to, reforestation, road construction and maintenance, harvesting, vegetation management, and disposal of slash. Such use shall not include irrigation.

(22) "Groundwater Reservoir" means a designated body of standing or moving groundwater as defined in ORS 537.515(5).

(23) "Group Domestic Water Use" means the use of water for domestic water use by more than one residence or dwelling unit.

(24) "Human Consumption" means the use of water for the purposes of drinking, cooking, and sanitation.

(25) "Industrial Water Use" means the use of water associated with the processing or manufacture of a product. These uses include, but are not limited to, construction, operation and maintenance of an industrial site, facilities and buildings and related uses. Examples of these uses include, but are not limited to, general construction; road construction; non-hydroelectric power production, including down-hole heat exchange and geothermal; agricultural or forest product processing; and fire protection. Such use shall not include irrigation or landscape maintenance of more than 1/2 acre. Notwithstanding this definition, exempt industrial water use under Division 340 does not include irrigation or landscape maintenance.

(26) "Irrigation" means the artificial application of water to crops or plants by controlled means to promote growth or nourish crops or plants. Examples of these uses include, but are not limited to, watering of an agricultural crop, commercial garden, tree farm, orchard, park, golf course, play field or vineyard and alkali abatement.

(27) "Mining Water Use" means the use of water for extraction, preliminary grading, or processing of minerals or aggregate at a mining site or construction, operation and maintenance of a mining site. These uses include, but are not limited to, general construction, road construction, and dust control. Examples of mining include, but are not limited to, aggregate, hard rock, heap leach and placer mining.

(28) "Municipal Corporation" means any county, city, town or district as defined in ORS 198.010 or 198.180(5) that is authorized by law to supply water for usual and ordinary municipal water uses.

(29) "Municipal Water Use" means the delivery and use of water through the water service system of a municipal corporation for all water uses usual and ordinary to such systems. Examples of these water uses shall include but are not limited to domestic water use, irrigation of lawns and gardens, commercial water use, industrial water use, fire protection, irrigation and other water uses in park and recreation facilities, and street washing. Such uses shall not include generation of hydroelectric power.

(30) "Nursery Operations Use" means the use of water for operation of a commercial nursery which may include temperature control, watering of containerized stock, soil preparation, application of chemicals or fertilizers, watering within greenhouses and uses to construct, operate and maintain nursery facilities. The use of water within plant nursery operations constitutes a different use from field irrigation, although that may be a part of nursery use. If used for field irrigation for nursery stock, such use is not restricted to the defined agricultural irrigation season.

(31) "Off-Channel" means outside a natural waterway of perceptible extent which, during average water years, seasonally or continuously contains moving water that flows off the property owned by the applicant and has a definite bed and banks which serve to confine the water. "Off-channel" may include the collection of storm water run-off, snow melt or seepage which, during average water years, does not flow through a defined channel and does not flow off the property owned by the applicant.

(32) "Planned" means a determination has been made for a specific course of action either by a legislative, administrative or budgetary action of a public body, or by engineering, design work, or other investment toward approved construction by both the public or private sector.

(33) "Pollution Abatement or Pollution Prevention Water Use" means the use of water to dilute, transport or prevent pollution.

(34) "Power Development Water Use" means the use of the flow of water to develop electrical or mechanical power. Examples of these uses include, but are not limited to, the use of water for the operation of a hydraulic ram or water wheel and hydroelectric power production.

(35) "Primary Right" means the right to store water in a reservoir or the water right designated by the commission as the principal water supply for the authorized use, or if no designation has been made, the first in time or initial appropriation.

(36) "Proposed Certificate" means a draft version of a water right certificate describing the elements and extent of the water right developed under the terms of a permit or transfer approval order.

(37) "Protest" has the same meaning as provided in OAR 690-002-0010.

(38) "Public Corporation" means a corporation which operates subject to control by a local government entity or officers of a local government and which, at least in part, is organized to serve a public purpose of, and receives public funds or other support having monetary value, from such government.

(39) "Quasi-Municipal Water Use" means the delivery and use of water through the water service system of a corporation other than a public corporation created for the purpose of operating a water supply system, for those uses usual and ordinary to municipal water use, or a federally recognized Indian tribe that operates a water supply system for uses usual and ordinary to a municipal water use. A quasi-municipal water right shall not be granted the statutory municipal preferences given to a municipality under ORS 537.190(2), 537.230(1), 537.352, 537.410(2), 540.510(3), 540.610(2), (3), or those preferences over minimum streamflows designated in a basin program.

(40) "Rate and Duty of Water for Irrigation" means the maximum flow of water in cubic feet per second or gallons per minute (instantaneous rate) and the total volume of water in acre-feet per acre per year that may be diverted for irrigation.

(41) "Recharge Permit" means a permit for the appropriation of water for the purpose of artificial groundwater recharge.

(42) "Recreation Water Use" means the use of water for play, relaxation or amusement. Examples of these uses include, but are not limited to boating, fishing, wading, swimming, and scenic values.

(43) "Riparian Area" means a zone of transition from an aquatic ecosystem to a terrestrial ecosystem, dependent upon surface or subsurface water, that reveals through the zone's existing or potential soil-vegetation complex, the influence of such surface or subsurface water. A riparian area may be located adjacent to a lake, reservoir, estuary, pothole, spring, bog, wet meadow, or ephemeral, intermittent or perennial stream.

(44) "Secondary Groundwater Permit" means a permit for the appropriation of groundwater which was stored through the exercise of a recharge permit or certificate.

(45) "Stockwater Use" means the use of water for consumption by domesticated animals or wild animals held in captivity as pets or for profit.

(46) "Storage" means the retention or impoundment of surface water or groundwater by artificial means for public or private uses and benefits.

(47) "Stored Recharge Water" means groundwater which results from artificial groundwater recharge.

(48) "Storage Account" means a net volume of artificially recharged groundwater which is calculated for a single recharge activity from a formula specified in a single recharge permit which records additions to a groundwater reservoir by artificial recharge and depletions from a groundwater reservoir by pumping and natural losses.

(49) "Storm Water Management Water Use" means the use or storage of water in any structure or drainage way that is designed, constructed and maintained to collect and filter, retain or detain surface water runoff during and after a storm event for the purpose of water quality improvement, flood control or property protection. It may also include, but is not limited to, existing features such as wetlands, water quality swales, and ponds which are maintained as storm water quality facilities.

(50) "Stream or Riparian Area Enhancement Water Use" means the use of water to restore or enhance a stream or riparian area.

(51) "Supplemental Water Right or Supplemental Water Use Permit" means an additional appropriation of water to make up a deficiency in supply from an existing water right. A supplemental water right is used in conjunction with a primary water right.

(52) "Surplus Waters" means all waters in excess of those needed to satisfy current existing rights and minimum streamflows established by the Commission.

(53) "Temperature Control" means the use of water to protect a growing crop from damage from extreme temperatures.

(54) "Transfer" means a change of use or place of use or point of diversion of a water right.

(55) "Wastewater" means water that has been diverted under an authorized water right after it is beyond the control of the owner of that right but has not yet returned to the channel of a natural stream. In an irrigation district, the wastewater of an individual user is not subject to appropriation until it leaves the boundaries of the district. Wastewater abandoned to the channel of a natural stream becomes a part of that stream and is subject to appropriation.

(56) "Water is Available," when used in OAR 690-310-0080, 690-310-0110, 690-310-0130, and 690-410-0070 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 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.

(c) The proposed groundwater source exhibits Reasonably Stable Groundwater Levels, as defined in OAR 690-008-0001; and

(d) The total requested rate of groundwater allocation is obtainable by the expected yield of the well(s) proposed in the application given best available information; and

(e) The proposed groundwater use does not have the Potential for Substantial Interference (OAR 690-009-0020(5)) with a surface water source that:

(A) is already over-appropriated during any period of the year; or

(B) is administratively or statutorily withdrawn; or

(C) is restrictively classified in an applicable basin program rule; or

(D) is the source for one or more existing surface water rights that have been regulated off due to insufficient supply to satisfy senior surface water rights; or

(E) is subject to a rotation agreement among existing surface water right holders to address limited surface water supplies; or

(F) has a minimum perennial streamflow or instream water right that is unmet during any period of the year.

(57) "Water Availability Analysis" means the investigation of stream flow or groundwater measurement records, watermaster distribution records, flow requirements of existing water rights, stream flow modeling in ungauged basins, minimum perennial streamflows, or scenic waterway flow requirements to determine if water is available to support the proposed water use.

(58) "Water use subject to transfer" means a water use established by:

(a) An adjudication under ORS chapter 539 as evidenced by court decree;

(b) A water right certificate;

(c) A water use permit for which a request for issuance of a water right certificate under ORS 537.250 has been received and approved by the Commission under ORS 537.250; or

(d) A transfer application for which an order approving the change has been issued under ORS 540.530 and for which proper proof of completion of the change has been filed with the Commission.

(59) "Wetland" means an area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

(60) "Wetland Enhancement Water Use" means the use of water to restore, create, or enhance or maintain wetland resources.

(61) "Wildlife Water Use" means the use of water by or for sustaining wildlife species and their habitat.

**Statutory/Other Authority:** ORS 536.027, ORS 537.505-537.795 & ORS 537.992

**Statutes/Other Implemented:** ORS 536, ORS 537, ORS 539, ORS 540, ORS 541, ORS 183, ORS 198 & Or Laws 2025, ch 575

**History:**

[WRD 3-2026, amend filed 03/20/2026, effective 04/01/2026](#)

[WRD 5-2024, amend filed 09/17/2024, effective 09/17/2024](#)

[WRD 1-2012, f 1-31-12, cert. ef. 2-1-12](#)

WRD 2-1998, f. & cert. ef. 10-13-98

WRD 3-1996, f. & cert. ef. 3-15-96

WRD 1-1996, f. & cert. ef. 1-31-96, Renumbered from 690-011-0010

WRD 5-1995(Temp), f. & cert. ef. 8-4-95

WRD 7-1994, f. & cert. ef. 6-14-94

WRD 5-1994, f. & cert. ef. 4-13-94  
WRD 6-1993, f. & cert. ef. 11-30-93  
WRD 4-1993, f. & cert. ef. 10-7-93  
WRD 9-1992, f. & cert. ef. 7-1-92  
WRD 16-1990, f. & cert. ef. 8-23-90  
WRD 12-1990, f. & cert. ef. 8-8-90  
WRD 5-1988, f. & cert. ef. 6-28-88  
WRD 6-1987, f. & ef. 6-11-87

**Enrolled  
House Bill 2010**

Sponsored by Representatives HELM, OWENS, Senators LIEBER, DEMBROW; Representatives GAMBIA, KRÖPF, LEVY B, LEVY E, NELSON, RUIZ, WALTERS, Senators FINDLEY, HANSELL

CHAPTER .....

AN ACT

Relating to water; creating new provisions; amending ORS 536.220, 537.767, 537.797, 537.798 and 541.669; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** (1) As used in this section, “water supplier” and “water system” have the meanings given those terms in ORS 448.115.

(2) The Oregon Watershed Enhancement Board shall establish a program to provide grants to water suppliers to protect, restore or enhance sources of drinking water.

(3) Grants awarded under this section shall be used by a grant recipient for:

(a) Acquiring lands from willing sellers where the protection, restoration or enhancement of those lands will benefit a source of drinking water used by the water supplier;

(b) Entering into covenants, easements or similar agreements to protect, restore or enhance lands described in paragraph (a) of this subsection; or

(c) Repaying a loan used to finance a project to protect, restore or enhance lands consistent with paragraph (a) or (b) of this subsection.

(4)(a) Grants awarded under this section may not exceed \$3,000,000.

(b) The board shall award grants under this section on a rolling basis.

(5) For purposes of obtaining a grant under this section, a water supplier may form a partnership with a holder, as defined in ORS 271.715, other than a state agency. The board may establish by rule requirements for partnerships formed pursuant to this subsection.

(6) Applications for a grant under this section shall be made in the form and manner prescribed by the board. An application must demonstrate that the project will protect, restore or enhance a source of drinking water, and must be supported by evidence. The board shall review completed grant applications, rank grant applications based on criteria established by the board by rule under subsection (7) of this section and approve or deny the applications. If the board denies a grant application, the board shall notify the applicant in writing of the reason or reasons that the grant application was denied.

(7) The board shall adopt rules for the administration of the grant program established under this section. Rules adopted under this subsection may include, but need not be limited to:

- (a) Eligibility criteria for water suppliers, including but not limited to:
  - (A) Eligible water system types; and

(B) Requirements that eligible water suppliers serve rural communities, communities experiencing lower incomes or communities that are at or below a specified population level;

(b) Requirements for grant applications and the grant application process;

(c) Criteria for ranking grant applications;

(d) Requirements setting forth the amount of matching funds a grant applicant must provide to be eligible to receive a grant;

(e) A schedule for when grant applications are due and grants will be awarded; or

(f) Provisions setting forth how the board will verify that grant funds have been used for the purposes for which the grant was awarded, including but not limited to:

(A) Provisions requiring status reports or other verification measures that ensure that the terms and conditions of any agreement between the board and the grant recipient are being performed;

(B) Provisions describing methods of protecting, enhancing or restoring sources of drinking water; and

(C) Provisions requiring the development of a long-term management plan for acquired lands.

(8)(a) A grant recipient is responsible for fulfilling the terms and conditions of any agreement:

(A) Between the grant recipient and the board; and

(B) Between the grant recipient and a landowner, or other person, necessary for the grant recipient to carry out the project for which a grant has been awarded.

(b) The board is not liable to any person for the failure of a grant recipient to fulfill the terms or conditions of any agreement between the person and the grant recipient.

**SECTION 2.** No later than April 1 of each even-numbered year, the Oregon Watershed Enhancement Board shall submit a report, in the manner provided by ORS 192.254, to the interim committees of the Legislative Assembly related to water. The report shall describe the performance of the grant program established under section 1 of this 2023 Act. The report must include, but need not be limited to:

(1) Each grant awarded under the program since the last report;

(2) The types and amounts of resources leveraged by grant moneys;

(3) A description of projects currently in development;

(4) An estimate of future project demand; and

(5) Recommendations, if any, for changes to the design, scope or administration of the program to better fulfill the purposes of section 1 of this 2023 Act.

**SECTION 3.** Notwithstanding section 2 of this 2023 Act, the Oregon Watershed Enhancement Board shall first submit a report under section 2 of this 2023 Act no later than April 1, 2025.

**SECTION 4.** The Community Drinking Water Enhancement and Protection Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Community Drinking Water Enhancement and Protection Fund shall be credited to the fund. The fund shall consist of all moneys credited to the fund, including moneys appropriated or transferred to the fund by the Legislative Assembly. Moneys in the fund are continuously appropriated to the Oregon Watershed Enhancement Board for the purpose of carrying out section 1 of this 2023 Act.

**SECTION 5.** ORS 537.767 is amended to read:

537.767. (1) As used in this section, "repair" may include, but is not limited to, a well deepening.

(2) Moneys in the Water Well Abandonment, Repair and Replacement Fund may be disbursed under authority of the Water Resources Director for the purposes described in this section. The Water Resources Department may disburse moneys from the fund to provide financial assistance:

(a) To a person, as defined in ORS 536.007, or member of a federally recognized Indian tribe in Oregon to permanently abandon a water well or to repair or replace a water well that is used for household purposes;

(b) To nonprofit, governmental or other institutions that meet qualifications established by Water Resources Commission rules, for programs to permanently abandon water wells and to repair or replace water wells used for household purposes;

(c) As cost-sharing with other programs to permanently abandon water wells and to repair or replace water wells used for household purposes; or

(d) To pay the cost of direct services of a water well constructor licensed under ORS 537.747 to purchase necessary materials and perform the work needed for abandoning, repairing or replacing water wells that are eligible under this section.

(3) Except as provided in subsection (4) of this section, financial assistance provided under subsection (2) of this section may not exceed:

(a) 75 percent of the cost to permanently abandon a water well;

(b) 75 percent of the cost to repair or to replace a water well used for household purposes; or

(c) 50 percent of the cost of developing a program to permanently abandon, repair or replace water wells, when paid to an institution described in subsection (2)(b) of this section.

(4) Notwithstanding subsection (3) of this section, financial assistance provided under subsection (2) of this section to an individual with lower income, as defined by the department, may cover the full cost of the materials or work described in subsection (2) of this section.

(5) An expenditure from the fund is subject to at least one of the following purposes:

(a) The permanent abandonment, repair or replacement of water wells in which deficiencies in the well construction might:

(A) Result in waste, loss of artesian pressure or ground water declines;

(B) Serve as a conduit for contamination; or

(C) Otherwise be a detriment to public health or safety.

(b) The repair or replacement of water wells used for household purposes by persons of lower or moderate income.

(c) The replacement of water wells used for household purposes in areas of declining ground water levels where other sources of water for household purposes are not feasible.

(d) The abandonment, repair or replacement of water wells consistent with water resources management purposes specified by rule by the commission.

(e) The abandonment, repair or replacement of water wells damaged due to natural disasters.

**(f) The abandonment, repair or replacement of water wells used for household purposes in areas of ground water contamination, if contaminant levels in the water from the water wells exceed levels permitted under drinking water standards.**

(6) If the department provides funding to an institution under subsection (2)(b) of this section, the department shall require that the institution:

(a) Use accounting, auditing and fiscal procedures that conform with generally accepted government accounting standards;

(b) Give preference to persons of lower or moderate income and to small businesses that do not qualify for other financing;

(c) Demonstrate past success in offering, underwriting, servicing and managing loans or grants to:

(A) Persons of lower or moderate income; or

(B) Persons representing a wide range of qualifications for credit; and

(d) Have a plan for engaging other stakeholders in outreach and marketing efforts for a loan or grant program.

(7) The department:

**(a) Shall consult with the Department of Environmental Quality and the Oregon Health Authority to establish criteria related to identifying areas of ground water contamination and assessing contaminant levels when evaluating applications under subsection (5)(f) of this section.**

(b) May deny applications for financial assistance under this section that are not likely to result in the improvement of ground water quality or the meeting of drinking water standards.

(c) May enter into contracts, intergovernmental agreements or other arrangements with public or private entities for any purposes consistent with this section.

(8) The commission may adopt rules to implement this section, including rules that:

(a) Prioritize the issuance of the funding for a purpose described in subsection (5) of this section.

(b) Establish a preference for providing the funding to individuals of moderate or lower income.

(c) Establish that the funding may only be provided to individuals of moderate or lower income.

**SECTION 6. (1) On or before January 15, 2024, the Legislative Policy and Research Director, or a designee of the director, shall prepare and submit a report to a committee or interim committee of the Legislative Assembly related to water on:**

(a) Processes and outcomes in Oregon related to recent federal funding opportunities to assist low-income drinking water, wastewater and stormwater ratepayers.

(b) Approaches and funding sources for an ongoing statewide assistance program for low-income drinking water, wastewater and stormwater ratepayers.

(c) Approaches and funding sources to help low-income individuals and households finance the replacement or repair of private residential drinking water and sewer infrastructure.

(d) Opportunities to leverage federal funds for the purposes described in paragraphs (b) and (c) of this subsection.

(2) In preparing the report, the director, or the designee of the director, shall consult with individuals and entities with relevant knowledge from diverse geographies and perspectives, such as:

(a) Municipally and privately owned or operated drinking water and wastewater utility providers of various sizes.

(b) Organizations with experience in providing technical assistance to water and wastewater utilities.

(c) Organizations with experience in rate assistance or support for low-income drinking water, wastewater or stormwater ratepayers.

(d) Organizations representing cities, counties and special districts.

(3) All state agencies shall assist and advise as requested by the director, or the designee of the director, in order to undertake the duties described in subsections (1) and (2) of this section.

**SECTION 7. On or before October 1, 2024, the Water Resources Department shall develop, and provide to a committee or interim committee of the Legislative Assembly related to water, an updated scope and estimated cost and timeline for implementing the 1998 Stewardship and Supply Initiative and a proposed approach to sequencing development of river basin assessment reports.**

**SECTION 8. (1) Oregon Consensus at Portland State University and Oregon State University shall establish a collaborative process for:**

(a) Developing a shared understanding of water management in the Chewaucan River watershed; and

(b) Identifying broadly supported actions related to the Chewaucan River watershed that will strive to:

(A) Meet water needs, including needs for agricultural operations, communities, Lake Abert, wet meadows and fish and wildlife;

(B) Address the ecological health of Lake Abert and the entire Chewaucan River watershed; and

(C) Consider social, economic and environmental benefits and impacts.

(2) The process must be guided by a governance agreement that describes conditions for participation, the scope of the collaborative process, how decisions will be made and how the process will:

(a) Be developed by a collaborative group that represents a balance of interests, including but not limited to interests in in-stream and out-of-stream water;

(b) Address current and future in-stream and out-of-stream water needs;

(c) Promote contemplation of actions that are consistent with the state water resources policy as defined in ORS 536.007 and water-related state laws that are in effect on the effective date of this 2023 Act;

(d) Be developed through an open and transparent process that fosters public participation; and

(e) Be developed in consultation with the Department of Environmental Quality, the State Department of Fish and Wildlife, the Water Resources Department and affected federally recognized Indian tribes.

