

Serious Water Management Problem Area Rules (SWMPA)

Language Explainer

This document is a supporting document to the proposed SWMPA rule language. Its purpose is to outline the rule language into different sections and explain what the rule language means. **This document has been updated to include the new language added for the RAC meeting on March 5, 2025, indicated with red wording.**

The proposed rule language is outlined in the following sections:

- (1) SWMPA boundary and the nature of the problem
- (2) Timeline for implementation, who is required to install measuring devices, and the type of device required
- (3) Requirements for installing totalizing flow meter
- (4) Approval of the totalizing flow meter
- (5) Specifications for the annual report
- (6) Specification for the totalizing flow meter
- (7) Reporting requirements if the totalizing flow meter is broken
- (8) Measuring and reporting requirements while the totalizing flow meter is broken
- (9) Regulation for failure to install a totalizing flow meter
- (10) Authority to assess civil penalties on users who do not install a totalizing flow meter

Section	Rule Language	Rule language Explainer
(1) SWMPA Boundary and the nature of the problem	(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).	<p><u>Defining the boundary:</u></p> <ul style="list-style-type: none"> The SWMPA boundary includes the Harney Basin Groundwater Study Area boundary and portions of Grant County, mainly around Seneca. The administrative boundaries section in the Division 512 rules will define the boundary. The reference 690-512-#### will be the administrative boundary section. <p><u>Defining the nature of the problem:</u></p> <ul style="list-style-type: none"> OAR 690-085-0020(1)(a): Groundwater decline in the area is of such a magnitude that the aquifer does not recover annually. OAR 690-085-0020(1)(f): There are frequent occurrences of surface or groundwater shortages caused by using water from streams or wells. Shortages may be evidenced by complaints from water rights holders, requests to regulate water use, degraded water quality, or failure to meet administrative restrictions or minimum stream flows.

Question(s) Being Addressed With this Rule Language	Recommendation to Commission
<ul style="list-style-type: none"> (A) What should the SWMPA boundary be? (B) Where geographically should the flow meters be required to be installed? Should only a geographic portion of the basin be required to be installed and reported? 	<ul style="list-style-type: none"> (A) Set the boundary as the RAC-recommended Classification boundary. The boundary can be found in the map packet. (B) Any permitted groundwater right within the SWMPA boundary must install a flow meter.

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(2) Timeline for implementation, who is required to install measuring devices, and the type of device required	(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.	<p><u>Timeline for implementation:</u></p> <ul style="list-style-type: none"> Flow meters must be installed by March 1, 2028. <p><u>Users required to install a flow meter:</u></p> <ul style="list-style-type: none"> Each groundwater right holder, well owner, or well operator. <p><u>Where to install a flow meter:</u></p> <ul style="list-style-type: none"> A totalizing flow meter must be installed at each well (POA).

Question(s) Being Addressed With this Rule Language	Recommendation to the Commission
<ul style="list-style-type: none"> (A) When should the measurement devices be required? Should there be a rollout for requiring the installation of flow meters? (B) What groundwater users should be included in the SWMPA requirement? (C) What should OWRD consider for measurement devices? (D) How should water use be tracked? (E) Does every well need a flow measurement device, or should it be per field? What type of reporting should be required? (F) Can the Department use ET to track water use instead of a totalizing flow meter? 	<ul style="list-style-type: none"> (A) All points appropriation on every groundwater right is required to install a flow meter within two years of the adoption of the final rule. (B) All permitted groundwater users must measure and report groundwater use, excluding exempt groundwater users. (C) There is no preference for the meter brand, but the meters need to be totalizing flow meters that meet the specifications that will be defined with the SWMPA rule language. (D) Groundwater use is only measured by a totalizing flow meter. If a meter is broken, other authorized methods shall be used until the meter is repaired or replaced. (E) Each Well (POA) needs to have a functioning measuring device installed. (F) OWRD has decided not to use ET at this time because it does not currently meet the standard for reporting requirements for a water right.

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(3) Requirements for installing totalizing flow meter	<p>(3) Totalizing flow meters shall be properly installed according to manufacturer specifications and must meet the specifications in subsection 5.</p> <p>a. Groundwater wells that are regulated off do not require a totalizing flow meter to be installed.</p>	<p><u>Type of device required:</u></p> <ul style="list-style-type: none"> A totalizing flow meter shall be installed following the manufacturer's specifications and must meet the specifications defined in subsection 5. <p><u>Exception for Measurement Requirements</u></p> <ul style="list-style-type: none"> (3)(a) Groundwater wells that have been regulated off are not required to install a totalizing flow meter.

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(4) Approval of the totalizing Flow meter	(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><u>Approval for the totalizing flow meter:</u></p> <ul style="list-style-type: none"> Any totalizing flow meter and installation methods may be subject to approval by department staff. <p><u>Maintenance of the flow meter:</u></p> <ul style="list-style-type: none"> Flow meters must be maintained in good working order after installation. <p><u>Reasonable access to the flow meter:</u></p> <ul style="list-style-type: none"> Department staff shall have reasonable access to the flow meter. ORS 537.780(1)(e) – With authority from the Water Resources Commission, Department staff can “Enter upon any lands to inspect wells, including wells exempt under ORS 537.545, casing, fittings, valves, pipes, pumps, measuring devices, and back siphoning prevention devices.”

