

Rule Language Change Tracking Document

This document provides a section-by-section review of the draft SWMPA rule language, the changes made to the rules, and the reasoning for the changes. Red language indicates additions, while red strike-through indicates the language has been removed.

OAR 690-512-0090 Serious Water Management Problem Area (SWMPA) Rule

Language sections:

Previous Rule Language	Current Rule Language	Reason for Change
(1) The SWMPA boundary is defined in 690-512-#### and meets the groundwater conditions defined in 690-085-0020(1)(a). and 690-085-0020(1)(f).	(1) The SWMPA boundary is defined in 690-512-#### and meets the groundwater conditions defined in OAR 690-085-0020(1)(a) and 690-085-0020(1)(f).	<ul style="list-style-type: none">Added OAR to indicate that these are Oregon Administrative Rules (OAR).

Previous Rule Language	Current Rule Language	Reason for Change
<p>(2) By no later than March 1, 2028, each groundwater right holder, well owner, or well operator shall properly install and thereafter properly maintain a totalizing flow meter on each well within the Harney SWMPA boundary as defined in 690-512-#### listed as a point of appropriation on a valid water right. Totalizing flow meters shall be properly installed according to manufacturer's specifications and must meet the specifications in subsection 5.</p>	<p>(2) By no later than March 1, 2028, each groundwater right holder, well owner, or well operator shall properly install and thereafter properly maintain a totalizing flow meter on each well listed as a point of appropriation on a valid water right within the Harney SWMPA boundary as defined in 690-512-####. The Department may extend the deadline as needed. If the deadline is extended, the Department will notify each groundwater right holder, well owner, or well operator at least 60 days before March 1, 2028. listed as a point of appropriation on a valid water right.</p>	<ul style="list-style-type: none"> • (2) language moved around for clarity and readability. • (2) The deadline extension was added in response to comments recommending the date be on a rolling basis depending on the Department's ability to receive and use the reported data.
<p style="text-align: center;"><u>Other Comments considered but were not included in the rule.</u></p> <ul style="list-style-type: none"> • <u>Using ET in replacement of flow meters:</u> Multiple RAC members have advocated for using ET instead of flow meters, saying that the flow meter reported data is inaccurate and the cost to install a flow meter will be expensive. The Department has decided not to use ET for the SWMPA measurement and reporting because we believe that this approach does not currently meet the standard for reporting requirements for a water right. Additionally, we need reporting at the well level for Adaptive Management to be successful. ET provides reporting at the field level. 		

Previous Rule Language	Current Rule Language	Reason for Change
There is no comparative section from the previous version of the rules.	<p>(3) Totalizing flow meters shall be properly installed according to manufacturer's specifications and must meet the specifications in subsection 5.</p> <p>a. Groundwater wells that are regulated off do not require installing a totalizing flow meter.</p>	<ul style="list-style-type: none"> Section was created by splitting section 2 above. Split was done for readability. (3)(a) was added in response to comments about concerns for individuals who will be regulated and required to install a totalizing flow meter.

Previous Rule Language	Current Rule Language	Reason for Change
<p>(3) Totalizing flow meters and the method of flow meter installation may be subject to approval by Department staff. Once installed, totalizing flow meters must be maintained in good working order. Department staff shall have reasonable access to the totalizing flow meters upon request pursuant to ORS 537.780(1)(e).</p>	<p>(4) Totalizing flow meters and the method of flow meter installation may be subject to approval by Department staff. Once installed, totalizing flow meters must be maintained in good working order. Department staff shall have reasonable access to the totalizing flow meters upon request pursuant to ORS 537.780(1)(e).</p>	<ul style="list-style-type: none"> No changes made to the rule language.

