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Chapter 690**Division 14****CERTIFIED WATER RIGHT EXAMINERS AND PREPARATION OF CLAIMS OF BENEFICIAL USE****Amend****690-014-0005****Introduction**

(1) The purpose of these rules is to establish the criteria for certification of Water Right Examiners. They also define the minimum standards and criteria under which Certified Water Right Examiners shall conduct surveys to describe the extent of appropriation for beneficial use of public waters. The rules also describe the information required and procedure for preparing maps to accompany transfer applications. These rules are in addition to OAR 690, divisions 020, 051, 300, 310, 325, 380, and other rules of the Commission.

(2) These rules shall not deprive or limit the Director of the Water Resources Department or the Water Resources Commission from exercising powers or duties bestowed by law. Nor shall they limit or restrict the information the Director or Commission may require from any water user or authorized agent to determine satisfactory proof.

(3) The authority for these rules is found in ORS Chapters 183, 536, 537, and 540, and in particular ORS 537.797 to 537.799.

(4) These rules shall apply to Claims of Beneficial Use and other applicable documents prepared by CWREs submitted on or after April 1, 2026. Claims of Beneficial Use and other applicable documents prepared by CWREs submitted before this date shall be subject to the rules in effect at the time of submittal.

Statutory/Other Authority: ORS 536 & 537, ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 536, ORS 537, ORS 537.797 to 537.799

History:

WRD 3-2004, f. 6-15-04, cert. ef. 7-1-04

WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88

WRD 9-1987(Temp), f. & ef. 9-1-87

Rule Summary: The rule is amended to update the date when the new rules go into effect. The amendments also include additional rules that are applicable to the content in this introductory paragraph.

Amend**690-014-0020****Definitions**

The definitions found in Oregon Administrative Rules chapter 690, divisions 300 and 380, apply. The following definitions also apply:

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- (1) "Acre-Foot (AF)" means the equivalent volume of one acre covered with one foot of water (325,851 gallons).
- (2) "Certified Water Right Examiner" or "CWRE" means any individual certified by OSBEELS to collect and report data and conduct surveys to describe the extent of appropriation for Claims of Beneficial Use, and also to prepare maps for transfer applications.
- (3) "Claim of Beneficial Use" means documents submitted to the Department requesting a certificate of water right be issued for the authorized use or uses made. These documents shall include the report of the site inspection, calculations for the rate of flow, and the map illustrating the location of beneficial use made within the terms of the permit or transfer final order.
- (4) "Commission" means the Water Resources Commission.
- (5) "Cubic Foot per Second (cfs)" means a rate of water flow, equal to 448.83 gallons of water per minute.
- (6) "Department" means the Water Resources Department.
- (7) "Director" means the Director of the Department or the Director's authorized deputies or officers.
- (8) "Measuring Device" means a structure or apparatus such as a weir, meter, or flume to determine rate of flow or volume of water.
- (9) "OAR" means Oregon Administrative Rules.
- (10) "ORS" means Oregon Revised Statutes.
- (11) "OSBEELS" means Oregon State Board of Examiners for Engineering and Land Surveying.
- (12) "Pump Test" has the meaning of the term in OAR 690-217-0010.
- (13) "Rate and Duty of Water" means the flow of water expressed in cfs or gallons per minute (instantaneous rate) and the volume of water expressed in AF (duty) as allowed in the permit or transfer final order.
- (14) "Spring" means a place where water naturally emerges from the ground.
- (15) "Source" means the surface or ground water body for each point of diversion or point of appropriation involved in a permit or transfer final order.
- (16) "Survey of Appropriation" means the field inspection and document preparation performed by a CWRE to obtain the data necessary to support the Claim of Beneficial Use.
- (17) "Water Rights Act" means the same as defined by ORS 537.010.
- (18) "Well" means any artificial opening or artificially altered natural opening, however made, by which ground water is sought or through which ground water flows under natural pressure, or is artificially withdrawn or injected. This definition shall not include a natural spring, or wells drilled for the purpose of exploration or production of oil or gas. Prospecting or exploration for

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geothermal resources as defined in ORS 522.005 or production of geothermal resources derived from a depth greater than 2,000 feet as defined in ORS 522.055 is regulated by the Department of Geology and Mineral Industries.

Statutory/Other Authority: ORS 536 & 537, ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 536, ORS 537, ORS 537.797 to 537.799

History:

WRD 3-2004, f. 6-15-04, cert. ef. 7-1-04

WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88

WRD 9-1987(Temp), f. & ef. 9-1-87

Rule Summary: The rule amendment adds a definition for “pump test” consistent with OAR 690-217-0010, to support OAR 690-014-0100(1)(k) implementation of OAR chapter 690, division 217 requirements.

Amend

690-014-0030

Certified Water Right Examiner Required for Claim of Beneficial Use

In addition to other rules contained in OAR chapter 690 requiring specified information to be prepared by a CWRE, the water right holder or person responsible for a permit or transfer final order must have a CWRE prepare the Claim of Beneficial Use if the permit or transfer application was filed after July 9, 1987.

Statutory/Other Authority: ORS 536, ORS 537, ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 536, ORS 537, ORS 537.797 to 537.799

History:

WRD 3-2004, f. 6-15-04, cert. ef. 7-1-04

WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88

Rule Summary: This rule is amended to correct “water user” to “water right holder.” The rule also is amended to remove the requirement for the CWRE to prepare a map for a transfer application, because the map is already required by the transfer rules, and not all transfers require a CWRE to prepare the map. The rule is amended to clarify that a CWRE is required for claims of beneficial use for transfers and permits and that other rules may require a CWRE to prepare other types of documents.

Amend

690-014-0050

Certification of Water Right Examiners

CWREs shall be certified by OSBEELS. In addition to these rules, OSBEELS rules found in OAR chapter 820 apply.

(1) CWRE applicants shall be registered in Oregon as a professional engineer, professional land surveyor or registered geologist.

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(2) To become a CWRE, an applicant shall pass a written examination administered by OSBEELS and approved by the Department to determine the applicant's ability to properly perform the surveying, mapping, hydraulic computations, and information gathering duties required by ORS 537.798.

(3) All documents, drawings, maps, or narratives required to be prepared by a CWRE by rules of the Water Resources Commission shall be prepared by or under the direct supervision of a CWRE. These items shall bear the seal and original signature of the CWRE. A digital seal and signature are acceptable provided the rules at OAR chapter 820, division 25, are followed.

Statutory/Other Authority: ORS 536 & 537, ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 536, ORS 537, ORS 537.797 - 537.799

History:

WRD 3-2004, f. 6-15-04, cert. ef. 7-1-04

WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88

WRD 9-1987(Temp), f. & ef. 9-1-87

Rule Summary: The rule is amended to (1) allow the Department to accept digital seal and signature as long as the CWRE meets OSBEELS rules regarding digital seal and signature; (2) clarify that the rule applies to any document required of a CWRE; and (3) add maps to the list of documents.

690-014-0080

Revocation of Certified Water Right Examiner's Certificate

CWREs may be decertified by OSBEELS for violation of OAR 690, division 014 rules or violation of OAR 820 rules.

(1) Any violation of these rules by a CWRE and brought to the attention of the Director by Department staff, the public, or other means may be submitted to OSBEELS. A material misstatement of fact shall be referred to OSBEELS for disciplinary action.

(2) Revocation of the CWRE's certificate does not in itself cause forfeiture of that person's other professional licenses or credentials.

Statutory/Other Authority: ORS 536 & 537

Statutes/Other Implemented: ORS 536 & 537

History:

WRD 3-2004, f. 6-15-04, cert. ef. 7-1-04

WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88

Amend

690-014-0090

Maps for Transfer Applications

Application maps for transfer shall comply with applicable provisions of ORS chapters 536, 537, and 540, and OAR chapter 690, divisions 020, 305 and 380.

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Statutory/Other Authority: ORS 536, ORS 537, ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 536, ORS 537, ORS 537.797 to 537.799

History:

WRD 3-2004, f. 6-15-04, cert. ef. 7-1-04

Rule Summary: This rule amendment clarifies that only applicable provisions of rules listed apply, and that Division 305 is now governing maps.

Amend

690-014-0100

Minimum Requirements for Claims of Beneficial Use for Permits and Transfer Final Orders

(1) The CWRE shall prepare a report, using a form or format provided by the Department, which describes the status of conditions and limitations in permits and transfer final orders such as:

- (a) Type of use;
- (b) Period of use;
- (c) Place of use;
- (d) Extent of use;
- (e) Location of point of diversion or point of appropriation;
- (f) Source of water;
- (g) Rate;
- (h) Installation of measuring device;
- (i) Water use reporting;
- (j) Water level reporting;
- (k) Pump test documentation as specified in subsection 12 of this rule;
- (l) Fish screening;
- (m) The date of the inspection; and
- (n) All other conditions or limitations.

