

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 WRD. 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.

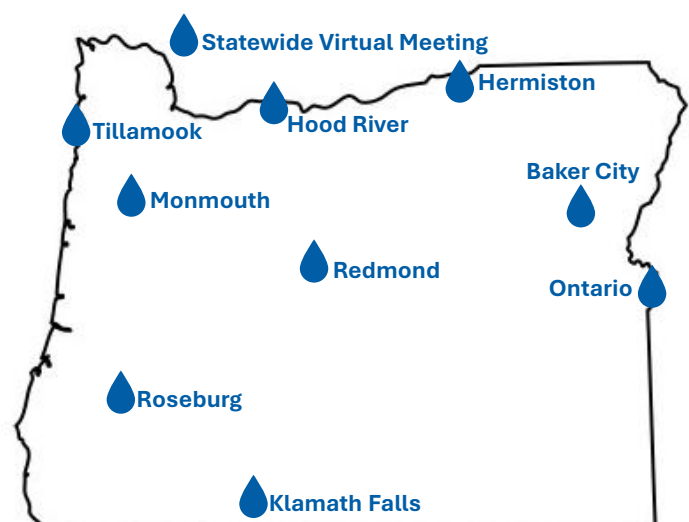


Figure 1: Map displays the locations of the nine in-person open houses in Baker City, Hood River, Hermiston, Klamath Falls, Monmouth, Roseburg, and Tillamook. OWRD also hosted an additional virtual open house.

Table 1. Survey Questions

Topic	Questions
Waste of water	How would you define waste?
Bulges in the system	- How frequently is water delivered or is your system designed to pump? - What are the problems or challenges with bulges? - What are the benefits and values of bulges? - When, how frequently, and at what rate does your bulge empty?
Exempt uses	- As defined in OAR 690-300-0010(14), "Domestic Water Use" means the use of water for human consumption, household purposes, domestic animal consumption that is ancillary to residential use of the property or related accessory uses." What do you consider "ancillary to residential use of the property or related accessory uses?" - Are there other improvements to the exempt use rules (OAR 690-340-0010) and corresponding definitions in OAR 690-300 that you would like OWRD to pursue?
Violations and civil penalties	- What aspects of violations or penalties feel unclear or confusing? - What types of enforcement issues do you see in your community? - What makes enforcement feel fair and consistent to you? - What information would help water users better understand their responsibilities?
Rotation agreements	- How far in advance do you or would you set up a rotation agreement? - How would you improve the rotation agreement process?



Figure 2: OWRD presenting why rulemaking is needed at the open house in Roseburg.



Figure 3: Table displaying information on exempt uses and bulges in the system and the set up for providing feedback using an online survey tool during the open houses.



Figure 4: Open house participants provide input on rulemaking scope and talk with OWRD staff at open house in Monmouth.



Figure 5: OWRD staff respond to questions at the open house in Redmond.

Summary of Feedback Received

In total, OWRD received 669 responses through the open house engagement process. The sections below include an introduction of each topic and are followed by summarized bulleted themes based on comments received. Bullets are further organized by question, feedback not tied to a specific question is listed as “other comments.” The bullets below represent the various views of those who submitted comments and do not reflect the independent views of OWRD.

Waste of Water

In Oregon, all water is publicly owned. Those who use water in Oregon must use their water for a beneficial purpose and not waste it. Waste of water results in water that could have been used beneficially by junior users downstream not being available in the system. As Oregon continues to see warmer and dryer years, with less winter snowpack, it is ever more important that OWRD ensures water is not wasted. OWRD’s rules contain multiple definitions of waste of water and some definitions are very broad. A clearer definition would help water users, those interested in water management, and OWRD better manage this resource. More information of waste of water can be found [HERE](#).

Question: How would you define waste?

