

# UPCOMING RULEMAKING AT THE OREGON WATER RESOURCES DEPARTMENT

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# Why rulemaking is needed

- [House Bill \(HB\) 4061 \(2022\)](#)
- [HB 2010 \(2023\)](#)
- [Senate Bill \(SB\) 85 \(2023\)](#)
- [SB 326 \(2023\)](#)
- [HB 3372 \(2025\)](#)

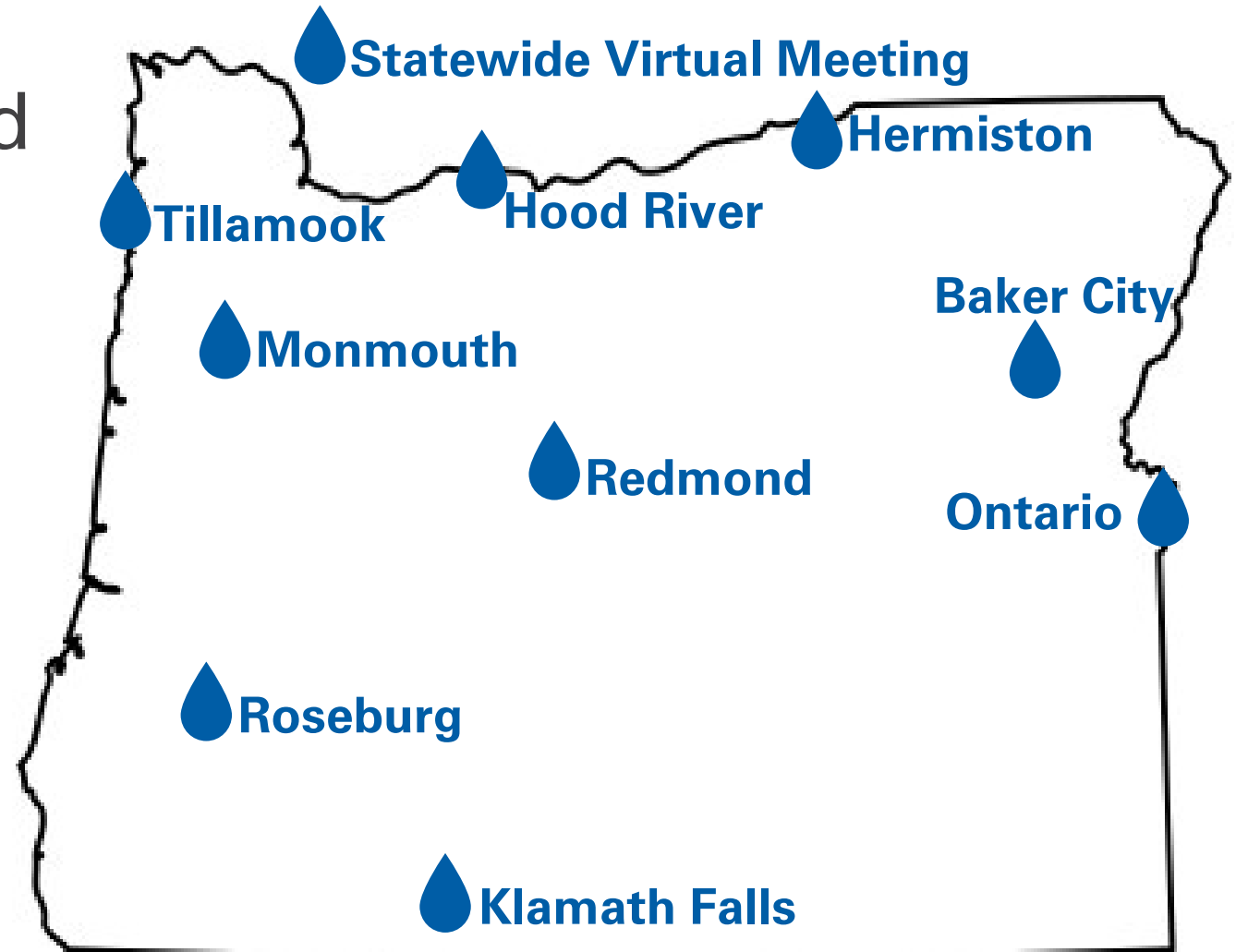


# OWRD rules needing updates

- Oregon Administrative Rule (OAR), Chapter 690:
  - [Division 250](#) – Water Distribution
  - [Division 260](#) – Civil Penalties in Other Than Well Construction
  - [Division 340-010](#) – Exempt Uses
  - [Division 300](#) – Definitions
- 250-260-340 rules last updated in 1988, 1990, and 1996