(3) The process may not delay or preclude the activities of agencies, including activities such as applying for in-stream water rights, regulating water use, managing water rights, collecting water-related data and performing technical analyses.

(4) The process may not interfere with water appropriations granted on or before the effective date of this 2023 Act for privately held surface and ground water rights to use water from the Chewaucan River watershed and the tributaries of the watershed.

(5) The process may not delay or preclude the activities of private landowners, including activities such as applying for new water rights, for water right transfer, for changes in points of diversion or appropriation or for irrigation uses, or any other activities allowed under water-related state laws.

**SECTION 9.** Section 8 of this 2023 Act is repealed on June 30, 2025.

**SECTION 10.** ORS 536.220 is amended to read:

536.220. (1) The Legislative Assembly recognizes and declares that:

(a) The maintenance of the present level of the economic and general welfare of the people of this state and the future growth and development of this state for the increased economic and general welfare of the people thereof are in large part dependent upon a proper utilization and control of the water resources of this state, and such use and control is therefore a matter of greatest concern and highest priority.

(b) A proper utilization and control of the water resources of this state can be achieved only through a coordinated, integrated state water resources policy, through plans and programs for the development of such water resources and through other activities designed to encourage, promote and secure the maximum beneficial use and control of such water resources, all carried out by a single state agency.

(c) The economic and general welfare of the people of this state have been seriously impaired and are in danger of further impairment by the exercise of some single-purpose power or influence over the water resources of this state or portions thereof by each of a large number of public authorities, and by an equally large number of legislative declarations by statute of single-purpose policies with regard to such water resources, resulting in friction and duplication of activity among such public authorities, in confusion as to what is primary and what is secondary beneficial use or control of such water resources and in a consequent failure to utilize and control such water resources for multiple purposes for the maximum beneficial use and control possible and necessary.

(2) The Legislative Assembly, therefore, finds that:

(a) It is in the interest of the public welfare that a coordinated, integrated state water resources policy be formulated and means provided for its enforcement, that plans and programs for the development and enlargement of the water resources of this state be devised and promoted and that other activities designed to encourage, promote and secure the maximum beneficial use and control of such water resources and the development of additional water supplies be carried out by a single state agency that, in carrying out its functions, shall give proper and adequate consideration to the

multiple aspects of the beneficial use and control of such water resources with an impartiality of interest except that designed to best protect and promote the public welfare generally.

(b) The state water resources policy shall be consistent with the goal set forth in ORS 468B.155.

(3)(a) The Water Resources Department shall develop an integrated state water resources strategy to implement the state water resources policy specified in subsection (2) of this section. The department shall design the strategy to meet Oregon's in-stream and out-of-stream water needs.

(b) (4) The Water Resources Department shall work in close cooperation with the Department of Environmental Quality, **the Oregon Watershed Enhancement Board, the State Department of Agriculture** and the State Department of Fish and Wildlife to develop the integrated state water resources strategy, in consultation with other state, local and federal agencies, with other states, with Indian tribes, with stakeholders and with the public.

(c) (5) The Water Resources Department, in close cooperation with the Department of Environmental Quality, **the State Department of Agriculture** and the State Department of Fish and Wildlife, shall develop data on an ongoing basis to forecast Oregon's in-stream and out-of-stream water needs, including but not limited to in-stream, *[underground]* **ground** water, human consumption, **irrigated agriculture** and water supply needs, for the purpose of developing and updating the integrated state water resources strategy.

(d) (6) The integrated state water resources strategy shall describe *[the following]*:

(A) (a) Oregon's in-stream and out-of-stream water needs, including but not limited to ecosystem services, water quality and water supply needs.

(b) **Critical water issues at the state level and within water basins across this state.**

(B) (c) Objectives of the strategy.

(C) (d) Actions that are designed to achieve the objectives of the strategy.

(D) (e) Plans *[related to]* **and actions concerning water-related natural hazards and the challenges presented by climate change.**

(E) (f) Provisions to ensure communication *[and partnership]* **and engagement with the public.**

(g) **Provisions to promote meaningful engagement with environmental justice communities, as defined in ORS 182.535, consistent with the requirements of ORS 182.545.**

(h) **Provisions to promote partnerships with Indian tribes, public bodies, as defined in ORS 174.109, and key stakeholders to implement recommended actions, as appropriate.**

(i) **How the integrated state water resources strategy will be implemented at multiple scales in a balanced, equitable and integrated manner.**

(j) **How to support implementation of priority actions recommended in other relevant state-developed or state-recognized plans or strategies.**

(F) (k) Specific functions and roles to be played by state agencies, including but not limited to **the Department of Environmental Quality, the State Department of Fish and Wildlife, the State Department of Agriculture, the State Forestry Department, the Department of Human Services, the Oregon Business Development Department, the Department of Land Conservation and Development, the Oregon Watershed Enhancement Board, the State Parks and Recreation Department, the Oregon Health Authority, the Department of State Lands and other relevant state agencies, along with provisions to achieve interagency coordination.**

(L) **Provisions to achieve coordination with federal agencies and states that neighbor Oregon.**

(G) (m) Public policy options and recommendations.

(H) (n) Relevant strategy factors, including but not limited to population growth and land use change.

(I) (o) Recommendations *[of the Water Resources Department]* regarding the continuous monitoring of climate change effects on Oregon's water supply and regarding water user actions that are necessary to address climate change.

(p) **Processes by which a biennial work plan will be developed and by which implementation of the work plan will be coordinated.**

**[(e)(A)] (7) Before adopting or revising the integrated state water resources strategy, the Water Resources Commission shall give notice to the Environmental Quality Commission, the Oregon Watershed Enhancement Board, the State [Department] Board of Agriculture, [and] the State [Department of] Fish and Wildlife Commission and any other agency referenced in the strategy [notice of the integrated state water resources strategy prior to adoption of the strategy]. The strategy, and any revisions to the strategy, shall take effect upon adoption by the Water Resources Commission.**

**[(B)] (8) The Water Resources Commission shall review and update the integrated state water resources strategy at least every [five] eight years. [The Water Resources Commission shall give notice to the Environmental Quality Commission, the State Department of Agriculture and the State Department of Fish and Wildlife prior to adopting any revisions of the strategy. Revisions of the strategy shall take effect upon the Water Resources Commission's adoption of the revised strategy by reference in rule.]**

**(9) All agencies of state government, as defined in ORS 174.111, shall:**

**(a) Assist the Water Resources Department, as requested, in performing the duties described in this section; and**

**(b) Furnish information as necessary to develop, update and implement the integrated state water resources strategy.**

**[(4)] (10) This section does not limit the authority granted the Environmental Quality Commission or the Department of Environmental Quality under ORS chapter 468B.**

**SECTION 11. The amendments to ORS 536.220 by section 10 of this 2023 Act become operative on the first date after the effective date of this 2023 Act on which the Water Resources Commission adopts updates to the integrated state water resources strategy described in ORS 536.220.**

**SECTION 12. The Oregon State University Extension Service and the Oregon State University Agricultural Experiment Station shall jointly establish an agricultural water management technical assistance program. The technical assistance program shall be a voluntary, nonregulatory and incentive-based program that may include the following elements:**

**(1) Staffing of agricultural water management specialists based in different regions of this state who will be responsible for:**

**(a) Building collaborative relationships with water and land managers; and**

**(b) Developing research-based water management programs that utilize data collected under subsection (6) of this section to provide publicly available statewide and regional tools for water and land managers that foster regionally specific knowledge and expertise.**

**(2) Connecting agricultural producers to information, resources, tools, programs, partners, funding opportunities and other incentives to improve on-farm water management practices and outcomes for the producers' operations and water resources.**

**(3) Creating a voluntary demonstration network of willing agricultural producers to develop on-farm demonstration projects featuring water-related management practices that yield quantifiable water quality and quantity benefits for the producers' operations and water resources and to promote the uptake of effective practices, including, but not limited to:**

**(a) Modification of irrigation equipment;**

**(b) Measurement and monitoring of water diversions and water use;**

**(c) Use of data in decision-making;**

**(d) Irrigation management practices;**

**(e) Soil management practices;**

**(f) Dryland farming practices;**

**(g) Crop rotations and rotational grazing practices;**

**(h) Temporary or permanent voluntary in-stream flow restoration, such as in-stream leasing and split-season leasing, as described in ORS 537.348;**

(i) Use of the program for the allocation of conserved water established under ORS 537.455 to 537.500;

(j) Novel water sharing agreements or arrangements that benefit other in-stream and out-of-stream water uses;

(k) Water reuse;

(L) Effective use of state and federal programs;

(m) Practices that restore and protect fish and wildlife habitat;

(n) Practices that reduce energy use and costs;

(o) Fish screening and fish passage; and

(p) Experimentation with alternative crops and drought-resistant crops.

(4) Identifying, studying and mitigating the effects of projects and practices implemented under subsection (3) of this section on in-stream and out-of-stream water users and uses, and conducting related outreach.

(5) Organizing workshops and tours to promote innovative agricultural water management practices.

(6) Establishing and maintaining or supporting publicly available weather and irrigation information systems designed to collect, process and make publicly available climate and weather-related data and provide to agricultural producers tools that support increased production, increased resilience to drought and flood events and the efficient management of water resources.

(7) In consultation with the Water Resources Department, contracting with an organization that provides publicly accessible, reproducible, satellite-based evapotranspiration data using open science methods, open data services and an ensemble of well-established evapotranspiration models to:

(a) Support ongoing and reliable evapotranspiration data production and platform maintenance for public use across this state;

(b) Support data collection and technical analyses to improve the accuracy of the data for different regions in Oregon; and

(c) Conduct outreach to agricultural producers and other subject matter experts to verify accuracy and increase usability of the data.

(8) Partnering with agricultural producers and other subject matter experts to check the accuracy of data, develop new tools, adapt available tools, experiment with new technologies and approaches and identify best management practices.

(9) Performing and publishing research related to agricultural water management.

(10) Developing and updating Oregon-specific guides, manuals and other resources, with a focus on resources that will increase the likelihood of securing federal funding and assistance for agricultural water management and increase the effective delivery of desired outcomes.

(11) Providing technical assistance to small farmers or ranchers in accessing state and federal assistance programs, including but not limited to disaster assistance programs.

**SECTION 13.** (1) To carry out the technical assistance program described in section 12 of this 2023 Act, the Oregon State University Extension Service and the Oregon State University Agricultural Experiment Station may:

(a) Support the acquisition and maintenance of equipment necessary for the collection of weather data, climate data and data related to agricultural water use and management, including equipment that measures or monitors water supply, water diversions, water use and evapotranspiration. Equipment may include, but need not be limited to:

(A) AgriMet weather stations;

(B) Other weather stations;

(C) Eddy covariance stations;

(D) Lysimeters;

(E) Stream gauges;

- (F) Soil moisture meters; and
- (G) Water use measuring devices.

(b) Form partnerships with agricultural producers to site data collection equipment and use the data collected in on-farm management practices, with preference given to producers that agree to develop on-farm demonstration projects, as described in section 12 (3) of this 2023 Act.

(c) Form partnerships and enter into cost-sharing agreements with institutions capable of maintaining data collection equipment and processing data, including, but not limited to, the United States Geological Survey, the United States Bureau of Reclamation, the Natural Resources Conservation Service of the United States Department of Agriculture, the National Weather Service of the National Oceanic and Atmospheric Administration, the State Department of Agriculture, the Water Resources Department, the State Department of Fish and Wildlife, the Department of Environmental Quality, the Oregon Watershed Enhancement Board, the Oregon Climate Service and soil and water conservation districts.

(d) Convene statewide or region-specific advisory groups or working groups to advise on any aspect of the program.

(2) All data collected under subsection (1) of this section using public funds must be made publicly available.

(3) In establishing and maintaining the voluntary demonstration network described in section 12 (3) of this 2023 Act, the Oregon State University Extension Service and the Oregon State University Agricultural Experiment Station:

- (a) May receive and expend funds from any source to:

(A) Design and implement demonstration projects under section 12 (3) of this 2023 Act; or

(B) Provide stipends to agricultural producers participating in the voluntary demonstration network described in section 12 (3) of this 2023 Act for time, equipment and related expenses.

(b) Shall prioritize projects that have the potential to increase drought resiliency and provide quantifiable water quantity and quality benefits to other in-stream and out-of-stream water users or uses.

**SECTION 14.** (1) The Oregon State University Extension Service and the Oregon State University Agricultural Experiment Station shall jointly:

(a) Prepare an annual report describing climate-related impacts on agricultural producers, including, but not limited to, flood and drought impacts, and recommendations to increase agricultural resilience; and

(b) Submit the report in the manner provided by ORS 192.245 to the interim committees of the Legislative Assembly related to agriculture no later than September 15 of each year.

(2) The Oregon State University Extension Service and the Oregon State University Agricultural Experiment Station shall jointly report on the progress of the technical assistance program established under section 12 of this 2023 Act in the manner provided by ORS 192.245 to the interim committees of the Legislative Assembly related to agriculture no later than September 15 of each even-numbered year.

**SECTION 15.** The Place-Based Water Planning Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Place-Based Water Planning Fund shall be credited to the fund. The fund consists of moneys appropriated to the fund by the Legislative Assembly and federal, public or private moneys designated for deposit in the fund. Moneys in the fund are continuously appropriated to the Water Resources Department for the purpose of carrying out the provisions of section 16 of this 2023 Act.

**SECTION 16.** (1) As used in this section:

- (a) “Eligible implementation coordination costs”:

(A) Means costs associated with actions taken to coordinate the implementation of a state-recognized place-based integrated water resources plan.

- (B) Does not include the costs of implementing a project.
- (b) “Environmental justice community” has the meaning given that term in ORS 182.535.
- (c) “Indian tribe” means a federally recognized Indian tribe in Oregon that has members residing on a reservation or tribal trust lands in Oregon.
- (d) “Person” has the meaning given that term in ORS 536.007.
- (e) “Place-based integrated water resources plan” means a plan that:
  - (A) Is developed for a planning area associated with waters from sources within a shared hydrologic boundary;
  - (B) Is developed in collaboration with a balanced representation of interests;
  - (C) Addresses current and future in-stream and out-of-stream needs;
  - (D) Includes the development of actions that are consistent with the state water resources policy and other state laws concerning the water resources of this state;
  - (E) Is developed using an open, equitable and transparent process that fosters public participation and meaningful engagement with environmental justice communities, consistent with the requirements of ORS 182.545;
  - (F) Is developed in consultation with the Water Resources Department and other relevant state agencies;
  - (G) Facilitates implementation of local water resources solutions and supports the knowledge and relationships needed to implement the solutions;
  - (H) Assesses actions that are compatible with local comprehensive plans;
  - (I) Strives to integrate solutions to cost-effectively achieve multiple benefits;
  - (J) Is consistent with the guiding principles of the integrated state water resources strategy; and
  - (K) Complies with the rules of the Water Resources Commission, including any rules regarding the development of place-based integrated water resources plans.
- (f) “Place-based integrated water resources planning” means a collaborative and inclusive process that is designed to:
  - (A) Gather information to develop a shared understanding of water resources and identify critical issues and knowledge gaps;
  - (B) Examine the existing and future in-stream and out-of-stream water needs for people, the economy and the environment;
  - (C) Identify and prioritize strategic, integrated solutions to understand and meet in-stream and out-of-stream water needs; and
  - (D) Develop, implement and update a place-based integrated water resources plan.
- (g) “Public body” has the meaning given that term in ORS 174.109.
- (h) “Situation assessment” means an assessment conducted for the purpose of understanding the status of an issue, stakeholder perspectives and the needs and conditions that potentially affect the feasibility and design of a collaborative process to develop and implement a place-based integrated water resources plan.
  - (i) “State-recognized place-based integrated water resources plan” means a place-based integrated water resources plan that has been reviewed by the Water Resources Commission and recognized by a commission resolution stating that the completed place-based integrated water resources plan adheres to applicable requirements.
- (2) The Water Resources Director may award grants with moneys from the Place-Based Water Planning Fund established in section 15 of this 2023 Act to fund the costs of actions supporting place-based integrated water resources planning, including costs of:
  - (a) Filling gaps in state, tribal and local capacity, knowledge and skill sets.
  - (b) Developing data and associated analyses tailored to the area of a place-based integrated water resources plan.
  - (c) Assessing critical issues within the planning area.

(d) Building knowledge and relationships among state agencies, organizations with ties to or an interest in the planning area and people who live in, work in or are interested in the planning area.

(e) Assisting groups with preparing and assessing readiness to engage in relevant planning.

(f) Assisting with building the capacity of a community to engage in relevant planning.

(g) Facilitating and managing a collaborative process to support relevant planning.

(h) Developing, or supporting development of, a place-based integrated water resources plan.

(i) Facilitating associated public participation, including participation by members of environmental justice communities, through education, outreach, financial support and other activities.

(j) Updating a state-recognized place-based integrated water resources plan.

(k) Eligible implementation coordination costs.

(3) In awarding grants, the department may require cost matching by applicants.

(4) The grants may be awarded to persons, public bodies, Indian tribes and nonprofit organizations.

(5) The grants may be awarded as cost sharing with other programs that support place-based integrated water resources planning.

(6) In addition to disbursing moneys in the fund as described in subsection (2) of this section, the Water Resources Director may use moneys in the fund to further place-based integrated water resources planning by entering into agreements or contracting for the following:

(a) Efforts related to interagency coordination.

(b) Situation assessments.

(c) The collection or development of data, data inventories or other technical information necessary for planning.

(d) Technical assistance.

(e) The development of guidelines and best practices.

(f) Providing opportunities for public participation.

(g) The development or provision of training and learning opportunities.

(h) Holding events and gatherings.

(i) Evaluations to identify lessons learned and areas for improvement.

(j) Consultation with Indian tribes.

(k) Other actions in support of place-based integrated water resources planning that benefit a specific area in this state or the state as a whole.

(7) Before issuing funding under subsection (2) or (6) of this section, the Water Resources Director shall consult with the Department of Environmental Quality, Department of Land Conservation and Development, Oregon Health Authority, Oregon Watershed Enhancement Board, State Department of Agriculture and State Department of Fish and Wildlife to understand agency capacity to:

(a) Participate in place-based integrated water resources planning.

(b) Provide information and assistance described in subsection (9) of this section.

(8) Before issuing funding under subsection (2) of this section, the Water Resources Director shall notify county and tribal governments within the proposed planning boundary of an application.

(9) The Water Resources Department, Department of Environmental Quality, Department of Land Conservation and Development, Oregon Health Authority, Oregon Watershed Enhancement Board, State Department of Agriculture and State Department of Fish and Wildlife may provide technical information and assistance to, and enter into contracts or agreements with, a person, public body, Indian tribe or nonprofit organization to facilitate implementation of this section.

(10) The Water Resources Commission shall consider state-recognized place-based integrated water resources plans when updating the integrated state water resources strategy.

(11) The commission may adopt rules to implement this section, including rules that:

(a) Further clarify the expenditures that may be funded by the grants.

(b) Prioritize the issuance of funding for purposes described in this section and establish a system for scoring and ranking projects that includes consideration of groups' readiness for planning and projects' alignment with strategic priorities determined by state water laws and relevant state agencies.

(c) Establish requirements for promoting public participation and engaging environmental justice communities.

(d) Establish criteria and a process for state recognition of a place-based integrated water resources plan.

(e) Describe how the implementation of actions outlined in a state-recognized place-based integrated water resources plan may be considered and supported.

(f) Establish reporting and other requirements necessary to maintain the status of a state-recognized place-based integrated water resources plan, including requirements concerning:

(A) Progress on implementing a place-based integrated water resources plan.

(B) How strategies and actions outlined in a place-based integrated water resources plan must continue to represent a balance of in-stream and out-of-stream water interests.

(C) How the planning process continues to demonstrate a commitment to collaboration and adherence to principles of place-based integrated water resources planning and the integrated state water resources strategy described in ORS 536.220.

(12) In developing rules described in subsection (11) of this section, the commission shall consult with the agencies described in subsection (7) of this section and other affected agencies.

**SECTION 17.** ORS 537.797 is amended to read:

537.797. (1) As used in this section:

(a) "District" means:

(A) An irrigation district formed under ORS chapter 545;

(B) A drainage district formed under ORS chapter 547;

(C) A water improvement district formed under ORS chapter 552; or

(D) A water control district formed under ORS chapter 553.

(b) "Registered geologist" has the meaning given that term in ORS 672.505.

(c) "Registered professional engineer" and "registered professional land surveyor" have the meanings given those terms in ORS 672.002.

(2) The Water Resources Commission by rule shall establish criteria for [the] certification [of registered, professional land surveyors and engineers and geologists practicing as defined in ORS 672.005 and 672.505, respectively,] **under ORS 537.798** to conduct surveys to determine whether a permittee has completed all work necessary to perfect an appropriation of water under ORS 537.230, 537.630 and 540.530.

(3) An individual may apply for certification under ORS 537.798 if the individual meets the criteria established by rule by the commission and is a:

(a) Registered professional engineer;

(b) Registered professional land surveyor;

(c) Registered geologist; or

(d) District employee who:

(A) Is, at the time of applying, employed full-time by a district;

(B) Has been employed by a district for seven or more years; and

(C) Has seven or more years of relevant technical experience conducting similar work.