(2) The CWRE shall provide the Department with sufficient information for the Director to determine the extent of beneficial use developed within the conditions or limits of the permit or transfer final order, including any specified development time limits.

(3) Uses partially developed by the water user shall be described. Uses or areas which were not developed shall be noted. Uses determined to exist which are not authorized by the permit or transfer final order being examined shall also be noted in the report but not included as part of the Claim of Beneficial Use. All uses shown on the map must be described in the report.

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(4) The diversion works shall be accurately described by the map and report. A general narrative description of the distribution works shall be given. This description must trace the water system from the point(s) of diversion or appropriation to the place of use and provide information on the water system within the place of use. The description shall also include the return to public waters when required by the permit or transfer final order, such as fish propagation, mining and power facilities. The make, capacity, serial number and description of all pumps and measuring devices shall, if available, be described in the report. If the make, capacity, serial number and description of any pumps and measuring devices are not available, the report must specify why.

(5) Other water right permits, certificates, transfer final orders, or other conveyance systems connected to the system being examined shall be described in the report. Any reservoir, diversion dam, headgate, well, canal, flume, pump, and other related structures shall be described.

(6) The crops raised or other beneficial use made of the water shall be identified.

(7) The diversion rate shall be determined for each use and source when more than one use or source is involved.

(8) The maximum rate of use shall be determined by actual measurement when possible. Water measurements may be made by weir, meter, rated flume, reservoir capacity table or other method of measurement acceptable to the Department. The report shall describe the method used in making the measurement, the date made and a description of the location where the measurement was taken. It shall contain sufficient information, including current meter notes, rating tables, and/or calibration information to enable the Director to check the quantity of water measured in each case.

(9) Computations for the maximum capacity of the system shall be submitted for all claims. These computations may suffice to determine the maximum rate of application if the system was not operating when the inspection was conducted.

(10) The amount of water shall be limited by the Department to the lesser of: the authorized amount, the capacity of the delivery system, or the amount of actual beneficial use. The Claim of Beneficial Use shall include sufficient information to make the determination.

(11) Claims of Beneficial Use for reservoir permits, for storage of less than 9.2 acre-feet of water or with a dam less than 10 feet in height, that do not require approved as-built plans and specifications be on file with the Department, shall also include the following:

(a) A drawing showing the cross section of the dam at maximum section showing complete details and dimensions. The drawing should be drawn at a standard scale. Normally this measurement is taken from the deepest part of the channel to the top of the embankment. Vertical accuracy is required to 0.25 feet for the purpose of this measurement;

(b) A description of the outlet works; and

(c) A description of the emergency spillway.

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(12) For groundwater permits with priority dates on or after December 20, 1988, the Claim of Beneficial Use shall either provide documentation that the pump test or exemption request as required under OAR 690-217 has been submitted for each well or include the required pump test or exemption request for each well with the claim.

(13) The rate of flow shall be determined to three significant figures with reporting necessary only to thousandths. Examples are: 4,560 cfs; 456 cfs; 45.6 cfs; 4.56 cfs; 0.456 cfs; 0.046 cfs; and 0.005 cfs.

(14) When computing the storage capacity of reservoirs, the volume of water shall be determined to three significant figures with reporting, for the purpose of the Claim of Beneficial Use, necessary only to tenths. Examples are: 4,560 af; 456 af; 45.6 af; 4.6 af; and 0.5 af.

(15) The following statement, signed by the CWRE, shall appear at the end of the Claim of Beneficial Use: “The facts contained in this Claim of Beneficial Use are true and correct to the best of my knowledge.”

(16) The following statement, signed or acknowledged by the permittee or transferee, shall appear at the end of the Claim of Beneficial Use: “The facts contained in this Claim of Beneficial Use are true and correct to the best of my knowledge. I request that the Department issue a water right certificate.”

(17) A CWRE may make a written request to the Director for a waiver of one or more of the Claim of Beneficial Use standards. Waivers cannot be requested for elements relating to conditions or other limitations of the permit or transfer final order. The Director will determine whether the waiver shall be allowed and will respond to such requests in writing.

Statutory/Other Authority: ORS 536, ORS 537, ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 536, ORS 537, ORS 537.797 to 537.799, ORS 537.230, ORS 537.630, ORS 537.772

History:

WRD 3-2004, f. 6-15-04, cert. ef. 7-1-04

WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88

WRD 9-1987(Temp), f. & ef. 9-1-87

Rule Summary: Pursuant the OAR chapter 690, division 217, the Department cannot process a claim of beneficial use on a groundwater permit until the pump test requirement has been satisfied, but there is no requirement to submit that information with the claim of beneficial use, which leads to inefficiencies, confusion for applicants about what information is due with a claim of beneficial use, and backlogs when pump tests cannot be secured. The rule amendment requires pump tests or pump test exemption requests to be submitted prior to, or with, claims of beneficial use for groundwater permits. The rule also clarifies an existing unclear provision related to describing the water system from the point of diversion/appropriation to the place of use and within the place of use.

690-014-0110

Claim of Beneficial Use: General Standards

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The Claim of Beneficial Use shall be prepared by a CWRE and submitted by the holder of the permit or transfer final order or by an authorized agent.

(1) In addition to the rules of professional conduct found in OAR 820, CWREs should be aware of the public interest regarding Examiners' investigations of water use. Uses not authorized or not completed within the terms of the permit or transfer final order, or water not beneficially used, shall not be included in the Claim of Beneficial Use. Claims of Beneficial Use shall not violate any of the provisions of the Water Rights Act or these rules.

(2) All Claims of Beneficial Use shall be made to match with existing water rights of record, unless an error in the original location is identified. If an error in an existing water right record is found, then evidence of the correct location as it pertains to the current claim shall be submitted to the Department as part of the Claim of Beneficial Use.

(3) The Director may refuse to accept Claims of Beneficial Use which do not conform to these rules and regulations.

(4) The form or format provided by the Department for Claim of Beneficial Use shall question whether beneficial use was made. If the permittee or transferee claims that beneficial use was made, the claim must be supported with a sufficient description of the use prepared by the CWRE to enable the Department to decide if beneficial use was made under the terms and conditions of a permit or transfer final order.

(5) Follow up inspections may be made by the Department.

Statutory/Other Authority: ORS 536 & 537

Statutes/Other Implemented: ORS 536 & 537

History:

WRD 3-2004, f. 6-15-04, cert. ef. 7-1-04

Amend

690-014-0170

Minimum Requirements for Maps for Permit or Transfer Final Order Claims of Beneficial Use

(1) Maps submitted by a CWRE as part of the Claim of Beneficial Use shall meet the standards in OAR chapter 690, division 305. In addition, the map shall meet the following criteria:

(a) Horizontal accuracy is required only to ten feet for the purpose of locating and quantifying water rights. Maps shall be developed from any standard survey method. Traverse closures are not required.

(b) Maps shall clearly designate the place of use and point of diversion or appropriation for each source and use.

(c) The map shall indicate by description, in relation to the point of diversion or appropriation, the location of any fish screens, by-pass devices, and measuring devices required by the permit or transfer final order.

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(d) The following statement shall be placed on the map: “This map is not intended to provide legal dimensions or locations of property ownership lines.”

(2) A CWRE may make a written request to the Director for a waiver of one or more mapping standards. The Director will determine whether the waiver shall be allowed and will respond to such requests in writing.

Statutory/Other Authority: ORS 536, ORS 537, ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 536, ORS 537, ORS 537.797 to 537.799, ORS 537.230, ORS 537.630

History:

WRD 3-2004, f. 6-15-04, cert. ef. 7-1-04

WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88

Rule Summary: This rule section has been amended to refer to the mapping standards established in OAR chapter 690, division 305 for greater clarity and consistency in mapping requirements across water right transactions. This should lead to greater efficiencies for both applicants and their CWRE’s as well as Department staff by having a standardized set of map criteria in one location, which can be adjusted to meet the particular components of specific types of transactions.

690-014-0190

Time Limit for Filing Claim of Beneficial Use

The Claim of Beneficial Use shall be submitted to the Department within one year after the use was reported to the Department as being complete or the beneficial use date allowed in the permit or transfer final order, whichever occurs first. Failure to comply with this section shall cause the Director to initiate permit cancellation proceedings as provided by ORS 537.260.

Statutory/Other Authority: ORS 536 & 537

Statutes/Other Implemented: ORS 536 & 537

History:

WRD 3-2004, f. 6-15-04, cert. ef. 7-1-04

WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88

690-014-0220

Time Limit to Cure Defects in a Claim of Beneficial Use

A Claim of Beneficial Use which needs corrections or additions shall be returned to the CWRE to correct the deficiencies. The corrected claim shall be returned to the Department within the written time limit allowed. The time allowed will be determined by the Director, but shall not be less than 30 days. Any claims not returned within the specified time may result in the Director submitting the name and certificate number of the CWRE involved to OSBEELS for disciplinary action.

