



2025-26 Exempt Use Rulemaking

Rules Advisory Committee Meeting Summary September 28, 2026

The Oregon Water Resources Department (OWRD) convened its first RAC meeting for the Exempt Use Rulemaking on September 28, 2026, from 1 to 4 PM. The meeting was held in a hybrid format at OWRD's headquarters in Salem and via Zoom. The meeting was recorded and is available online at the [Exempt Use Rulemaking webpage](#).

RAC Members in Attendance

1. Alice Morrison, Friends of Family Farmers
2. April Snell, Oregon Water Resources Congress
3. April Zohn, Ducks Unlimited
4. Brian Posewitz, WaterWatch of Oregon
5. Caleb Kinser, Domestic Well User
6. Chris Hall, Water League
7. Chrissy Lucas, Oregon State University Extension Service
8. Glenn Barrett, Water for Life
9. Greg Kupillas, Oregon Ground Water Association
10. Helen Aten, Private Citizen
11. Jeremy Austin, Central Oregon LandWatch
12. Jesse Kandra, Oregon Farm Bureau
13. Jessi Talbott, Central Oregon Irrigation District
14. Keri Handaly, Confederate Tribes of Grand Ronde
15. Kris Vyverberg, Rural Landowner
16. Leah Cogan, Oregon Water Utility Council
17. Mike Freese, Threemile Canyon Farms and Beef Northwest
18. Phil Chang, Deschutes County Commissioner
19. Representative Mark Owens, House District 60, Chief Sponsor of House Bill 3372
20. Sabrina Maki, Farmer
21. Sarah R. Liljefelt, Oregon Cattlemen's Association
22. Stewart Kircher, Dairy Farmer & Oregon Dairy Farmers Association
23. Wade Flegel, Director at Ochoco Irrigation District
24. Yancy Lind, Domestic Well User

Agency Partners in Attendance

1. Jon Jinnings, Department of Fish and Wildlife
2. Sheena Marshall, Department of State Lands
3. Tim Holschbach, Oregon Department of Forestry

OWRD Staff in Attendance

1. Kim Fritz-Ogren
2. Jake Johnstone
3. Mindy Lane
4. Scott Prose

Others in attendance

1. Alan Bellanca
2. Genevieve Hubert
3. Gillian Ockner
4. Gordon Lyford
5. Karen Moon
6. Karyn Hanson
7. Nichole Hendricks
8. Richard Kosesan
9. Shavon Haynes
10. Stacy Clark
11. Susan Douthit
12. Tami Kerr

Welcome, Introduction, and Agenda Review

Kim Fritz-Ogren (OWRD) welcomed the Rules Advisory Committee (RAC) and called the meeting to order. RAC members and state agency advisors introduced themselves.

Rulemaking Background

Kim Fritz-Ogren (OWRD) reviewed the meeting agenda. She then walked through the rulemaking background, which included 1) why rulemaking was needed, 2) the bills that changed statutes relating to exempt uses, 3) the divisions of rule impacted, and 4) the advertised rulemaking scope and proposed changes to the scope.

Review of Proposed Draft Rules

Division 340

Kim Fritz-Ogren (OWRD) led discussions on draft rule revisions proposed and RAC member feedback beginning with OAR 690-340-0010 and then with OAR 690-300-0010. The discussion did not cover all the changes to OAR 690-300-0010. Those changes not discussed in RAC meeting #1 will be discussed in RAC meeting #2.

Rule	Comment/Questions	Department Response as of 10/20/2026
-0010(1)(a)	(A) A RAC member asked for clarification on the difference use of the stockwater exemption between a hobby farm and a large operation. (B) A RAC member asked why we are adding beneficial use without waste without defining it in the rules first. (C) A RAC member commented that the timing is awkward with the sunset provision in Senate Bill (SB) 85 for the 12,000 gallon per day cap for new or expanding CAFOs in Critical Groundwater Areas. They asked if the rules would not be adopted until after sunset.	(A) There is no difference between the two uses; the statutes do not cap stockwater use beyond beneficial use without waste. However, anyone with a Confined Animal Feeding Operation (CAFO) must apply to the Oregon Department of Agriculture for a permit and comply with the water supply plan. OWRD reviews the water supply plan for compliance with water law. (B) There are multiple definitions of waste in our rules. The definition in OAR 690-260 applies in this context. OWRD sent the definitions of waste to RAC members October 5, 2026. (C) The goal is to have the rules adopted before the sunset in statute. OWRD left out the 12,000 gallon per day cap to keep the rules evergreen. If the cap sunset date is extended, the statute trumps the rules.