Previous Rule Language	Current Rule Language	Reason for Change
<p>(4) The groundwater right holder, well owner, or well operator shall keep a complete record of the volume of water appropriated each month. The groundwater right holder, well owner, or well operator shall submit a report which includes water use measurements to the Department on an annual basis by December 31 of each calendar year for the preceding water year (October 1 to September 30). Reports shall be submitted on a form developed and maintained by the Department.</p>	<p>(5) The groundwater right holder, well owner, or well operator shall keep a complete record of the volume of water appropriated each month. The groundwater right holder, well owner, or well operator shall submit annually a report which that includes water use measurements to the Department on an annual basis by December 31 of each calendar year for the water year which ended September 30 of the same year. (October 1 to September 30). Reports shall be submitted using on a form developed and maintained by the Department.</p> <p style="padding-left: 40px;">a. Groundwater wells regulated off do not need to report use.</p>	<ul style="list-style-type: none"> • (5) Language was added, addressing comments pointing out that we required reporting for the preceding year and should be for the current year. • Section (5)(a) was added to clarify that groundwater wells that have been regulated off are not required to report use.
<p style="text-align: center;"><u>Other comments considered but were not included in the rule.</u></p> <ul style="list-style-type: none"> • <u>Requiring more than annual reporting:</u> Some RAC members suggested we use ORS 537.735(3)(d) to require more than annual reporting. Annual reporting of monthly water use provides data needed to assess water use trends and helps watermaster staff focus monitoring efforts in areas where the data indicates overuse may be occurring. Watermaster staff will continue to monitor use through checks on flow meter readings. WRD does not currently have the capacity to analyze submitted data more frequently than annually. 		

Previous Rule Language	Current Rule Language	Reason for Change
<p>(5) A totalizing flow meter shall meet the following specifications:</p> <ul style="list-style-type: none"> a. A totalizing flow meter shall have a rated accuracy of plus or minus 2 percent of actual flow for all flow rates for which the meter is expected to measure. b. A totalizing flow meter shall measure the entire discharge from the well. c. A totalizing flow meter shall have a visual and recording, mechanical or digital totalizer located on or adjacent to the flow meter and shall be equipped with a sweep hand or digital readout so that instantaneous flow rate can be read. 	<p>(6) A totalizing flow meter shall meet the following specifications:</p> <ul style="list-style-type: none"> a. A totalizing flow meter shall have a rated accuracy of plus or minus 2 percent of actual flow for all flow rates for which the meter is expected to measure. b. A totalizing flow meter shall measure the entire discharge from the well. c. A totalizing flow meter shall have a visual and recording, mechanical or digital totalizer located on or adjacent to the flow meter and shall be equipped with a sweep hand or digital readout so that instantaneous flow rate can be read. 	<ul style="list-style-type: none"> • No changes made to this rule language.

Previous Rule Language	Current Rule Language	Reason for Change
<p>d. The totalizing part of the flow meter shall have sufficient capacity to record the quantity of water authorized to be pumped over a period of 2 years. Units of water measurement shall be in acre-feet, cubic-feet, or gallons, and the totalizer shall read directly in one of these units. Flow meters recording in acre-feet shall, at a minimum, read to the nearest 1/10th acre-foot, and the decimal multiplier shall be clearly indicated on the face of the register head.</p> <p>e. Totalizers on each meter shall not be field reset without notice to and written permission from the local watermaster. Prior to resetting the totalizers, the final reading must be recorded and reported.</p>	<p>d. The totalizing part of the flow meter shall have sufficient capacity to record at minimum the quantity of water authorized to be pumped over a period of 2 years. Units of water measurement shall be in acre-feet, cubic-feet, or gallons, and the totalizer shall read directly in one of these units. Flow meters recording in acre-feet shall, at a minimum, read to the nearest 1/10th acre-foot, and the decimal multiplier shall be clearly indicated on the face of the register head.</p> <p>e. Totalizers on each meter shall not be field reset without notice to and written permission from the local watermaster. Prior to resetting the totalizers, the final reading must be recorded and reported.</p>	<ul style="list-style-type: none"> Language, as previously written, sets the requirement to have a flow meter that will only have the capacity for authorized use. At minimum was added to be less restrictive.

