

FISCAL AND ECONOMIC IMPACTS: SWMPA

The proposed Division 512 rule requires all groundwater users with wells that are listed as Points of Appropriation (POA) on valid water rights within the Serious Water Management Problem Area (SWMPA) to install a totalizing flowmeter by March 1, 2028. There are approximately 1,410 POAs within the proposed SWMPA, 1,074 of which are already required to have a totalizing flowmeter installed as a condition of the water right. Under the new rules, the remaining unmetered 336 POAs will be required to install totalizing flow meters. Based on recent installations of flowmeters in the Harney Basin that were paid for with the OWRD groundwater measurement cost share program, the cost of purchasing and installing a totalizing flowmeter in the Harney Basin ranges between \$2,900 and \$3,400 per well. Cost could vary outside this range if the system requires substantial upgrades or modifications to allow flowmeter installation. Consequently, the total cost of purchasing and installing 336 totalizing flowmeters for those unmetered POAs will likely range between \$974K and \$1.14M.

The new rules will also require anyone using water from wells listed as POAs to measure use monthly and report annually to the Oregon Water Resources Department (OWRD). Of the 1,074 POAs within the proposed SWMPA, 662 are already required to report or may be required to report water use as a condition of the water right. Under the new rules, the remaining 412 metered POAs will be required to measure and report water use in addition to those 336 yet to be metered POAs, for a total of 748 POAs. The cost of reporting annually includes reading each meter monthly, recording data, and submitting that data to OWRD through the agency's web portal or by mail. Since this is primarily a labor cost and many small farms are owner operated, it isn't possible to determine an exact cost for compliance with the reporting requirement.

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).

Measurement device cost share. OWRD administers a statewide cost-share program for installing measuring devices that reimburses water users up to 75% of the total cost of parts and installation, with a 25% match from the groundwater user. The approximately 336 POAs affected by the new rules may qualify for a cost-share agreement which would substantially reduce the well-owner's cost of compliance. There is currently \$1M in the cost-share program for the current biennium and unspent funds will carry over to the next biennium. Proposed appropriations for this fund for the 2025-2027 biennium are \$50K. Because the cost-share program is a statewide program, there is no guarantee that all water users affected by these rules will be able to participate in the cost-share program.

Limitations of the rule. The proposed rule exempts any well from the requirement if the water right that authorizes that well as a POA is regulated off and not allowed to pump. This prevents water right holders who are impacted by regulatory curtailment from being required to incur a cost of compliance. **Water Use Reporting and Compliance.** Adding 748 POAs to those already required to report use annually will increase the amount of data reported, requiring more staff time for data processing and may reduce staff time for other projects. To add and align reporting

from the 748 new POAs to the existing 662 reporting wells in the basin (for a total of 1,410 POAs), OWRD will need to:

1) Validate meter installation and provide on-the-ground installation support (by March 2028). Currently, the Department's water use reporting system cannot track meter installation, and staff are not available to support meter installations, meter registration, and water use reporting. Without system improvements or new staff, paper forms can be mailed to all affected water users to verify meter installs.

2) Intake monthly water use data annually (September 2028). The Department's water use reporting system is prepared to receive the newly reported data once water users are identified.

3) Verify that users report accurate data and use water per their groundwater rights (September 2028). The Department's existing water use reporting system does not allow for timely comparison to ancillary data to validate reported numbers, nor can the system easily identify whether the reported use is allowed within the capacity of the water right or a combination of water rights associated with each well. Improvements to connect two existing databases, the Water User Reporting System (WURS) and the Groundwater Information System (GWIS), will allow OWRD to monitor water use at all wells and for each water right. New resources are needed to implement these improvements. In lieu of improvements, minimal quality control will be done to reported data.

4) Seek compliance when violations are found and pursue enforcement as needed (no timeline). The Department has adequate staffing to support enforcement actions. However, the current data system would not provide a timely comparison of water use and water right information to support broad in-season enforcement. Without investments in database improvements, staff will pursue enforcement as they are able to manually identify discrepancies between reported use and water rights using existing systems.

Without investments, the Department will be able to validate that meters are installed, verify that water use data is being reported, and check on compliance as issues are identified. To support implementation as described above, an increased budget of approximately \$430K per year is needed to add one permanent NRS 2 Water Use Reporting staff (Baker City or Burns), one permanent ISS 7 System Analyst (Salem), and one permanent ISS 6 Developer (Baker City or Burns).

(2)(a) Effect on Small Businesses: Estimate the number and type of small businesses subject to the rule(s);

ORS 183.336 requires agencies to use available information to estimate the number and type of small businesses likely to be subject to the proposed rules. A small business is "a corporation, partnership, sole proprietorship or other legal entity formed to make a profit, which is independently owned and operated from all other businesses, and which has 50 or fewer employees" (ORS 183.310). Examples of small businesses that the new rules may positively or negatively impact include well drillers, private water systems, irrigators, small farms, ranches, builders, outfitters, tour guides, shops, hotels, and restaurants. According to the State of Oregon Employment Department (2024), there are 230 small businesses in Harney County (as defined by

ORS 183.310) that pay unemployment insurance (UI) taxes. The sector breakdown is as follows:

Sectors of small businesses in Harney County

Natural Resources and Mining, 40
Construction, 23
Manufacturing, 4
Wholesale trade, 7
Retail trade, 19
Transportation, warehousing, and utilities, 7
Information, 4
Financial activities, 16
Professional and business services, 21
Private education and health services, 20
Leisure and hospitality, 31
Other services, 18

All Sectors, 230

Notably, this accounting does not include many businesses within the agricultural sector that are not required to pay UI taxes. OWRD does not have information on the number of small farm businesses as defined by ORS 183.310. According to the U.S. Census of Agriculture (USDA 2022), there are 477 farms in Harney County, 22% of which are under 50 acres in size; of the 477 farms, 95% are family farms. A family farm is one where most of the business is owned by the operator and individuals related to them by blood, marriage, or adoption, including relatives who don't live in the operator's household (USDA).

(2)(b) Effect on Small Businesses: Describe the expected reporting, recordkeeping, and administrative activities and cost required to comply with the rule(s);

Any business that uses a certified water right in the SWMPA boundary defined in the proposed rules will need to take and record monthly measurements. The business would also need to complete an OWRD provided form and report the measurements annually.

(2)(c) Effect on Small Businesses: Estimate the cost of professional services, equipment supplies, labor, and increased administration required to comply with the rule(s).

The average cost range for purchasing and installing a totalizing flowmeter in the Harney Basin is \$2,900 to \$3,400. If the groundwater user chooses to apply for the cost share program, they will need to cover a minimum of 25% of the cost. The proposed rules require a totalizing flowmeter to be installed at each POA. The costs for a groundwater user will vary based on how many POAs are authorized by their groundwater right.

Documents relied upon

1. Oregon Employment Department (OED), Quarterly Census of Employment and Wages, available upon request from OED (2024), <https://www.qualityinfo.org/>.
2. U.S. Department of Agriculture (USDA), Census of Agriculture County Profile (2022), available at the [Census of Agriculture website](#).