



Staff Report

TO: Water Resources Commission

FROM: Racquel Rancier, Deputy Director of Strategy and Administration
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DATE: December 12, 2025

SUBJECT: Agenda Item H
Water Resources Commission

WATER RIGHT RELATED RULEMAKING

I. Introduction

During this informational report, the Department will provide an update on the 2025-26 water rights rulemaking effort.

II. Integrated Water Resources Strategy Recommended Action

- 10.F – Strengthen and Improve Water Quantity and Water Quality Permitting Programs
- 11.B – Develop Additional Instream Protections

III. Background - Rulemaking Need & Scope

There are currently over 2,500 applications for all types of water right transactions pending at the Department and not being processed timely. The current standards are not providing timely decisions and are expensive for the Department, applicants, and other parties to the proceedings. While significantly under-invested in, it is unlikely that the Water Right Services Division will receive a significant increase in staffing to improve processing times. While the Department acknowledges that more resources would improve timeliness of application decisions, policy and process improvements can be made to maximize our limited staff resources.

From transfers and water right permits taking years to process, and some protested actions pending for more than 30 years, the Department has heard clear calls to action [from water law experts](#), customer feedback, in the recent passage of bipartisan process improvement legislation, from the legislative budget committee, in a [signing letter from Governor Kotek](#), and from internal staff. This call to action catalyzes a recognized need to streamline and modernize water right and contested case processes to 1) reduce processing times, 2) minimize future backlogs, 3) ensure a clear and consistent process, and 4) promote timely and informed decisions while providing due process.

In September, the Department launched a rulemaking to update 18 rule divisions to implement

2025 legislation and other policy and process improvements. The purpose of this rulemaking is to 1) implement 2025 legislation, including House Bill 3342 (Chapter 282, 2025 Oregon Law) relating to water rights transactions, House Bill 3544 (Chapter 575, 2025 Oregon Law) relating to contested case processes, and some provisions of Senate Bill 1154 (Chapter 605, 2025 Oregon Law) relating to issuing water rights to replace domestic wells in groundwater quality management areas; 2) restart efforts to update Oregon Administrative Rules (OAR) Chapter 690, Division 77 rules relating to instream water transactions; 3) implement other policy and process improvements; and 4) clean up impacted rule divisions, including fixing grammatical errors, aligning rule language with statute, and repealing outdated provisions. The administrative rule Divisions impacted by the proposed rulemaking are as follows:

- OAR 690-002: Protests and Contested Cases
- OAR 690-014: Certified Water Right Examiners
- OAR 690-017: Cancellation of Perfected Water Rights
- OAR 690-018: Allocation of Conserved Water
- OAR 690-052: Decommissioning Rules for Non-FERC Projects
- OAR 690-053: Hydroelectric License, Power Claim and Certificate Amendments
- OAR 690-054: Conversion of a Hydroelectric Water Right to an Instream Water Right
- OAR 690-077: Instream Water Rights
- OAR 690-300: Definitions
- OAR 690-305 (NEW): Map Criteria
- OAR 690-310: Water Right Application Processing
- OAR 690-315: Water Right Permit Extensions
- OAR 690-320: Miscellaneous Water Right Provisions (renamed from Water Right Permits)
- OAR 690-325: Assignment of a Water Right Permit and Request for Issuance of Replacement Permits
- OAR 690-330: Water Right Certificates
- OAR 690-340: Water Use Authorizations
- OAR 690-380: Water Right Transfers
- OAR 690-382: Groundwater Registration Modifications

IV. Discussion - Rulemaking Process

In September 2025, the Department assembled a Rules Advisory Committee (RAC) representing a wide array of interests in water rights transactions. See Attachment 2. From September 17 through November 21, 2025, the Department convened nine RAC hybrid meetings, and one additional limited -focus virtual meeting for RAC members. All meetings were well attended by RAC members, open to the public, recorded, and shared online. All meeting materials are available [here](#).