Themes of what a definition of waste should include

- 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)
- 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

Themes that were identified as both waste and NOT waste

- Normal system losses (ditch seepage, operational releases, return flows, canal evaporation)
- Losses associated with aging or damaged infrastructure
- Customary industry practices
- Water left instream to support ecological needs
- Return flows to rivers, streams, and aquifers

Other comments on considerations for developing a definition of waste

- Tailor definition to specific basin conditions (e.g. population, industry, topography, climate)
- Incorporate drought-responsive criteria or allow for drought-specific definitions
- Develop and require use of efficiency standards and best available technology
- Include industry-specific considerations or definitions (e.g., data centers)
- Modernize outdated concepts of waste and beneficial use to meet needs and conditions of today
- Close waste loopholes (e.g., landscape irrigation categorized as nursery use)
- Evaluate beneficial use and waste together, given their interdependence
- Balance current needs with future water availability
- Consideration of primary use and secondary benefits (e.g. recharge, wetland watering, ecosystem and wildlife benefits)
- Define in manner which free from local or political pressures

Other comments on waste

- Address the “use it or lose it” principle within water rights, current water law pushes users to use all their water, even if they do not need it, just to keep their rights
- Rulemaking is not needed as existing processes such as the courts, contested case procedures, and watermaster determinations already address waste issues and may be better suited for case-by-case evaluation
- Address public education needs related to water waste, conservation, and available technology
- Encourage waste reduction through incentive-based programs
- Consider metering and reporting requirements for permitted and exempt uses for monitoring and deterrence

Bulges in the System

A bulge in the system is an off-channel temporary storage facility or holding area that is not associated with a storage water right. Bulges, also called BIS's, are intended to address irrigation and agricultural system needs while allowing the water user to stay within the terms of their water right. Bulges are not intended to prolong an irrigation season, accommodate year-round storage, be in-channel, capture groundwater, use as a statutory dam, or injure other instream or consumptive water rights or wetlands. Bulges in the system are not addressed in rule, only internal OWRD guidance. Creating rules may clarify how this tool can be used lawfully. More information on bulges in the system can be found [HERE](#)

Question: How frequently is water delivered or is your system designed to pump?

- How often and how much water is delivered depends on the water right, system, and local practices
- Delivery can be every two to three weeks, daily, or hourly
- Climate change is making delivery patterns less predictable

Question: When, how frequently, and at what rate does your bulge empty?

- Some are never empty as water use occurs year-round for irrigation, frost control, heat control, pesticide application, fertilizer application, etc.
- Some empty at varied rates based on factors such as heat, fire needs, rainfall, etc.
- Some are designed to store only enough water

Question: What are the problems or challenges with bulges?

- Lack of clear definition creates confusion, raising questions about if/when bulges are allowed, and when a storage right is required, if/how rainwater capture is allowed, and if/when dam safety requirements may apply
- Water loss due to leaks, comingling of legally diverted surface water and illegal groundwater, and evaporation
- Bulges can enlarge the amount and timing of diversions/water use to the detriment of other water users, instream flows, and water quality
- The timing of filling bulges can be unpredictable
- Lack of clarity in how bulges in the system are regulated when the water rights have year-round use thus the bulge may never be empty

Question: What are the benefits and values of bulges?

- Increase water supply reliability, overcome delivery limitations, provide backup supply during pump failures or shortages, allow beneficial use of water under a water right with a deficient rate, act as a buffer between delivery limits and irrigation needs
- Improves flexibility for water users and managers, allows for use of variable irrigation systems
- May lead to more efficient use of water and improved collection and management of tailwater
- May offer secondary benefits for wildlife, flood control, and fire suppression
- For groundwater they may allow for a lower rate of diversion/pumping and a smaller cone of depression