**SECTION 18.** ORS 537.798 is amended to read:

537.798. (1) The State Board of Examiners for Engineering and Land Surveying may issue a water right examiner certificate to *[a registered professional land surveyor, registered professional engineer or registered geologist who meets the criteria established by the Water Resources Commission under]* **an applicant described in** ORS 537.797. The board shall require an applicant for the certificate to pass an examination establishing the qualification of the applicant to be a water right examiner. The Water Resources Department shall prepare, administer and score the examination.

(2) The board shall establish fees for the examination, certification and renewal of certification of water right examiners. The fees shall be based upon the expenses of the board and the department in conducting the certification program. The board shall reimburse the department for department expenses related to the preparation, administration and scoring of the examination.

(3) The board may adopt rules to regulate persons certified as water right examiners. The rules may include, but need not be limited to, rules establishing standards of professional conduct and rules establishing professional development or continuing education requirements.

(4) Upon receipt of a complaint, or upon its own initiative, the board may investigate any alleged or suspected violation by a water right examiner of ORS 672.002 to 672.325, the criteria established under ORS 537.797, **Water Resources** Commission rules or a board rule adopted under this section or ORS 672.255. If the board finds that a violation has occurred, in addition to any other disciplinary or regulatory authority of the board, the board may suspend, revoke or modify a certificate issued under this section. Board action to suspend, revoke or modify the certificate is subject to the provisions of ORS chapter 183 relating to contested cases.

**SECTION 19.** ORS 537.797, as amended by section 17 of this 2023 Act, is amended to read:

537.797. *[(1) As used in this section:]*

*[(a) "District" means:]*

*[(A) An irrigation district formed under ORS chapter 545;]*

*[(B) A drainage district formed under ORS chapter 547;]*

*[(C) A water improvement district formed under ORS chapter 552; or]*

*[(D) A water control district formed under ORS chapter 553.]*

*[(b) "Registered geologist" has the meaning given that term in ORS 672.505.]*

*[(c) "Registered professional engineer" and "registered professional land surveyor" have the meanings given those terms in ORS 672.002.]*

*[(2)]* The Water Resources Commission by rule shall establish criteria for **the certification [under ORS 537.798] of geologists, as defined in ORS 672.505, and persons engaged in the practice of engineering and the practice of land surveying, as those terms are defined in ORS 672.005,** to conduct surveys to determine whether a permittee has completed all work necessary to perfect an appropriation of water under ORS 537.230, 537.630 and 540.530.

*[(3) An individual may apply for certification under ORS 537.798 if the individual meets the criteria established by rule by the commission and is a:]*

*[(a) Registered professional engineer;]*

*[(b) Registered professional land surveyor;]*

*[(c) Registered geologist; or]*

*[(d) District employee who:]*

*[(A) Is, at the time of applying, employed full-time by a district;]*

*[(B) Has been employed by a district for seven or more years; and]*

*[(C) Has seven or more years of relevant technical experience conducting similar work.]*

**SECTION 20.** ORS 537.798, as amended by section 18 of this 2023 Act, is amended to read:

537.798. (1) The State Board of Examiners for Engineering and Land Surveying may issue a water right examiner certificate to *[an applicant described in]* **a registered professional land surveyor, registered professional engineer or registered geologist who meets the criteria established by the Water Resources Commission under** ORS 537.797. The board shall require an applicant for the certificate to pass an examination establishing the qualification of the applicant to be a water right examiner. The Water Resources Department shall prepare, administer and score the examination.

(2) The board shall establish fees for the examination, certification and renewal of certification of water right examiners. The fees shall be based upon the expenses of the board and the department in conducting the certification program. The board shall reimburse the department for department expenses related to the preparation, administration and scoring of the examination.

(3) The board may adopt rules to regulate persons certified as water right examiners. The rules may include, but need not be limited to, rules establishing standards of professional conduct and rules establishing professional development or continuing education requirements.

(4) Upon receipt of a complaint, or upon its own initiative, the board may investigate any alleged or suspected violation by a water right examiner of ORS 672.002 to 672.325, the criteria established under ORS 537.797, [*Water Resources*] commission rules or a board rule adopted under this section or ORS 672.255. If the board finds that a violation has occurred, in addition to any other disciplinary or regulatory authority of the board, the board may suspend, revoke or modify a certificate issued under this section. Board action to suspend, revoke or modify the certificate is subject to the provisions of ORS chapter 183 relating to contested cases.

**SECTION 21. The amendments to ORS 537.797 and 537.798 by sections 19 and 20 of this 2023 Act become operative on July 1, 2027.**

**SECTION 22. (1) The Department of Environmental Quality, in consultation with the Water Resources Department and other relevant state agencies and interested parties, shall address barriers to, and develop technical assistance resources to support, expanded beneficial water reuse or recycled water programs and projects within this state.**

**(2) In carrying out the objectives of this section, the Department of Environmental Quality shall:**

**(a) Characterize recycled water and beneficial land application project types that are priorities to support water quality, water supply or use and habitat or ecosystem needs in this state;**

**(b) Identify regulatory and other impediments to expanding water reuse;**

**(c) Identify environmentally protective approaches successfully employed by other states with robust water reuse programs that may be applicable to Oregon;**

**(d) Identify potential regulatory changes, including but not limited to changes to internal guidance, administrative rules or statutes needed to remove impediments, and propose an implementation schedule for enacting proposed changes; and**

**(e) Develop technical assistance guidance, or other resources, for local jurisdictions and industries to seek permitting and development of recycled water and other beneficial land application programs that achieve the objectives of this section.**

**(3) The department shall submit a progress report on the resources developed under this section in the manner provided by ORS 192.245, to the interim committees of the Legislative Assembly related to water no later than December 31, 2023.**

**(4) The department shall submit a final report, including completed resources developed under this section, in the manner provided by ORS 192.245, to the interim committees of the Legislative Assembly related to water no later than September 15, 2024. The department shall, at a minimum, identify in the report under this subsection:**

**(a) Changes that agencies can make or have completed to internal policies, guidance and processes;**

**(b) Recommended changes that require an agency to amend administrative rules or adopt new administrative rules;**

**(c) Recommended changes that would require the Legislative Assembly to create new law or amend existing law;**

**(d) Programmatic needs to remove impediments to water reuse and beneficial land application expansion and to support access to and acceleration of water reuse and beneficial land application projects; and**

**(e) Technical assistance resources and incentives that would support jurisdictions in evaluating and pursuing reuse and beneficial land application projects.**

**SECTION 23.** Section 22 of this 2023 Act is repealed on January 2, 2025.

**SECTION 24.** (1) The Oregon Department of Administrative Services shall enter into a contract with the Oregon Association of Water Utilities that includes, but need not be limited to, a provision requiring the association to:

(a) Perform, or enter into a contract with a third party to perform, a study of the needs and vulnerabilities of small and very small community water systems, including but not limited to the following topics:

- (A) Water supply reliability.
- (B) Source and treated water quality.
- (C) Utility board and operations management.
- (D) Infrastructure.
- (E) Droughts, floods and earthquakes.
- (F) Funding, financial stability and water rates.
- (G) Regulations and safe drinking water standards.
- (H) Opportunities for emergency interties, system consolidation and regionalization.

(b) Provide technical, financial and managerial support and resources to small and very small community water systems, which may include support and resources related to:

- (A) Water supply reliability.
- (B) Source and treated water quality.
- (C) Utility board and operations management.
- (D) Infrastructure.
- (E) Droughts, floods and earthquakes.
- (F) Funding, financial stability and water rates.
- (G) Regulations and safe drinking water standards.
- (H) Applying for and managing funds associated with state and federal funding programs.
- (I) Assessing and supporting opportunities for emergency interties, system consolidation and regionalization.

(c) Hire and employ one training specialist and two technical assistance providers to provide support and resources to address the needs and vulnerabilities of small and very small community water systems in this state.

(d) Consult with the Oregon Health Authority, the Department of Environmental Quality, the Water Resources Department, county environmental health departments and county emergency managers in designing the parameters of the study described in paragraph (a) of this subsection.

(e) Submit a report in the manner provided by ORS 192.245 to the interim committees of the Legislative Assembly related to water no later than December 31, 2024.

(2) The Oregon Department of Administrative Services shall distribute moneys to the Oregon Association of Water Utilities for the purposes of carrying out subsection (1) of this section.

(3) The Oregon Health Authority, the Department of Environmental Quality and the Water Resources Department shall cooperate with the Oregon Association of Water Utilities, and provide to the association any data or information requested by the association, in implementing this section.

**SECTION 25.** Section 24 of this 2023 Act is repealed on January 2, 2025.

**SECTION 26.** (1) If the Water Resources Department requires an entity to measure the use of water diverted, stored or otherwise appropriated by the entity under a right established by a water right permit, water right certificate, limited license, decree, order of determination or ground water registration, the department may require the entity to report the measured use to the department.

(2) The Water Resources Commission shall adopt rules as provided under ORS 536.027 to carry out subsection (1) of this section.

**SECTION 27.** ORS 541.669 is amended to read:

541.669. (1) The Water Resources Commission shall adopt rules establishing a system for scoring and ranking projects to determine which projects are to be awarded loans and grants from the Water Supply Development Account, including but not limited to the application of minimum criteria designed to achieve the outcomes described in ORS 541.677. The criteria shall be based on the public benefit categories described in ORS 541.673. The commission shall make the loan and grant funding decisions *[once]* **at least twice** each year. Applications must be filed with the Water Resources Department. The department shall accept an application for a loan or grant at any time, but shall establish *[a yearly deadline]* **a separate deadline** for the *[consideration of a pool]* **filing** of applications **before each time the commission makes loan and grant funding decisions.**

(2) The department shall conduct a preliminary review of applications to check for completeness, eligibility and minimum requirements upon receipt of each application. The department shall return incomplete applications to the applicant. The department shall provide public notice by posting new funding applications on the department's website for a 60-day period prior to reviewing the applications. The department shall provide for the receipt of public comment on the applications during the 60-day period that applications are posted on the department's website.

(3) The department shall forward applications that have passed preliminary review, along with any comments received from applicants or the public, to a technical review team consisting of representatives of the Water Resources Department, the Department of Environmental Quality, the State Department of Fish and Wildlife, the State Department of Agriculture, the Oregon Business Development Department, affected Indian tribes, any collaborative body established by the Governor to address challenges, opportunities and priorities for the region affected by the project and additional experts as determined by the Water Resources Department. The technical review team shall conduct the initial scoring and ranking for the projects described in the applications, consider comments from applicants and the public and make loan and grant funding recommendations to the commission. The commission shall determine the final scoring and ranking of projects and make the final decision regarding which projects are awarded loans or grants from the account. Before the commission makes a final decision on an application, the commission shall offer one additional opportunity for public comment.

(4) The commission is not required to obligate all available account moneys during a funding cycle. Any available account moneys that are not obligated during a funding cycle shall be carried forward and be made available for projects in future funding cycles.

(5) The department shall document the ranking of all applications and make the application ranking publicly available after the funding decisions by the commission have been published.

**SECTION 28.** (1) **The Oregon Business Development Department shall establish and administer the Aquifer Recharge Due Diligence Grant Program under which the Oregon Infrastructure Finance Authority established under ORS 285A.096 may award due diligence grants, in accordance with this section and section 29 of this 2023 Act, to public bodies listed in subsection (2) of this section in order to fund activities set forth in subsection (3) of this section.**

**(2) Any of the following public bodies may apply for a due diligence grant under the program in the manner prescribed under section 29 of this 2023 Act:**

- (a) A municipal subdivision of this state.**
- (b) A port organized under ORS chapter 777 or 778.**
- (c) A district as defined in ORS 198.010.**
- (d) An Oregon Indian tribe as defined in ORS 294.805.**
- (e) A county.**

**(3) The authority may award grants to fund any of the following due diligence activities related to aquifer recharge and aquifer storage and recovery:**

- (a) Test pit construction.**
- (b) Borings and soil sampling necessary to design recharge basin or aquifer storage and recovery well size and location.**

(c) Aquifer modeling necessary to meet the standards for a request to the Water Resources Department for a limited license under ORS 537.143 and 537.144 or to test aquifer storage and recovery in accordance with testing criteria under ORS 537.505 to 537.534.

(d) Design and engineering necessary to reach the final 50 percent of design and engineering necessary to result in a biddable project for aquifer recharge basins, aquifer storage and recovery wells and works, aquifer storage and recovery treatment systems and conveyance works from water source to recharge site.

(e) Sampling required by the Department of Environmental Quality to establish parameters for monitoring and sampling source water quality and aquifer water quality.

(f) Monitoring and sampling plan development associated with limited license requirements of the Water Resources Department and the Department of Environmental Quality.

(g) Applying for a limited license and public coordination.

(4) All or a portion of the basin or aquifer to which a grant application relates must have been:

(a) Restrictively classified under ORS 536.340;

(b) Withdrawn by the Water Resources Department from further groundwater appropriation under ORS 536.410; or

(c) Designated as critical under statute or rule or order of the Water Resources Commission or the Water Resources Department.

(5) The Oregon Business Development Department may adopt any rules the department considers necessary or convenient for the administration of this section and section 29 of this 2023 Act.

**SECTION 29.** (1) The governing body of a public body listed in section 28 of this 2023 Act seeking a due diligence grant under this section and section 28 of this 2023 Act must submit to the Oregon Business Development Department an application in the form and manner prescribed by the department.

(2) To qualify for a due diligence grant, an application must be accompanied by documentation satisfactory to the department that the following items have been completed or are available for inspection:

(a)(A) A United States Geological Survey ground water characterization model for the targeted aquifer establishing a baseline of aquifer properties;

(B) A peer-reviewed academic model for the targeted aquifer establishing a baseline of aquifer properties; or

(C) Documentation of agency-developed or publicly-developed reports determining that the targeted aquifer is a potential candidate for recharge testing in order to prove that baseline data exists to warrant additional due diligence for recharging the aquifer;

(b) Documentation establishing that source water is available to conduct aquifer recharge testing at the targeted volume and rate of the test;

(c) Documentation establishing that ground water use in the targeted aquifer has been monitored and metered for at least five years immediately prior to the date on which the application is submitted; and

(d) Documentation showing that the basin or aquifer to which the application relates is eligible under section 28 (4) of this 2023 Act.

(3)(a) Once the department has determined that an application is complete, the department shall approve or reject the application.

(b) Rejection of an application does not preclude the governing body from reapplying at any time with respect to the same or another basin or aquifer.

(c) If the department approves an application, the Oregon Infrastructure Finance Authority shall determine the amount of the grant award in accordance with subsection (4) of this section and the department shall disburse the moneys to the applicant.

(d) Rejection of an application and the amount of a grant award may not be appealed.

(4) The authority may award grants in any amount that does not exceed the eligible due diligence costs substantiated in the application.

**SECTION 30.** (1) The Oregon Business Development Department shall establish and administer the Aquifer Recharge Testing Forgivable Loan Program under which the Oregon Infrastructure Finance Authority may make forgivable loans, in accordance with this section and section 31 of this 2023 Act, to public bodies listed in subsection (2) of this section in order to fund the costs set forth in subsection (3) of this section.

(2) Any of the following public bodies may apply for a forgivable loan under the program in the manner prescribed under section 31 of this 2023 Act:

- (a) A municipal subdivision of this state.
- (b) A port organized under ORS chapter 777 or 778.
- (c) A district as defined in ORS 198.010.
- (d) An Oregon Indian tribe as defined in ORS 294.805.
- (e) A county.

(3) The authority may make forgivable loans for any of the following costs related to aquifer recharge and aquifer storage and recovery testing:

- (a) Energy costs.
- (b) Operation and maintenance costs associated with the treatment and delivery of source water for the purposes of testing aquifer recharge or aquifer storage and recovery.
- (c) Monitoring and reporting costs required by the monitoring plan of a limited license.
- (4) All or a portion of the basin or aquifer to which a loan application relates must have been:

- (a) Restrictively classified under ORS 536.340;
- (b) Withdrawn by the Water Resources Department from further groundwater appropriation under ORS 536.410; or
- (c) Designated as critical under statute or rule or order of the Water Resources Commission or the Water Resources Department.

(5) Forgivable loans shall be made under this section and section 31 of this 2023 Act in a principal amount that does not exceed the costs set forth in the application over the period, not to exceed five years, of the limited license issued by the Water Resources Department under ORS 537.143 and 537.144 or 537.505 to 537.534 that is associated with the application submitted under section 31 of this 2023 Act.

(6) The Oregon Business Development Department may adopt any rules the department considers necessary or convenient for the administration of this section and section 31 of this 2023 Act.

**SECTION 31.** (1)(a) The governing body of a public body listed in section 30 of this 2023 Act seeking a forgivable loan under this section and section 30 of this 2023 Act must submit to the Oregon Business Development Department an application in the form and manner prescribed by the department.

(b) To qualify for a forgivable loan, an application must be accompanied by documentation:

(A) Of a valid limited license to conduct aquifer recharge testing or aquifer storage and recovery testing at the site to which the application relates; and

(B) That shows the basin or aquifer to which the application relates is eligible under section 30 (4) of this 2023 Act.

(2)(a) Once the department has determined that an application is complete, the department shall approve or reject the application.

(b) Rejection of an application does not preclude the governing body from reapplying at any time with respect to the same or another basin or aquifer.

(c) If the department approves an application, the Oregon Infrastructure Finance Authority shall determine the amount of the forgivable loan in accordance with section 30 (5) of this 2023 Act and the department shall duly negotiate a loan agreement with the applicant.

(d) Rejection of an application and the amount of a forgivable loan may not be appealed.

(3)(a) Upon completion of the activities for which the forgivable loan was made, the governing body that received the loan must submit documentation satisfactory to the department that 100 percent of the water placed into the recharge went into the waters of this state and was not recovered under a secondary use limited license or secondary use permit obtained under ORS 537.534.

(b) If the department is satisfied with the documentation, 100 percent of the amount of the loan shall be forgiven.

(c) If the department determines that water was used impermissibly within the terms of paragraph (a) of this subsection, the department may require repayment of the loan in an amount proportional to the percentage of the water that was used impermissibly, with interest at a rate not to exceed five percent.

(d) Loan amounts and interest repaid under paragraph (c) of this subsection shall be credited to the Aquifer Recharge Fund established under section 33 of this 2023 Act.

**SECTION 32.** Not later than September 15 of each year, the Oregon Business Development Department and recipients of funding under sections 28 to 33 of this 2023 Act shall prepare and submit a report, in the manner required under ORS 192.245, to the interim committees of the Legislative Assembly related to water, detailing the use of the funding and the results of the recharge testing so funded.

**SECTION 33.** (1) The Aquifer Recharge Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Aquifer Recharge Fund shall be credited to the fund. All moneys in the fund are continuously appropriated to the Oregon Business Development Department for the use of the Oregon Infrastructure Finance Authority established under ORS 285A.096 to fulfill the purposes set forth in sections 28 to 33 of this 2023 Act.

(2) The fund shall consist of all moneys credited to the fund, including but not limited to:

(a) Moneys appropriated, allocated, transferred or otherwise credited to the fund by the Legislative Assembly, the department or the authority;

(b) Earnings received on moneys in the fund;

(c) Repayment of financial assistance provided under sections 28 to 33 of this 2023 Act, including interest;

(d) Moneys transferred to the fund from the federal government, state agencies or local governments; and

(e) Moneys deposited in the fund from any other source, including, but not limited to, grants and gifts.

(3) The authority may directly or indirectly grant, expend or lend moneys in the fund for the purposes set forth in sections 28 to 33 of this 2023 Act.

(4)(a) The authority shall administer the fund.

(b) The Oregon Business Development Department may adopt rules and policies for the administration of the fund.

**SECTION 34.** (1) Sections 28 to 33 of this 2023 Act are repealed on January 2, 2032.

(2) Any moneys remaining in the Aquifer Recharge Fund established under section 33 of this 2023 Act on the date specified in subsection (1) of this section that are unexpended, unobligated and not subject to any conditions shall be transferred to the Administrative Services Economic Development Fund.

**SECTION 35.** (1) As used in this section, “local workforce development board” and “workforce program” have the meanings given those terms in ORS 660.300.

(2) The Oregon Department of Administrative Services shall provide grants to soil and water conservation districts organized under ORS 568.210 to 568.808 and 568.900 to 568.933 and to counties for the treatment of western juniper to minimize the negative impacts of western juniper on water resources and ecological health.

