



Frequently Asked Questions

Groundwater Availability for Allocation Rulemaking

1. Who will this rulemaking affect?

This rulemaking will impact future groundwater rights applicants in Oregon.

Under Oregon law, all water belongs to the public. With some exceptions, cities, irrigators, businesses, and other water users must obtain a permit or license from the Oregon Water Resources Department (OWRD) to use water from any source - whether it is underground (known as groundwater), or from lakes or streams (known as surface water). This rulemaking focuses on how OWRD assesses groundwater availability for new groundwater permits or licenses for future additional uses of groundwater.

2. Who is not affected by this rulemaking?

Existing water rights holders and uses exempt from permitting under statute are not impacted by this rulemaking. Uses exempt under statute include self-served domestic supply, irrigation of noncommercial lawns or gardens up to a half-acre, stock watering, a single industrial or commercial use, and fire control.

3. Why is OWRD taking on this rulemaking now?

Over time, Oregon's groundwater levels have dropped due to excessive pumping. These declines lead to higher costs for groundwater users to pump water, more wells going dry across the state, additional impacts to already over-appropriated surface waters, and worsening water quality in some areas.

4. Why do the rules need to be updated?

The groundwater allocation rules guide OWRD in granting new groundwater rights. The current rules allow for new groundwater rights to be issued even when they may negatively affect surface water flows over time and can also allow for groundwater level declines that impact wells. This approach has led to challenges, including costly efforts to limit junior users who have invested in groundwater-dependent projects.

5. How do the proposed rules address these shortcomings?

The proposed groundwater rules address these shortfalls in two significant ways related to OWRD's findings of groundwater availability:

1. The proposed rules ask whether groundwater levels are reasonably stable, as opposed to whether or not the groundwater system is already over-appropriated.
2. The proposed rules ask if tributary surface water is available for further appropriation, as opposed to allowing new uses that will impact surface water to a small degree, or over an extended period.

6. What impact would the proposed rules have?

The proposed rules will likely result in fewer permits being issued for existing groundwater resources. This leads to a reduction in the number of additional wells that go dry every year and better protection for the existing water users and their water infrastructure investments. Alternative tools such as conservation, mitigation strategies, and water reuse may be required to meet new or expanded uses, which may be more costly.

7. What are the next steps and who will decide on these rules?

Proposed rules go into effect on the date the Water Resources Commission (WRC) adopts the rules. The rules are then filed with the Oregon Secretary of State's Office unless another effective date is specified by statute or within the adopted rule. Groundwater applications submitted after the effective date will be evaluated under the new rules.

8. How has OWRD involved the public in this rulemaking effort?

In fall 2022, OWRD held several outreach meetings around the state to gather public input on the current process for issuing new groundwater rights, including ideas for improving the process. [A final report summarizing the effort and findings is available online.](#) In April 2023, OWRD convened a Rules Advisory Committee (RAC), which brought together 30 representatives from Tribes, local governments, water justice organizations, conservation groups, agricultural interests, consultants, climatologists, economists, and water rights experts to provide input on the draft rules. The RAC met eight times between April 2023 and January 2024. These meetings were recorded and open to the public with opportunities for public comment. [Video recordings and meeting materials are available online.](#) OWRD has provided informational presentations to other groups, including Tribes, local governments, water utility associations, and agricultural associations, and continues to do so upon request.

9. What are the economic impacts of these rules? And how is this evaluated?

It is expected that new applicants will face increased costs to obtain water rights.

When new rules are proposed, the Notice of Proposed Rulemaking includes a Fiscal and Economic Impact Statement. This statement outlines the potential economic impacts of the proposed rules if adopted, including estimates of compliance costs, and explains how small businesses were involved in the rulemaking process. OWRD conducted a qualitative assessment of foreseeable economic impacts, noting uncertainties about future water availability.

10. How are groundwater and surface water connected?

Groundwater plays a crucial role in the water cycle. When it rains, the water seeps into the ground and refills the groundwater. This water then moves underground and often comes up as springs or goes straight into rivers. This movement of groundwater into rivers is called “baseflow.” In many rivers in Oregon, baseflow is a big part of the total water in the river, especially summer-time flow in rivers that don’t get water from reservoirs or melting snow. These connections in the water cycle are often called “hydraulic connections.”

11. How does OWRD assess hydraulic connection?

A hydrogeologist determines hydraulic connections through data analysis, scientific observation, and professional judgment. Common site-specific data that informs a hydraulic connection finding includes the local hydrogeology as described in published reports, relative groundwater and surface water elevations, and stream periodicity (e.g., whether the stream is perennial, intermittent, or ephemeral).

12. How do the proposed rules address basin-specific groundwater availability concerns?

The proposed rules apply statewide and use groundwater data from various Oregon locations. While these statewide rules establish a consistent method for assessing groundwater availability, they also allow for alternative definitions located in basin program rules, which can be prioritized over statewide requirements. In all cases, the rule definitions are applied to a site-specific evaluation using local data to make findings for each application under review.

13. What alternatives are available for securing new water rights for housing, cities, and farms?

There are several pathways to access water for health and safety, population growth, economic development, and housing. Some examples include:

- Efficiency and conservation measures to offset water needs.
- Transfer of water rights.
- Water sharing agreements.
- Market-based solutions.
- Designing for water reuse and reclamation.
- Aquifer storage and recovery.

On a larger scale, planning initiatives can help communities explore multifaceted solutions to their long-term water needs.

14. How can I provide comments or participate in the rulemaking?

OWRD is hosting four public hearings, each of which is preceded by an informational session. Informational sessions will provide a brief overview of the rulemaking and offer an opportunity for the public to ask questions. Public comments will be accepted only during the public hearings following each session. The public is encouraged to attend an informational session and provide comments either during the public hearing that follows or in writing. All comments must be received by **5 p.m. on May 31, 2024**.

Written comments can be submitted by email to:

WRD_DL_rule-coordinator@water.oregon.gov

or by mail:

Laura Hartt – Rulemaking Coordinator
Oregon Water Resources Department
725 Summer St. N.E. Suite A
Salem, OR 97301-1271

Information Sessions and Public Hearing Dates, Times, and Locations:

Date: Thursday, April 4

Information Session: 5:30-6:30 p.m. **Public Hearing:** 7-9 p.m.

Location: Deschutes Services Building, 1300 NW Wall Street, Bend, OR 97703

Date: Thursday, April 18

Information Session: 5:30-6:30 p.m. **Public Hearing:** 7-9 p.m.

Location: Eastern Oregon University, Hoke Student Union Building,
Room 339, 1 University Blvd., La Grande, OR 97850

Date: Thursday, May 16

Information Session: 5:30-6:30 p.m. **Public Hearing:** 7-9 p.m.

Location: Jackson County Auditorium, 7520 Table Rock Rd., Central Point, OR 97502 **Date:**
Tuesday, May 21

Information Session: 5:30-6:30 p.m. **Public Hearing:** 7-9 p.m.

Location: Both in-person and virtual

In-person: Oregon Water Resources Department, North Mall Office Building,
Room 124, 725 Summer St. NE, Salem, OR 97301

Virtually (Zoom or Phone): Please email WRD_DL_rule-coordinator@water.oregon.gov no later than noon (12:00 p.m.) on May 21, 2024, to receive the registration links for the information session and/or the public hearing via email; alternatively, both registration links are available on our website:

<https://www.oregon.gov/owrd/programs/GWWL/GW/Pages/Groundwater-Rulemaking.aspx>.