# Open houses

- Inform the public and tribes of statute changes
- Gather and consider input on potential rulemaking topics



# Ways to engage



# How feedback was used

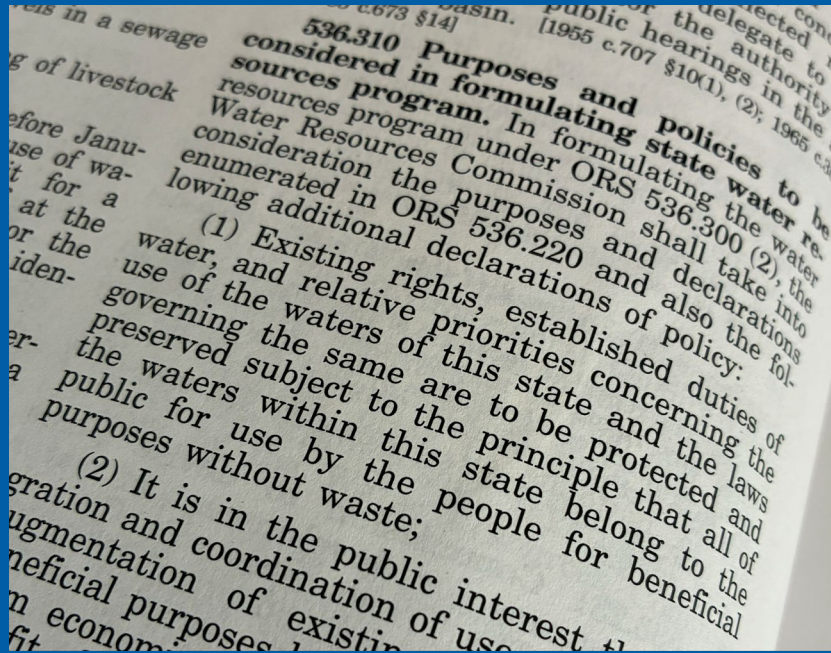
- Understand community concerns
- Identify potential impacts
- Determine scope and content of rules
- Consider this input alongside legal requirements, scientific data, and policy goals

# Topics and Feedback

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# Potential topic: waste of water

- In the state of Oregon, water must be used beneficially without waste
- The multiple 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



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# Feedback: How would you define waste of water? (a sampling)

- Negligent, willful, or intentional misuse and illegal use
- Aesthetic uses that do not serve a public benefit (e.g., watering ornamental lawns, landscaping, or golf courses and other recreational purposes during drought)
- Use that does not benefit people, ecosystem, wildlife, recreation, and other public values
- Use causing return flows of polluted water
- Returning excess water to the system

# Feedback: How would you define waste of water? (a sampling)

- Inefficient manner or timing of use (e.g. midday and excessive watering, watering of non-porous surfaces, run-off)
- Not using the most efficient methods and best available technologies of today
- Not using water in a reasonably efficient and necessary manner
- Water not put to beneficial use or not used for intended use
- Use that damages landscapes (e.g., erosion)

# Potential topic: 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

# Feedback: Benefits of bulges in the system

Increase water supply reliability

Improve flexibility

May lead to more efficient use of water

Improve collection and management of tailwater

May offer secondary benefits

May result in a smaller cone of depression when using groundwater

# Feedback: Challenges with bulges in the system

## Lack of clear definition creates confusion regarding:

- If/when bulges are allowed
- When a storage right is required
- If/how rainwater capture is allowed
- If/when dam safety requirements may apply

## Other issues:

- Water loss due to leaks and evaporation
- Potential comingling of legally diverted surface water and illegal groundwater
- Concerns around enlargement

# Potential topic: exempt uses



*Stockwater*

- 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

# Feedback: Other improvements to the exempt use rules?

- Exempt uses should be defined in basin classification with flexibility for each region to reflect local water needs and conditions
- Rules should make it clear that exempt uses, can be regulated off if they interfere with instream water rights or senior rights
- The amount of water allowed for exempt well uses should be reduced, current daily limits are higher than necessary