- (3) Grant recipients shall use grant funds only to:
- (a) Consistent with the requirements of this section, treat western juniper in areas where treatment will provide the greatest benefit to water resources and ecological health;
  - (b) Consistent with the requirements of this section, remove western juniper at times, and using methods, that will reduce the risk of repropagation after removal; and
  - (c) Cover the administrative expenses of the grant recipient related to the grant program, except that no more than eight percent of grant funds may be used to cover administrative expenses.
- (4) In determining areas to conduct western juniper treatment, grant recipients shall incorporate criteria from the western juniper management field guide developed by the Oregon Watershed Enhancement Board, including:
- (a) Conifer encroachment prioritization;
  - (b) Hydrological prioritization, including a consideration of the location of the proposed project site in relation to surface waters;
  - (c) Biological prioritization, including resilience to disturbance and resistance to exotic annual grasses; and
  - (d) Canopy interspaces, including bunchgrass age classes and exotic annual grasses or noxious weeds present at intermediate levels in interspaces.
- (5) In selecting treatment project sites and conducting treatment, grant recipients shall seek to retain old growth juniper trees, as determined by tree characteristics that include:
- (a) Flattened, rounded or uneven tops;
  - (b) A spreading crown;
  - (c) Large branches near the base of the tree;
  - (d) Large, dead branches, missing bark and abundant light green lichen;
  - (e) Thick fibrous bark with well-developed vertical furrows; and
  - (f) Leader growth in the upper quarter of the tree that is less than one inch per year.
- (6) Treatment sites must be no less than 100 acres.
- (7) Pretreatment analysis of treatment sites must include:
- (a) Risk assessments for annual grass weeds; and
  - (b) An analysis of existing perennial understory to determine if reseeding is required.
- (8) Fuel loads associated with western juniper treatment shall be removed from the treatment site.
- (9) Any grazing plan for a treatment site must be developed in cooperation with the landowner and the applicable soil and water conservation district.
- (10) A grant recipient shall develop a post-treatment maintenance plan for the treatment site prior to beginning treatment.
- (11) Grant applicants may consult with Oregon State University, local governments, as defined in ORS 174.116, conservation organizations or other organizations or experts to identify areas that meet the criteria described in subsection (3)(a) of this section.
- (12) A grant recipient shall:
- (a) Work with Oregon State University to track and monitor the effects of the program on water resources, ecological health and economic and workforce development and to provide quarterly and annual reports to the department;
  - (b) Work with a local workforce development board or other organizations to create or expand an existing workforce program that provides services to individuals performing western juniper treatment or to allow individuals performing western juniper treatment to participate in an existing workforce program; and
  - (c)(A) Prepare reports describing any proposed, ongoing or completed western juniper treatment project including:
    - (i) Site conditions before treatment;
    - (ii) Project methodologies and implementation;
    - (iii) Site conditions and maintenance efforts after treatment; and

(iv) An assessment of the effectiveness of the treatment.

(B) A grant recipient shall submit the reports required under this paragraph to Oregon State University no later than two and five years, respectively, after receiving a grant under this section and shall make the reports publicly available.

**SECTION 36.** (1) Oregon State University shall consult with recipients of grants under section 35 of this 2023 Act to assist the recipients with establishing monitoring areas in central Oregon, Harney County and Klamath County.

(2) Monitoring must be conducted for a period of at least five years and must include:

(a) Overstory and understory vegetation surveys to assess soil, water and vegetation relationships; and

(b) Monitoring of soil moisture, springflow, streamflow and weather.

(3) Monitoring may include technological platforms or other systems to monitor vegetative cover, perennial grass cover, annual grass cover or tree and shrub cover.

**SECTION 37.** (1) The Oregon Department of Administrative Services shall provide a grant to an organization formed pursuant to an intergovernmental agreement under ORS chapter 190 that operates in at least three of the following counties:

(a) Crook County;

(b) Jefferson County;

(c) Klamath County;

(d) Deschutes County;

(e) Harney County; or

(f) Lake County.

(2) The organization shall:

(a) In rural areas of this state, coordinate efforts to identify and apply for sources of funding for western juniper treatment, or other water conservation projects, among cities, counties or other organizations; and

(b) Coordinate activities among grant recipients described in section 36 of this 2023 Act.

**SECTION 38.** The Oregon Department of Administrative Services shall provide the grants described in section 35 of this 2023 Act no later than July 1, 2023, or 60 days after the effective date of this 2023 Act, whichever is later.

**SECTION 39.** Recipients of grants described in section 35 of this 2023 Act, as well as organizations described in sections 37, 51 and 52 of this 2023 Act, may accept moneys from state agencies, federal or private funds or grants or the Emergency Board, in addition to the grants, for purposes described in sections 35 and 36 of this 2023 Act.

**SECTION 40.** In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Watershed Enhancement Board, for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$1,000,000, for deposit in the Community Drinking Water Enhancement and Protection Fund established under section 4 of this 2023 Act.

**SECTION 41.** In addition to and not in lieu of any other appropriation, there is appropriated to the Higher Education Coordinating Commission, for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$420,000, for distribution to Oregon Consensus at Portland State University, which must be used for the purposes described in section 8 of this 2023 Act and may be used for awarding grants and stipends to participants in the collaborative process described in section 8 of this 2023 Act.

**SECTION 42.** In addition to and not in lieu of any other appropriation, there is appropriated to the Higher Education Coordinating Commission, for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$150,000, for distribution to Oregon State University, which must be used for the purposes described in section 8 of this 2023 Act.

**SECTION 43.** In addition to and not in lieu of any other appropriation, there is appropriated to the Water Resources Department, for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$254,870, which may be expended for:

- (1) Funding a staff position at the department; or
- (2) In consultation with Harney County Court, contracting with a qualified entity to:
  - (a) Advise ground water users in the Greater Harney Valley Groundwater Area of Concern, and other interested stakeholders that work on ground water management in the Greater Harney Valley Groundwater Area of Concern, concerning voluntary agreements among ground water users from the same ground water reservoir, as described in ORS 537.745;
  - (b) Assess the opportunities and limitations of using the voluntary agreements in the Greater Harney Valley Groundwater Area of Concern; and
  - (c) Assist ground water users in the Greater Harney Valley Groundwater Area of Concern with developing the voluntary agreements.

**SECTION 44.** In addition to and not in lieu of any other appropriation, there is appropriated to the Water Resources Department, for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$2,000,000, for deposit in the Place-Based Water Planning Fund established under section 15 of this 2023 Act.

**SECTION 45.** In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Department of Administrative Services, for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$1,000,000, for distribution to the High Desert Partnership:

- (1) To design and implement projects for restoring or maintaining wet meadow, wetland and lake conditions for birds, farmers and ranchers on the Silvies River Floodplain, on the Donner und Blitzen River Floodplain, at Malheur Lake and in the Malheur National Wildlife Refuge;
- (2) For research and public engagement related to the projects described in subsection (1) of this section; and
- (3) To support collaborative partnerships related to the projects described in subsection (1) of this section.

**SECTION 46.** In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Department of Administrative Services, for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$1,000,000, for purposes of implementing section 24 of this 2023 Act.

**SECTION 47.** In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Business Development Department, for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$3,000,000, for deposit in the Aquifer Recharge Fund established under section 33 of this 2023 Act.

**SECTION 48.** In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Department of Administrative Services, for the biennium beginning July 1, 2023, out of the General Fund, the following amounts which may be expended for the purposes of providing grants under section 35 of this 2023 Act, as follows:

- (1) \$850,000 for providing a grant to a soil and water conservation district located in Crook County.
- (2) \$325,000 for providing a grant to a soil and water conservation district located in Jefferson County.
- (3) \$125,000 for providing a grant to a soil and water conservation district located in Klamath County.
- (4) \$125,000 for providing a grant to a soil and water conservation district located in Deschutes County.
- (5) \$300,000 for providing a grant to soil and water conservation district located in Harney County.
- (6) \$125,000 for providing a grant to a soil and water conservation district located in Lake County.
- (7) \$300,000 for providing a grant to Wheeler County.

**SECTION 49.** In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Department of Administrative Services, for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$85,000, which may be expended for the purpose of carrying out section 37 of this 2023 Act.

**SECTION 50.** In addition to and not in lieu of any other appropriation, there is appropriated to the Higher Education Coordinating Commission, for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$365,000 for distribution to Oregon State University for the purpose of carrying out the provisions of section 35 of this 2023 Act.

**SECTION 51.** Notwithstanding any other law limiting expenditures, the amount of \$1,000,000 is established, for the biennium beginning July 1, 2023, as the maximum limit for payment of expenses by the Oregon Watershed Enhancement Board for the purpose of carrying out section 1 of this 2023 Act through use of funds from the Community Drinking Water Enhancement and Protection Fund established by section 4 of this 2023 Act.

**SECTION 52.** Notwithstanding any other provision of law, the General Fund appropriation made to the Oregon Watershed Enhancement Board by section 1, chapter \_\_, Oregon Laws 2023 (Enrolled Senate Bill 5539), for the biennium beginning July 1, 2023, for operations, is increased by \$247,049, for administering the provisions of sections 1 to 3 of this 2023 Act.

**SECTION 53.** Notwithstanding any other provision of law, the General Fund appropriation made to the Oregon Watershed Enhancement Board by section 1, chapter \_\_, Oregon Laws 2023 (Enrolled Senate Bill 5539), for the biennium beginning July 1, 2023, for operations, is increased by \$77,940, for carrying out the provisions of section 11 of this 2023 Act and the amendments to ORS 536.220 by section 10 of this 2023 Act.

**SECTION 54.** Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 4 (3), chapter \_\_, Oregon Laws 2023 (Enrolled Senate Bill 5524), for the biennium beginning July 1, 2023, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the Oregon Business Development Department, for infrastructure, is increased by \$3,000,000, for the purposes described in sections 28 to 32 of this 2023 Act.

**SECTION 55.** In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Business Development Department, for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$271,188, for administering the Aquifer Recharge Testing Forgivable Loan Program established under section 30 of this 2023 Act.

**SECTION 56.** Notwithstanding any other provision of law, the General Fund appropriation made to the Higher Education Coordinating Commission by section 1 (10), chapter \_\_, Oregon Laws 2023 (Enrolled House Bill 5025), for the biennium beginning July 1, 2023, for public university statewide public services, is increased by \$3,085,581, for distribution to Oregon State University's Southern Oregon Research and Extension Center to carry out the provisions of sections 12 to 14 of this 2023 Act.

**SECTION 57.** Notwithstanding any other provision of law, the General Fund appropriation made to the Department of Environmental Quality by section 1 (2), chapter \_\_, Oregon Laws 2023 (Enrolled House Bill 5018), for the biennium beginning July 1, 2023, for water quality, is increased by \$679,085, for carrying out the provisions of sections 16 and 22 of this 2023 Act.

**SECTION 58.** Notwithstanding any other provision of law, the General Fund appropriation made to the State Department of Agriculture by section 1 (3), chapter \_\_, Oregon Laws 2023 (Enrolled House Bill 5002), for the biennium beginning July 1, 2023, for natural resources, is increased by \$269,762, for carrying out the provisions of section 16 of this 2023 Act.

**SECTION 59.** Notwithstanding any other provision of law, the General Fund appropriation made to the Water Resources Department by section 1 (5), chapter \_\_, Oregon Laws 2023 (Enrolled House Bill 5043), for the biennium beginning July 1, 2023, for director's office, is increased by \$631,202, for carrying out the provisions of sections 5 to 11 and 15 to 27 of this 2023 Act.

**SECTION 60.** Notwithstanding any other provision of law, the General Fund appropriation made to the Water Resources Department by section 1 (1), chapter \_\_, Oregon Laws 2023 (Enrolled House Bill 5043), for the biennium beginning July 1, 2023, for agency administration, is increased by \$398,569, for carrying out the provisions of sections 6 to 9, 11, 15, 16 and 21 to 26 of this 2023 Act and the amendments to statutes by sections 5, 10, 17 to 20 and 27 of this 2023 Act.

**SECTION 61.** Notwithstanding any other law limiting expenditures, the amount of \$2,000,000 is established, for the biennium beginning July 1, 2023, as the maximum limit for payment of expenses by the Water Resources Department for the purpose of carrying out section 16 of this 2023 Act through use of funds from the Place-Based Water Planning Fund established under section 15 of this 2023 Act.

**SECTION 62.** This 2023 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect on its passage.

**Passed by House June 14, 2023**

.....  
Timothy G. Sekerak, Chief Clerk of House

.....  
Dan Rayfield, Speaker of House

**Passed by Senate June 22, 2023**

.....  
Rob Wagner, President of Senate

**Received by Governor:**

.....M,....., 2023

**Approved:**

.....M,....., 2023

.....  
Tina Kotek, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2023

.....  
Secretary of State

**Enrolled  
House Bill 2929**

Sponsored by Representative MARSH; Representatives EVANS, GAMBA, HOLVEY, Senators GOLDEN, PATTERSON (Pre-session filed.)

CHAPTER .....

AN ACT

Relating to the enforcement of water laws.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** If the Water Resources Department has information that a person has engaged in any activity that is in violation of ORS 537.130, 537.535, 540.710 or 540.720, in addition to any other available remedies, the department may apply to the Circuit Court for Marion County, or to the circuit court for any county in which the activity has occurred, for a temporary or permanent injunction requiring the person to:

- (1) Refrain from the activity; and
- (2) Take any actions necessary to remedy the violation or any threat to water supplies, public health or public safety resulting from the violation.

**SECTION 2.** Section 1 of this 2023 Act is repealed on January 2, 2030.

**SECTION 3.** (1) On or before September 15, 2028, the Water Resources Department shall report, in the manner prescribed in ORS 192.245, to a committee or interim committee of the Legislative Assembly related to water on the department’s use of injunctive authority pursuant to section 1 of this 2023 Act.

(2) The report must describe, but need not be limited to describing, the frequency of the department’s pursuit of injunctions pursuant to section 1 of this 2023 Act and the outcomes of applying for, and being granted, injunctions pursuant to section 1 of this 2023 Act.

**SECTION 4.** Section 3 of this 2023 Act is repealed on January 2, 2030.

**Passed by House April 13, 2023**

.....  
Timothy G. Sekerak, Chief Clerk of House

.....  
Dan Rayfield, Speaker of House

**Passed by Senate June 23, 2023**

.....  
Rob Wagner, President of Senate

**Received by Governor:**

.....M,....., 2023

**Approved:**

.....M,....., 2023

.....  
Tina Kotek, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2023

.....  
Secretary of State

**Enrolled  
House Bill 3372**

Sponsored by Representatives OWENS, HELM, Senator PROZANSKI; Representatives GAMBIA, GOMBERG, HARTMAN, JAVADI, MARSH, Senators NERON, SOLLMAN

CHAPTER .....

AN ACT

Relating to exempt uses of water; creating new provisions; and amending ORS 536.900, 537.545 and 540.045.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 537.545 is amended to read:

537.545. (1) **Subject to subsection (3) of this section**, a registration, certificate of registration, application for a permit, permit, certificate of completion or ground water right certificate under ORS 537.505 to 537.795 and 537.992 is not required for the use of ground water for:

(a) Stockwatering purposes, unless the use exceeds 12,000 gallons per day and occurs at a new confined animal feeding operation, as defined in ORS 468B.215;

(b) Watering any lawn or noncommercial **or commercial** garden not exceeding one-half acre in area **in an amount not exceeding 3,000 gallons a day**;

(c) Watering the lawns, grounds and fields not exceeding 10 acres in area of schools located within a critical ground water area established pursuant to ORS 537.730 to 537.740;

(d) Single or group domestic purposes in an amount not exceeding 15,000 gallons a day;

(e) Down-hole heat exchange purposes;

(f) Any single industrial or commercial purpose, **other than for watering any lawn or commercial garden**, in an amount not exceeding 5,000 gallons a day; or

(g) Land application, so long as the ground water:

(A) Has first been appropriated and used under a permit or certificate issued under ORS 537.625 or 537.630 for a water right issued for industrial purposes or a water right authorizing use of water for confined animal feeding purposes;

(B) Is reused for irrigation purposes and the period of irrigation is a period during which the reused water has never been discharged to the waters of the state; and

(C) Is applied pursuant to a permit issued by the Department of Environmental Quality or the State Department of Agriculture under either ORS 468B.050 to construct and operate a disposal system or ORS 468B.215 to operate a confined animal feeding operation.

(2) A ground water use for a purpose that is exempt under subsection (1) of this section, to the extent that the use is beneficial, constitutes a right to appropriate ground water equal to that established by a ground water right certificate issued under ORS 537.700.

**(3) A ground water use for purposes of watering a commercial garden that is exempt under subsection (1)(b) of this section, when combined with the use of water for purposes that are exempt under subsection (1)(f) of this section, may not exceed 5,000 gallons a day.**

[(3)] (4) Except for the use of water under subsection (1)(g) of this section, the Water Resources Commission by rule may require any person or public agency using ground water for any such purpose to furnish information with regard to such ground water and the use thereof. For a use of water described in subsection (1)(g) of this section, the Department of Environmental Quality or the State Department of Agriculture shall provide to the Water Resources Department a copy of the permit issued under ORS 468B.050 or 468B.215 authorizing the land application of ground water for reuse. The permit shall provide the information regarding the place of use of such water and the nature of the beneficial reuse.

[(4)] (5) If it is necessary for the Water Resources Department to regulate the use or distribution of ground water, including uses for purposes that are exempt under subsection (1) of this section, the department shall use as a priority date for the exempt uses the date indicated in the log for the well filed with the department under ORS 537.765 or other documentation provided by the well owner showing when water use began.

[(5)] (6) The person licensed under ORS 537.747 or permitted under ORS 537.753 (4) that constructs a well to allow ground water use for a purpose that is exempt under subsection (1) of this section shall provide the Water Resources Department with a map showing the exact location of the well on the tax lot. The person licensed under ORS 537.747 or permitted under ORS 537.753 (4) that constructs a well shall provide a map required by this subsection to the department, along with the well log required by ORS 537.765, no later than 30 days after the well is completed. The map must be prepared in accordance with standards established by the department. The map and well log must be accompanied by the fee described in subsection [(6)] (7) of this section to record the exempt ground water use.

[(6)] (7) The Water Resources Department shall collect a fee of \$300 for recording an exempt ground water use under subsection [(5)] (6) of this section. Moneys from fees collected under this subsection shall be deposited to the credit of the Water Resources Department Water Right Operating Fund. Notwithstanding ORS 536.009, moneys deposited to the fund under this subsection shall be used for the purposes of evaluating ground water supplies, conducting ground water studies, carrying out ground water monitoring, processing ground water data and the administration and enforcement of this subsection and subsections [(3), (5) and (7)] (4), (6) and (8) of this section.

[(7)] (8) The Water Resources Commission shall adopt rules to implement, administer and enforce subsections [(5) and (6)] (6) and (7) of this section.

**(9) As used in this section, "commercial garden":**

**(a) Means a garden that is used to grow plants to be sold, traded or bartered.**

**(b) Does not mean a location at which plants in the plant Cannabis family Cannabaceae are grown, unless the plants are grown by a person licensed under ORS 571.281.**

**SECTION 2.** ORS 537.545, as amended by section 11, chapter 465, Oregon Laws 2023, is amended to read:

537.545. (1) **Subject to subsection (3) of this section**, a registration, certificate of registration, application for a permit, permit, certificate of completion or ground water right certificate under ORS 537.505 to 537.795 and 537.992 is not required for the use of ground water for:

- (a) Stockwatering purposes;
- (b) Watering any lawn or noncommercial **or commercial** garden not exceeding one-half acre in area **in an amount not exceeding 3,000 gallons a day**;
- (c) Watering the lawns, grounds and fields not exceeding 10 acres in area of schools located within a critical ground water area established pursuant to ORS 537.730 to 537.740;
- (d) Single or group domestic purposes in an amount not exceeding 15,000 gallons a day;
- (e) Down-hole heat exchange purposes;
- (f) Any single industrial or commercial purpose, **other than for watering any lawn or commercial garden**, in an amount not exceeding 5,000 gallons a day; or
- (g) Land application, so long as the ground water:

(A) Has first been appropriated and used under a permit or certificate issued under ORS 537.625 or 537.630 for a water right issued for industrial purposes or a water right authorizing use of water for confined animal feeding purposes;

(B) Is reused for irrigation purposes and the period of irrigation is a period during which the reused water has never been discharged to the waters of the state; and

(C) Is applied pursuant to a permit issued by the Department of Environmental Quality or the State Department of Agriculture under either ORS 468B.050 to construct and operate a disposal system or ORS 468B.215 to operate a confined animal feeding operation.

(2) A ground water use for a purpose that is exempt under subsection (1) of this section, to the extent that the use is beneficial, constitutes a right to appropriate ground water equal to that established by a ground water right certificate issued under ORS 537.700.

**(3) A ground water use for purposes of watering a commercial garden that is exempt under subsection (1)(b) of this section, when combined with the use of water for purposes that are exempt under subsection (1)(f) of this section, may not exceed 5,000 gallons a day.**

[(3)] (4) Except for the use of water under subsection (1)(g) of this section, the Water Resources Commission by rule may require any person or public agency using ground water for any such purpose to furnish information with regard to such ground water and the use thereof. For a use of water described in subsection (1)(g) of this section, the Department of Environmental Quality or the State Department of Agriculture shall provide to the Water Resources Department a copy of the permit issued under ORS 468B.050 or 468B.215 authorizing the land application of ground water for reuse. The permit shall provide the information regarding the place of use of such water and the nature of the beneficial reuse.

[(4)] (5) If it is necessary for the Water Resources Department to regulate the use or distribution of ground water, including uses for purposes that are exempt under subsection (1) of this section, the department shall use as a priority date for the exempt uses the date indicated in the log for the well filed with the department under ORS 537.765 or other documentation provided by the well owner showing when water use began.