-0010(1)(b)	(A) A RAC member agrees with the calendar year determination and asked if there will be in rule how the one-half acre will be determined? (B) A RAC member asked if the 3,000-gallon per day cap is new. (C) Multiple RAC members asked questions or expressed concerns about the stacking of different exempt uses. (D) The legislative sponsor of House Bill 3372 stated that the bill intended that a single domestic home can only use up to 3,000 gallons a day. 15,000 gallons a day are reserved for group domestic. (E) A RAC member asked how OWRD will regulate the caps on exempt uses and whether OWRD would require flowmeters on domestic wells.	(A) OWRD plans on keeping the language as is and further clarify in policy and procedures guidance on how we determine that one-half acre. This allows staff to make a reasonable judgment on the ground. (B) There has always been a one-half acre cap on lawn and non-commercial garden, but the 3,000 gallons per day cap is new. (C) OWRD will follow up on this at the next meeting. (D) OWRD will follow up on this at the next meeting. (E) OWRD has the authority to request a meter installation if we believe the use exceeds what is allowed. The metering of exempt wells is outside the scope of this rulemaking.
-0010(1)(b)(A)	(A) Several RAC members asked questions on how appurtenance applies to exempt uses. In general, the main questions were: a. Why is appurtenance being used in this subsection? b. How does appurtenance apply to other exempt uses? c. How does appurtenance in the rule language align with chapter 540? d. Where does appurtenance apply? (B) Several RAC members recommend the appurtenance language in this section be made into plain language. (C) A RAC member asked how OWRD handles the one-half acre in a group domestic situation. (D) Multiple RAC Members commented on metering and collecting data on exempt wells. (E) One RAC member asked how many exempt wells already have a flowmeter requirement?	(A) OWRD will follow up on the discussion of appurtenance and exempt uses at the next meeting. (B) OWRD considered the recommendations and incorporated the changes into the RAC #2 draft rules. (C) In a group domestic situation, the group is limited to one-half acre. (D) The metering of exempt wells is outside the scope of this rulemaking. (E) OWRD does not maintain a centralized database of this information.

-0010(1)(b)(B)	(A) A RAC member explained that the word Marijuana was used in the past to discriminate against the Spanish-speaking communities. They recommend changing the word marijuana to the cannabis genus.	(A) OWRD is committed to identifying an alternative to avoid discriminatory language. RAC #2 draft rules incorporate suggestion.
-0010(1)(c)	(A) A RAC member expressed concern about the large volume of 15,000 gallons per day for single or group domestic use and asked whether there is an opportunity to adjust it.	(A) OWRD added proposed language clarifying the 15,000 gallons a day is intended for group domestic and sets a cap of 4,000 gallons a day for single-family residences in the RAC #2 draft rules. OWRD will discuss the language during the October 27, 2026, meeting.
-0010(1)(d)	(A) Several RAC members had questions about the 5000 gallons a day for commercial use when combined with the 3000 gallons a day for commercial use. (A) A RAC member asked whether the 5000 gallons per day allows for commercial water hauling.	(A) OWRD explained that if someone uses both the commercial garden exemption and commercial/industrial purposes exemption they can use up to 5,000 gallons a day in total for those two exempt uses. Of that total 5,000 gal/day a maximum of 3,000 gallons per day can be used to water a commercial garden. If that maximum is used then 2,000 gal/day can be used under the commercial/industrial exemption. (A) OWRD will follow up on this at the next meeting.
-0010(6)	(A) Several RAC members had conversations on why rate and duty are in the proposed rule language. Comments pointed to the vagueness of the language as open to interpretation, and others noted that the bill does not address rate anywhere, recommending removal. (B) A RAC member recommended pointing out the specific definition of waste in the proposed language.	(A) The intent of adding rate and duty in the proposed language was to tie the language to reasonable use and clarify the ability to regulate either quantity. RAC #2 draft rules incorporate deletion. (B) OWRD considered this recommendation but did not include this in the RAC #2 draft rules to keep the rules evergreen.
-0010(7)	(A) A RAC member suggested adding “Store precipitation water” to the proposed language. As currently written, it implies you must stop the rain. (B) A RAC member asked why we are talking about illegal uses in the exempt use rules.	(A) It is not the OWRDs intent to require someone to stop rain. RAC #2 draft rules incorporate suggestion. (B) SB 326 made it illegal to use or store waters of the state for the cultivation of unregistered cannabis or at sites that cultivate cannabis. This language is trying to capture SB 326 in the proposed rules.
-0010(8)	(A) Several RAC members expressed concern about the language; as written, it may allow a user to spread the water around and potentially make the use of grey water illegal.	(A) OWRD is trying to prevent the illegal use of water under guise of an exempt use and to prevent spreading of water with this language; the language was further clarified in the RAC #2 rule language.