Statutory/Other Authority: ORS 536 & 537

Statutes/Other Implemented: ORS 536 & 537

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History:

WRD 3-2004, f. 6-15-04, cert. ef. 7-1-04

WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88

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Division 2

PROTESTS AND CONTESTED CASES

Amend

690-002-0000

Scope and Purpose

Contested case hearings for the Water Resources Department are heard by administrative law judges from the Office of Administrative Hearings. The procedural rules for these hearings are provided in OAR 137-003-0501 to 137-003-0700 (the Model Rules of Procedure). The rules in this Division (division 002) are intended to supplement the Model Rules of Procedure by providing additional procedures governing requests for and conduct of contested case hearings. Other divisions of OAR chapter 690 and statutory provisions govern entitlement to a contested case hearing. Contested case proceedings must be conducted in accordance with applicable provisions of ORS chapter 183 that govern contested cases, except as otherwise provided by Or Laws ch 575 (2025) and these division 002 administrative rules, or as otherwise specified in the Department's statutes.

Statutory/Other Authority: ORS 183, ORS 536.027, ORS 536.029

Statutes/Other Implemented: ORS 183, ORS 536.027, ORS 536.029; Or. Laws 2025, ch 575

History:

WRD 6-2006, f. & cert. ef. 10-6-06

WRD 8-1992, f. & cert. ef. 6-24-92, Renumbered from 690-075-0000

WRD 11-1986, f. & ef. 9-30-86

WRD 4-1983, f. & ef. 8-10-83

Rule summary: This rule is amended to provide clarity on its interface with the Administrative Procedures Act (ORS 183).

Adopt

690-002-0005

Applicability

(1) OAR 690-002-0000 through 690-002-0023 and 690-002-0080 through 690-002-0190 apply to all contested case hearings for the Water Resources Department, except for contested case hearings held pursuant to ORS chapter 539.

(2) OAR 690-002-0200 through 690-002-0235 apply to:

(a) A contested case hearing under a provision of ORS chapter 537 or 540 that references Or Laws 2025, ch 575, section 2 and 3a.

(b) A contested case hearing on an application related to the use of water under a provision of ORS Chapter 537, 540 or 541 in which the contested case proceeding is provided for in rule or order and the rule or order refers to Or Laws 2025, ch 575, section 2 and 3a.

(3) OAR 690-002-0025 through 690-002-0075 apply to contested case hearings not listed in subsection (2) of this rule, except for contested case hearings pursuant to ORS chapter 539.

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(4) For cases under subsection 2, except as provided in subsections (5) and (6):

(a) These Division 2 rules apply to contested cases that have not been referred to the Office of Administrative Hearings before April 1, 2026.

(b) The Department shall use the rules in effect at the time of referral for those cases referred prior to April 1, 2026.

(5) For cases under subsection 2, the requirements of Or Laws 2025, ch 575, section 3, governing the filing of protests and requests for party status, apply to protests and requests for party status with deadlines on or after January 1, 2026.

(6) For protests on cases under subsection 2 that were pending on or before January 1, 2026, the Department shall provide to applicants, protestants, persons that submitted a request for standing, persons that have submitted standing statements, and persons that have requested or been granted party status mailed notice of the provisions and requirements of Or Laws 2025, ch 575, section 2 and 3. The notice shall also state that a person that submitted a request for party status before January 1, 2026, need not amend the request. The Department shall provide not less than 90 days after issuance of the notice for:

(a) A person that submitted a request for standing to request party status.

(b) A protestant to amend the protest as necessary to comply with the provisions of Or Laws 2025, ch 575, section 3. The amended protest may not add issues not raised in the original protest.

(7) For cases not under subsection 2, these rules will apply to protests filed on or after April 1, 2026.

Statutory/Other Authority: ORS 536.025, ORS 536.027, ORS 183

Statutes/Other Implementation: ORS 183, Or Laws 2025, ch 575

Rule Summary: This new rule defines the applicability of these rules to contested case proceedings, including a description of when certain rules will apply to protests filed or cases referred prior to the effective date of the rules and a description of which protests will be governed by rules adopted to implement Or Laws 2025, ch 575. The rule also specifies that the notice required by Section 24 of Or. Laws 2025, ch 575 must be mailed.

Amend

690-002-0010

Definitions

The following definitions apply to OAR chapter 690, division 002:

(1) "Applicant" means a person filing an application or request for a water use permit, certificate, extension, transfer, or any other right, authorization or review provided by the Department.

(2) "Commission" means the Water Resources Commission.

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- (3) "Department" means the Water Resources Department.
- (4) "Director" means the Director of the Water Resources Department.
- (5) "Proof of Service" means a certification by the sender that the document described in the certification was provided to the recipient by hand delivery, by facsimile, by mail, or by electronic mail on a certain date and giving the recipient's name and, as applicable, the address, electronic mail address, or facsimile number to which the document was sent.
- (6) "Protest" means a statement expressing disagreement with an action or proposed action by the Department that, under applicable law, may entitle the person filing the protest to become a party to a contested case hearing. For the purposes of this Division, where the Department's statutes and rules provide for the right to request a contested case hearing, the hearing request is considered to be a "protest." Except as provided in ORS 543.230, a protest must be in writing.
- (7) "Protestant" means any person filing a protest against an action or proposed action.

Statutory/Other Authority: ORS 183.341, ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 183.310 - 183.497, ORS 536 - 543, Or Laws 2025, ch 575

History:

WRD 6-2006, f. & cert. ef. 10-6-06

WRD 1-1996, f. & cert. ef. 1-31-96

WRD 8-1992, f. & cert. ef. 6-24-92

Rule Summary: This rule amendment clarifies existing rule language and provides that "hearing requests," as used in certain Department statutes and rules, are considered "protests" for the purposes of this Division.

690-002-0020

Authorized Non-Attorney Representation

A party or limited party participating in a contested case hearing may be represented by an authorized representative in the manner and to the extent provided for in OAR 137-003-0555 of the Attorney General's Model Rules.

Statutory/Other Authority: ORS 183.341, 536.025 & 536.027

Statutes/Other Implemented: ORS 183.341 & 183.457

History:

WRD 6-2006, f. & cert. ef. 10-6-06

WRD 8-1992, f. & cert. ef. 6-24-92, Renumbered from 690-002-0001

WRD 1-1988, f. 1-19-88, cert. ef. 2-23-88

WRD 8-1987(Temp), f. 8-27-87, ef. 8-25-87

Amend

690-002-0023

Agency Representation by Officer or Employee

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As authorized by the Attorney General pursuant to ORS 183.452, Department officers and employees may represent the Department and Commission in the following types of contested case hearings:

- (1) Civil penalty hearings under ORS 537.792 and OAR chapter 690 division 225 that may lead to imposition of a fine, well constructor license suspension/revocation, or conditions placed on a well constructor license;
- (2) Civil penalty hearings under ORS 536.900 and OAR chapter 690 division 260 that may lead to imposition of a fine or order directing compliance with regulatory directives;
- (3) Protested water use applications under ORS 537.170 or 537.622 and OAR chapter 690 divisions 77 or 310;
- (4) Protested conversions of minimum perennial streamflows to instream water rights under OAR chapter 690 division 77;
- (5) Requests for reservations of water for future economic development under OAR chapter 690 division 79;
- (6) Reservoir permits issued under ORS 537.409 and exempt reservoirs under ORS 537.405;
- (7) Water right certificates issued under ORS 537.260, 537.270 and 537.505 to 537.795;
- (8) Water right permit and certificate cancellations under ORS 537.139, 537.260, 537.410 to 537.450, and 540.610 to 540.660;
- (9) Water right transfers under ORS 540.520, 540.572 to 540.580 and permit amendments under 537.211;
- (10) Non-FERC hydro projects under OAR 690 division 51 and ORS chapters 543 and 543A;
- (11) Water right permit extension orders under ORS 537.230, 537.248, and 537.630;
- (12) Other contested case hearings where the protested action rests in whole or in part on studies, policy recommendations, or other analysis done by Department staff and which have been approved or authorized by the Department or the Commission; and
- (13) Other individual cases or categories of hearings as approved in writing by the Attorney General on an individual or category basis.

Statutory/Other Authority: ORS 183.341, ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 183.341, ORS 183.452, ORS 536 - 543

History:

WRD 6-2006, f. & cert. ef. 10-6-06

WRD 2-2000, f. & cert. ef. 5-26-00

WRD 7-1996, f. & cert. ef. 7-23-96

Rule summary: This amendment modifies the rule to make it clear that the rule is referring to representation as allowed by ORS 183.452 and OAR 137-003-0545.

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Amend**690-002-0025****Time for Filing Protests for Protests Not Governed by OAR 690-002-0005(2)**

(1) Pursuant to the Model Rules of Procedure, a protest is timely filed only if:

- (a) The protest is filed by the applicable deadline; and
- (b) The protest includes any statutorily required fees.