[(5)] (6) The person licensed under ORS 537.747 or permitted under ORS 537.753 (4) that constructs a well to allow ground water use for a purpose that is exempt under subsection (1) of this section shall provide the Water Resources Department with a map showing the exact location of the well on the tax lot. The person licensed under ORS 537.747 or permitted under ORS 537.753 (4) that constructs a well shall provide a map required by this subsection to the department, along with the well log required by ORS 537.765, no later than 30 days after the well is completed. The map must be prepared in accordance with standards established by the department. The map and well log must be accompanied by the fee described in subsection [(6)] (7) of this section to record the exempt ground water use.

[(6)] (7) The Water Resources Department shall collect a fee of \$300 for recording an exempt ground water use under subsection [(5)] (6) of this section. Moneys from fees collected under this subsection shall be deposited to the credit of the Water Resources Department Water Right Operating Fund. Notwithstanding ORS 536.009, moneys deposited to the fund under this subsection shall be used for the purposes of evaluating ground water supplies, conducting ground water studies, carrying out ground water monitoring, processing ground water data and the administration and enforcement of this subsection and subsections [(3), (5) and (7)] (4), (6) and (8) of this section.

[(7)] (8) The Water Resources Commission shall adopt rules to implement, administer and enforce subsections [(5) and (6)] (6) and (7) of this section.

**(9) As used in this section, "commercial garden":**

**(a) Means a garden that is used to grow plants to be sold, traded or bartered.**

**(b) Does not mean a location at which plants in the plant Cannabis family Cannabaceae are grown, unless the plants are grown by a person licensed under ORS 571.281.**

**SECTION 3. The exemption established by ORS 537.545 (1)(b) for the use of ground water for watering any commercial garden does not apply to the use of ground water for watering any commercial garden in the Lower Umatilla Basin Groundwater Management Area.**

**SECTION 4. Section 3 of this 2025 Act is repealed on January 2, 2028.****SECTION 5.** ORS 536.900 is amended to read:

536.900. (1) In addition to any other liability or penalty provided by law, the Water Resources Commission may impose a civil penalty on a person for violation of:

(a) A term or condition of a permit, certificate or license issued under ORS chapters 536 to 543A.

(b) ORS 537.130 or 537.535.

(c) ORS 537.545 [(5)] (6) or a rule described in ORS 537.545 [(7)] (8).

(d) A commission rule or order that pertains to well maintenance.

(e) ORS 540.045, 540.145, 540.210, 540.310, 540.320, 540.330, 540.340, 540.435, 540.440, 540.570 (5), 540.710, 540.720 and 540.730 or rules adopted under ORS 540.145.

(f) ORS 537.897 or 537.898 (2).

(g) ORS 537.387.

(2) A civil penalty may be imposed under this section for each day of violation of ORS 537.130, 537.535, 540.045, 540.310, 540.330, 540.570 (5), 540.710, 540.720 or 540.730.

(3) In the event the petitioner knowingly misrepresents the map and petition required in ORS 541.329, the commission may assess a penalty of up to \$1,000 based upon guidelines to be established by the commission. In addition, the petition and map shall be amended to correct the error at the petitioner's cost. Affected users shall be given notice as provided in ORS 541.329 (5).

(4) A civil penalty may not be imposed until the commission prescribes a reasonable time to eliminate the violation. The commission shall notify the violator of the time allowed to correct a violation within 10 business days after the commission first becomes aware of the violation.

(5) Notwithstanding any term or condition of a permit, certificate or license, the rotation of the use of water under ORS 540.150 may not be considered a violation under subsection (1) of this section.

(6) The commission may impose a civil penalty of not more than \$2,000 per occurrence for a violation described in subsection (1)(g) of this section.

**SECTION 6.** ORS 540.045 is amended to read:

540.045. (1) Each watermaster shall:

(a) Regulate the distribution of water among the various users of water from any natural surface or ground water supply in accordance with the users' existing water rights of record in the Water Resources Department.

(b) Upon the request of the users, distribute water among the various users under any partnership ditch, pipeline or well or from any reservoir, in accordance with the users' existing water rights of record in the department.

(c) Divide the waters of the natural surface and ground water sources and other sources of water supply among the canals, ditches, pumps, pipelines and reservoirs taking water from the source for beneficial use, by regulating, adjusting and fastening the headgates, valves or other control works at the several points of diversion of surface water or the several points of appropriation of ground water, according to the users' relative entitlements to water.

(d) Attach to the headgate, valve or other control works the watermaster regulates under paragraph (c) of this subsection, a written notice dated and signed by the watermaster, setting forth that the headgate, valve or other control works has been properly regulated and is wholly under the control of the watermaster.

(e) Perform any other duties the Water Resources Director may require.

(2) When a watermaster must rely on a well log or other documentation to regulate the use or distribution of ground water, the regulation shall be in accordance with ORS 537.545 [(4)] (5).

(3) For purposes of regulating the distribution or use of water, any stored water released in excess of the needs of water rights calling on that stored water shall be considered natural flow, unless the release is part of a water exchange under the control of, and approved by, the watermaster.

(4) As used in this section, "existing water rights of record" includes all completed permits, certificates, licenses and ground water registration statements filed under ORS 537.605 and related court decrees.

Passed by House April 22, 2025

Received by Governor:

Repassed by House May 29, 2025

.....M,....., 2025

Approved:

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Timothy G. Sekerak, Chief Clerk of House

.....M,....., 2025

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Julie Fahey, Speaker of House

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Tina Kotek, Governor

Passed by Senate May 27, 2025

Filed in Office of Secretary of State:

.....M,....., 2025

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Rob Wagner, President of Senate

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Tobias Read, Secretary of State

**Enrolled  
House Bill 4061**

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Agriculture, Land Use, and Water for Representative Ken Helm)

CHAPTER .....

AN ACT

Relating to water resources; creating new provisions; amending ORS 536.900 and 537.990; and prescribing an effective date.

**Be It Enacted by the People of the State of Oregon:**

**HAULED WATER**

**SECTION 1. (1) A water supplier that sells water to the public at a distribution location authorized for hauled water by the water supplier shall:**

- (a) Maintain records of the water sales that include:**
  - (A) The name and contact information of the person that purchased the water.**
  - (B) The date of the sale.**
  - (C) The quantity of the water.**
  - (D) The license plate number of the vehicle used to haul the water.**
- (b) Retain the records for at least 12 months after the sales.**
- (c) Upon request by law enforcement or the Water Resources Department, immediately provide the records.**

**(2) Notwithstanding subsection (1)(a) of this section, a water supplier is not required to keep records of water sold:**

- (a) To state or local government bulk water purchasers.**
- (b) To contractors licensed by the Construction Contractors Board.**
- (c) In bulk to be used for firefighting purposes.**

**(3) Notwithstanding any contrary provision of law, a water supplier that provides records under subsection (1)(c) of this section shall have immunity from any civil or criminal liability:**

- (a) That might otherwise be incurred or imposed with respect to release of the records and any data in the records.**
- (b) With respect to participating in any judicial proceeding that results from the release of records or any data in the records.**
- (4) The Water Resources Commission may adopt rules to implement this section.**

**SECTION 2. (1) A person that purchases water from a water supplier at a distribution location to be hauled for irrigation or nursery purposes shall:**

- (a) Keep records of:**
  - (A) The date and location of the purchase.**

- (B) The date on which the water is delivered.
- (C) If hauling water for another person, the name and contact information of the person to whom the water will be delivered and the date of the delivery.
- (D) The quantity of the water.
- (E) The intended use of the water, including the type of plant for which the water is intended to be used.
- (F) The location at which the water is used.
- (b) Retain the records for at least 12 months after the water is delivered to the location of use.
- (c) Upon request by law enforcement or the Water Resources Department, immediately provide the records.

(2) The Water Resources Commission may adopt rules to implement this section.

**SECTION 3.** As soon as practicable after the effective date of this 2022 Act, the Oregon Liquor and Cannabis Commission, the State Department of Agriculture and the Water Resources Department shall make reasonable attempts to provide notice of the requirements described in section 2 of this 2022 Act to potentially interested persons.

**SECTION 4.** (1) A person may not haul water to, or arrange for the hauling of water to, a grow site for plants in the plant Cannabis family Cannabaceae if:

(a) The grow site is not registered or licensed under ORS 475C.065, 475C.792 or 571.281; and

(b) The crop of plants is in an amount that is not allowed under state law.

(2) A person may not willfully or negligently provide false information to law enforcement or the Water Resources Department regarding the hauling of water related to plants in the plant Cannabis family Cannabaceae.

## PENALTIES

**SECTION 5.** ORS 536.900 is amended to read:

536.900. (1) In addition to any other liability or penalty provided by law, the Water Resources Commission may impose a civil penalty on a person for *[any of the following]* **violation of:**

(a) *[Violation of any of the terms or conditions]* **A term or condition** of a permit, certificate or license issued under ORS chapters 536 to 543A.

(b) *[Violation of]* ORS 537.130 or 537.535.

(c) *[Violation of]* ORS 537.545 (5) or *[of]* a rule described in ORS 537.545 (7).

(d) *[Violation of any]* **A commission** rule or order *[of the Water Resources Commission]* that pertains to well maintenance.

(e) *[Violation of]* ORS 540.045, 540.145, 540.210, 540.310, 540.320, 540.330, 540.340, 540.435, 540.440, 540.570 (5), 540.710, 540.720 and 540.730 or rules adopted under ORS 540.145.

**(f) Section 2 or 4 (2) of this 2022 Act.**

(2) A civil penalty may be imposed under this section for each day of violation of ORS 537.130, 537.535, 540.045, 540.310, 540.330, 540.570 (5), 540.710, 540.720 or 540.730.

(3) In the event the petitioner knowingly misrepresents the map and petition required in ORS 541.329, the commission may assess a penalty of up to \$1,000 based upon guidelines to be established by the commission. In addition, the petition and map shall be amended to correct the error at the petitioner's cost. Affected users shall be given notice as provided in ORS 541.329 (5).

(4) A civil penalty may not be imposed until the commission prescribes a reasonable time to eliminate the violation. The commission shall notify the violator of the time allowed to correct a violation within *[five]* **10 business** days after the commission first becomes aware of the violation.

(5) Notwithstanding any term or condition of a permit, certificate or license, the rotation of the use of water under ORS 540.150 may not be considered a violation under subsection (1) of this section.

**SECTION 6.** ORS 537.990 is amended to read:

537.990. (1) Violation of ORS 537.130 (2) is a Class B misdemeanor.

(2) Any person who willfully diverts or uses water to the detriment of others without compliance with law shall be punished as provided in subsection (1) of this section. The possession or use of water, except when a right of use is acquired in accordance with law, shall be prima facie evidence of the guilt of the person using it.

(3) Violation of ORS 537.535 (1) or 537.747 is a Class B misdemeanor.

**(4) Violation of section 4 (2) of this 2022 Act is a Class A misdemeanor.**

**(5)(a) Violation of section 4 (1) of this 2022 Act with criminal negligence, as defined in ORS 161.085, is a Class A misdemeanor.**

**(b) Notwithstanding ORS 161.635, the maximum fine for a violation described in this subsection is \$25,000 if the person:**

**(A) Owns a water hauling business; or**

**(B) Owns, operates or is responsible for the grow site to which the water was hauled or arranged to be hauled.**

**(6)(a) Notwithstanding subsections (1) to (3) of this section, violation of ORS 537.130 (2) or 537.535 that concerns the use of water at a grow site for a crop of plants in the plant Cannabis family Cannabaceae is a Class A misdemeanor if:**

**(A) The grow site is not registered or licensed under ORS 475C.065, 475C.792 or 571.281; and**

**(B) The crop of plants is in an amount that is not allowed under state law.**

**(b) Notwithstanding ORS 161.635, the maximum fine for a violation described in this subsection is \$25,000.**

**SECTION 7. The amendments to ORS 536.900 and 537.990 by sections 5 and 6 of this 2022 Act apply to offenses committed on or after the effective date of this 2022 Act.**

#### CAPTIONS

**SECTION 8. The unit captions used in this 2022 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2022 Act.**

#### EFFECTIVE DATE

**SECTION 9. This 2022 Act takes effect on the 91st day after the date on which the 2022 regular session of the Eighty-first Legislative Assembly adjourns sine die.**

**Passed by House February 21, 2022**

.....  
Timothy G. Sekerak, Chief Clerk of House

.....  
Dan Rayfield, Speaker of House

**Passed by Senate February 28, 2022**

.....  
Peter Courtney, President of Senate

**Received by Governor:**

.....M,....., 2022

**Approved:**

.....M,....., 2022

.....  
Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2022

.....  
Shemia Fagan, Secretary of State

**Enrolled  
Senate Bill 326**

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary and Ballot Measure 110 Implementation)

CHAPTER .....

**AN ACT**

Relating to cannabis; creating new provisions; amending ORS 133.619, 133.726, 165.663, 475C.337, 475C.341, 475C.349, 475C.353, 536.900 and 537.990 and section 45, chapter 542, Oregon Laws 2021; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** Section 2 of this 2023 Act is added to and made a part of ORS 475C.005 to 475C.525.

**SECTION 2.** (1) As used in this section:

(a) "Cleanup" means the removal, disposal and remediation, by an owner or an agent of an owner, of waste from a site in conformance with applicable law.

(b) "Cleanup costs" means reasonable costs that are associated with or attributable to cleanup.

(c) "Law enforcement agency" has the meaning given that term in ORS 181A.010.

(d)(A) "Owner" means a person who owns the real property where a site is located.

(B) "Owner" does not include a person who, without participating in the management of the site, holds indicia of ownership primarily to protect a security interest in the real property.

(e) "Site" means the location where the unlawful manufacture of a marijuana item, as described in ORS 475C.349, or the unlawful production of marijuana, as described in section 41, chapter 542, Oregon Laws 2021, occurred or is alleged to have occurred.

(f) "Waste" means:

(A) Marijuana flowers, marijuana leaves, marijuana plants and any parts of marijuana plants;

(B) Any items or materials used for an irrigation system if used to facilitate the unlawful manufacture of marijuana items or unlawful production of marijuana, unless:

(i) The site where the items or materials are located was leased to a third party that was responsible for the unlawful manufacture of marijuana items or unlawful production of marijuana;

(ii) The items or materials are the property of the owner; and

(iii) The owner elects to retain ownership and properly store the items or materials;

(C) Greenhouses, hoop houses and other structures used to facilitate the unlawful manufacture of marijuana items or unlawful production of marijuana, unless:

(i) The site where the greenhouses, hoop houses or other structures are located was leased to a third party that was responsible for the unlawful manufacture of marijuana items or unlawful production of marijuana;

(ii) The greenhouses, hoop houses or other structures are the property of the owner and are agricultural buildings, as defined in ORS 455.315, that are allowed on the real property; and

(iii) The owner elects to retain ownership and properly care for the greenhouses, hoop houses or other structures; and

(D) Any material or substance designated as chemical by the Environmental Quality Commission under ORS 475.425 used to facilitate the unlawful manufacture of marijuana items or unlawful production of marijuana, unless:

(i) The site where the material or substance is located was leased to a third party that was responsible for the unlawful manufacture of marijuana items or unlawful production of marijuana;

(ii) The material or substance is the property of the owner; and

(iii) The owner elects to retain ownership and properly store the material or substance.

(2) Upon receiving written notification from a law enforcement agency that a site contains waste, the owner shall promptly undertake any cleanup of the site. The owner may contract with a third party for all or part of the cleanup.

(3) It is a public nuisance, which may be abated pursuant to subsection (4) of this section, if the owner of a site described in subsection (2) of this section fails to complete cleanup of the site within 30 days of the date on which the owner receives the notification described in subsection (2) of this section.

(4) In order to abate a public nuisance described in subsection (3) of this section, the city or county that has jurisdiction over the real property where a site described in subsection (2) of this section is located may maintain civil proceedings in courts of this state against the owner described in subsection (3) of this section to:

(a) Enforce the requirements of subsection (2) of this section;

(b) Authorize the city or county to conduct cleanup and subject the real property where the site is located to a lien for cleanup costs; and

(c) Enjoin any further violation of ORS 475C.349 or section 41, chapter 542, Oregon Laws 2021.

(5) A court may allow the prevailing party reasonable attorney fees and expenses in a proceeding described in subsection (4) of this section.

(6)(a) The remedies described in subsection (4) of this section are in addition to any other remedies available to the governing body of a city or county that has jurisdiction over the real property where a site is located.

(b) Nothing in this section requires the governing body of a city or county to avail itself of a remedy allowed by this section or by any other law.

(7)(a) The governing body of a city or county described in subsection (4) of this section may, at its discretion, file a claim of lien on real property where a site described in subsection (2) of this section is located. The governing body of the city or county shall file written notice of claim of lien with the recording officer of each county in which the real property where a site described in subsection (2) of this section is located. All cleanup costs incurred by the city or county under subsection (4)(b) of this section shall constitute the lien. The lien must contain the name of the owner of the real property to which the lien is attached and a description of the real property sufficient to accurately identify the real property. The lien shall attach and become enforceable on the day of the filing described in this subsection.

(b) A lien described in this subsection shall be foreclosed in the manner provided in ORS chapter 88.

(c) A lien described in this subsection shall have priority over any claim of the state under ORS 166.715 to 166.735 or any local government forfeiture ordinance or regulation.

(8) Nothing in this section shall affect the right of the governing body of a city or county to bring an action against any person to recover all costs and damages for which the person is liable under this section.

**SECTION 3.** (1) At a location described in subsection (2) of this section, a person may not:

(a) Use, store or divert any waters under ORS 537.130;

(b) Use or attempt to use any ground water under ORS 537.535;

(c) Construct or attempt to construct any well or other means of developing and securing ground water under ORS 537.535;

(d) Collect or use precipitation water from an artificial impervious surface as described in ORS 537.141; or

(e) Use ground water as described in ORS 537.545 (1)(b) or (f).

(2) A person may not engage in or undertake an action described in subsection (1) of this section at a location where plants in the plant Cannabis family Cannabaceae are grown, if:

(a) The location described in this section is not licensed or registered under ORS 475C.065, 475C.792 or 571.281; and

(b) The number of plants described in this section is greater than the number of marijuana plants or industrial hemp plants allowed under ORS 475C.005 to 475C.525, 475C.770 to 475C.919 or 571.260 to 571.348.

**SECTION 4.** ORS 133.619 is amended to read:

133.619. (1) A warrant authorizing the installation or tracking of a mobile tracking device shall be executed as provided in this section.

(2) The officer need not inform any person of the existence or content of the warrant prior to its execution.

(3) Except as provided in subsection (4) of this section, the officer need not deliver or leave a receipt for things seized or observations made under authority of the warrant.

(4) Within five days of the execution of the warrant, or, in the case of an ongoing investigation, within such additional time as the issuing judge may allow upon application, the officer shall mail a receipt for things seized or observations made under authority of the warrant to the following:

(a) If the mobile tracking device has been affixed to a vehicle, to the registered owner; and

(b) To such other persons as the court may direct in the warrant.

(5) The receipt provided for in subsection (4) of this section must include the dates and times during which the officer monitored or attempted to monitor the mobile tracking device.

(6) A warrant authorizing the installation or tracking of a mobile tracking device shall be issued only when based upon the submission of an affidavit or oral statement as described in ORS 133.545, which affidavit or statement demonstrates that probable cause exists to believe that an individual is committing or is about to commit:

(a) A particular felony of murder, kidnapping, arson, robbery or other crime dangerous to life and punishable as a felony;

(b) A crime punishable as a felony arising under ORS 475.752 [or], 475.806 to 475.894, **475C.005 to 475C.525 or 475C.770 to 475C.919**;

(c) The crime of unlawfully transporting metal property under ORS 164.857 or a crime described in ORS 165.118;

(d) Bribery, extortion, burglary or unauthorized use of a motor vehicle punishable as a felony;

(e) A violation of a criminal provision of the wildlife laws as described in ORS 496.002;

(f) A violation of a criminal provision of the commercial fishing laws as described in ORS 506.001;

(g) A violation of ORS 704.020, 704.021, 704.030 or 704.065; or

(h) A conspiracy to commit a crime listed in this subsection.

(7) A court may authorize the installation or tracking of a mobile tracking device for a period not to exceed 30 days. Upon application, the court may grant one or more extensions for a period not to exceed 30 days per extension.

**SECTION 5.** ORS 133.726 is amended to read:

133.726. (1) Notwithstanding ORS 133.724, under the circumstances described in this section, a law enforcement officer is authorized to intercept an oral communication to which the officer or a person under the direct supervision of the officer is a party, without obtaining an order for the interception of a wire, electronic or oral communication under ORS 133.724.

(2) For purposes of this section and ORS 133.736, a person is a party to an oral communication if the oral communication is made in the person's immediate presence and is audible to the person regardless of whether the communication is specifically directed to the person.

