



Statement of Need

Purpose and Scope:

The Oregon Water Resources Department needs to update the exempt use rules in Oregon Administrative Rules (OAR) 690-340-0010 (Division 340) and the corresponding definitions in OAR 690-300-0010 (Division 300) to align with recent statutory changes, improve clarity, ensure consistent application, and support efficient enforcement. Since 2023, several legislative bills changed the statutes that govern the exempt use Division 340 rules. The current exempt rules do not reflect these statutory changes. Additionally, the proposed changes are needed to streamline exempt use implementation and enforcement further. The proposed rules will (1) implement and clarify the statutory changes, (2) clarify groundwater exemption for domestic purposes, (3) clarify beneficial use without waste applies to exempt uses, and (4) complete administrative clean up and incorporate current policies in rule. The proposed changes made to Division 300 and 340 are highlighted below.

Proposed rule changes

1. *Implement and clarify the statutory changes*

The proposed rules seek to implement statutory changes to ORS 537.545 groundwater exempt uses by House Bill (HB) 3372 (2025). HB 3372 adds a new one-half acre commercial garden exemption that allows 3,000 gallons per day for irrigation. The new commercial garden exemption cannot be used for irrigating cannabis plants at production sites licensed under ORS 457C.065. Additionally, HB 3372 limits the combined total use of groundwater for a commercial garden and industrial or commercial purpose to no more than 5000 gallons a day. The proposed rules also seek to implement statutory changes by Senate Bill (SB) 326 (2023). SB 326 prohibits the use or storage of waters of the state and construction of a well at locations with unlicensed or unregistered cannabis plants where the number of plans is great than that allowed for recreational use. Other elements of SB 326 include, (1) allowing the commission to assess civil penalties, (2) amending Criminal Penalties to include violations of ORS 437.387 as a Class A misdemeanor.

The proposed rules will implement HB 3372 by adding the new one-half acre commercial garden exemption to OAR 690, Division 340 and by adding the definition of commercial garden to OAR 690, Division 300. The proposed rules also clarify where irrigation of the commercial garden can occur and that this exempt use cannot be used to irrigate cannabis plants at production sites licensed under ORS 475C.065.

The proposed rules implement SB 326 (2023) by adding a new definition to Division 300, "Unlawful Cannabis Production Site," and amending the existing definition of irrigation to prohibit irrigating unlawful cannabis production. Under Division 340, the proposed rules add new language preventing the use of surface water and groundwater exemptions at a unlawful cannabis production sites.

2. Clarify groundwater exemptions for domestic purposes

The proposed rules modify the existing definition of domestic water use in OAR 690, Division 300 to allow/disallow activities allowed under the domestic water use definition. **(NOTE this language will be amended after domestic water use conversation during the October 27, 2026, meeting.)**

3. Clarify beneficial use without waste applies to exempt uses

The proposed rules clarify and document the existing agency policy that beneficial use without waste applies to exempt uses under ORS 537.545, 537.132, 537.141, and 537.142 in OAR 690, Division 340.

4. Complete administrative cleanup and incorporate current policies into rule

In addition to administrative cleanup, the proposed rules incorporate current department policies. More specifically the proposed rules note: (1) exempt groundwater use under ORS 537.545 cannot be stored beyond a single daily use amount; (2) water used under an exemption may be reused if the user maintains active control of the water within its boundaries and its further reuse is consistent with exemptions available for the same source of water and (3) defines emergency fire-fighting exempt use (ORS 537.141(1)(a)) by adding a proposed definition to OAR 690, Division 300.

Conclusion:

The proposed changes to OAR 690 Divisions 340 and 300 are needed to implement statutory changes to ORS 537.545, improve clarity, ensure consistent application, and support efficient enforcement. The proposed changes do this by implementing recent statutory changes to ORS 537.545 by SB 326 (2023) and HB 3372 (2025); clarify the definition of domestic water use in OAR 690, Division 340; further clarify the standard of beneficial use without waste already applies for exempt uses; completes administrative clean up and incorporates department policies for storage and reuse of exempt uses and