Previous Rule Language	Current Rule Language	Reason for Change
<p>f. The totalizing flow meter shall be installed in accordance with all manufacturer specifications. There shall be no turnouts or diversions between the well and the flow meter. The flow meter shall be installed not less than five pipe diameters downstream from any valve, elbow, or other obstruction which might create turbulent flow, or other provisions shall be made that meet the manufacturer's specifications to control or eliminate turbulent flow.</p> <p>g. The totalizing flow meter shall be installed no more than 100 feet away from the well head.</p>	<p>f. The totalizing flow meter shall be installed in accordance with all manufacturer specifications. There shall be no turnouts or diversions between the well and the flow meter. The flow meter shall be installed not less than five pipe diameters downstream from any valve, elbow, or other obstruction which might create turbulent flow, or other provisions shall be made that meet the manufacturer's specifications to control or eliminate turbulent flow.</p> <p>g. The totalizing flow meter shall be installed no more than 100 feet away from the well head unless an exception is approved by the watermaster in writing.</p>	<ul style="list-style-type: none"> • (6)(f) This section's rule language was changed in response to comments from RAC members concerned that the rule language may go against the manufacturer's specifications. • (6)(g) more flexibility was added to this subsection in response to comments that some systems cannot meet the 100 feet requirement.

Previous Rule Language	Current Rule Language	Reason for Change
<p>(6) A water user shall report broken flow meters to the local watermaster's office within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter.</p>	<p>(7) A water user shall report broken flow meters to the local watermaster's office within 48 hours after determining that the flow meter is broken. A water user shall not appropriate water for more than 60 days without an operating flow meter.</p>	<ul style="list-style-type: none"> • (7) the word water was added for clarity.

Previous Rule Language	Current Rule Language	Reason for Change
<p>(7) While the flow meter is broken, the water user shall use other methods of reporting as defined under OAR 690-085-0015(5)(a) –(c) until the flowmeter is replaced or repaired. The water user shall keep the monthly data and mail the data to the Department upon request of the Department. The data shall include a statement of the initial reading on the newly installed flow meter, the current power meter reading, and the time of operation. The water user shall notify the local watermaster within 48 hours of installing the repaired or replacement flow meter.</p>	<p>(8) While the flow meter is broken, the water user shall use other methods of reporting as defined under OAR 690-085-0015(5)(a) –(c) until the flow meter is replaced or repaired. The water user shall keep the monthly data and mail the data to the local watermaster Department upon request of the Department. The data shall include a statement of the initial reading on the newly installed flow meter, the current power meter reading, and the time of operation. The water user shall notify the local watermaster within 48 hours of installing the repaired or replacement flow meter.</p>	<ul style="list-style-type: none"> Section 7 above requires reporting to the watermaster when a flow meter is broken. The language was changed in section 8 to make it consistent with section 7.

Previous Rule Language	Current Rule Language	Reason for Change
(8) Failure to have and maintain a properly installed, functioning totalizing flow meter by March 1, 2028 will result in the local watermaster regulating and controlling an unmetered well such that no groundwater may be pumped or appropriated until a flow meter is obtained and installed consistent with these rules.	(9) Failure to have and maintain a properly installed, functioning totalizing flow meter by the deadline March 1, 2028 will result in the local watermaster regulating and controlling an unmetered well such that no groundwater may be pumped or appropriated until a flow meter is obtained and installed consistent with these rules.	<ul style="list-style-type: none"> Language was changed to align with section (2) of these rules.

Previous Rule Language	Current Rule Language	Reason for Change
(9) Consistent with ORS 536.900, ORS 183.745, and OAR 690-260, the Department may assess civil penalties for violation of these rules.	(10) Consistent with ORS 536.900, ORS 183.745, and OAR 690-260, the Department may assess civil penalties for violation of these rules.	<ul style="list-style-type: none"> No Changes made to the rules.