(3) An ex parte order for intercepting an oral communication in any county of this state under this section may be issued by any judge as defined in ORS 133.525 upon written application made upon oath or affirmation of the district attorney or a deputy district attorney authorized by the district attorney for the county in which the order is sought or upon the oath or affirmation of any peace officer as defined in ORS 133.005. The application shall include:

(a) The name of the applicant and the applicant's authority to make the application;

(b) A statement demonstrating that there is probable cause to believe that a person whose oral communication is to be intercepted is engaged in committing, has committed or is about to commit a particular felony, or a misdemeanor under ORS 167.007 or 167.008, and that intercepting the oral communication will yield evidence thereof; and

(c) The identity of the person, if known, suspected of committing the crime and whose oral communication is to be intercepted.

(4) The judge may require the applicant to furnish further testimony or documentary evidence in support of the application.

(5) Upon examination of the application and evidence, the judge may enter an ex parte order, as requested or as modified, authorizing or approving the interception of an oral communication within the state if the judge determines on the basis of the facts submitted by the applicant that:

(a) There is probable cause to believe that a person is engaged in committing, has committed or is about to commit a particular felony, or a misdemeanor under ORS 167.007 or 167.008; and

(b) There is probable cause to believe that the oral communication to be obtained will contain evidence concerning that crime.

(6) An order authorizing or approving the interception of an oral communication under this section must specify:

(a) The identity of the person, if known, whose oral communication is to be intercepted;

(b) A statement identifying the particular crime to which the oral communication is expected to relate;

(c) The agency authorized under the order to intercept the oral communication;

(d) The name and office of the applicant and the signature and title of the issuing judge;

(e) A period of time after which the order shall expire; and

(f) A statement that the order authorizes only the interception of an oral communication to which a law enforcement officer or a person under the direct supervision of a law enforcement officer is a party.

(7) An order under ORS 133.724 or this section is not required when a law enforcement officer intercepts an oral communication to which the officer or a person under the direct supervision of the officer is a party if the oral communication is made by a person whom the officer has probable cause to believe has committed, is engaged in committing or is about to commit:

(a) A crime punishable as a felony under ORS 475.752, 475.806 to 475.894 [or], 475.906, **475C.005 to 475C.525 or 475C.770 to 475C.919** or as a misdemeanor under ORS 167.007 or 167.008; or

(b) Any other crime punishable as a felony if the circumstances at the time the oral communication is intercepted are of such exigency that it would be unreasonable to obtain a court order under ORS 133.724 or this section.

(8) A law enforcement officer who intercepts an oral communication pursuant to this section may not intentionally fail to record and preserve the oral communication in its entirety. A law enforcement officer, or a person under the direct supervision of the officer, who is authorized under this section to intercept an oral communication is not required to exclude from the interception an oral communication made by a person for whom probable cause does not exist if the officer or the person under the officer's direct supervision is a party to the oral communication.

(9) A law enforcement officer may not divulge the contents of an oral communication intercepted under this section before a preliminary hearing or trial in which an oral communication is going to be introduced as evidence against a person except:

(a) To a superior officer or other official with whom the law enforcement officer is cooperating in the enforcement of the criminal laws of this state or the United States;

(b) To a magistrate;

(c) In a presentation to a federal or state grand jury; or

(d) In compliance with a court order.

(10) A law enforcement officer may intercept an oral communication under this section only when acting within the scope of the officer's employment and as a part of assigned duties.

(11) As used in this section, "law enforcement officer" means:

(a) An officer employed to enforce criminal laws by:

(A) The United States, this state or a municipal government within this state;

(B) A political subdivision, agency, department or bureau of the governments described in subparagraph (A) of this paragraph; or

(C) A police department established by a university under ORS 352.121 or 353.125;

(b) An authorized tribal police officer as defined in ORS 181A.940; or

(c) A regulatory specialist as defined in ORS 471.001.

(12) Violation of subsection (9) of this section is a Class A misdemeanor.

**SECTION 6.** ORS 165.663 is amended to read:

165.663. Any police officer may apply to the circuit court in which judicial district the targeted telephone is located for an ex parte order or extension of an order authorizing the installation and use of a pen register or a trap and trace device. The application shall:

(1) Be in writing under oath;

(2) Include the identity of the applicant and the identity of the law enforcement agency conducting the investigation;

(3) Contain a statement demonstrating that there is probable cause to believe that an individual is committing, has committed or is about to commit:

(a) A particular felony of murder, kidnapping, arson, robbery, bribery, extortion or other crime dangerous to life and punishable as a felony;

(b) A crime punishable as a felony under ORS 475.752, 475.806 to 475.894 [or], 475.906, **475C.005 to 475C.525 or 475C.770 to 475C.919**;

(c) A crime under ORS 166.720 that includes as part of the pattern of racketeering activity at least one incident of conduct that constitutes a felony; or

(d) Any conspiracy to commit a crime described in paragraphs (a) to (c) of this subsection; and

(4) Contain a statement demonstrating that use of a pen register or trap and trace device will yield evidence relevant to the crime.

**SECTION 7.** ORS 475C.337 is amended to read:

475C.337. (1) Except for licensees and licensee representatives acting in accordance with ORS 475C.005 to 475C.525 and any rule adopted under ORS 475C.005 to 475C.525, it is unlawful for any person 21 years of age or older to possess, knowingly or intentionally:

(a) An amount of plants in the genus Cannabis within the plant family Cannabaceae in excess of the amount allowed under ORS 475C.305 (1).

(b) More than two ounces of usable marijuana in a public place.

(c) More than eight ounces of usable marijuana.

(d) More than 16 ounces of cannabinoid products in solid form or cannabinoid concentrates.

- (e) More than 72 ounces of cannabinoid products in liquid form.
- (f) More than one ounce of cannabinoid extracts.
- (g) A cannabinoid extract that was not purchased from a marijuana retailer that holds a license issued under ORS 475C.097.

(2) Except as provided in subsection (3) of this section, unlawful possession of a marijuana item is a Class A misdemeanor.

(3) Unlawful possession of a marijuana item is:

(a) A Class B violation, if the amount possessed is not more than two times the applicable maximum amount specified in subsection (1)(a) to (f) of this section.

(b) A Class B misdemeanor, if the amount possessed is more than two times, but not more than four times, the applicable maximum amount specified in subsection (1)(a) to (f) of this section.

(c) A Class C felony, if the amount possessed is:

(A) More than 16 times the applicable maximum amount specified in subsection (1)(a), (c), (d), (e) or (f) of this section;

(B) More than eight pounds of usable marijuana in a public place; or

(C) More than one-quarter ounce of cannabinoid extract that was not purchased from a marijuana retailer that holds a license issued under ORS 475C.097.

**(d) A Class B felony, if:**

**(A) The amount possessed is more than 32 times the applicable maximum amount specified in subsection (1)(a), (c), (d), (e) or (f) of this section; or**

**(B) The violation is a marijuana offense involving reckless unlawful conduct under ORS 475C.353 (5) or a marijuana offense involving knowing unlawful conduct under ORS 475C.353 (6).**

**SECTION 8.** ORS 475C.341 is amended to read:

475C.341. (1) Except for licensees and licensee representatives acting in accordance with ORS 475C.005 to 475C.525 and any rule adopted under ORS 475C.005 to 475C.525, it is unlawful for any person under 21 years of age to possess, knowingly or intentionally:

(a) An amount of plants in the genus *Cannabis* within the plant family Cannabaceae in excess of the amount allowed under ORS 475C.305 (1).

(b) More than two ounces of usable marijuana in a public place.

(c) More than eight ounces of usable marijuana.

(d) More than 16 ounces of cannabinoid products in solid form or cannabinoid concentrates.

(e) More than 72 ounces of cannabinoid products in liquid form.

(f) More than one ounce of cannabinoid extracts.

(g) A cannabinoid extract that was not purchased from a marijuana retailer that holds a license under ORS 475C.097.

(2) Except as provided in [subsection (3)] **subsections (3) and (4)** of this section, unlawful possession of a marijuana item by a person under 21 years of age is a Class A misdemeanor.

(3) Unlawful possession of a marijuana item by a person under 21 years of age is a Class C felony, if the amount possessed is:

(a) More than 16 times the applicable maximum amount specified in subsection (1)(a), (c), (d), (e) or (f) of this section;

(b) More than eight pounds of usable marijuana in a public place; or

(c) More than one-quarter ounce of cannabinoid extract that was not purchased from a marijuana retailer that holds a license issued under ORS 475C.097.

**(4) Unlawful possession of a marijuana item by a person under 21 years of age is a Class B felony, if:**

**(a) The amount possessed is more than 32 times the applicable maximum amount specified in subsection (1)(a), (c), (d), (e) or (f) of this section; or**

**(b) The violation is a marijuana offense involving reckless unlawful conduct under ORS 475C.353 (5) or a marijuana offense involving knowing unlawful conduct under ORS 475C.353 (6).**

**SECTION 9.** ORS 475C.349 is amended to read:

475C.349. (1) Except for licensees and licensee representatives acting in accordance with ORS 475C.005 to 475C.525 and any rule adopted under ORS 475C.005 to 475C.525, and except for a person acting within the scope of and in compliance with ORS 475C.305, it is unlawful for any person to manufacture a marijuana item.

(2) Except as provided in subsection (3) of this section, unlawful manufacture of a marijuana item is a Class A misdemeanor.

(3) Unlawful manufacture of a marijuana item is:

(a) A Class B misdemeanor, if a person 21 years of age or older unlawfully manufactures homegrown marijuana at a household and the total number of homegrown plants in the genus Cannabis within the plant family Cannabaceae at the household exceeds four plants but does not exceed eight plants.

(b) A Class C felony, if:

(A) A person unlawfully manufactures marijuana and the total number of plants in the genus Cannabis within the plant family Cannabaceae exceeds 12 plants; or

(B) A person unlawfully manufactures a cannabinoid product or a cannabinoid concentrate and the total amount of cannabinoid products or the total amount of cannabinoid concentrates exceeds twice the applicable maximum amount specified in ORS 475C.337 (1)(d), (e) or (f).

(c) A Class B felony, if:

(A) A person unlawfully manufactures a cannabinoid extract[.];

**(B) The violation involves the manufacture of more than 100 marijuana plants, whether mature or immature; or**

**(C) The violation is a marijuana offense involving reckless unlawful conduct under ORS 475C.353 (5) or a marijuana offense involving knowing unlawful conduct under ORS 475C.353 (6).**

**SECTION 10.** ORS 475C.353 is amended to read:

475C.353. (1) Except as provided in [subsection (3)] **subsections (3), (5) and (6)** of this section, a felony under ORS 475C.337 or 475C.341 shall be classified as crime category 1 of the sentencing guidelines grid of the Oregon Criminal Justice Commission.

(2) Except as provided in [subsection (3)] **subsections (3), (5) and (6)** of this section, a felony under ORS 475C.345 or 475C.349 shall be classified as crime category 4 of the sentencing guidelines grid of the Oregon Criminal Justice Commission.

(3) Subject to subsection (4) of this section, a felony under ORS 475C.337, 475C.341, 475C.345 or 475C.349 shall be classified as crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if the violation is a commercial marijuana offense. A violation is a commercial marijuana offense for purposes of this subsection if the violation was [committed in conjunction with] **accompanied by** at least three of the following factors:

(a) The offender delivered a marijuana item for consideration;

(b) The offender was in possession of \$300 or more in cash;

(c) The offender was unlawfully in possession of a firearm or other weapon as described in ORS 166.270 (2), the offender used, attempted to use or threatened to use a deadly weapon or dangerous weapon, as those terms are defined in ORS 161.015, or the offender was in possession of a firearm or other deadly weapon or dangerous weapon for the purpose of using the deadly weapon or dangerous weapon;

(d) The offender was in possession of materials being used for the packaging of marijuana items, such as scales, wrapping or foil, other than a material used to contain the marijuana item that is the subject of the violation;

(e) The offender was in possession of marijuana item transaction records or customer lists;

(f) The offender was in possession of stolen property;

(g) The offender was in possession of manufacturing paraphernalia specifically designed for producing marijuana, such as recipes, precursor chemicals, laboratory equipment, lighting equipment, ventilating equipment or power generation equipment;

(h) The offender modified structures by painting, wiring, plumbing or lighting the structures to facilitate the offense;

(i) The offender used public lands to manufacture the marijuana item; or

(j) The offender constructed fortifications or took security measures that had the potential to injure persons.

(4) To prove that a violation is a commercial marijuana offense for purposes of subsection (3) of this section, the state must plead in the accusatory instrument at least three of the factors described in subsection (3) of this section. The state has the burden of proving each factor beyond a reasonable doubt.

**(5) A violation of ORS 475C.337 (3)(d), 475C.341 (4), 475C.349 (3)(c)(B) or 475C.349 (3)(c)(C) shall be classified as a crime category 6 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if the violation constitutes a marijuana offense involving reckless unlawful conduct. A violation of ORS 475C.337 (3)(d), 475C.341 (4), 475C.349 (3)(c)(B) or 475C.349 (3)(c)(C) is a marijuana offense involving reckless unlawful conduct if the person is aware of and consciously disregards a substantial and justifiable risk that the violation is accompanied by:**

**(a) Any of the following factors:**

**(A) Abusing or threatening to abuse the law or legal process;**

**(B) Destroying, concealing, removing, confiscating or possessing an actual or purported passport or immigration document, or other actual or purported government identification document, of another person;**

**(C) Threatening to report another person to a government agency for the purpose of the other person's arrest or deportation;**

**(D) Threatening to collect an unlawful debt;**

**(E) Instilling in another person a fear that the person will withhold from the other person the necessities of life, including but not limited to lodging, food and clothing; or**

**(F) Withholding wages earned without lawful justification;**

**(b) The issuance of a citation to a person under ORS 654.071 for a violation of any state occupational safety or health law, regulation, rule or order, including any safety and health standards for agricultural labor housing and related facilities under the Oregon Safe Employment Act; or**

**(c) Any of the following factors related to the environment:**

**(A) Discharging, placing or causing to be placed any wastes, as defined in ORS 468B.005, into the waters of this state or in a location where the wastes are likely to escape or be carried into the waters of this state;**

**(B) The unlawful use, storage, disposal, treatment or transport of hazardous waste, as defined in ORS 466.005;**

**(C) The unlawful possession, use or application of a pesticide, as defined in ORS 634.006; or**

**(D) The use of surface water or ground water in violation of ORS chapter 537.**

**(6) A violation of ORS 475C.337 (3)(d), 475C.341 (4), 475C.349 (3)(c)(B) or 475C.349 (3)(c)(C) shall be classified as a crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if the violation constitutes a marijuana offense involving knowing unlawful conduct. A violation of ORS 475C.337 (3)(d), 475C.341 (4), 475C.349 (3)(c)(B) or 475C.349 (3)(c)(C) is a marijuana offense involving knowing unlawful conduct if the person acts with knowledge, or with a conscious purpose to avoid knowledge, that the violation is accompanied by:**

**(a) Any of the following factors:**

**(A) Abusing or threatening to abuse the law or legal process;**

**(B) Destroying, concealing, removing, confiscating or possessing an actual or purported passport or immigration document, or other actual or purported government identification document, of another person;**

(C) Threatening to report another person to a government agency for the purpose the other person's arrest or deportation;

(D) Threatening to collect an unlawful debt;

(E) Instilling in another person a fear that the person will withhold from the other person the necessities of life, including but not limited to lodging, food and clothing; or

(F) Withholding wages earned without lawful justification;

(b) The issuance of a citation to a person under ORS 654.071 for a violation of any state occupational safety or health law, regulation, rule or order, including any safety and health standards for agricultural labor housing and related facilities under the Oregon Safe Employment Act; or

(c) Any of the following factors related to the environment:

(A) Discharging, placing or causing to be placed any wastes, as defined in ORS 468B.005, into the waters of this state or in a location where the wastes are likely to escape or be carried into the waters of this state;

(B) The unlawful use, storage, disposal, treatment or transport of hazardous waste, as defined in ORS 466.005;

(C) The unlawful possession, use or application of a pesticide, as defined in ORS 634.006; or

(D) The use of surface water or ground water in violation of ORS chapter 537.

**SECTION 11.** ORS 536.900, as amended by section 5, chapter 52, Oregon Laws 2022, is amended to read:

536.900. (1) In addition to any other liability or penalty provided by law, the Water Resources Commission may impose a civil penalty on a person for violation of:

(a) A term or condition of a permit, certificate or license issued under ORS chapters 536 to 543A.

(b) ORS 537.130 or 537.535.

(c) ORS 537.545 (5) or a rule described in ORS 537.545 (7).

(d) A commission rule or order that pertains to well maintenance.

(e) ORS 540.045, 540.145, 540.210, 540.310, 540.320, 540.330, 540.340, 540.435, 540.440, 540.570 (5), 540.710, 540.720 and 540.730 or rules adopted under ORS 540.145.

(f) Section 2 or 4 (2), chapter 52, Oregon Laws 2022.

**(g) Section 3 of this 2023 Act.**

(2) A civil penalty may be imposed under this section for each day of violation of ORS 537.130, 537.535, 540.045, 540.310, 540.330, 540.570 (5), 540.710, 540.720 or 540.730.

(3) In the event the petitioner knowingly misrepresents the map and petition required in ORS 541.329, the commission may assess a penalty of up to \$1,000 based upon guidelines to be established by the commission. In addition, the petition and map shall be amended to correct the error at the petitioner's cost. Affected users shall be given notice as provided in ORS 541.329 (5).

(4) A civil penalty may not be imposed until the commission prescribes a reasonable time to eliminate the violation. The commission shall notify the violator of the time allowed to correct a violation within 10 business days after the commission first becomes aware of the violation.

(5) Notwithstanding any term or condition of a permit, certificate or license, the rotation of the use of water under ORS 540.150 may not be considered a violation under subsection (1) of this section.

**(6) The commission may impose a civil penalty of not more than \$2,000 per occurrence for a violation described in subsection (1)(g) of this section.**

**SECTION 12.** ORS 537.990, as amended by section 6, chapter 52, Oregon Laws 2022, is amended to read:

537.990. (1) Violation of ORS 537.130 (2) is a Class B misdemeanor.

(2) Any person who willfully diverts or uses water to the detriment of others without compliance with law shall be punished as provided in subsection (1) of this section. The possession or use of

water, except when a right of use is acquired in accordance with law, shall be prima facie evidence of the guilt of the person using it.

(3) Violation of ORS 537.535 (1) or 537.747 is a Class B misdemeanor.

(4) Violation of section 4 (2), chapter 52, Oregon Laws 2022, or section 3 of this 2023 Act is a Class A misdemeanor.

(5)(a) Violation of section 4 (1), chapter 52, Oregon Laws 2022, with criminal negligence, as defined in ORS 161.085, is a Class A misdemeanor.

(b) Notwithstanding ORS 161.635, the maximum fine for a violation described in this subsection is \$25,000 if the person:

(A) Owns a water hauling business; or

(B) Owns, operates or is responsible for the grow site to which the water was hauled or arranged to be hauled.

(6)(a) Notwithstanding subsections (1) to (3) of this section, violation of ORS 537.130 (2) or 537.535 that concerns the use of water at a grow site for a crop of plants in the plant Cannabis family Cannabaceae is a Class A misdemeanor if:

(A) The grow site is not registered or licensed under ORS 475C.065, 475C.792 or 571.281; and

(B) The crop of plants is in an amount that is not allowed under state law.

(b) Notwithstanding ORS 161.635, the maximum fine for a violation described in this subsection is \$25,000.

**SECTION 13.** Section 45, chapter 542, Oregon Laws 2021, is amended to read:

**Sec. 45.** Sections 40 and 41a to 44, chapter 542, Oregon Laws 2021, [of this 2021 Act] are repealed on January 1, 2024.

**SECTION 14.** Sections 2 and 3 of this 2023 Act and the amendments to ORS 133.619, 133.726, 165.663, 475C.337, 475C.341, 475C.349, 475C.353, 536.900 and 537.990 and section 45, chapter 542, Oregon Laws 2021, by sections 4 to 13 of this 2023 Act apply to conduct occurring on or after the effective date of this 2023 Act.

**SECTION 15.** This 2023 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect on its passage.

Passed by Senate April 10, 2023

.....  
Lori L. Brocker, Secretary of Senate

.....  
Rob Wagner, President of Senate

Passed by House May 31, 2023

.....  
Dan Rayfield, Speaker of House

Received by Governor:

.....M.,....., 2023

Approved:

.....M.,....., 2023

.....  
Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2023

.....  
Secretary of State

**Enrolled  
Senate Bill 85**

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Natural Resources and Wildfire Recovery)

CHAPTER .....

AN ACT

Relating to confined animal feeding operations; creating new provisions; amending ORS 468B.050, 468B.215 and 537.545; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**WATER QUALITY PERMIT**

**SECTION 1.** ORS 468B.050 is amended to read:

468B.050. (1) Except as provided in ORS 468B.053 or 468B.215, without holding a permit from the Director of the Department of Environmental Quality or the State Department of Agriculture, which permit shall specify applicable effluent limitations, a person may not:

- (a) Discharge any wastes into the waters of the state from any industrial or commercial establishment or activity or any disposal system.
- (b) Construct, install, modify or operate any disposal system or part thereof or any extension or addition thereto.
- (c) Increase in volume or strength any wastes in excess of the permissive discharges specified under an existing permit.
- (d) Construct, install, operate or conduct any industrial, commercial, confined animal feeding operation or other establishment or activity or any extension or modification thereof or addition thereto, the operation or conduct of which would cause an increase in the discharge of wastes into the waters of the state or which would otherwise alter the physical, chemical or biological properties of any waters of the state in any manner not already lawfully authorized.
- (e) Construct or use any new outlet for the discharge of any wastes into the waters of the state.