# Feedback: Other improvements to the exempt use rules?

- Exempt use should include measurement and reporting
- Clarification on whether exempt use is per tax lot or per parcel
- Other feedback included changes to statute or providing incentives for increased water efficiency, outside scope of rulemaking

# 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

# Feedback: What aspects of violations or penalties feel unclear or confusing?

- Current rules
- How OWRD monitors water use and enforces the rules
- What leads to an investigation for non-compliance and triggers enforcement action versus education or opportunity to voluntarily comply
- How civil penalty amounts are determined and assessed
- What constitutes unauthorized use of water or violation of the water right
- Changes to reporting methods
- No aspects of violations or penalties are unclear or confusing

# 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

# Feedback: How would you improve the rotation agreement process?

- Provide templates or model agreements
- Keep them simple, less formal, flexible, and easily renewable
- Include a way to alternate between instream and out-of-stream water use and include forbearance agreements for conservation
- Do not include carry water in agreements
- Include in the official water right file

# General feedback on rulemaking

- Do regional rules or set rules basin-by-basin
- Consider extending the timeline
- All regions should be represented on Rules Advisory Committee(s)
- Indigenous, native, and tribal peoples are the ones who should be making these decisions

# General feedback on rulemaking

- More comprehensive rule updates are needed
- Rule updates should be limited to those required due to changes in statute
- OWRD should prioritize reducing backlogs in contested cases and water right processing rather than rulemaking

# Impact of Feedback and Next Steps

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## Summary of Comments

### What We Heard During the Water Distribution, Enforcement, and Exempt Use Rulemaking Scoping Open Houses

The purpose of this document is to provide a summary of the comments received during the spring 2026 open houses hosted by the Oregon Water Resources Department (OWRD). These events were held throughout the state as part of scoping updates to OWRD's water distribution, enforcement, and exempt use rules. Comments are grouped into six topic areas:

1. Waste of water
2. Bulges in the system
3. Exempt uses
4. Violations and penalties
5. Rotation agreements
6. Broader comments on rulemaking

Additionally, this document discusses next steps for the rulemaking(s) and how the comments were incorporated into the scoping and scheduling decisions.

### Background

Rule updates are needed due to changes in statute resulting from [House Bill \(HB\) 4061 \(2021\)](#), [HB 2010 \(2023\)](#), [HB 2929 \(2023\)](#), [HB 3372 \(2025\)](#), [Senate Bill \(SB\) 326 \(2023\)](#), and [SB 85 \(2023\)](#). Four rule divisions need updates; Divisions [250](#) (water distribution), [260](#) (enforcement), [300](#) (definitions) and [340](#) (exempt uses). Divisions [250](#), [260](#), and [340](#) were last amended in 1988, 1990, and 1996 respectively. While these rules are open to revision, OWRD is also interested in making other improvements within those divisions. The contemplated rule changes seek to:

- Align rules with current statutes
- Ensure fair distribution of water according to water rights
- Build regulatory and enforcement consistency
- Add and clarify definitions

To determine how to proceed and identify other potential rule improvements, OWRD completed scoping through internal analysis, public engagement, and discussion with the Oregon Water Resources Commission.

### How Input Was Collected

During May and June 2026, the Department hosted nine in-person open houses across the state and one virtual open house to explain required changes from recent legislation and gather input on other potential topics to address in amending the rules. Participants provided feedback on potential rulemaking topics by answering a series of questions posed by OWRD. Answers were collected using sticky notes and online survey submissions. Table 1 lists the questions asked for each topic. Public input was collected from May 19 through June 26, 2026. Attendance at the open houses ranged from 6 to 50 individuals, with a total of 190 participants.

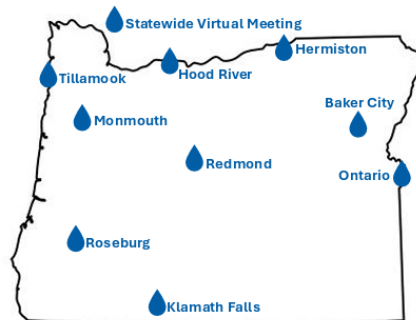


Figure 1: Map displays the locations of the nine in-person open houses in Baker City, Hood River, Hermiston, Klamath Falls, Monmouth, Ontario, Redmond, Roseburg, and Tillamook. OWRD also hosted an additional virtual open house.

