

2/27/26

**Proposed Rule Revision Tracker**  
**Division 300 - Definitions**

*Rule language changes made after the close of the public comment period February 5, 2026.*

Rule(s)	Commenter/Comment	Response	Changed?
<p><b>“beneficial use” -0010(5)</b></p>	<p><b>Mary Powell (N/A; Bend)</b> - Beneficial Use definition is excellent. Beneficial use was described to me by an ID manager in the Deschutes as “growing anything non-native.”</p>	<p>Comment in support.</p>	<p>No change requested.</p>
<p><b>“municipality” Div 300, 382</b></p>	<p><b>Kimberley Priestley (RAC; WW)</b> - Since this section has been expanded to also apply to Div 382, this section likely needs a definition of “municipality” as required by ORS 540.510(3)(b). See comment, Div 382.</p>	<p>The definition of municipality varies across statutes (for example, ORS 537.260(4) and ORS 540.510(3) are different) and rule divisions; therefore, it cannot be defined in Division 300 – which pertains to many different water right transaction processes. See 380 for further response. For 382, there is no need to define, as the rule that uses the term municipality points to the ORS statutory citation. Note, 690-300 already applied to 690-382 (per 690-382-0100); it just was not referenced in 690-300.</p>	<p>No change made.</p>
<p><b>Other Definitions Div 18, 77; Deschutes</b></p>	<p><b>Mary Powell (N/A; Bend)</b> - Some of the terminology commonly used and understood by water professionals have misleading names or attached conditions that alter the meaning that are not apparent at first. Such as:</p> <ul style="list-style-type: none"> <li>• “Natural Flow.” one would think this is the natural unimpeded flow available year to year to the river maybe even a historical flow however the Districts in Bend consider it any water not otherwise appropriated or stored in reservoirs and available to them by seniority. I don’t know whether it is used otherwise in water law, rules, writings, but someone had to explain it to me. In OAR-690-018: a definition of natural flow would be helpful and if it is otherwise used I would hope it would be explained.</li> <li>• “Water Rights” can be understood as a personal property right rather than a “usufruct.” English (Roman) law has a “usus, fructus, and abusus” meaning and some districts in</li> </ul>	<p>No change made as the purpose of definitions in rules is to define the terms as they are used in the rules. Other venues such as agency publications are better suited for terms that are commonly used but are not used in the rules, or terms that have other meanings beyond the rules.</p> <p>Proposed definitions are beyond the scope of this rulemaking. Division 77 includes definitions of Estimated Average Natural Flow and Minimum Streamflow/Minimum Perennial Streamflow as they are used in those rules, but those are different than what is being requested. Natural flow is not used in division 18. The Deschutes Groundwater Mitigation program is governed by other rule divisions. Defining the legal properties of a water right is beyond the notice proposed by this rulemaking.</p>	<p>No change made.</p>

	<p>the Deschutes basin dried the river below dams and diversions seasonally ajen differently?</p> <ul style="list-style-type: none"><li>• “Groundwater Mitigation.” For a while I was under the impression that there was inherent in the act some protection or consideration to protect groundwater from being drawn down. The proposal that mitigation credits be a 2 to 1 rather than a 1 to 1 exchange might slow groundwater losses in the Deschutes Basin. The groundwater hydrology here is so complex that it is hard to determine in the “general zone” what the flow is and how it will impact surrounding wells and the river.</li><li>• “Minimum Stream Flow” [Div 77] with all of its hidden limiting reductions is maybe the worst. The minimum should be the lowest acceptable flow for a healthy river and enforced. Educating the public is important, clarity is important, and teasing out this one adds confusion. It is likely that OWRD already has a really enlightening definition somewhere in the statutes, rules and handouts but I have not seen it anywhere and for those of us trying to plan a more flexible and equitable management of water in the Deschutes Basin it’s been an adventure finding out all the hidden meanings.</li></ul>		
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