(2) The Department of Environmental Quality or the State Department of Agriculture may issue a permit under this section as an individual, general or watershed permit. A permit may be issued to a class of persons using the procedures for issuance of an order or for the adoption of a rule. Notwithstanding the definition of "order" or "rule" provided in ORS 183.310, in issuing a general or watershed permit by order pursuant to this section, the State Department of Agriculture or Department of Environmental Quality:

- (a) Is not required to direct the order to a named person or named persons; and
- (b) May include in the order agency directives, standards, regulations and statements of general applicability that implement, interpret or prescribe law or policy.

**(3) When deciding whether to issue a permit to a confined animal feeding operation under this section, the Department of Environmental Quality or the State Department of Agriculture shall consider any relevant determination by the Water Resources Department pursuant to section 7 (2) of this 2023 Act.**

**(4) Notwithstanding subsection (2) of this section, the Department of Environmental Quality or the State Department of Agriculture may not issue a general NPDES or WPCF permit to a new large confined animal feeding operation that:**

**(a) Is located in a ground water management area declared under ORS 468B.180; and**  
**(b) Applies manure, litter, wastewater or processed waste to land within the ground water management area.**

**(5) Subsection (4) of this section does not apply to the issuance of water quality permits to regulate stormwater.**

**[(3)] (6) The State Department of Agriculture or the Department of Environmental Quality may define “confined animal feeding operation” by rule for purposes of implementing this section.**

**(7) As used in this section:**

**(a) “New large confined animal feeding operation” has the meaning given that term in ORS 468B.215.**

**(b) “NPDES” and “WPCF” have the meanings given those terms in ORS 561.255.**

**SECTION 2.** ORS 468B.215 is amended to read:

**468B.215. (1) As used in this section:**

**(a) “Expanding confined animal feeding operation” means a confined animal feeding operation that is expanding operational size into a new tier, as described in ORS 561.255 (2).**

**(b) “Expanding large confined animal feeding operation” means a large confined animal feeding operation in the largest tier described in ORS 561.255 (2) that is expanding the capacity of the large confined animal feeding operation to manage animal wastes, consistent with the conditions of a permit issued under ORS 468B.050, to more than 20 percent of the capacity of the large confined animal feeding operation.**

**(c) “Large confined animal feeding operation” has the meaning given that term in ORS 561.255.**

**(d) “New confined animal feeding operation” means a confined animal feeding operation that is seeking a permit under ORS 468B.050 to operate on a parcel of land on which no confined animal feeding operation has previously operated.**

**(e) “New large confined animal feeding operation” means a large confined animal feeding operation that is seeking a permit under ORS 468B.050 to operate on a parcel of land on which no confined animal feeding operation has previously operated.**

**(f) “NPDES” and “WPCF” have the meanings given those terms in ORS 561.255.**

**[(1)] (2) Any person operating a confined animal feeding operation or concentrated animal feeding operation under an NPDES or WPCF permit shall annually pay a fee for a confined animal feeding operation permit or concentrated animal feeding operation permit as provided by State Department of Agriculture rules adopted under ORS 561.255. [As used in this subsection, “NPDES” and “WPCF” have the meanings given those terms in ORS 561.255.]**

**[(2)] (3) Except for an animal feeding operation subject to regulation under 33 U.S.C. 1342, a fee shall not be assessed to nor a permit required under ORS 468B.050 (1)(d) of confined animal feeding operations of four months or less duration or that do not have waste water control facilities. A confined animal feeding operation of four months or less duration or that does not have waste water control facilities is subject to all requirements of ORS chapters 468, 468A and 468B if found to be discharging wastes into the waters of the state.**

**(4)(a) Before submitting an application for a permit under ORS 468B.050 for a new large confined animal feeding operation or an expanding large confined animal feeding operation, an applicant shall:**

**(A) Request that the Department of Environmental Quality or the State Department of Agriculture schedule a preliminary consultation.**

- (B) Participate in the preliminary consultation.
- (b) Before scheduling the preliminary consultation, the Department of Environmental Quality or the State Department of Agriculture shall:
- (A) Notify the governing bodies of all federally recognized Indian tribes in this state; and
- (B) Consult with the governing bodies, upon request by the governing bodies.
- (c) The preliminary consultation must:
- (A) Include the applicant, the Department of Environmental Quality, the State Department of Agriculture, the Water Resources Department and other relevant state agencies, as determined by the Department of Environmental Quality and the State Department of Agriculture.
- (B) Occur not more than 45 days after the request is received.
- (5)(a) In addition to other permit conditions, a person that applies for a permit under ORS 468B.050 for:
- (A) A confined animal feeding operation shall submit a water supply plan, as described in section 7 of this 2023 Act, with the application.
- (B) A new large confined animal feeding operation shall send individual notice of the public comment period for the permit, by mail, to all persons on record as owning property within one-half mile of the parcel of land on which the new large confined animal feeding operation is proposed to be located.
- (b) The Department of Environmental Quality and State Department of Agriculture may not consider a person's lack of receipt of the notice described in paragraph (a)(B) of this subsection when deciding whether to approve or deny an application for a permit under ORS 468B.050.
- [(3)] (6) The Department of Environmental Quality or the State Department of Agriculture may impose on the permit required for a confined animal feeding operation only those conditions necessary to ensure that:
- (a) Wastes are [*disposed of*] **used** in a manner that does not cause pollution of the surface and ground waters of the state.
- (b) The confined animal feeding operation is in compliance with water quality standards.
- (c) The quantity of water necessary to supply the level and duration of the water needs of the confined animal feeding operation, including any ancillary operations of the confined animal feeding operation described in the permit, is legally authorized.
- (7) After being issued a permit under ORS 468B.050, a person may not bring animals to a new confined animal feeding operation, or to newly constructed or installed facilities for an expanding confined animal feeding operation, until after the State Department of Agriculture:
- (a) Inspects the new confined animal feeding operation or expanding confined animal feeding operation; and
- (b) Confirms that the construction or installation of the waste management system and relevant operational functions of the new confined animal feeding operation or expanding confined animal feeding operation comply with the conditions of the water quality permit.
- (8) In addition to monitoring and reporting requirements under an NPDES or WPCF permit, a person that holds a permit under ORS 468B.050 for a confined animal feeding operation and sends manure, litter or processed wastewater to a person that holds a nutrient application permit described in section 5 of this 2023 Act shall maintain records of the nutrient application permit, including the number of the nutrient application permit.
- [(4)] (9) A permit for a confined animal feeding operation may be revoked or modified by the Department of Environmental Quality or the State Department of Agriculture or may be terminated upon request by the permit holder. An animal feeding operation may be inspected for compliance with water quality laws and regulations by the Department of Environmental Quality or the State Department of Agriculture.

**SECTION 3. The provisions of ORS 468B.215 (5) and (7) apply to:**

(1) New confined animal feeding operations and expanding confined animal feeding operations, as defined in ORS 468B.215, that apply for a permit under ORS 468B.050 on or after the effective date of this 2023 Act.

(2) Large confined animal feeding operations, as described in ORS 561.255 (1), that renew permits under ORS 468B.050 on or after July 1, 2024.

(3) Small confined animal feeding operations and medium confined animal feeding operations, as described in ORS 561.255 (1), that renew permits under ORS 468B.050 on or after July 1, 2025.

#### NUTRIENT APPLICATION PERMIT

**SECTION 4.** Section 5 of this 2023 Act is added to and made a part of ORS 468B.200 to 468B.230.

**SECTION 5.** (1) The State Department of Agriculture may issue a nutrient application permit.

(2) As applicable, the permit must concern, but need not only concern:

(a) The rate of nutrient application.

(b) The source of the nutrients.

(c) The placement of the nutrients.

(d) The timing of nutrient application.

(e) The volume of wastewater applied to the surface of the lands per time period.

(3) Except as authorized under an NPDES or WPCF permit, a person may apply manure, litter, wastewater or processed waste from a confined animal feeding operation on lands in a ground water management area declared under ORS 468B.180 only if the person holds a permit under this section.

(4) A person that holds a permit under this section shall provide the confined animal feeding operation from which the person receives manure, litter, wastewater or processed waste with a copy of the permit.

(5) The department may adopt rules to implement this section, including rules that establish:

(a) Recordkeeping requirements for a person that holds a permit under this section.

(b) Criteria for inspections to ensure compliance with this section.

(c) Fees for permits under this section.

(6) As used in this section, “NPDES” and “WPCF” have the meanings given those terms in ORS 561.255.

#### WATER SUPPLY PLAN

**SECTION 6.** Section 7 of this 2023 Act is added to and made a part of ORS chapter 468B.

**SECTION 7.** (1) A person that applies for a permit under ORS 468B.050 for a confined animal feeding operation operating under an NPDES or WPCF permit, as described in ORS 468B.215 (2), shall submit with the application a water supply plan that identifies all sources of the water that will be used to supply the level and duration of the water needs of the confined animal feeding operation, including any ancillary operations of the confined animal feeding operation, as described in the application.

(2) After receiving a water supply plan described in subsection (1) of this section, the Department of Environmental Quality or the State Department of Agriculture shall request that the Water Resources Department review the water supply plan to determine whether the water uses identified in the water supply plan are legally authorized and allowable.

(3) Not more than 45 days after receiving a request described in subsection (2) of this section, the Water Resources Department shall provide a determination described in sub-

section (2) of this section to the Department of Environmental Quality or the State Department of Agriculture.

(4) A water supply plan for a confined animal feeding operation that uses stockwater as described in ORS 537.545 (1)(a) must use animal water consumption guidelines provided by the State Department of Agriculture to estimate the gallons per day that the confined animal feeding operation will use.

(5) The Water Resources Department may recommend that the Department of Environmental Quality or the State Department of Agriculture condition a permit under ORS 468B.050 on one or more of the following:

(a) Requiring a confined animal feeding operation that uses stockwater, as described in ORS 537.545 (1)(a), or a person renewing a permit under ORS 468B.050 for a confined animal feeding operation, to:

(A) Install water metering and submetering devices concerning a new or expanding production area; and

(B) Maintain quarterly water use data that the Water Resources Department may inspect annually, upon request by the department.

(b) Prohibiting an expanding confined animal feeding operation, as defined in ORS 468B.215, within a critical ground water area designated by order or pursuant to ORS 537.730 from increasing the confined animal feeding operation's use of water per day under the exemption described in ORS 537.545 (1)(a) by more than the limit described in ORS 537.545 (1)(a).

(6) When making a determination described in subsection (2) of this section, the Water Resources Department may not consider a change of use, place of use or point of diversion as legally authorized until the change is approved pursuant to an order described in ORS 540.530 that is final as a matter of law or is not subject to a pending appeal.

(7) A determination under subsection (2) of this section may not be considered:

(a) An authorization of water use or water rights.

(b) A final order or ruling.

(8) A person that renews a permit under ORS 468B.050 for a confined animal feeding operation operating under an NPDES or WPCF permit, as described in ORS 468B.215 (2), shall attest upon renewal of the permit that the water supply plan for the confined animal feeding operation that was previously approved under this section is compliant with this section.

**SECTION 8.** Section 7 of this 2023 Act is amended to read:

**Sec. 7.** (1) A person that applies for a permit under ORS 468B.050 for a confined animal feeding operation operating under an NPDES or WPCF permit, as described in ORS 468B.215 (2), shall submit with the application a water supply plan that identifies all sources of the water that will be used to supply the level and duration of the water needs of the confined animal feeding operation, including any ancillary operations of the confined animal feeding operation, as described in the application.

(2) After receiving a water supply plan described in subsection (1) of this section, the Department of Environmental Quality or the State Department of Agriculture shall request that the Water Resources Department review the water supply plan to determine whether the water uses identified in the water supply plan are legally authorized and allowable.

(3) Not more than 45 days after receiving a request described in subsection (2) of this section, the Water Resources Department shall provide a determination described in subsection (2) of this section to the Department of Environmental Quality or the State Department of Agriculture.

(4) A water supply plan for a confined animal feeding operation that uses stockwater as described in ORS 537.545 (1)(a) must use animal water consumption guidelines provided by the State Department of Agriculture to estimate the gallons per day that the confined animal feeding operation will use.

(5) The Water Resources Department may recommend that the Department of Environmental Quality or the State Department of Agriculture condition a permit under ORS 468B.050 on *[one or more of the following:]*

*[(a)]* requiring a confined animal feeding operation that uses stockwater, as described in ORS 537.545 (1)(a), or a person renewing a permit under ORS 468B.050 for a confined animal feeding operation, to:

*[(A)]* (a) Install water metering and submetering devices concerning a new or expanding production area; and

*[(B)]* (b) Maintain quarterly water use data that the Water Resources Department may inspect annually, upon request by the department.

*[(b) Prohibiting an expanding confined animal feeding operation, as defined in ORS 468B.215, within a critical ground water area designated by order or pursuant to ORS 537.730 from increasing the confined animal feeding operation's use of water per day under the exemption described in ORS 537.545 (1)(a) by more than the limit described in ORS 537.545 (1)(a).]*

(6) When making a determination described in subsection (2) of this section, the Water Resources Department may not consider a change of use, place of use or point of diversion as legally authorized until the change is approved pursuant to an order described in ORS 540.530 that is final as a matter of law or is not subject to a pending appeal.

(7) A determination under subsection (2) of this section may not be considered:

(a) An authorization of water use or water rights.

(b) A final order or ruling.

(8) A person that renews a permit under ORS 468B.050 for a confined animal feeding operation operating under an NPDES or WPCF permit, as described in ORS 468B.215 (2), shall attest upon renewal of the permit that the water supply plan for the confined animal feeding operation that was previously approved under this section is compliant with this section.

**SECTION 9. The amendments to section 7 of this 2023 Act by section 8 of this 2023 Act become operative on September 15, 2027.**

## STOCKWATER EXEMPTION

**SECTION 10.** ORS 537.545 is amended to read:

537.545. (1) *[No]* A registration, certificate of registration, application for a permit, permit, certificate of completion or ground water right certificate under ORS 537.505 to 537.795 and 537.992 is **not** required for the use of ground water for:

(a) Stockwatering purposes, **unless the use exceeds 12,000 gallons per day and occurs at a new confined animal feeding operation, as defined in ORS 468B.215;**

(b) Watering any lawn or noncommercial garden not exceeding one-half acre in area;

(c) Watering the lawns, grounds and fields not exceeding 10 acres in area of schools located within a critical ground water area established pursuant to ORS 537.730 to 537.740;

(d) Single or group domestic purposes in an amount not exceeding 15,000 gallons a day;

(e) Down-hole heat exchange purposes;

(f) Any single industrial or commercial purpose in an amount not exceeding 5,000 gallons a day;

or

(g) Land application, so long as the ground water:

(A) Has first been appropriated and used under a permit or certificate issued under ORS 537.625 or 537.630 for a water right issued for industrial purposes or a water right authorizing use of water for confined animal feeding purposes;

(B) Is reused for irrigation purposes and the period of irrigation is a period during which the reused water has never been discharged to the waters of the state; and

(C) Is applied pursuant to a permit issued by the Department of Environmental Quality or the State Department of Agriculture under either ORS 468B.050 to construct and operate a disposal system or ORS 468B.215 to operate a confined animal feeding operation.

(2) A ground water use for a purpose that is exempt under subsection (1) of this section, to the extent that the use is beneficial, constitutes a right to appropriate ground water equal to that established by a ground water right certificate issued under ORS 537.700.

(3) Except for the use of water under subsection (1)(g) of this section, the Water Resources Commission by rule may require any person or public agency using ground water for any such purpose to furnish information with regard to such ground water and the use thereof. For a use of water described in subsection (1)(g) of this section, the Department of Environmental Quality or the State Department of Agriculture shall provide to the Water Resources Department a copy of the permit issued under ORS 468B.050 or 468B.215 authorizing the land application of ground water for reuse. The permit shall provide the information regarding the place of use of such water and the nature of the beneficial reuse.

(4) If it is necessary for the Water Resources Department to regulate the use or distribution of ground water, including uses for purposes that are exempt under subsection (1) of this section, the department shall use as a priority date for the exempt uses the date indicated in the log for the well filed with the department under ORS 537.765 or other documentation provided by the well owner showing when water use began.

(5) The person licensed under ORS 537.747 or permitted under ORS 537.753 (4) that constructs a well to allow ground water use for a purpose that is exempt under subsection (1) of this section shall provide the Water Resources Department with a map showing the exact location of the well on the tax lot. The person licensed under ORS 537.747 or permitted under ORS 537.753 (4) that constructs a well shall provide a map required by this subsection to the department, along with the well log required by ORS 537.765, no later than 30 days after the well is completed. The map must be prepared in accordance with standards established by the department. The map and well log must be accompanied by the fee described in subsection (6) of this section to record the exempt ground water use.

(6) The Water Resources Department shall collect a fee of \$300 for recording an exempt ground water use under subsection (5) of this section. Moneys from fees collected under this subsection shall be deposited to the credit of the Water Resources Department Water Right Operating Fund. Notwithstanding ORS 536.009, moneys deposited to the fund under this subsection shall be used for the purposes of evaluating ground water supplies, conducting ground water studies, carrying out ground water monitoring, processing ground water data and the administration and enforcement of this subsection and subsections (3), (5) and (7) of this section.

(7) The Water Resources Commission shall adopt rules to implement, administer and enforce subsections (5) and (6) of this section.

**SECTION 11.** ORS 537.545, as amended by section 10 of this 2023 Act, is amended to read:

537.545. (1) A registration, certificate of registration, application for a permit, permit, certificate of completion or ground water right certificate under ORS 537.505 to 537.795 and 537.992 is not required for the use of ground water for:

(a) Stockwatering purposes[, *unless the use exceeds 12,000 gallons per day and occurs at a new confined animal feeding operation, as defined in ORS 468B.215*];

(b) Watering any lawn or noncommercial garden not exceeding one-half acre in area;

(c) Watering the lawns, grounds and fields not exceeding 10 acres in area of schools located within a critical ground water area established pursuant to ORS 537.730 to 537.740;

(d) Single or group domestic purposes in an amount not exceeding 15,000 gallons a day;

(e) Down-hole heat exchange purposes;

(f) Any single industrial or commercial purpose in an amount not exceeding 5,000 gallons a day;

or

(g) Land application, so long as the ground water:

(A) Has first been appropriated and used under a permit or certificate issued under ORS 537.625 or 537.630 for a water right issued for industrial purposes or a water right authorizing use of water for confined animal feeding purposes;

(B) Is reused for irrigation purposes and the period of irrigation is a period during which the reused water has never been discharged to the waters of the state; and

(C) Is applied pursuant to a permit issued by the Department of Environmental Quality or the State Department of Agriculture under either ORS 468B.050 to construct and operate a disposal system or ORS 468B.215 to operate a confined animal feeding operation.

(2) A ground water use for a purpose that is exempt under subsection (1) of this section, to the extent that the use is beneficial, constitutes a right to appropriate ground water equal to that established by a ground water right certificate issued under ORS 537.700.

(3) Except for the use of water under subsection (1)(g) of this section, the Water Resources Commission by rule may require any person or public agency using ground water for any such purpose to furnish information with regard to such ground water and the use thereof. For a use of water described in subsection (1)(g) of this section, the Department of Environmental Quality or the State Department of Agriculture shall provide to the Water Resources Department a copy of the permit issued under ORS 468B.050 or 468B.215 authorizing the land application of ground water for reuse. The permit shall provide the information regarding the place of use of such water and the nature of the beneficial reuse.

(4) If it is necessary for the Water Resources Department to regulate the use or distribution of ground water, including uses for purposes that are exempt under subsection (1) of this section, the department shall use as a priority date for the exempt uses the date indicated in the log for the well filed with the department under ORS 537.765 or other documentation provided by the well owner showing when water use began.

(5) The person licensed under ORS 537.747 or permitted under ORS 537.753 (4) that constructs a well to allow ground water use for a purpose that is exempt under subsection (1) of this section shall provide the Water Resources Department with a map showing the exact location of the well on the tax lot. The person licensed under ORS 537.747 or permitted under ORS 537.753 (4) that constructs a well shall provide a map required by this subsection to the department, along with the well log required by ORS 537.765, no later than 30 days after the well is completed. The map must be prepared in accordance with standards established by the department. The map and well log must be accompanied by the fee described in subsection (6) of this section to record the exempt ground water use.

(6) The Water Resources Department shall collect a fee of \$300 for recording an exempt ground water use under subsection (5) of this section. Moneys from fees collected under this subsection shall be deposited to the credit of the Water Resources Department Water Right Operating Fund. Notwithstanding ORS 536.009, moneys deposited to the fund under this subsection shall be used for the purposes of evaluating ground water supplies, conducting ground water studies, carrying out ground water monitoring, processing ground water data and the administration and enforcement of this subsection and subsections (3), (5) and (7) of this section.

(7) The Water Resources Commission shall adopt rules to implement, administer and enforce subsections (5) and (6) of this section.