(2) Pursuant to the Model Rules of Procedure OAR 137-003-0520(1), a protest is considered filed only when actually received by the Department.

(3) A person may file a protest by electronic mail to the electronic mail address provided for submission of protests in the notice of agency action or proposed agency action to which the protestant objects. While submittal of documents by electronic mail is preferred, until the Department has an electronic payment system, payments of fees will need to be received by the Department in the mail or in person prior to the deadline. For entities that conduct frequent transactions with the Department, payment may be made through withdrawal of funds from an established customer holding account. Nothing in this section obligates the Department to establish new holding accounts or to continue to provide holding accounts.

Statutory/Other Authority: ORS 183.341, ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 183.341, ORS 536 – 543, Or Laws 2025, ch 282

History:

WRD 6-2006, f. & cert. ef. 10-6-06

WRD 1-1996, f. & cert. ef. 1-31-96

Rule Summary: This rule is amended to increase efficiency for the Department and protestants by allowing protests/requests for hearing to be filed by electronic mail and to implement the Or Laws 2025, ch 282, allowance for electronic filing of documents. The rule is also amended to remove an outdated rule reference and, consistent with the definition of “protest” in 690-002-0010(6), to remove references to “request for hearing” and replace them with “protest.” The rule also makes it clear how payments can occur and the need to submit payments to meet the deadline in the absence of an electronic payment system.

Amend**690-002-0030****Form and Content of Protest for Protests Not Governed by OAR 690-002-0005(2)**

(1) Except for protests specified in OAR 690-002-0005(2), or as otherwise provided in ORS chapters 543 and 543A and OAR chapter 690, divisions 51, 52, 53 and 54 relating to hydroelectric projects, a protest must be in writing, signed by the protestant or the protestant's attorney or authorized representative, include any statutory filing fee, and contain a detailed statement of:

- (a) Facts sufficient to show that the protestant is entitled to the relief or action requested;

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- (b) The specific relief or action requested;
 - (c) The name and address of the protestant and other person or persons necessary to, or having a direct interest in, the proceeding;
 - (d) The electronic mail address of the protestant, if the protestant has an electronic mail address;
 - (e) The name, address, telephone number, and electronic mail address of the protestant's attorney, if the protestant is represented by an attorney; and
 - (f) Citation of legal authority or basis for the claim or relief asserted or requested.
- (2) Proof of service upon the person or persons whose rights or application are protested shall be attached to the original protest, unless the protestant is the sole applicant for or holder of the right.

Statutory/Other Authority: ORS 183.341, ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 183.341, ORS 536 – 543, Or Laws 2025, ch 575

History:

WRD 6-2006, f. & cert. ef. 10-6-06

WRD 1-1996, f. & cert. ef. 1-31-96

WRD 8-1992, f. & cert. ef. 6-24-92, Renumbered from 690-001-0010

WRD 11-1986, f. & ef. 9-30-86

WRD 8-1978, f. & ef. 10-18-78

WRD 4-1978, f. & ef. 5-22-78

Rule Summary: This rule is amended to reflect that it will not apply to protests governed by Or Laws 2025, ch 575. This rule is also amended to require protests to include the protestant's email address, if the protestant has an email address and contact information for the protestant's attorney, if the protestant is represented by an attorney. The detailed statement required for protests covered by this rule is based on the agency's determination that it is required due to the complexity of the contested cases covered by this rule.

Repeal

690-002-0035

~~Requests for Standing in Matters Involving Applications Made under ORS Chapter 537~~

~~(1) Any person who supports a proposed final order issued pursuant to ORS 537.153 or 537.621 may request standing by complying with OAR 690-310-0160.~~

~~(2) Any person who has filed a request for standing may later file a petition for participation as a party or limited party in any contested case hearing subsequently held on the matter for which standing was requested, in the manner described in OAR 690-002-0105.~~

~~(3) If no protest is filed, and the department does not change the proposed final order, the director must refund the standing fee.~~

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~~Statutory/Other Authority: ORS 183.341, 536.025 & 536.027~~~~Statutes/Other Implemented: ORS 537.153 & 537.621~~**History:**~~WRD 6-2006, f. & cert. ef. 10-6-06~~~~WRD 1-1996, f. & cert. ef. 1-31-96~~

Rule Summary: This rule is repealed because Or Laws 2025, ch 575 modifies the process for requesting standing and party status. New standardized provisions for requesting party status are proposed in OAR 690-002-0225, rendering this rule obsolete. For rules not governed by OAR 690-002-0225, the model rules govern requests for party status under OAR 137-003 unless otherwise specified in statute.

Amend**690-002-0075****Scope of Hearing for Hearings Not Governed by OAR 690-002-0005(2)**

The issues to be considered in a contested case hearing are limited to issues timely raised by the parties in any protests, requests for hearing, or requests for standing or party status as allowed by applicable law.

Statutory/Other Authority: ORS 183.341, ORS 536.025, ORS 536.027**Statutes/Other Implemented:** ORS 183.341, ORS 536 - 543**History:**

Rule Summary: The rule title is amended to clarify that the rule only applies to hearings not governed by OAR 690-002-0005(2). The rule is amended to remove the provision related to issues identified by administrative law judge for clarity, and to update rules to add requests for party status as some cases no longer have requests for standing.

Adopt**690-002-0081****Contact Information**

Parties must timely provide the Department with updated contact information, including any change of address or primary means of electronic communication. The contact information provided in the protest or request for party status or standing, as applicable, is presumed to be valid for the purposes of service and notification of upcoming referral to the Office of Administrative Hearings, unless timely updated by the party.

Statutory/Other Authority: ORS 183.341, ORS 536.025, ORS 536.027**Statutes/Other Implemented:** ORS 183.341, ORS 536 – 543

Rule Summary: This rule is adopted to require parties to maintain accurate contact information during a contested case proceeding, to ensure efficient communication with the parties.

Adopt**690-002-0085****Method of Filing and Service After Referral**

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After referral, electronic filing and service is the default method of filing and service for contested case proceedings, except:

- (1) If another form of service is required by statute or OAR 137-003-0501 through -0700, or
- (2) If a party informs the Department prior to referral, or the Office of Administrative Hearings after referral, that the party will be using another method of filing and service permitted under OAR 137-003-0501 through -0700 and/or requests to be served using another method of service permitted under OAR 137-003-0501 through -0700.

Statutory/Other Authority: ORS 183.341, ORS 536.025, ORS 536.027

Statutes/Other Implementation: ORS 183.341, ORS 536 - 543

Rule Summary: This rule is adopted to increase efficiency by establishing a default for electronic service in contested case hearings once they are referred to the Office of Administrative Hearings except where another form of service is required by statute or the Attorney General's model rules for contested case hearings or a party requests to use another permissible form of filing and service. The rule will reduce the need for the Department, the Office of Administrative Hearings, and parties to expend time and resources to document consent to electronic service on a case-by-case basis. In the Department's experience, a large majority of parties have access to and prefer electronic methods of service.

Adopt

690-002-0089

Consolidation of Proceedings

One or more proposed Department actions may be consolidated into a single proceeding or bifurcated into separate proceedings at the Department's discretion. If, prior to referral, the Department has decided on consolidation or bifurcation, the Department shall notify the parties and the Office of Administrative Hearings of its decision. A party may file a motion with the administrative law judge to consolidate or bifurcate if the Department has not notified the parties of a decision prior to referral.

Statutory/Other Authority: ORS 183.341, ORS 536.025, ORS 536.027

Statutes/Other Implementation: ORS 183.341, ORS 536 - 543

Rule Summary: This rule is adopted to increase efficiency by either allowing for consolidation into a single proceeding or bifurcation into separate proceedings depending on the nature of the protest(s). The rule allows the Department to consolidate or bifurcate prior to referral, and parties to request after referral.

Adopt

690-002-0095

Discovery

- (1) Prior to or at the time of referral, the Department shall provide a copy of the agency file.
- (2) Requests for admission are not an available method of discovery in contested cases subject to these rules.

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(3) An administrative law judge may not order responses to more than 10 interrogatories (each subpart to count as a separate interrogatory) in a contested case subject to these rules without the Department's written consent.

(4) Requests for production of documents are an available method of discovery in contested cases subject to these rules; provided, however, that if the Department determines that the combined response time to a party's requests for production of documents made to the Department would exceed 30 hours of staff time, the Department may require the requesting party to make a public records request in lieu of a request for production of documents. If the Department requires a public records request and an exemption from disclosure would apply to the public records request but not to a discovery request, the Department will not apply the exemption. The Department will not charge applicable public records fees for the first 30 hours of staff time.

(5) A site visit requires the consent of the Department, the parties, and the administrative law judge.