Other comments on bulges in the system

- Need for clearer definition that focuses on bulge function and seasonality
- Definition should explicitly exclude structures that capture groundwater
- Rules should be simple, avoid a one-size-fits-all approach, and not add new storage permitting requirements beyond what already exists
- Bulges need to be clearly separated from reservoirs in both how they are defined and regulated to prevent confusion and unnecessary water-right requirements
- Bulges are water-storage ponds and reservoirs that are not allowed by law and should not be used as a loophole for storing water and should require a water right
- Bulges should offer practical flexibility (e.g. allow small amounts of water in lined structures to prevent UV damage or use groundwater to fill them and reduce diversion rates and cone impacts)
- Bulges should not be used for recreation or aesthetics (e.g. lakes, ponds, resorts)
- Diversion of water into a bulge is not a beneficial use and should not be included on a claim of beneficial use
- The current OWRD policy which sets a 10-day limit for holding water lawfully diverted under a water right is not sufficient for irrigation system needs
- The amount of water held should match what crops need, not just what is authorized
- Bulges should be considered for uses other than irrigation, like stockwater, municipal and industrial needs, and exempt uses
- Using bulges beyond the allowed holding period unlawfully enlarges a water right and harms other users
- Consider bulge impacts on restoration projects when writing the rules
- Bulges could be a tool to help endangered species

Exempt Uses

Using water in Oregon requires a permit or water right, except for specific situations exempted by Oregon law. These are called “exempt uses” of water as they are exempt from the water right permitting process. Different exempt uses have specific limitations or conditions for the exemption to qualify. More information on exempt uses can be found [HERE](#).

Question: As defined in OAR [690-300-0010\(14\)](#), "Domestic Water Use" means the use of water for human consumption, household purposes, domestic animal consumption that is ancillary to residential use of the property or related accessory uses." What do you consider “ancillary to residential use of the property or related accessory uses?”

- Ancillary to residential use refers to water uses that typically occur on residential property and support normal daily living
- Used commonly considered ancillary: household needs, personal gardens or other personal food production, maintaining vegetation for property care, providing water for pets or non-commercial livestock, fire suppression or resiliency, car washing, and basic wildlife access
- Uses with mixed feedback: ponds, landscape watering, commercial irrigation, livestock watering (commercial and non-commercial, removal or limitations suggested), commercial boarding kennels or stables, pools, spas, decorative water features, reservoirs, and conservation and restoration activities

Question: Are there other improvements to the exempt use rules (OAR 690-340-0010) and corresponding definitions in OAR 690-300 that you would like OWRD to pursue?

- Exempt uses should be defined with flexibility for each region to reflect local water needs and conditions
- Rules should make it clear that exempt uses, including the new commercial garden exemption, 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

- Exempt use should be paired with incentives for increased water efficiency and reporting
- Exempt use should include measurement or metering and reporting
- Exempt uses should be expanded by statute to include walking wetlands, beaver dam analogs, ponds for fire suppression, wildlife water sources, stream and wetland enhancements, and conservation or restoration projects
- Clarification on whether exempt use is per tax lot or per parcel
- Limitations or conditions on exempt uses should be applied when wells are located near streams, in areas with declining aquifers, or in hydraulically connected and over-appropriated basins
- Basin classification should be used to determine when and how exempt wells are limited

Other comments on exempt uses

- Exempt uses should be narrowed by statute
- Funding is needed for expanded monitoring of exempt uses
- Exempt use education
- Overall need for more information on exempt use for informed decision making

Violations and Penalties

OWRD is charged with fair distribution of water according to water rights and protection of existing rights. Unlawful water use, unsafe practices, or ignoring regulatory orders can injure other water right holders and harm streams and aquifers. When someone uses water without authorization, fails to maintain required infrastructure, or does not follow a watermaster's regulation, OWRD may take enforcement action. With increasing drought and changing water demands, it is essential that OWRD's enforcement tools stay clear, current, and aligned with statute. More information on violations and penalties can be found [HERE](#).

Question: What aspects of violations or penalties feel unclear or confusing?

- Current rules are unclear, should use easy-to-understand language and avoid unnecessary red tape
- It is unclear 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 against those found to be in violation
- 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

Question: What types of enforcement issues do you see in your community?