**SECTION 12. The amendments to ORS 537.545 by section 11 of this 2023 Act become operative on September 15, 2027.**

## AIR QUALITY

**SECTION 13. (1) Not more than 180 days after the United States Environmental Protection Agency finalizes the National Air Emissions Monitoring Study, the Department of Environmental Quality shall report, in the manner provided by ORS 192.245, to the interim committees of the Legislative Assembly related to agriculture on the findings from the study that relate to animal feeding operations.**

**(2) The report:**

(a) Must summarize how the findings related to air emissions by confined animal feeding operations may inform an understanding of emissions of air contaminants by animal feeding operations in Oregon.

(b) Must identify existing Oregon laws and rules, as well as NPDES and WPCF permit requirements, that pertain to the findings described in paragraph (a) of this subsection.

(c) May identify a process for developing recommendations to reduce emissions of air contaminants by animal feeding operations, based on the results of the study described in subsection (1) of this section.

(3) As used in this section, “NPDES” and “WPCF” have the meanings given those terms in ORS 561.255.

## LAND USE

**SECTION 14.** (1) Prior to applying for a permit under ORS 468B.050, an applicant for a proposed confined animal feeding operation shall request, from the city or county in which the confined animal feeding operation is proposed to be located, a land use compatibility statement that authorizes the land use.

(2) The land use compatibility statement must demonstrate that the requested permit pertains to a land use that is allowable as a permitted or conditional use within the given zoning designation where the land is located.

(3) The Department of Environmental Quality or the State Department of Agriculture may not issue the permit under ORS 468B.050 if the land use compatibility statement demonstrates that the proposed land use is prohibited in the applicable zone.

**SECTION 15.** Notwithstanding ORS 30.935, 215.253 (1) and 633.738, the governing body of a city or county in which a new large confined animal feeding operation, as defined in ORS 468B.215, is proposed to be located may require the new large confined animal feeding operation to include a setback or buffer, composed of a natural or created vegetative barrier, berm or terrain, in the production area of the new large confined animal feeding operation, if the parcel of land on which the new large confined animal feeding operation would be located is adjacent to a parcel on which:

(1) A residential structure is lawfully sited; or

(2) A structure that was lawfully sited when constructed, but no longer conforms with or is allowed under new or changed land use requirements, is sited.

## APPROPRIATIONS

**SECTION 16.** Notwithstanding any other provision of law, the General Fund appropriation made to the State Department of Agriculture by section 1 (3), chapter \_\_, Oregon Laws 2023 (Enrolled House Bill 5002), for the biennium beginning July 1, 2023, for natural resources, is increased by \$562,012, for the costs of permitting large confined feeding animal operations pursuant to sections 5, 7 and 14 of this 2023 Act and the amendments to ORS 468B.050 and 468B.215 by sections 1 and 2 of this 2023 Act.

**SECTION 17.** Notwithstanding any other provision of law, the General Fund appropriation made to the Department of Environmental Quality by section 1 (2), chapter \_\_, Oregon Laws 2023 (Enrolled House Bill 5018), for the biennium beginning July 1, 2023, for water quality, is increased by \$214,491, for the costs of permitting large confined feeding animal operations pursuant to sections 5, 7 and 14 of this 2023 Act and the amendments to ORS 468B.050 and 468B.215 by sections 1 and 2 of this 2023 Act, and for the cost of implementing section 13 of this 2023 Act.

## CAPTIONS

**SECTION 18.** The unit captions used in this 2023 Act are provided for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2023 Act.

**EFFECTIVE DATE**

**SECTION 19.** This 2023 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect on its passage.

Passed by Senate June 20, 2023

.....  
Lori L. Brocker, Secretary of Senate  
.....  
Rob Wagner, President of Senate

Passed by House June 21, 2023

.....  
Dan Rayfield, Speaker of House

Received by Governor:

.....M,....., 2023

Approved:

.....M,....., 2023

.....  
Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M,....., 2023

.....  
Secretary of State



# Waste of Water

## *A potential topic for rulemaking in 2026-27*

In Oregon, all water is publicly owned. To use surface or groundwater, generally, you must obtain water rights from the Oregon Water Resources Department (OWRD). People with water rights must use their water for a beneficial purpose and avoid wasting it. “Waste” generally means, either using water without a water right or using it for something other than its approved purpose.

### Why this topic is important in water management

OWRD manages water by prior appropriation: first in time, first in right. Waste of water results in water that could have been used beneficially by juniors downstream not being available in the system. As Oregon continues to see warmer and dryer years, with less winter snowpack, it is ever more important that OWRD ensures water is not wasted.

### Current authorities

The following are the statute(s) and rules(s) that define waste of water and give the department the authority to regulate against waste of water.

**Statute – Oregon Revised Statute (ORS) 540.720:** No person shall use without authorization water to which another person is entitled, or willfully waste water to the detriment of another. The possession or use of such water without legal right shall be prima facie evidence of the guilt of the person using it.

**Rule – Oregon Administrative Rule (OAR) 690-260-0010(6):** “Waste” means, for purposes of assessing civil penalties, when the quantity of water diverted exceeds the quantity required to meet the beneficial use specified in a water right, not including reasonable system losses, return flows, or diversion rates of water allowed in a water right or a rotation agreement.

**Rule - OAR 690-300-0010(55):** “Wastewater” means water that has been diverted under an authorized water right after it is beyond the control of the owner of that right but has not yet returned to the channel of a natural stream. In an irrigation district, the wastewater of an individual user is not subject to appropriation until it leaves the boundaries of the district. Wastewater abandoned to the channel of a natural stream becomes a part of that stream and is subject to appropriation.

**Rule – OAR 690-400-0010(16):** “Waste” means the continued use of more water than is needed to satisfy the specific beneficial uses for which a right was granted. The need for water shall be based on using the technology and management practices that provide for the efficient use of water considering:

- (a) The economic feasibility of use of the technology and management practices by the water user;
- (b) The environmental impacts of making modifications;
- (c) The available proven technology;
- (d) The time needed to make modifications;
- (e) Local variations in soil type and weather; and
- (f) Relevant water management plans and subbasin conservation plans.

**What is a statute?** A law enacted by Oregon legislature that provides, directs or authorizes Department activity.

**What is a rule?** Any agency directive, standard, regulation or statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of any agency.

## Why new or amended rules may be needed

OWRD's rules broadly define the waste of water. Because of this, water users may not always know what OWRD considers to be waste. A clearer definition would help everyone understand OWRD's expectations. Waste can mean different things, and the figure below gives some examples of what might count as waste.



Excessive leaking pipes



Failure to keep ditches free from weeds resulting in a loss of water



Using more water than is needed to meet the beneficial use requirement of a crop

## Share Your Thoughts on Waste

### Feedback Opportunity:

- How would you define waste?

Scan the QR code to add your thoughts on Mentimeter or write your thoughts on a sticky note and add it to the poster board.



OWRD reviews all feedback to understand community concerns, identify potential impacts, and determine scope and content of rules, considering this input alongside legal requirements, scientific data, and policy goals. While not every suggestion can be incorporated due to statutory requirements, scientific constraints, and policy obligations, community feedback helps OWRD ensure the final rules are clear, practical, and appropriately responsive to community needs.

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# Bulges in the System

## *A potential topic for rulemaking in 2026-27*

**A bulge in the system is an off-channel temporary storage facility or holding area that is not associated with a storage water right. Bulges, or BIS's, are intended to address irrigation and agricultural system needs while allowing the water user to stay within the terms of their water right.**

### Why this topic is important in water management

There are several scenarios where water users have found bulges to assist in their on-farm management of their lawfully appropriated water. For example:

- **Reuse** - Irrigators may recapture water that is lawfully appropriated and applied for any use allowed under the water right in a bulge for reuse.
- **System needs** - Some newer high efficiency irrigation systems may exceed the allowed diversion rate under the right. To stay within rate allowed limits, the irrigator may appropriate water at the allowed rate by permit into a bulge and then pump out to irrigate at that higher rate for a limited period of time.
- **Rotations** - In irrigation districts and where there are jointly owned ditches, irrigators are often subject to rotational water delivery. For example, they may receive water on the 10<sup>th</sup> day of the month expecting that they are capable of diverting their allotted amount to then use over the following 10 days before their next delivery. In those circumstances, a bulge is an effective way to capture that water allotment.
- **Agricultural needs** – Some farms use bulges to have water available for temperature control, agricultural spray, dust control, animal waste management or other agricultural applications.

### Current authorities

**The Department currently manages use of bulges using internal guidance documents and by referencing the following statutes and rules:**

**Statute – Oregon Revised Statute [ORS \(540.045\)](#)**

Watermaster duties;

**Statute – [ORS 537.400](#)** Reservoir permits;

**Statute – [ORS 540.449](#)** Construction plan approval;

**Statute – [ORS 540.446](#)** Dams not subject to ORS 540.443 to 540.491.

**Rule – Oregon Administrative Rule [OAR 690-300-0010](#)** Definitions – “Irrigation” (26); “Agricultural Water Use” (2);

**Rule – [OAR 690-250-0150](#)** Management of Stored Water;

**Rule – [OAR 690-250](#)** Water distribution

**What is a statute?** A law enacted by Oregon legislature that provides, directs or authorizes Department activity.

**What is a rule?** Any agency directive, standard, regulation or statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of any agency.

### Restrictions on bulges

Bulges are not intended to prolong an irrigation season, accommodate year-round storage, be in-channel or capture groundwater. They may not be constructed with a dam or storage volume that would be considered statutory. A statutory dam is one that stores more than 3 million gallons of water or has a dam of 10 feet and greater in height. A bulge may not injure existing water rights, instream rights, or wetlands. A bulge should be constructed in a manner that it can easily evacuate the water within and not store water outside of the season of permitted use under the right.

## Why new or amended rules may be needed



Oregon's laws and rules do not clearly define what qualifies as a 'bulge' in an irrigation system, and the OWRD's internal guidance documents general direction, but creating clear rules will help improve understanding and allow for more consistent application of water law. What some claim to be bulges are holding water all year, for looks or recreation, or to store more water than is needed for normal irrigation rotation. Construction also varies, and some bulges end up capturing shallow groundwater or affecting nearby streams. When a bulge holds more water than is reasonably needed for the permitted use or captures groundwater, it is an unpermitted storage pond and may be subject to regulation or enforcement.

*Example of Bulge in the System*

## Share Your Thoughts on Bulges in the System

### Feedback Opportunity:

- Do you use a bulge?
- How frequently is water delivered or is your system designed to pump/divert?
- What are the problems or challenges with bulges?
- What are the benefits and values of bulges?
- When, how frequently, and at what rate does your bulge empty?

Scan the QR code to add your thoughts on Mentimeter or write your thoughts on a sticky note and add it to the poster board.



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## Exempt Use

### *A potential topic for rulemaking in 2026-27*

Under Oregon law, “all water within the state from all sources of water supply belongs to the public.” (ORS 537.110). Using water in Oregon requires a permit or water right, except for home wells and some other special situations specifically exempted by the Oregon Legislature. These are called “exempt uses” of water as they are exempt from the water right permitting process. Different exempt uses have specific limitations or conditions for the exemption to qualify.

### Why this topic is important in water management

Many individuals and organizations rely on exempt uses of water to meet their water needs. Examples of this include domestic, stockwater, industrial uses and commercial uses. Clear guidelines promote consistent application of water law, and reduce illegal use of water, which is critical in a time of increasing water scarcity.

### Current authorities

The following are the statute(s) and rule(s) that pertain to exempt use.

**Statute – Oregon Revised Statute (ORS) [ORS 537.545](#)** - Groundwater uses exempt from the permitting process

**Statute – [ORS 537.141](#), [537.142](#), [537.800](#), [537.132](#)** - Surface water uses exempt from the permitting process

**Rule – Oregon Administrative Rule (OAR) [OAR 690-340-0010](#)** – Exempt uses

**Rule – [OAR 690-250-0130](#)** – Regulation of Exempt Groundwater Uses under ORS 537.545

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**What is a rule?** Any agency directive, standard, regulation or statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of any agency.

Your local watermaster is available to help determine how to legally access water and understand how Oregon water law applies to your specific circumstances. Use the Watermaster Directory at [owrd.info/watermaster](http://owrd.info/watermaster) to find your local district office and local watermaster. Information about water rights is available at: [owrd.info/water-rights-faqs](http://owrd.info/water-rights-faqs)



*Photo: Exempt use of water as stockwater.*

## Why new or amended rules may be needed

In 2025, the Oregon Legislature passed [HB 3372](#) which amended the statutes for exempt uses of groundwater. **As of January 1, 2026, commercial gardens not exceeding a half-acre and using no more than 3,000 gallons per day qualify as exempt. The statute was also updated to include the 3,000 gallon per-day cap on commercial gardens of one half-acre or less in the 5,000 gallons per day for commercial or industrial purpose exemption.** The exemption for a commercial garden does not apply in the Lower Umatilla Basin Groundwater Management Area. Statute does not allow irrigation or watering to grow marijuana or unregistered hemp plants for commercial purposes.

In 2023, the Legislature also passed [SB 85](#) which updated Oregon Department of Agriculture’s process for Confined Animal Feeding Operations and also amended ORS 537.545 as it pertains to stockwater by placing restrictions on this exempt use in certain circumstances. The statute was modified to allow a 12,000 gallon per day cap on any new or expanding CAFO’s in a Critical Groundwater Area. The corresponding rules, OAR 690-340, need to be updated to align with these statutory changes.

While the rules are open for revision, OWRD is evaluating the rules for other needed updates, including refining the definition of “domestic water use” in the groundwater exemptions and clarifying how exempt use is limited to beneficial use.

## Share Your Thoughts on Exempt Uses Feedback Opportunity:

As defined in OAR [690-300-0010](#)(14), "Domestic Water Use" means the use of water for human consumption, household purposes, domestic animal consumption that is ancillary to residential use of the property or related accessory uses.” **What do you consider “ancillary to residential use of the property or related accessory uses?”** For reference, the dictionary defines “ancillary” as supplemental, adjacent, or secondary.

**Are there other improvements to the exempt use rules (OAR 690-340-0010) and corresponding definitions in OAR 690-300 that you would like OWRD to pursue?**

Scan the QR code to add your thoughts on Mentimeter or right your thoughts on a sticky note and add it to the poster board.



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# Violations and Penalties

*A potential topic for rulemaking in 2026-27*

The Oregon Water Resources Department (OWRD) enforces state water laws to protect instream and out of stream uses. When someone uses water without authorization, fails to maintain required infrastructure, or does not follow a watermaster's regulation, OWRD may take enforcement action.

## Why this topic is important in water management

OWRD is charged with fair distribution of water according to water rights and protection of existing rights. Unlawful water use, unsafe practices, or ignoring regulatory orders can injure other water right holders and harm streams and aquifers. With increasing drought and changing water demands, it is essential that OWRD's enforcement tools stay clear, current, and aligned with statute. Updating these rules supports transparency and consistent enforcement.

## Current authorities

OWRD's enforcement authority comes from several Oregon statutes and rules that work together to define unlawful actions and how penalties may be issued.

### Statute - Oregon Revised Statute (ORS)

**536.900 to 536.935** provides general civil penalty authority to the Water Resources Commission, while ORS 537 and ORS 540 both identify specific violations and include circumstances where civil penalties apply for unauthorized use, failure to maintain equipment, or tampering with regulation.

**What is a statute?** A law enacted by Oregon legislature that provides, directs or authorizes Department activity.

**What is a rule?** Any agency directive, standard, regulation or statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of any agency.

**Rule - Oregon Administrative Rules (OAR) 690-250** guides Watermaster field regulation, including responses to unlawful use, waste, and measurement issues.

**Rule OAR 690-260** explains how civil penalties are assessed, including violation classes, daily penalties, and notice requirements.

## Why new or amended rules may be needed

Division 260 has not had a major update in several decades. During that time, the Legislature has added new statutes and clarified expectations for lawful water use. Because the current rules no longer fully reflect today's law or on the ground needs, updates are needed to:

- Align rules with current statutory authority
- Add or update definitions so they are clear to the public
- Reflect new types of violations (for example, hauled water statutes and unlicensed cannabis sites)
- Clarify when daily civil penalties apply
- Improve consistency between statutes and application thereof

Together, these updates will help water users better understand their responsibilities and help OWRD ensure that enforcement is fair, transparent, and effective.

# Share Your Thoughts on Violations and Penalties

OWRD is gathering community input to help shape the scope of this rulemaking. Your feedback helps us understand what information water users need, what concerns exist in different regions, and how the Department can make enforcement clearer and easier to understand.



- **What aspects of violations or penalties feel unclear or confusing?**
- **What types of enforcement issues do you see in your community?**
- **What makes enforcement feel fair and consistent to you?**
- **What information would help water users better understand their responsibilities?**

Use the QR code or visit our website (see below) to share your thoughts and ideas on Violations and Penalties.

OWRD reviews all feedback to understand community concerns, identify potential impacts, and determine the scope and content of future rule updates. While not every suggestion can be incorporated due to legal and scientific constraints, community input helps ensure the rules are practical, understandable, and responsive to Oregon's diverse water users.



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# Water Rotation Agreements

*A potential topic for rulemaking in 2026-27*

Oregon law allows landowners to enter into written agreements with the Oregon Water Resources Department (OWRD) to rotate use of a collective set of water rights they hold. The rotation agreement allows the water users to make the most out of limited supplies of water and address system needs by providing water to certain permitted parties at certain times. This could be upstream users passing water when not their turn in rotation so that downstream users may pick up or play out on a jointly owned ditch system similarly. The watermaster will distribute water in accordance with the submitted rotation agreement for the set time of that agreement which must be for one irrigation season, at minimum.

## Why this topic is important in water management

Water rotation agreements provide water right holders the flexibility to navigate changes in water supply by working with other water users. As water becomes scarcer, they may be an increasingly important tool for meeting water needs.

### Current authorities

The following are the statute(s) and rule(s) that define rotation agreements and give OWRD the authority to regulate according to a rotation agreement.

**Statute – ORS 540.150** To bring about a more economical use of the available water supply, water users owning lands to which are attached water rights may rotate in the use of the supply to which they may be collectively entitled. Whenever two or more water users notify the watermaster that they desire to use the water by rotation and present a written agreement as to the manner of rotation, the watermaster shall distribute the water in accordance with the written agreement.

**Rule – OAR 690-250-0010** (6) “Enforceable Rotation Agreement”: Written agreement between two or more appropriators to rotate the use of water, to bring about more economical use of the available supply to which they are collectively entitled.

**Rule – OAR 690-250-0080** (1) Appropriators may rotate use of the supply to which they may be collectively entitled. The nature of potential agreements are subject to the limitations in section (3) of this rule.

(2) An agreement shall identify the duration of the agreement which shall be no less than one irrigation season. The agreement shall not be terminated within an irrigation season, and the rotation agreement shall be signed by all participants and dated. A copy of the agreement shall be filed with the watermaster for the area. Unless the rotation agreement provides otherwise, any member of the agreement may notify the watermaster after the end of the irrigation season, and before the beginning of the next season’s use, that they are terminating the agreement.

(3) A watermaster shall distribute water only under those enforceable agreements that include the provisions of section (2) of this rule. A watermaster shall not implement a rotation agreement that violates existing water statutes, court decrees, instream water rights, minimum flows, other rules of the Commission, or interferes with the rights of any appropriator not a member of such agreement. If distribution of water by the rotation agreement requires substantially more of the watermaster’s time than distribution among the relative priorities, then the watermaster may require payment by the appropriators for an assistant watermaster, as described in ORS 540.100.

(4) The agreement may contain language describing how a call from an appropriator or minimum flow senior to one or more appropriators in the rotation will be honored.

**What is a statute?** A law enacted by Oregon legislature that provides, directs or authorizes Department activity.

**What is a rule?** Any agency directive, standard, regulation or statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of any agency.

## Why new or amended rules may be needed

Updating the rules to clarify or otherwise improve rotation agreement requirements and how these agreements are reviewed and enforced would make the process smoother for both water users and agency staff. For example, requiring people to submit their rotational agreements a set number of days in advance would give staff enough time to check that everything is complete and to prepare for water distribution. Clarifying the payment requirements as outlined in ORS 540.100 may be also helpful.

## Share Your Thoughts on Rotation Agreements

### Feedback Opportunity:

If requirements for rotation agreements are refined, OWRD wants to identify reasonable timeframes and sideboards that balance preserving flexibility for users with what OWRD staff need to review and prepare to distribute according to a written agreement. Therefore, we are interested in learning:

- **How far in advance do you or would you set up a rotation agreement?**
- **How would you improve the rotation agreement process?**

Scan the QR code to add your thoughts on Mentimeter or write your thoughts on a sticky note and add it to the poster board.



OWRD is interested in hearing your thoughts on this topic as part of its scoping efforts for this rulemaking. OWRD reviews all feedback to understand community concerns, identify potential impacts, and determine scope and content of rules, considering this input alongside legal requirements, scientific data, and policy goals. While not every suggestion can be incorporated due to statutory requirements, scientific constraints, and policy obligations, community feedback helps OWRD ensure the final rules are clear, practical, and appropriately responsive to the public's needs.

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