(6) Subpoenas for the production of documents made to any party or the Department, or to any employee or agent of any party or the Department, must be issued no later than the deadline for filing a motion to compel.

(7) A public records request made to the Department is not a basis for the extension of a hearing schedule if:

(a) It is made more than two weeks after the deadline for filing a motion to compel, if the requestor did not file a motion to compel; or

(b) It is made more than two weeks after the administrative law judge's ruling on a motion to compel, if the requestor filed a motion to compel.

Statutory/Other Authority: ORS 536.027, ORS 183.630; OAR 137-003-0566(2)

Statutes/Other Implementation: ORS 536.027, ORS 183.630; OAR 137-003-0566(2)

Rule Summary: This rule is adopted to prevent discovery from unduly complicating and interfering with the hearing process in Department contested case hearings while still providing procedures sufficient to ensure the fundamental fairness of such hearings. Requires department file to be provided. The limitations in this rule are necessary due to the volume of the Department's caseload and the need for speed in completing Department contested case hearings to resolve disputes related to water use and provide interested parties and the public with final decisions in a timely manner.

Repeal

690-002-0105

~~Requests for Intervention in Hearings Conducted Pursuant to ORS 537.170 or 537.622~~

~~(1) Persons who previously requested and obtained standing under the provisions of ORS 537.153(5) or 537.621(6), and OAR 690-002-0035 may file a request to participate as parties or~~

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~~limited parties in the contested case hearing in which standing was obtained following the procedures in OAR 137-003-0535.~~

~~(2) In contested cases conducted pursuant to ORS 537.170 or 537.622, the Administrative Law Judge may only allow persons who have timely filed a request for standing to intervene in the case pursuant to OAR 137-003-0535.~~

~~**Statutory/Other Authority:** ORS 183, 341, 536.025 & 536.027~~

~~**Statutes/Other Implemented:** ORS 183.341, 537.170 & 537.622~~

~~**History:**~~

~~WRD 6-2006, f. & cert. ef. 10-6-06~~

~~WRD 1-1996, f. & cert. ef. 1-31-96~~

Rule Summary: Or Laws 2025, ch 575, modifies the process for requesting party status. New standardized provisions for requesting party status are proposed in OAR 690-002-0225 rendering this rule obsolete.

Amend

690-002-0175

Exceptions to Proposed Orders of the Administrative Law Judge

- (1) If the recommended action in the proposed order issued by the administrative law judge is adverse to any party or the Department, the party or Department may file exceptions and present argument to the Department. Exceptions must be in writing, clearly and concisely identify the portions of the proposed order excepted to, and cite to appropriate portions of the record, Commission policies, rules, or statutes which the party contends support the requested modifications.
- (2) Parties must file their exceptions with the Department by any method allowed in the notice of appeal rights provided in the proposed order.
- (3) A party must file any exceptions within 30 days following the date of service of the proposed order on the parties to the contested case proceeding.
- (4) Unless otherwise required by law, the Director must consider any exceptions to the proposed order and issue a final order.
- (5) If the applicable law provides for the Commission to review any exceptions or issue the final order, the Commission may form a subcommittee to review the exceptions and provide a report prior to the Commission issuing a final order.

Statutory/Other Authority: ORS 183.341, ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 183.341, ORS 183.470, ORS 536 – 543, Or Laws 2025, ch 282

History:

WRD 6-2006, f. & cert. ef. 10-6-06

WRD 2-2000, f. & cert. ef. 5-26-00

WRD 1-1996, f. & cert. ef. 1-31-96

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Rule Summary: This rule is amended to clarify that the exceptions must identify the authority for exceptions by requiring citations to the record, rules, policies, or statutes. This rule is also amended to remove the requirement for exceptions to be filed at the Salem office to remove any suggestion that exceptions must be physically delivered to Salem and to implement the allowance for electronic filing of documents under Or Laws 2025, ch 282.

Amend

690-002-0190

Exceptions to Final Orders of the Director

(1) Any party to a contested case hearing held pursuant to ORS 537.170 or 537.622 may file exceptions to a final order.

(a) Parties must file their exceptions with the Department in person, by mail such that they arrive by the deadline, or by electronic mail or other electronic means provided by the Department.

(b) The party must file any exceptions within 20 days following the date of service of the final order on the parties to the contested case proceeding.

(2)(a) If a party files an exception to a final order under subsection 1, the Department must refer the exceptions to the Commission.

(b) The Commission must consider the party's arguments contained in its exceptions filed pursuant to subsection (a), and may allow and consider oral arguments by all parties to the contested case hearing, prior to issuing a final order on exceptions.

(c) The Commission may form a subcommittee to review the exceptions and provide a report to the Commission.

(3) Where exceptions are timely filed to the final order, within 60 days from the close of the exception period, the Commission must either issue a modified final order or deny the exceptions and affirm the final order.

Statutory/Other Authority: ORS 183.341, ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 183.341, ORS 537.173, ORS 537.626, Or Laws 2025, ch 282

History:

WRD 6-2006, f. & cert. ef. 10-6-06

Rule Summary: This rule is amended to remove the requirement for exceptions to be filed at the Salem office to remove any suggestion that exceptions must be physically delivered to Salem and implement the allowance for electronic filing of documents under Or Laws 2025, ch 282.

Adopt

690-002-0200

Pre-referral Notice

The Department will notify the parties prior to referring a protest to the Office of Administrative Hearings. The Department's notice will include a copy of the agency's file, an offer to discuss

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whether there is opportunity for settlement, a proposed list of issues to be determined at hearing, and the default hearing schedule provided in OAR 690-002-0205.

Statutory/Other Authority: ORS 536.025, ORS 536.027

Statutes/Other Implementation: ORS 536 – 543, Or Laws 2025, ch 575, ORS 183

Rule Summary: This rule is adopted to establish notice requirements for referral of protests to the Office of Administrative Hearings. The rule will increase efficiency by requiring provision of the Department's file and encouraging discussions concerning settlement and the issues to be decided at hearing prior to referral.

Adopt

690-002-0205

Default hearing schedule

(1) Unless extended pursuant to Or Laws 2025, ch 575, section 2(5) or altered by agreement of the parties, the Department, and the administrative law judge, the deadlines in (a) - (n) apply to contested case proceedings governed by these rules. For any referral that is submitted in compliance with OAR 137-003-0515, deadlines are counted from the date of the Department's referral to the Office of Administrative Hearings. Any of the listed events may occur prior to the applicable deadline.

(a) Written objections to proposed issue list provided with notice of referral: 7 days

(b) Written responses to objections to proposed issue list: 14 days

(c) Discovery requests: 14 days

(d) Prehearing conference: 28 days

(e) Order on issues list: 28 days

(f) Discovery responses: 44 days

(g) Motions to compel discovery: 58 days

(h) Responses to motions to compel: 65 days

(i) Order on motion to compel: 75 days

(j) Motions for Summary Determination: 89 days

(k) Responses to Motions for Summary Determination: 110 days

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(l) Ruling on Motions for Summary Determination: 150 days

(m) Exhibits and witness lists: 160 days

(n) Hearing complete (Evidentiary record closed): 180 days

(2) OWRD, in consultation with OAH, may establish other alternate default schedules to govern cases in which parties and OWRD have agreed that certain case events listed in the default schedule in subsection 1 are unnecessary.

Statutory/Other Authority: Or Laws 2025, ch 575, section 2(10)

Statutes/Other Implementation: Or Laws 2025, ch 575, section 2(4)

Rule Summary: This rule is adopted to implement Or Laws 2025, ch 575, section 2, with respect to establishment of a uniform contested case hearing schedule that does not exceed 180 days, and to allow other default schedules to be established where certain case events will not occur.

Adopt

690-002-0210

Form of Testimony

An administrative law judge shall, to the greatest extent practicable, require testimony to be provided orally. If written testimony is submitted, it must be subject to oral cross-examination at hearing.

Statutory/Other Authority: Or Laws 2025, ch 575, section 2(10)

Statutes/Other Implementation: Or Laws 2025, ch 575, section 2(6)

Rule Summary: This rule is adopted to implement Or Laws 2025, ch 575, section 2, with respect to establishing a preference for testimony to be provided orally.

Adopt

690-002-0215

Hearing Location

The administrative law judge shall determine the venue for conducting the hearing, subject to the approval of the Water Resources Department, and shall give preference to conducting a hearing by a remote method.

Statutory/Other Authority: Or Laws 2025, ch 575, section 2(10)

Statutes/Other Implementation: Or Laws 2025, ch 575, section 2(7)

Rule Summary: This rule is adopted to implement Or Laws 2025, ch 575, section 2, with respect to establishing a preference for conducting a hearing testimony remotely.

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Adopt
690-002-0220

Protests

(1) Unless a timeline is otherwise specified under ORS chapter 537, 540 or 541, protests must be submitted within 45 days after publication of the notice of the proposed final order in a weekly public notice of the Water Resources Department or, if weekly public notice is not required, within 45 days after issuance of notice of the proposed final order. Protests governed by these rules are considered submitted only when actually received by the Department.