- Use without a water right (e.g. Illegal cannabis, mining/dredging, ponds/pools and taking water at night)
- Taking more water than needed and wasting water
- Illegal cannabis use
- Pumping above permitted rates
- Changing a point of diversion without approval
- Using wells that have not been active for years
- No enforcement issues
- Lack of, inconsistent, or insufficient enforcement by OWRD, including an overreliance on seeking voluntary compliance
- Insufficient staffing or capacity at OWRD
- Insufficient penalties or consequences for not following water law
- Not metering use or reporting water use as required
- Resurrection of water rights subject to forfeiture

- Using water out of fear of losing it but not really putting it to beneficial use
- Unfounded complaints against water users
- Challenges associated with unclear rules and key terms in the law

Question: What makes enforcement feel fair and consistent to you?

- A standard policy, applied across all water users, that holds accountable the use of the public resource
- Monitoring and metering of water use to better enforce
- Immediate fines should be issued after a notice of violation, no warnings should occur
- Enforcement starts with corrective actions or education before issuing fines
- Everyone is held accountable or is treated the same regardless of who they are or what power they hold
- Ensuring violations result in meaningful consequences rather than only notices of violation
- Adequate data and personnel to ensure OWRD monitors and enforces rules
- Pursuing enforcement like other OWRD efforts where they work to holistically address a full set of similar violations

Question: What information would help water users better understand their responsibilities?

- Increased outreach to help the water-using community understand water laws and avoid violations
- Updated educational materials written in plain, accessible language; this includes updating the Aquabook, offering water use 101 seminars, and developing fact sheets on topics such as available efficiency programs and how to lease water instream
- Communication with local staff should be improved, provide easy to locate contact information
- Clear definitions of terms and violations, including waste of water and bulges in the system, are essential for fair and consistent enforcement
- Programs to help people buy and install flowmeters to better understand their water use
- Requiring permit holders sign a sworn statement affirming that they understand the conditions in their permit and the statutes and rules regarding violations and enforcement

Other comments on violations and penalties

- Penalties for illegal water use should be strengthened, including increasing civil fines to the maximum allowable level and considering criminal penalties such as jail time. Current penalties do not provide adequate deterrence, and OWRD should evaluate stronger approaches used in other states
- Opposition to increasing civil penalties
- Rules should clearly define illegal use and raise civil penalties as much as possible
- Enforcement efforts should prioritize intentional, repeated, or harmful violations to serve as a deterrent for efficient water use, especially during drought conditions
- OWRD should focus on addressing unreported water use, abandoned rights, illegal withdrawals, illegal cannabis operations, and other ongoing non-compliance
- Division 250 and 260 should be updated and clarified; the process should be simpler to make sure there is accountability for non-compliance

Rotation Agreements

Oregon law allows landowners to enter into written agreements with OWRD to rotate use of a collective set of water rights they hold. The rotation agreement allows the water users to make the most out of limited supplies of water and address system needs by providing water to certain permitted parties at certain times. This could be upstream users passing water when not their turn in rotation so that downstream users may pick up or play out on a jointly owned ditch system similarly. The watermaster will distribute water in accordance with the submitted rotation agreement for the set time of that agreement which must be for one irrigation season, at minimum. Water rotation agreements provide water right holders the flexibility to navigate changes in water supply by working with other water users. As water becomes scarcer, they may be an increasingly important tool for meeting water needs. OWRD is interested in making sure our rules are set up to support potential increased use of the tool. More information on rotation

agreements can be found [HERE](#).

Question: How far in advance do you or would you set up a rotation agreement?

- Responses included 4 to 6 weeks, 3 to 6 months, and one year in advance
- Rotation agreements may be established annually or set up to last for several years
- The timing for filing a rotation agreement depends in part on the specific water year conditions

Question: How would you improve the rotation agreement process?

- Provide templates or model agreements
- Agreements and any requirements should be simple, less formal, flexible and easily renewable
- Rotation agreements should include a way to alternate between instream and out-of-stream water use and include forbearance agreements for conservation
- Require agreement provisions as requirements when dividing water rights.
- Carry water should not be included in rotation agreements and should not apply to overseeing Intergovernmental Agreements
- Include rotation agreements in the official water right file

Broader Comments on Rulemaking

During outreach, OWRD received broader feedback on the scope of rule updates.