During each meeting, RAC members provided input on proposed draft rule language as well as the statements that will accompany the Notice of Proposed Rulemaking: Statement of Need, Statement of Racial Equity Impacts, and Statement of Economic and Fiscal Impacts. Input and revisions made in response to input have been tracked and summarized. Feedback, and rule revision trackers can be accessed from this table [online](#). Updates will be made as the Department processes additional feedback received from the final RAC meeting and received in writing from RAC members.

During the rulemaking process, the Department also has coordinated with the Oregon Department of Justice, the Office of Administrative Hearings, the Oregon Department of Environmental Quality, the Oregon Department of Fish and Wildlife, and the Oregon Department of Land Conservation and Development.

V. Conclusion – Next Steps

The Department is currently making further revisions to the rules and will file the Notice of Proposed Rulemaking in late December to meet the deadline for the January 2, 2026, Oregon Bulletin publication. The notice will allow for at least 30 days of public comment as well as hybrid public hearings to be held late January 2026. After the public comment period closes in early February, the Department will review and incorporate any feedback as appropriate. During the March 2026 Commission meeting, the Department will present to the Commission the revised draft rules for adoption consideration. This ambitious timeline allows the Department to meet the statutory implementation deadline of April 1, 2026, for House Bill 3342.

Attachments:

1. Summary of House Bills 3342 and 3544
2. 2025-26 Water Rights Rulemaking Rules Advisory Committee Roster

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Legislative Summary: House Bill 3342 and House Bill 3544

House Bill 3342 Summary – Water Right Process Modernization

Unless otherwise noted, the provisions of this bill apply to all applications submitted on or after April 1, 2026.

- **Electronic documentation:** Defaults to electronic documents, unless applicant requests paper copies.
- **Shift public notice to OWRD weekly notice:** For transfers, hydroelectric projects, and some certificates requires OWRD weekly public notice, rather than newspaper notice. Requires newspaper notice for proposed final order on a transfer if more than five water rights are injured. Allows optional newspaper notice for any public notice.
- **Credit/debit card processing authority:** Authorizes processing fees to be passed along to users for credit/debit payment options, once the Department has the technical capacity to take these payment options (OWRD does not yet have systems setup for taking these payment options).
- **Technical fix regarding withdrawal of waters from appropriation:** Changes the withdrawal process to occur by rule rather than order. The current withdrawal statute requires an “order” of withdrawal. At the time, an order included rules, but the Administrative Procedures Act has since been updated to distinguish an order from rules. An order must name specific individuals, which is impossible for withdrawal orders that deal with future use, rendering the tool unimplementable for new withdrawals.
- **Efficient review where water is unavailable:** Requires return of application and refund of the relevant portion of fees, if an application is for a water source that, prior to application submission, was designated as a critical groundwater area, restrictively classified, or withdrawn from appropriation. OWRD will create, publish and continuously update a list of these areas. This does not apply to applications for recovery of groundwater under artificial recharge or aquifer storage and recovery or if requesting an exception to basin program rules. Applies to pending water right applications only if a PFO has not been issued on or after April 1, 2026. Provisions related to review and return of alternate reservoir applications within withdrawn surface water sources are operative September 25, 2025.
- **Protecting groundwater via transfers where water is unavailable:** Provides permissive authority to deny a proposed change to the point of appropriation for groundwater registration modifications, permit amendments and transfers in areas: designated as a critical groundwater area, restrictively classified, or withdrawn from appropriation This does not apply to proposed points of appropriations located in critical groundwater areas in the same aquifer and administrative portion as the original point of appropriation, in areas where a groundwater bank is established to mitigate for the impacts of groundwater use, or applications related to the recovery of stored groundwater under and artificial recharge or aquifer storage and recovery project.
- **Phased application processing and fee payment:** For new water right applications, requires affirmative confirmation within 90 days of initial review for OWRD to continue processing an application; a portion of fees shall be paid upfront and the remainder within 90 days of initial review. For transfers, requires affirmative confirmation to move the application forward within 30 days of the initial review and providing any outstanding information; applicants

may request an additional 60 days for good cause. If the applicant chooses not to advance or does not respond within the allotted time, the file is closed without further action.