(2) Protests actually received after the deadline for submission will not be accepted by the Department. OAR 137-003-0528(1) does not apply to protests governed by these rules.

(3) Protests governed by these rules must meet the requirements of Or Laws 2025, ch 575, section 3a. In addition, protests governed by these rules must:

(a) Include the electronic mail address of the protestant, if the protestant has an electronic mail address.

(b) Include the name, address, telephone number, and electronic mail address of the protestant's attorney, if the protestant is represented by an attorney.

(c) Include any required fees.

(4) A person may file a protest by electronic mail to the electronic mail address provided for submission of protests in the notice of agency action or proposed agency action to which the protestant objects. While submittal of documents by electronic mail is preferred, until the Department has an electronic payment system, payments of fees will need to be received by the Department in the mail or in person prior to the deadline. For entities that conduct frequent transactions with the Department, payment may be made through withdrawal of funds from an established customer holding account. Nothing in this section obligates the Department to establish new holding accounts or to continue to provide holding accounts.

Statutory/Other Authority: Or Laws 2025, ch 575, section 3a

Statutes/Other Implementation: Or Laws 2025, ch 575, section 3a

Rule Summary: The rule is adopted to implement Or Laws 2025, ch 575, section 3a, with respect to establishment of a uniform process for protesting a proposed final order issued by the Department. The rule also makes it clear how payments can occur and the need to submit payments to meet the deadline in the absence of an electronic payment system.

Adopt
690-002-0225

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Requests for party status

- (1) OAR 137-003-0535 does not apply to requests to participate as parties or limited parties in contested case proceedings governed by this rule.
- (2) Any person who supports the proposed final order may file a request for party status for the purpose of participating in any contested case proceeding on the proposed final order or for judicial review of a final order resulting from the proposed final order.
- (3) Party status requests must be filed within 30 days after the deadline for filing a protest.
- (4) Party status requests are considered filed only when actually received by the Department.
- (5) The request for party status must be in writing and must include:
 - (a) Names, addresses, and electronic mail addresses (if any) of the requestor and of any organization the requestor represents;
 - (b) Name, address, and electronic mail address of the requestor's attorney, if any;
 - (c) A statement of whether the request is for participation as a party or a limited party, and, if as a limited party, the precise area or areas in which participation is sought;
 - (d) If the requestor seeks to protect a personal interest in the outcome of the agency's proceeding, a detailed statement of the requestor's interest, economic or otherwise, and how such interest may be affected by the results of the proceeding;
 - (e) If the requestor seeks to represent a public interest in the results of the proceeding, a detailed statement of such public interest, the manner in which such public interest will be affected by the results of the proceeding, and the requestor's qualifications to represent such public interest;
 - (f) A statement of the reasons why existing parties to the proceeding cannot adequately represent the interest identified in subsection (4)(d) or (e) of this rule.
 - (g) The fees described in ORS 536.060(1)(n) and (o).
- (6) A person may file a request for party status by electronic mail to the electronic mail address provided for submission of protests in the notice of agency action or proposed agency action. While submittal of documents by electronic mail is preferred, until the Department has an electronic payment system, payments of fees will need to be received by the Department in the mail or in person prior to the deadline. For entities that conduct frequent transactions with the

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Department, payment may be made through withdrawal of funds from an established customer holding account. Nothing in this section obligates the Department to establish new holding accounts or to continue to provide holding accounts.

(7) The Department shall serve a copy of the request on each party by electronic mail, or, if a party does not have an electronic mail address, personally or by mail. Each party shall have seven calendar days from the date of personal or electronic mail service or agency mailing to file a response to the request.

(8) The Department shall rule on requests for party status within 60 days of the deadline for submitting party status requests. The Department's ruling on a request for party status shall be by written order and served promptly on the requestor, all parties, and, if the matter has been referred at the time the request is received, the Office of Administrative Hearings. If the request is allowed, the agency shall also provide the requestor with the notice of rights required by ORS 183.413(2) or request the administrative law judge to do so.

(9) In ruling on requests to participate as a party or a limited party, the agency shall consider:

(a) Whether the requestor has demonstrated a personal or public interest that could reasonably be affected by the outcome of the proceeding;

(b) Whether any such affected interest is within the scope of the agency's jurisdiction and within the scope of the notice of contested case hearing;

(c) When a public interest is alleged, the qualifications of the requestor to represent that interest; and

(d) The extent to which the requestor's interest will be represented by existing parties.

(10) The Department may treat a request to participate as a party as if it were a request to participate as a limited party.

(11) If the Department grants a request, the agency shall specify areas of participation and procedural limitations as it deems appropriate.

(12) If the Department does not grant the request, the agency shall refund the fees described in ORS 536.050 (1) (o), pursuant to Or Laws 2025, ch 575, section 3a(6).

Statutory/Other Authority: Or Laws 2025, ch 575, section 3a

Statutes/Other Implementation: Or Laws 2025, ch 575, section 3a

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Rule Summary: This rule is adopted to implement Or Laws 2025, ch575, section 3a, with respect to establishing standardized provisions for requesting party status for a contested case after the close of the protest period for a proposed final order. The rule also makes it clear how payments can occur and the need to submit payments to meet the deadline in the absence of an electronic payment system.

Adopt

690-002-0230

Notification of protests received

Within 20 days after the close of the protest period, if the protestant is not the applicant, the Department shall send a copy of all protests timely received to the applicant.

Statutory/Other Authority: ORS 536.025, ORS 536.027

Statutes/Other Implementation: ORS 537, ORS 540, ORS 541

Rule Summary: This rule is adopted to establish requirements for notifying the applicant of protests filed.

Adopt

OAR 690-002-0235

Final orders by default

- (1) If no protest on a proposed final order that is governed by these rules is timely received, by operation of law, the proposed final order shall become a final order on the date that is 33 days after the close of the time period for submitting a protest, with no further action required by the Department.
- (2) If all timely filed protests are withdrawn and the withdrawals are not based on a settlement agreement requiring changes to the proposed final order, the Department, if the matter has not been referred to the Office of Administrative Hearings, or the assigned administrative law judge, if the matter has been referred to the Office of Administrative Hearings, shall issue an order dismissing the request for hearing and notifying the parties that the Department's proposed final order is final, as of the date of the order of dismissal.
- (3) If all protestants to a contested case default as provided in OAR 137-003-0672(3)(b) or OAR 137-003-0672(3)(c), the assigned administrative law judge shall issue an order dismissing the request for hearing and notifying the parties that the Department's proposed final order is final, as of the date of the order of dismissal.
- (4) Notwithstanding subsection (1), not more than 33 days after the close of the time period for submitting a protest, the Department may withdraw a proposed final order for reconsideration and issuance of a superseding proposed final order.

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Statutory/Other Authority: ORS 183, Or Laws 2025, ch 575, section 3a

Statutes/Other Implementation: ORS 183, Or Laws 2025, ch 575, section 3a

Rule Summary: This rule is adopted to implement Or Laws 2025, ch 575, section 3, with respect to proposed final orders becoming final if no protest is filed within 33 days and that a hearing is not required if a protestant defaults or withdraws the protest. Specifies that Department may withdraw or reconsider before the 33 days.

DRAFT

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Division 300 DEFINITIONS

Amend

690-300-0010

Definitions

The following definitions apply in OAR chapter 690, divisions 310, 320, 330, 340, 350, 380, 382, and 385 and to any permits, certificates, limited licenses, or transfers issued under these rules:

- (1) "Affected Local Government" means any local government as defined in OAR 690-005-0015 within whose jurisdiction water is or would be diverted, conveyed, or used under a proposed or approved permit, water right transfer, or certificate.
- (2) "Agricultural Water Use" means the use of water related to the production of agricultural products. These uses include, but are not limited to, construction, operation and maintenance of agricultural facilities and livestock sanitation at farms, ranches, dairies and nurseries. Examples of these uses include, but are not limited to, dust control, temperature control, animal waste management, barn or farm sanitation, dairy operation, and fire control. Such use shall not include irrigation.
- (3) "Aquatic Life Water Use" means the use of water to support natural or artificial propagation and sustenance of fish and other aquatic life.
- (4) "Artificial Groundwater Recharge" means the intentional addition of water to a groundwater reservoir by diversion from another source.
- (5) "Beneficial Use" means the reasonably efficient use of water without waste for a purpose consistent with the laws, rules and the best interests of the people of the state.
- (6) "Commercial Water Use" means use of water related to the production, sale or delivery of goods, services or commodities by a public or private entity. These uses include, but are not limited to, construction, operation and maintenance of commercial facilities. Examples of commercial facilities include, but are not limited to, an office, resort, recreational facility, motel, hotel, gas station, kennel, store, medical facility, and veterinary hospital. Examples of water uses in such facilities include, but are not limited to, human consumption, sanitation, food processing, and fire protection. Such uses shall not include irrigation or landscape maintenance of more than 1/2 acre. Notwithstanding this definition, exempt commercial water use under Division 340 does not include irrigation or landscape maintenance.
- (7) "Comment" means a written statement concerning a particular proposed water use. The comment may identify elements of the application which, in the opinion of the commenter, would conflict with an existing water right or would impair or be detrimental to the public interest.
- (8) "Commission" means the Water Resources Commission.

