

**DRAFT NOTICE OF PROPOSED RULEMAKING  
OREGON ADMINISTRATIVE RULES CHAPTER 690  
DIVISIONS 8, 9, 300, 410**

**DRAFT STATEMENT OF ECONOMIC & FISCAL IMPACTS**

***Fiscal and Economic Impact:***

The Oregon Water Resources Department (OWRD) is updating the review process for new groundwater applications, to ensure sustainable use of groundwater resources while protecting existing surface and groundwater rights holders. OWRD anticipates issuing fewer new groundwater rights as a result of the updated process. Consequently, the proposed rules may slow irrigated agricultural growth because expansion of irrigated acreage may be constrained. Also, some municipalities may need to develop and implement additional water conservation and efficiency measures and/or acquire existing water rights rather than develop new rights to meet future demands. However, any adverse economic impacts resulting from slowed issuance of new groundwater rights may be offset overall to some extent by the protection of existing consumptive and instream water uses. Finally, failure to act through rule changes may result in adverse economic impacts stemming from the cost of necessary remedial actions as a result of groundwater level declines and reduced streamflow.

***Statement of Cost of Compliance:***

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s).

Additional costs to OWRD stemming from the rulemaking are difficult to quantify. Because OWRD most likely will issue fewer groundwater rights due to the rule changes, OWRD may see an early uptick in applications for new groundwater rights and start cards for new well construction where water remains available for allocation, generating more fees for OWRD. That trend is likely to reverse for both, as water become less available for new groundwater allocation, though OWRD may experience an increase in the number of transfer applications in areas where groundwater is not available for allocation to new water rights. OWRD also anticipates increased legal costs associated with challenges to the new rules as well as disputes over adverse water rights determinations.

Other state agencies and units of local government may experience additional costs in terms of time and effort to become acquainted with the new rules as well as any education or outreach efforts needed to explain the new rules to the public.

Also, some municipalities may need to develop and implement additional water conservation and efficiency measures and/or acquire existing water rights through the transfer process rather than develop new rights to meet future demands.

(2) Effect on Small Businesses:

(a) Estimate the number and type of small businesses subject to the rule(s);

OWRD does not have specific information regarding the number of small businesses that may be subject to these rules. OWRD acknowledges that fewer groundwater rights are likely to be issued under the proposed rules. Consequently, small farms, nurseries, ranches, and other small businesses seeking new groundwater rights may be economically impacted either because they may not be able to secure a new water right or because they must acquire an existing water right through purchase. However, small businesses with existing groundwater rights will have more certainty about future water availability. OWRD also notes that the rules are likely to prevent further overallocation of both groundwater and surface water resources. Therefore, small businesses supporting fishing, swimming, boating, and other commercial and recreational activities reliant on sustained streamflows and lake levels are likely to benefit from the rulemaking.

The Oregon Ground Water Association (OGWA) has suggested that the well construction industry may experience adverse economic impacts due to the rulemaking because fewer groundwater rights issued in the future may mean fewer new wells constructed, particularly for irrigation purposes. OWRD notes that these rules do not impact the construction of exempt use wells, nor do they impact well reconstruction, deepening, or abandonment. Moreover, there is a significant backlog of customers waiting for construction of authorized wells such that these rules are not expected to impact the well construction industry in the near-term.

In response to OGWA input, OWRD has compiled the following information pertaining to the construction of new irrigation wells to access new groundwater rights issued for the purpose of irrigation:

<b>Year</b>	<b>Number New Wells Constructed to Access New Groundwater Rights Issued for the Purpose of Irrigation</b>
2014	154
2015	170
2016	121
2017	101
2018	<b>100</b>
2019	93
2020	91
2021	55
2022	<b>50</b>

Since 2014, the number of new wells constructed to access new groundwater rights for the purpose of irrigation has declined by approximately 68%. The reasons for the decline are complex. For purposes of providing a range of potential economic impacts, OWRD has chosen a high value of 100 new irrigation wells constructed to support new groundwater rights (the

number predating the Covid-19 pandemic) and a low value of 50 new wells constructed (the most recent number).

For any new well construction, costs are highly variable, depending on the location, depth, diameter, materials, and nature of the proposed groundwater well itself, as well as a drilling contractor’s operating expenses including wages, benefits, and overhead. During the RAC process, OGWA suggested that new well construction may range between \$50,000 and \$1M, averaging about \$140,000 per new irrigation well, which translates to \$7M (for 50 new wells) to \$14M (for 100 new wells) in direct statewide well construction revenue.

OWRD anticipates many new groundwater rights under the proposed rules will be denied. OWRD has compiled the following information examining the range of potential economic impacts on well construction arising from issuance of fewer new groundwater rights supporting irrigation use:

<b>Hypothetical Reduction in New Wells Constructed to Access New Groundwater Rights Issued for the Purpose of Irrigation</b>	<b>Hypothetical Reduction in Revenue Generated Statewide (assuming \$140K/well &amp; 50 wells)</b>	<b>Hypothetical Reduction in Revenue Generated Statewide (assuming \$140K/well &amp; 100 wells)</b>
25%	\$1.75M	\$3.5M
50%	\$3.5M	\$7.0M
75%	\$5.25M	\$10.5M
90%	\$6.3M	\$12.6M

In other words, the hypothetical economic impact on well construction associated with the issuance of fewer groundwater rights for the purposes of irrigation may range from approximately \$1.75M in reduced revenue statewide to \$12.6M in reduced revenue statewide.

(b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s);

OWRD will require applicants to complete an updated water rights application. In some cases, applicants may need to collect additional data and other information to support their application. However, OWRD does not anticipate that the cost of reporting, recordkeeping, or administrative activities will increase because of the rulemaking.

(c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

Currently, water rights applicants rely on consulting services. Under the new rules, applicants may increase their reliance on these services. However, OWRD does not anticipate that the cost of equipment supplies, labor or administration will increase because of the rulemaking.

*Describe how small businesses were involved in the development of these rule(s)?*

The Rules Advisory Committee included members representing small businesses most likely to be affected by this rulemaking, including consultants, ranchers, farmers, irrigators, and well drillers.

*Was an Administrative Rule Advisory Committee consulted?* Yes or No? Yes

*If not, why not?* N/A

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