- **Changes to the extension allowances:** Retains existing process for extensions for municipal, quasi-municipal, group domestic and group domestic expanded permits, with a new maximum one-time extension, for good cause, of 20 years for quasi-municipal and 10 years for group domestic and group domestic expanded. For all other permits, increases the development timeline to 7 years for new permits and eliminates the existing extensions process. For pending extension requests where a proposed final order has not been issued on April 1, 2026, one extension may be granted for a maximum of 2 years if: a portion of water has been used within the original development period and the original before-use fish protection conditions were satisfied.
- **Efficient Final Orders:** Provides that 33 days after a protest period closes on a PFO, if no protest is received and no superseding order is issued, the PFO will become a final order.

House Bill 3544 Summary – Contested Case Modernization

The provisions of this bill apply to all protests submitted, or pending, but not referred to the Office of Administrative Hearings, on or after January 1, 2026. *Applicants, protestants, persons requesting standing, and persons that have requested or been granted party status associated with protest pending on the effective date of HB 3544 will be notified of process changes.*

- **Uniform Processes:** Establishes uniform protest and hearing requirements for many water right transaction types to improve consistency, transparency, and administrative efficiency.
- **Standardized Schedule and Timelines:** Requires establishment of a default schedule for contested case hearing, with no more than 180 days between case referral and completion of the hearing. Exceptions to the default schedule are allowed when justified.
- **Oral Testimony:** Provides that, to the greatest extent practicable, administrative law judges should give preference for testimony to be provided orally rather than in writing. In many cases, this should reduce the time needed to prepare for hearing.
- **Efficient Final Orders:** Provides that 33 days after a protest period closes on a PFO, if no protest was received and no superseding order is issued, the PFO will automatically become the final order.
- **Settlement Opportunities:** Provides clear authority that OWRD can utilize the Office of Administrative Hearings to conduct settlement conferences for OWRD water right programs by allowing a settlement judge to be assigned when beneficial to do so. In addition, it clarifies that there is no need for a hearing if all contested case issues were already resolved by settlement, withdrawal or default.
- **Accessible Hearing Locations:** Establishes a preference for remote hearings, with exceptions allowed.
- **Standing and Intervention:** Changes the current two-step process for requested standing and intervention to a one-step process and combines the existing fees to intervene in support of a PFO. Requires that the request for party status and associated fees must be received within 30 days of the protest deadline. If requests for party status are denied, the portion of the fee related to participation in the contested case will be refunded. Applies to standing statement requests submitted after January 1, 2026.
- **Streamlined Issue Identification:** Requires all reasonably ascertainable issues to be raised with specificity in the protest.



2025-26 Water Rights Rulemaking Rules Advisory Council Roster

RAC Members

Jeremy Austin, Central Oregon LandWatch
Glenn Barrett, Water for Life
Anton Chiono, Confederated Tribes of the Umatilla Indian Reservation
Leah Cogan, GSI Water Solutions
J.R. Cook, Northeast Oregon Water Association
Genevieve Hubert, Deschutes River Conservancy
James Fraser, Trout Unlimited
Chris Hall, Water League
Keri Morin Handaly, Confederated Tribes of Grand Ronde
Ryan Krabill, Oregon Farm Bureau
Greg Kupillas, Oregon Groundwater Association
Mark Landauer, Special Districts Association
Karen Lewotsky, Oregon Environmental Council
Sarah Liljefelt, Oregon Cattlemen Association
Michael Martin, League of Oregon Cities
Austin Patch, Summit Water Resources
Lauren Poor, Portland General Electric
Kimberley Priestley, WaterWatch of Oregon
Branden Pursinger, Association of Oregon Counties
April Snell, Oregon Water Resources Congress
Jeff Stone, Oregon Association of Nurseries
Jessi Talbott, Central Oregon Irrigation District