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(9) "Contested Case" means a hearing before the Department or Commission as defined in ORS 183.310(2) and conducted according to the procedures described in ORS 183.413 - 183.497, Or Laws 2025, ch 575, and OAR chapter 690, division 2.

(10) "Cranberry Use" means all necessary beneficial uses of water for growing, protecting and harvesting cranberries. Examples of these uses include, but are not limited to, irrigation of cranberries or other crops in rotation, chemical application, flooding for harvesting or pest control, and temperature control.

(11) "Deficiency of Rate Right" means an additional right allowed from the same source for the same use at the same place of use when an earlier right does not allow a full duty or rate of flow of water.

(12) "Department" means the Water Resources Department.

(13) "Director" means the Director of the Department.

(14) "Domestic Water Use" means the use of water for human consumption, household purposes, domestic animal consumption that is ancillary to residential use of the property or related accessory uses.

(15) "Domestic Use Expanded" means the use of water, in addition to that allowed for domestic use, for watering up to 1/2-acre of lawn or noncommercial garden.

(16) "Drainage Basin", as used in OAR 690-340-0020, 690-340-0030 and 690-340-0050, means hydrologic unit delineated as a cataloging unit by the U.S. Geological Survey Office of Water Data Coordination on the State Hydrologic Unit map.

(17) "Fire Protection Water Use" means the use and storage of water for the purpose of extinguishing fires or reducing the potential outbreak of fires.

(18) "Fish Bypass Structure", as used in OAR 690-340-0010, means any pipe, flume, open channel or other means of conveyance that transports fish that have entered a water diversion structure back to the body of water from which the fish were diverted.

(19) "Fish Screen", as used in OAR 690-340-0010, means a screen, bar, rack trap or other barrier at a water diversion to entrap or provide adequate protection for fish populations, including related improvements necessary to ensure its effective operation.

(20) "Fishway," as used in OAR 690-340-0010, means any structure, facility or device used to facilitate upstream or downstream passage of fish through, over or around any man-made or natural barrier to free movement.

(21) "Forestland and Rangeland Management," as used in Chapter 595, Oregon Laws 1993, means water used for operations conducted on or pertaining to forestlands and rangelands. Such uses may include, but are not limited to, reforestation, road construction and maintenance, harvesting, vegetation management, and disposal of slash. Such use shall not include irrigation.

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(22) "Groundwater Reservoir" means a designated body of standing or moving groundwater as defined in ORS 537.515(5).

(23) "Group Domestic Water Use" means the use of water for domestic water use by more than one residence or dwelling unit.

(24) "Human Consumption" means the use of water for the purposes of drinking, cooking, and sanitation.

(25) "Industrial Water Use" means the use of water associated with the processing or manufacture of a product. These uses include, but are not limited to, construction, operation and maintenance of an industrial site, facilities and buildings and related uses. Examples of these uses include, but are not limited to, general construction; road construction; non-hydroelectric power production, including down-hole heat exchange and geothermal; agricultural or forest product processing; and fire protection. Such use shall not include irrigation or landscape maintenance of more than 1/2 acre. Notwithstanding this definition, exempt industrial water use under Division 340 does not include irrigation or landscape maintenance.

(26) "Irrigation" means the artificial application of water to crops or plants by controlled means to promote growth or nourish crops or plants. Examples of these uses include, but are not limited to, watering of an agricultural crop, commercial garden, tree farm, orchard, park, golf course, play field or vineyard and alkali abatement.

(27) "Mining Water Use" means the use of water for extraction, preliminary grading, or processing of minerals or aggregate at a mining site or construction, operation and maintenance of a mining site. These uses include, but are not limited to, general construction, road construction, and dust control. Examples of mining include, but are not limited to, aggregate, hard rock, heap leach and placer mining.

(28) "Municipal Corporation" means any county, city, town or district as defined in ORS 198.010 or 198.180(5) that is authorized by law to supply water for usual and ordinary municipal water uses.

(29) "Municipal Water Use" means the delivery and use of water through the water service system of a municipal corporation for all water uses usual and ordinary to such systems. Examples of these water uses shall include but are not limited to domestic water use, irrigation of lawns and gardens, commercial water use, industrial water use, fire protection, irrigation and other water uses in park and recreation facilities, and street washing. Such uses shall not include generation of hydroelectric power.

(30) "Nursery Operations Use" means the use of water for operation of a commercial nursery which may include temperature control, watering of containerized stock, soil preparation, application of chemicals or fertilizers, watering within greenhouses and uses to construct, operate and maintain nursery facilities. The use of water within plant nursery operations constitutes a different use from field irrigation, although that may be a part of nursery use. If used for field irrigation for nursery stock, such use is not restricted to the defined agricultural irrigation season.

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(31) "Off-Channel" means outside a natural waterway of perceptible extent which, during average water years, seasonally or continuously contains moving water that flows off the property owned by the applicant and has a definite bed and banks which serve to confine the water. "Off-channel" may include the collection of storm water run-off, snow melt or seepage which, during average water years, does not flow through a defined channel and does not flow off the property owned by the applicant.

(32) "Planned" means a determination has been made for a specific course of action either by a legislative, administrative or budgetary action of a public body, or by engineering, design work, or other investment toward approved construction by both the public or private sector.

(33) "Pollution Abatement or Pollution Prevention Water Use" means the use of water to dilute, transport or prevent pollution.

(34) "Power Development Water Use" means the use of the flow of water to develop electrical or mechanical power. Examples of these uses include, but are not limited to, the use of water for the operation of a hydraulic ram or water wheel and hydroelectric power production.

(35) "Primary Right" means the right to store water in a reservoir or the water right designated by the commission as the principal water supply for the authorized use, or if no designation has been made, the first in time or initial appropriation.

(36) "Proposed Certificate" means a draft version of a water right certificate describing the elements and extent of the water right developed under the terms of a permit or transfer approval order.

(37) "Protest" has the same meaning as provided in OAR 690-002-0010.

(38) "Public Corporation" means a corporation which operates subject to control by a local government entity or officers of a local government and which, at least in part, is organized to serve a public purpose of, and receives public funds or other support having monetary value, from such government.

(39) "Quasi-Municipal Water Use" means the delivery and use of water through the water service system of a corporation other than a public corporation created for the purpose of operating a water supply system, for those uses usual and ordinary to municipal water use, or a federally recognized Indian tribe that operates a water supply system for uses usual and ordinary to a municipal water use. A quasi-municipal water right shall not be granted the statutory municipal preferences given to a municipality under ORS 537.190(2), 537.230(1), 537.352, 537.410(2), 540.510(3), 540.610(2), (3), or those preferences over minimum streamflows designated in a basin program.

(40) "Rate and Duty of Water for Irrigation" means the maximum flow of water in cubic feet per second or gallons per minute (instantaneous rate) and the total volume of water in acre-feet per acre per year that may be diverted for irrigation.

(41) "Recharge Permit" means a permit for the appropriation of water for the purpose of artificial groundwater recharge.

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- (42) "Recreation Water Use" means the use of water for play, relaxation or amusement. Examples of these uses include, but are not limited to boating, fishing, wading, swimming, and scenic values.
- (43) "Riparian Area" means a zone of transition from an aquatic ecosystem to a terrestrial ecosystem, dependent upon surface or subsurface water, that reveals through the zone's existing or potential soil-vegetation complex, the influence of such surface or subsurface water. A riparian area may be located adjacent to a lake, reservoir, estuary, pothole, spring, bog, wet meadow, or ephemeral, intermittent or perennial stream.
- (44) "Secondary Groundwater Permit" means a permit for the appropriation of groundwater which was stored through the exercise of a recharge permit or certificate.
- (45) "Stockwater Use" means the use of water for consumption by domesticated animals or wild animals held in captivity as pets or for profit.
- (46) "Storage" means the retention or impoundment of surface water or groundwater by artificial means for public or private uses and benefits.
- (47) "Stored Recharge Water" means groundwater which results from artificial groundwater recharge.
- (48) "Storage Account" means a net volume of artificially recharged groundwater which is calculated for a single recharge activity from a formula specified in a single recharge permit which records additions to a groundwater reservoir by artificial recharge and depletions from a groundwater reservoir by pumping and natural losses.
- (49) "Storm Water Management Water Use" means the use or storage of water in any structure or drainage way that is designed, constructed and maintained to collect and filter, retain or detain surface water runoff during and after a storm event for the purpose of water quality improvement, flood control or property protection. It may also include, but is not limited to, existing features such as wetlands, water quality swales, and ponds which are maintained as storm water quality facilities.
- (50) "Stream or Riparian Area Enhancement Water Use" means the use of water to restore or enhance a stream or riparian area.
- (51) "Supplemental Water Right or Supplemental Water Use Permit" means an additional appropriation of water to make up a deficiency in supply from an existing water right. A supplemental water right is used in conjunction with a primary water right.
- (52) "Surplus Waters" means all waters in excess of those needed to satisfy current existing rights and minimum streamflows established by the Commission.
- (53) "Temperature Control" means the use of water to protect a growing crop from damage from extreme temperatures.
- (54) "Transfer" means a change of use or place of use or point of diversion of a water right.