-0010(9)	(A) A RAC member commented that exempt uses are for use and not for storage. The proposed language should explicitly say exempt uses are not for storage. (B) A RAC member commented that cisterns can be helped in deficient groundwater systems and the rule language should be drafted to allow this.	(A) OWRD will consider this recommendation. (B) OWRD will consider this recommendation.
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Division 300

Rule	Comment/Questions	Department Response as of 10/20/2026
-0010(6)	(A) A RAC member asked for clarification on why we are proposing to remove irrigation from this definition. The RAC member also asked why we are not deleting landscape maintenance.	(A) This definition applies to both water rights and exempt uses. To align the definition with statutory changes under SB 326 it is cleanest to remove “irrigation” from the portion of the definition that applies to permitted commercial use. This allows those permitted water uses to continue to use the water allowed for up to one half acre of landscape maintenance. The rule language notes that exempt commercial water use cannot include irrigation.
-0010(16)	(A) A RAC member asked why this definition does not include the new commercial garden exemption.	(A) This definition is explicitly for water rights and does not pertain to exempt uses of water.
-0010(18)	(A) A RAC member asked what OWRD’s position is on whether someone was to exceed their daily use if they are actively suppressing a fire? (B) Several RAC members commented on how storage for emergency firefighting should be allowed. Some pointed out that storage would help low-producing rural wells. (C) A RAC member asked how pumps and hoses from firefighters hook up to private wells. (D) A RAC member commented that the use they think that ORS 537.141 is only for surface water does not extend to groundwater.	(A) If someone is engaging in emergency fire-fighting by actively suppressing a fire, they do not need a water right. (B) We will look into this topic and follow up with the RAC. (C) That depends on the system and the firefighting equipment. (D) OWRD followed up on September 29, 2026. OWRD clarified that ORS 537.141 does allow the use of any water to support firefighting as the use does not require a permit under ORS 537.615 which pertains to applications for groundwater.

Meeting Wrap up

Kim Fritz-Ogren (OWRD) wrapped up the meeting and told RAC members the next meeting is October 27, 2026, from 9 am to 12 pm. If RAC members or members of the public wish to provide additional comments, the deadline is October 7, 2026, at 5 pm.

Comments received from RAC members by October 7, 2026.

The comments below were filed to OWRD by October 7 at 5 pm.

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Rule	Comment/Questions	Department Response as of 10/20/2026
-0010(1)	(A) A RAC member recommended aligning the proposed language with the current language for consistency: "This rule clarifies the scope and attributes of and requirements for these uses."	(A) OWRD agrees and has incorporated the recommendation into the draft rules.
-0010(1)(b)	(A) A RAC member expressed concern that 3,000 gallons a day for watering a lawn is too much water and pointed out that the average single-family home uses 800 gallons a day in the arid West.	(A) The exemption for a half-acre lawn, noncommercial, and commercial garden are two separate exempt uses. The 3,000 gal/day limit for the former does not apply to the domestic purposes exemption, which is separate.
-0010(1)(b)(A)	(A) A RAC member supported clarifying the language, so the 3,000 gallons-per-day water-lawn exemption applies to the premises where the water was pumped.	(A) OWRD incorporated changes to the rule language to capture this intent.
-0010(1)(c)	(A) Several members suggested clarifying the language for the single and group domestic exemptions; as written, a single home can use 15,000 gallons a day, which is a large amount for a single user. The suggested language is as follows: • "Single or group domestic water uses of no more than 3,000 gallons per day per individual living unit or up to a maximum of 15,000 gallons per day for four living units)." • "The quantity of water, both in rate and in duty, that can be used beneficially without waste shall not exceed 1,000 GPD for each single domestic purpose. Any single domestic use may fill a pool once annually as an accessory use as defined in OAR 690-300-0010(15)." (B) A RAC member commented that we should clarify the term appurtenant by adding new language: "(1) All water used in this state for any purpose shall remain appurtenant to the premises upon which it is used." And add a definition of "premises" (see comment below).	(A) OWRD agrees that 15,000 gallons a day is intended for group domestic use and proposes language clarifying that it applies to group domestic use and setting a cap of 4,000 gallons a day for single-family residences in the October draft rules. OWRD will discuss the language during the October 27, 2026, meeting. (B) OWRD did not incorporate this change into the October draft rule language. The suggested language would be a major policy change for domestic, stockwater and commercial/industrial exempt uses.