# Summary of Comments

- [Summary online](#)
- Impact of feedback collected:
  - Split into two rulemakings
    - Exempt Use Rulemaking ([Division 340](#) and [Division 300](#))
    - Water Distribution and Enforcement Rulemaking ([Division 250](#) and [Division 260](#))
  - Take more time for research and discussion for Div 250 and 260

# Exempt Use Rulemaking Scope (Division 340 and Division 300)

- Updating rules to align with statute changes from HB 3372 and SB 85

- Clarifying groundwater exemption for domestic purposes

- Clarifying the groundwater exemption for stockwater

- Clarifying that the standard of beneficial use without waste applies to exempt uses

- Completing administrative clean up

# Water Distribution and Enforcement Rulemaking Scope\* (Division 250 and Division 260)

Definition of waste of water

Bulges in the system

Rotation agreement process/requirements

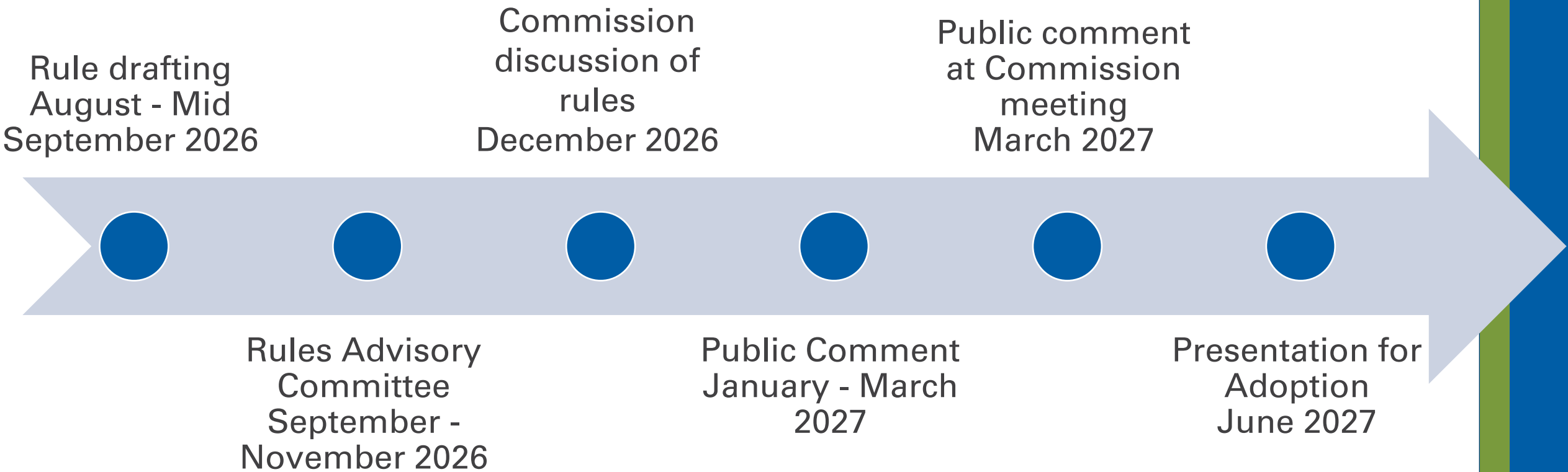
Re-affirming current policy in rule that a water storage right allows the water right holder to fill up a reservoir to the permitted amount once each fill season

*\*tentative scope, more time will allow further scope refinement\**

# Rulemaking Timelines

| Rulemaking                                                                                                             | Pre-rulemaking Engagement and Drafting | Rules Advisory Committee        | Public Comment           | Recommendation for Adoption |
|------------------------------------------------------------------------------------------------------------------------|----------------------------------------|---------------------------------|--------------------------|-----------------------------|
| <b>Exempt Use Rulemaking</b> ( <a href="#">Division 340</a> and <a href="#">Division 300</a> )                         | August to mid-September 2026           | Mid-September to November 2026  | January to February 2027 | June 2027                   |
| <b>Water Distribution and Enforcement Rulemaking</b> ( <a href="#">Division 250</a> and <a href="#">Division 260</a> ) | Fall 2026 to summer 2027               | Summer/fall 2027 to spring 2028 | Spring 2028              | Fall 2028                   |

# Exempt use rulemaking



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# Thank you! Questions?

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