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<ul style="list-style-type: none"> (A) How should water use be tracked? (B) What should OWRD consider for measurement devices? (C) Can the Department use ET to track water use instead of a totalizing flow meter? (D) Can the Department use ET to track water use instead of a totalizing flow meter? 	<ul style="list-style-type: none"> (A) Groundwater use is measured by a totalizing flow meter only. If a meter is broken, other authorized methods shall be used until the meter is repaired or replaced. (B) There is no preference for the meter brand, but the meters need to be totalizing flow meters that meet the specifications that will be defined with the SWMPA rule language. (C) We have decided not to use ET at this time because it does not currently meet the standard for reporting requirements for a water right. (D) We have decided not to use ET at this time because it does not currently meet the standard for reporting requirements for a water right.

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(5) Specifications for the annual report	<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 that includes water use measurements to the Department by December 31 of each calendar year for the water year which ended September 30 of that same year. Reports shall be submitted using a form developed and maintained by the Department.</p> <p>a. Groundwater wells regulated off do not need to report use.</p>	<p><u>Annual report requirements:</u></p> <ul style="list-style-type: none"> Groundwater right holders, well owner, or well operators shall record their use each month Groundwater right holders, well owner, or well operators must report their use on December 31 each year for the previous water year. <p><u>Submittal of the reports:</u></p> <ul style="list-style-type: none"> The report will be submitted online in the water use reporting database.

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<ul style="list-style-type: none"> (A) How often should reporting be required? (B) Can the department use ORS 537.735(3)(d) to require more frequent reporting? 	<ul style="list-style-type: none"> (A) Annual reporting with monthly measurements. (B) Annual reporting of monthly water use provides data needed to assess water use trends and also helps watermaster staff focus monitoring efforts in areas where the data indicates overuse may occur. 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.

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(6) Specification for the totalizing flow meter	<p>(6) A totalizing flow meter shall meet the following specifications:</p> <p>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.</p> <p>b. A totalizing flow meter shall measure the entire discharge from the well.</p> <p>c. A totalizing flow meter shall have a sweep hand or digital readout so that instantaneous flow rate can be read.</p>	<p><u>Specifications:</u></p> <ul style="list-style-type: none"> This rule describes the required specifications for the installed totalizing flow meter measurement device.
(6) Specification for the totalizing flow meter	<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 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><u>Specifications:</u></p> <ul style="list-style-type: none"> This rule describes the required specifications for the installed totalizing flow meter measurement device.

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<ul style="list-style-type: none"> (A) What should OWRD consider for measurement devices? 	<ul style="list-style-type: none"> (A) There is no preference for the meter brand, but the meters need to be totalizing flow meters that meet the specifications that will be defined with the SWMPA rule language.

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(6) Specification for the totalizing flow meter	<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.</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>	<p><u>Specifications:</u></p> <ul style="list-style-type: none"> This rule describes the required specifications for the installed totalizing flow meter measurement device. 6(g) Systems that cannot allow the flow meter to be installed 100 feet away may have exceptions approved by the watermaster.

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(7) Reporting requirements if the totalizing flow meter is broken	(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><u>Reporting of a broken flow meter:</u></p> <ul style="list-style-type: none"> If a flow meter is broken, the water user must report it to the local water master within 48 hours. <p><u>Appropriating water when the flow meter is broken:</u></p> <ul style="list-style-type: none"> The maximum amount of days water can be appropriated while the flow meter is broken is 60 days.

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No related questions	N/A

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(8) Measuring and reporting requirements while the totalizing flow meter is broken	(8) While the flow meter is broken, the water user shall use other methods of measurement 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 upon request. 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 watermaster within 48 hours of installing the repaired or replacement flow meter.	<p><u>Other methods of measurement allowed while the flow meter is broken:</u></p> <ul style="list-style-type: none"> • OAR 690-085-0015(5)(b) – Power consumption method • OAR 690-085-0015(5)(c) – The time of operation method <p><u>Reporting of data while the flow meter is broken:</u></p> <ul style="list-style-type: none"> • The water user shall keep the monthly data and may need to report it upon request from the local watermaster. • The data reported shall include the initial reading on the newly installed flow meter, the power meter reading, and the time of operation. <p><u>Reporting the installed flow meter:</u></p> <ul style="list-style-type: none"> • Within 48 hours of installment of the flow meter the water user shall report to the local watermaster.

Question(s) Being Addressed With this Rule Language	Recommendation to the Commission
<ul style="list-style-type: none"> • (A) How should water use be tracked? • (B) Can the Department use ET to track water use instead of a totalizing flow meter? 	<ul style="list-style-type: none"> • (A) Groundwater use is measured by a totalizing flow meter only. If a meter is broken, other authorized methods shall be used until the meter is repaired or replaced. • (B) We have decided not to use ET at this time because it does not currently meet the standard for reporting requirements for a water right.

Section	Rule Language	Rule Language Explainer
(9) Regulation for failure to install a totalizing flow meter	(9) Failure to have and maintain a properly installed, functioning totalizing flow meter by the deadline 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.	<u>Penalty for not installing a flow meter:</u> <ul style="list-style-type: none"> If a groundwater user does not install by March 1, 2028, the water master will regulate and control an unmetered well until a flow meter is obtained and installed.

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No related questions	N/A

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(10) Authority to assess civil penalties on users who do not install a totalizing flow meter	(10) Consistent with ORS 536.900, ORS 183.745, and OAR Chapter 690 division 260, the Department may assess civil penalties for violation of these rules.	<u>Authority to assess civil penalty:</u> <ul style="list-style-type: none"> This section describes the authority of the department to assess civil penalties if these rules are violated.

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No related questions	N/A