-0010(1)(d)	(A) A RAC member asked if, during the next meeting, if we can discuss the appurtenance if water to properties that are selling water from exempt wells via truck. (B) A RAC member commented that this language sounds like an industrial well can use up to 8,000 gallons a day (3K for watering + 5K for industrial) and asked why the total is based on peak daily use rather than total daily use.	(A) OWRD will follow up on the discussion of appurtenance and exempt uses at the next meeting. (B) Statute limits the combined use of water for the one-half acre of watering and commercial/industrial use to no more than 5,000 gallons/day. New language is proposed to clarify that statutory limit in rule.
-0010(2)	(A) A RAC member recommended aligning the proposed language with the current language for consistency: “This rule clarifies the scope and attributes of and requirements for these uses.”	(A) OWRD agrees and has incorporated the recommendation into the draft rules.
-0010(4)	(A) A RAC member recommended removing this language altogether; it is 31 years out of date.	(A) OWRD will consider this recommendation.
-0010(5)	(A) A RAC member commented that “Commission” should be changed to “Department” to reflect the delegation of authority to the Department by the Commission.	(A) OWRD agrees and has incorporated this change.
-0010(6)	(A) A RAC member commented that rate and duty need to be defined to provide guidance.	(A) OWRD agrees to remove “rate and duty” from the draft rule language.
-0010(8)	(A) A RAC member recommended clarifying that reuse cannot be used for water storage.	(A) OWRD will consider this recommendation, balancing the fact that water storage is not an acceptable use with the fact that water must be temporarily held so that it can be reused.
-0010(9)	(A) Several RAC members commented that exempt uses are not statutorily permitted for storage and recommended changing the language to not allow storage. One RAC member suggested that if the Department disagrees with not allowing storage, storage should be limited to no more than the daily limit and stored in a cistern or tank with a volume no more than the daily limit.	(A) OWRD sees the practical need to allow someone to hold or retain water in order to use it. We propose new language for discussion on October 27, 2026.

Division 300

Rule	Comment/Questions	Department Response as of 10/20/2026
-0010(6)	(A) A RAC member expressed concern about removing irrigation from the definition; removing irrigation means commercial water use can now be construed to include irrigation. The definition without irrigation is already broad and needs to specifically state that you cannot irrigate with commercial water use.	(A) The current rules allow up to one-half acre of irrigation under <i>permitted</i> commercial water use. The definition of commercial water use describes that is allowed under that beneficial purpose; removing “irrigation” does not mean it is now included in commercial use. New language is proposed to clarify the difference between permitted and exempt commercial water use and to clearly note that irrigation is not allowed.
-0010(7)	(A) A RAC member commented in agreement that marijuana is a bigoted term and suggested using “Recreational Cannabis” to refer to cannabis related to ORS 457C and Hemp related to ORS 571.	(A) OWRD agrees and has proposed alternative language to be discussed at the October 27, 2026 RAC meeting.
-0010(15)	(A) A RAC member commented that they it’s reasonable use under the domestic exemption to fill a pool once a year.	(A) OWRD will consider this recommendation follow up at the October 27, 2026 RAC meeting.
-0010(18)	(A) A RAC member expressed support for not including storage under the “Emergency Fire-Fighting Use” definition. (B) A RAC member commented that allowing water storage for fire ponds would require a statute change	(A) Thank you for the comment. (B) Thank you for the comment.
Not in rules	(A) A RAC member recommended that we add a new definition of Premises to clarify the appurtenance language in OAR 690-340-0010(1)(b)(A).	(A) OWRD proposes alternative language “lands” for RAC discussion. This is more consistent with water law and avoids the need for another definition.

General Comments

(A) A RAC member commented that ORS 537.545(5) gives OWRD the authority to regulate in favor of and against exempt use based on priority. Language should be added to the rules to make sure users understand this	(A) Regulation of exempt uses is under OAR 690-250, which is not part of the scope of this rulemaking. This comment has been flagged for consideration in Division 250 rulemaking planned to start in fall 2027.
(A) A RAC member commented that ORS 537.545(4) gives OWRD the authority to require measurement and reporting and reporting of the location of the wells. In times of water scarcity, the use date from private wells are necessary. Additionally, the department lacks information on location of wells.	(A) Thank you for the comment. Metering and measurement are outside of the scope of this rulemaking. The process for requiring measurement is outlined in OAR 690-250.
(A) A RAC member commented that all exempt uses- current and future- should be required to report the specific nature of their exempt use.	(A) OWRD requests information as needed to ensure compliance with water law.