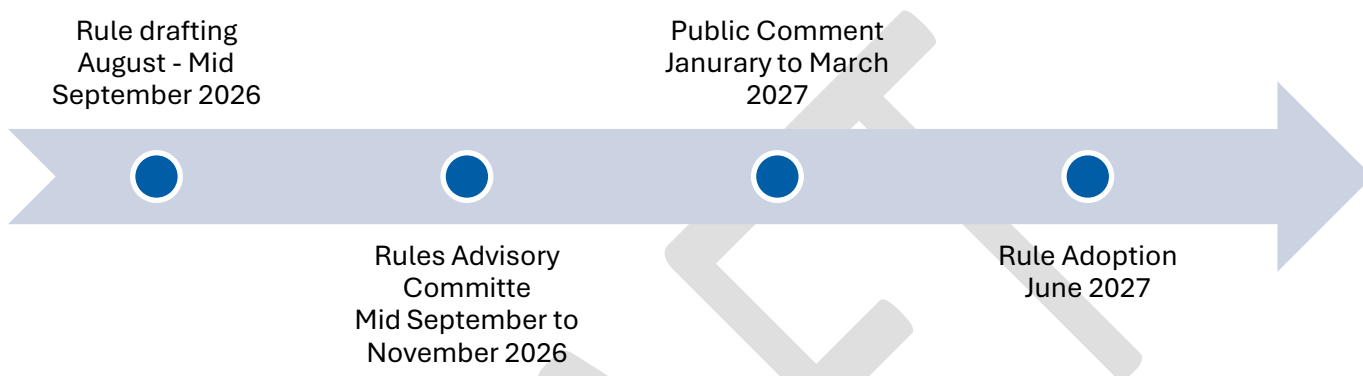
Other comments on rulemaking generally

- OWRD should not pursue updates to statewide rules but should do regional rules or set rules basin-by-basin
- Do not rush rulemaking, consider extending the timeline to provide sufficient time for engagement and rule refinement
- Rules Advisory Committees should have representation from all regions of the state
- Original owners and stewards of this land- indigenous, native, and tribal peoples are the ones who should be making these decisions and elected as the guardians and leadership
- More comprehensive rule updates are needed to better manage water in Oregon
- Rule updates should be limited to those required due to changes in statute
- The Department should prioritize reducing existing backlogs in contested cases and water right processing rather than initiate new rulemaking

Next Steps

Based on the input received, OWRD determined it would be best to split the topics into two rulemakings. One theme that the Department heard was that additional engagement is needed on larger topics in Division 250 and 260 before beginning the official rulemaking process. In response, OWRD will address the Division 340 and any corresponding definitions in Division 300 through rulemaking starting in fall 2026. Afterwards, a separate rulemaking process to update Divisions 250 and 260 in the late summer or fall 2027 after additional research and engagement. More rulemaking specific information can be found below. See figures 6 and 7 for the anticipated timeline for the two rulemakings

Figure 6. Anticipated Rulemaking Schedule for Division 340 and 300



Anticipated scope for the Division 340 and 300 rulemaking

- 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

Anticipated Timeline for Divisions 250 and 260

The additional time for the water distribution and enforcement rulemaking (Divisions 250 and 260) will allow for pre-rulemaking engagement and research that will inform what topics are addressed in the rulemaking. Topics currently in consideration based on legislative changes, open house feedback, policy feedback, and other scoping research include but are not limited to; changes associated with [HB 2010 \(section 26\)](#), [HB 4061](#), and [SB 326](#), improving the definition of waste of water, defining bulges in the system, improving rotation agreement process/requirements, updating the civil penalty schedule, and re-affirming in rule that Oregon is a one-fill state when it comes to stored water.

Figure 7. Anticipated Schedule for Divisions 250 & 260

