

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

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# Overview of rulemaking process



Rulemaking Scoping



Draft Rules & Statement of Need/Fiscal Impact



Rulemaking Advisory Committee (RAC)



Notice of Proposed Rulemaking



Public Comment Period & Hearing(s)



Staff Recommendation & Commission Decision

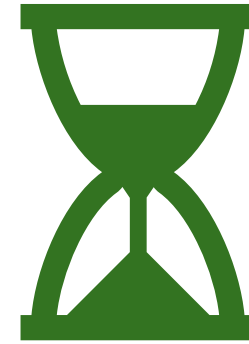
# Rules in consideration at this time

- Oregon Administrative Rule (OAR), Chapter 690:
  - [Division 250](#) – Water Distribution
  - [Division 260](#) – Civil Penalties in Other Than Well Construction
  - [Division 300](#) – Definitions
  - [Division 340-010](#) – Exempt Uses

# Why is OWRD scoping a rulemaking?



Changes in statute



Rules last updated in  
1988 and 1990

# Statute changes

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# HB 4061 (2022)

- Water suppliers and haulers must keep records of all purchases and deliveries
- Water cannot be hauled to an unregistered cannabis site
- Hauling water to an unregistered cannabis site carries civil penalties
- Increased civil penalties for unlawful water use
- Notice of Violation issuance time increased from 5 to 10 days

# SB 326 (2023)

- Prohibits use of water at locations not licensed or registered for growing cannabis
- Authorizes OWRD to impose civil penalties for violations

# HB 2010 (2023)

- If a legal water right has a measurement condition but no reporting condition:
  - OWRD can require the right holder to report use

# SB 85 (2023)

- Caps stockwater exemption at 12,000 gallons/day for new or expanding operations in a critical groundwater area
- Requires water supply plan reviews by OWRD for confined animal feeding operations

# HB 3372 (2025)

- Allows up to 3,000 gallons per day of groundwater from exempt wells to irrigate a half acre:
  - Lawn
  - Personal garden
  - \*new\* commercial garden
- Caps total use to 5,000 gallons per day when combined with commercial or industrial exempt uses

# Open houses

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# Why open houses?

- Inform the public and tribes of statute changes
- Gather and consider input on potential rulemaking topics such as:
  - Waste of water
  - Bulges in the system
  - Exempt use
  - Violations and penalties
  - Watermaster regulation and distribution

# Ways to engage:

## Multiple ways to offer input during open house:

- Mentimeter on personal device
- OWRD tablets to submit feedback
- Posters and sticky notes

## Provide input online:

- Surveys online at: <https://owrd.info/rulemaking> **by June 26 at 5 p.m.**

# How will feedback be used?



Understand community concerns



Identify potential impacts



Determine scope and content of rules



Consider this input alongside legal requirements, scientific data, and policy goals

# Topics in Consideration for Rulemaking

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# Waste of water

- In the state of Oregon, water must be used beneficially without **waste**
- The definitions of waste in our rules are broad and open to interpretation
- May be beneficial to amend the definition of waste to make it clearer for consistent enforcement

# Waste of water

Survey question:

- How would you define waste?

# Bulges in the system

- Rules do not clearly define what qualifies as a bulge in the system (BIS)
- May be beneficial to define in rule for clarity and consistency



Example of a bulge in the system

# Bulges in the system

## Survey questions:

- 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?

# Exempt uses

- HB 3372 (2025) made changes to exempt uses
- May be beneficial to clarify
  - the definition of “domestic water use.”
  - how exempt use is limited to beneficial use



Stockwater

# Exempt uses

## Survey questions:

- 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?"**
- 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?

# Violations and penalties

- HB 4061 (2022) and SB 326 (2023) added new civil penalties for illegal cannabis water use
- May be beneficial to update the civil penalties schedule (i.e., dollar amount per violation) last set in 1990



# Violations and penalties

## Survey questions:

- 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?

# Rotation agreements

Rotation agreements can be a valuable tool during periods of water scarcity

May be beneficial to clarify:

- Rotation agreement requirements
- How agreements are reviewed and enforced

# Rotation agreements

## Survey questions:

- How far in advance do you or would you set up a rotation agreement?
- How would you improve the rotation agreement process?

# How would you define waste?

Please share your thoughts. Once done, click submit. If you do not have an answer, you can click submit to skip the question. Multiple answers can be answered.

Waste should include water being used in locations that does not require water, i.e. roads

Applying more water to a crop than is reasonably necessary to propagate and grow the crop.

My thought of waste is water running on concrete and roads

There is no need for additional rule-making on this subject. OWRD needs to address the backlog of transactions and contested case hearings. This is a "waste" of resources by OWRD

Using more water than necessary, when you do not need it

irrigation water in hot daytime is wasteful

unreasonable use of water for extended period of time

Watering lawn to keep them green should be considered waste. Not needed for fire reduction.

Lack of regard for water conservation in all its forms.... Watering lawns Farmers not implementing cost-effective moisture meters and risking over-watering .....

Irrigation sprinklers and cannons avoid



# Other feedback thus far



Desire for regionalized rulemaking (not statewide rules)

Appreciate early inclusion in scoping

Both appreciation for taking these topics on now and concern that scoping is during a busy time of year

# Next steps

- 4 more open houses
- Analysis of feedback and internal research
- Decision point – content and timing of rulemaking
- Launch rulemaking
  - Rules Advisory Committee meetings
  - Public Comment
  - Presentation to Commission for adoption

# Commission Discussion

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# Questions for the Commission

## Topics proposed to be included in the rulemaking:

- Waste of water
- Bulges in the system
- Exempt uses
- Violations and penalties
- Water distribution/rotation agreements

## Discussion questions:

- Should all these topics be included?
- Should any of the topics be prioritized
- Should any other topics be added?
- Other thoughts on content and timing of rulemaking?

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# Thank you! Questions?

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[Oregon.gov/owrd](https://Oregon.gov/owrd)



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# Waste Definition

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.

# Waste Definition

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.

# Waste Definition

OAR 690-008-0001(13):

“Wasteful Use (of groundwater)” means any artificial discharge or withdrawn of groundwater from an aquifer that is not put to a beneficial use described in a permit or water right, including leakage from one aquifer to another aquifer within a well bore.

# Waste Definition

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.