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(55) "Wastewater" means water that has been diverted under an authorized water right after it is beyond the control of the owner of that right but has not yet returned to the channel of a natural stream. In an irrigation district, the wastewater of an individual user is not subject to appropriation until it leaves the boundaries of the district. Wastewater abandoned to the channel of a natural stream becomes a part of that stream and is subject to appropriation.

(56) "Water is Available," when used in OAR 690-310-0080, 690-310-0110, 690-310-0130, and 690-410-0070 means:

(a) The requested surface water source is not over-appropriated under OAR 690-400-0010 and 690-410-0070 during any period of the proposed use; or

(b) If the requested surface water source is already over-appropriated for any portion of the period of use proposed in a new application:

(A) The applicant can show the proposed use requires water only during the period of time in which the requested source is not already over-appropriated;

(B) The applicant has obtained or has shown the applicant can obtain authorization to use water from an alternate source to provide water needed during any period of use in which the source is over-appropriated; or

(C) If the applicant has shown they can obtain authorization to use water from an alternate source during the time water is unavailable, the department conditions the approval of the application to require that prior to diversion of water the applicant obtains authorization for use of water from the alternate source.

(c) The proposed groundwater source exhibits Reasonably Stable Groundwater Levels, as defined in OAR 690-008-0001; and

(d) The total requested rate of groundwater allocation is obtainable by the expected yield of the well(s) proposed in the application given best available information; and

(e) The proposed groundwater use does not have the Potential for Substantial Interference (OAR 690-009-0020(5)) with a surface water source that:

(A) is already over-appropriated during any period of the year; or

(B) is administratively or statutorily withdrawn; or

(C) is restrictively classified in an applicable basin program rule; or

(D) is the source for one or more existing surface water rights that have been regulated off due to insufficient supply to satisfy senior surface water rights; or

(E) is subject to a rotation agreement among existing surface water right holders to address limited surface water supplies; or

(F) has a minimum perennial streamflow or instream water right that is unmet during any period of the year.

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(57) "Water Availability Analysis" means the investigation of stream flow or groundwater measurement records, watermaster distribution records, flow requirements of existing water rights, stream flow modeling in ungauged basins, minimum perennial streamflows, or scenic waterway flow requirements to determine if water is available to support the proposed water use.

(58) "Water use subject to transfer" means a water use established by:

(a) An adjudication under ORS chapter 539 as evidenced by court decree;

(b) A water right certificate;

(c) A water use permit for which a request for issuance of a water right certificate under ORS 537.250 has been received and approved by the Commission under ORS 537.250; or

(d) A transfer application for which an order approving the change has been issued under ORS 540.530 and for which proper proof of completion of the change has been filed with the Commission.

(59) "Wetland" means an area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

(60) "Wetland Enhancement Water Use" means the use of water to restore, create, or enhance or maintain wetland resources.

(61) "Wildlife Water Use" means the use of water by or for sustaining wildlife species and their habitat.

Statutory/Other Authority: ORS 536.027, ORS 537.505-537.795. ORS 537.992

Statutes/Other Implemented: ORS 536, ORS 537, ORS 539, ORS 540, ORS 541, ORS 183, ORS 198, Or Laws 2025, ch 575

History:

WRD 5-2024, amend filed 09/17/2024, effective 09/17/2024

WRD 1-2012, f 1-31-12, cert. ef. 2-1-12

WRD 2-1998, f. & cert. ef. 10-13-98

WRD 3-1996, f. & cert. ef. 3-15-96

WRD 1-1996, f. & cert. ef. 1-31-96, Renumbered from 690-011-0010

WRD 5-1995(Temp), f. & cert. ef. 8-4-95

WRD 7-1994, f. & cert. ef. 6-14-94

WRD 5-1994, f. & cert. ef. 4-13-94

WRD 6-1993, f. & cert. ef. 11-30-93

WRD 4-1993, f. & cert. ef. 10-7-93

WRD 9-1992, f. & cert. ef. 7-1-92

WRD 16-1990, f. & cert. ef. 8-23-90

WRD 12-1990, f. & cert. ef. 8-8-90

WRD 5-1988, f. & cert. ef. 6-28-88

WRD 6-1987, f. & ef. 6-11-87

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Rule Summary: This rule is amended to (a) update the statutory authority for the definition of “contested case”; (b) standardize the definition of “protest” with the definition in OAR 690-002-0010; (c) remove part of the definition of “proposed certificate” because a field investigation is not required to issue a proposed certificate; (d) remove the definition of “water right subject to a transfer,” replacing it with a definition for “water use subject to transfer” to align with the statutory definition; (e) add applicability reference to transfer rules that already reference this division; and (f) delete definition of “planned uses,” which is not used elsewhere in the rules. The rule also is amended to clarify the definition of “stockwater use” and delete provisions related to applications submitted before July 17, 1992, because there is only one application pending, and prior rules in effect – not these – would apply to that application.

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Division 305 GENERAL MAP CRITERIA

Adopt 690-305-0000

Purpose and Applicability

The purpose of this rule is to establish general criteria for maps submitted to the Department on or after April 1, 2026. Unless otherwise specified in rule, these rules apply to applications submitted under OAR chapter 690, divisions 14, 18, 310, 320, 325, 340, 380, and 382. These rules also apply to maps submitted as part of an application for a reservoir under ORS 537.409. Additional specific mapping criteria may apply as specified in application specific rule divisions.

Statutory/Other Authority: ORS 536.027, ORS 537.409

Statutes/Others Implemented: ORS 537.140, ORS 537.144, ORS 537.211(4), ORS 537.225, ORS 537.230, ORS 537.252, ORS 537.400, ORS 537.610, ORS 537.615, ORS 537.780, ORS 540.520, ORS 540.523, ORS 540.524, ORS 540.531, ORS 540.532, ORS 540.533, ORS 540.585, ORS 537 and ORS 540

Rule Summary: This rule is adopted to specify purpose and applicability of the general map criteria outlined in OAR 690-305-0010.

Adopt 690-305-0010 General Map Criteria

Each map submitted to the Department shall meet the following general criteria in addition to any specific criteria identified in the rules for the relevant water right transaction:

(1) Drawing

(a) The map shall be drafted on paper or polyester film with ink or otherwise printed in an indelible form with sufficient clarity so as to be easily reproduced or scanned. Maps may be submitted electronically in portable document format (pdf) and must be prepared consistent with, and include the same information as, a paper map.

(b) The preferred paper size is 8.5 inches by 11 inches and should be no larger than 30 inches by 30 inches. A map greater than 30 inches by 30 inches may be submitted if the Department grants, by mail or electronic means, advance approval of the larger size.

(c) Beginning April 1, 2029, regardless of whether the map is submitted electronically, on paper, or on polyester film, for any map that OAR chapter 690 requires be prepared by a Certified Water Right Examiner, a digital file containing the coordinate system and geospatial features of the map as specified by the Department shall be submitted in addition to the map, unless the Department provides a waiver. The digital file shall be submitted as a shapefile or other approved format in a manner required by the Department.

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(d) A platted and recorded subdivision map, deed description survey map, or county assessor map may be submitted as the application map if all of the required information included in sections (2) and (3) of this rule is clearly shown.

(e) An aerial image may be provided in addition to the map to aid the Department in understanding the proposal.

(f) The map submitted under subsection (a) shall be the official record of the water right. An aerial image or digital file shall not be the official record of the water right.

(2) Scale

(a) The map shall be drawn to a standard, even-numbered scale and one-inch shall not be equal to or greater than 1320 feet.

(b) The map scale may exceed 1320 feet per inch if the Department grants, by mail or electronic means, advance approval of the requested scale.

(c) Notwithstanding subsection (a) and (b), for maps identifying the location of a municipal use place of use, one-inch can be equal to or greater than 1320 feet; provided that the scale is sufficient to identify the quarter-quarters involved in the place of use.

(3) Features: Features shall be clearly identified and labeled. Unless otherwise indicated in rule, the following features must be included in each map submitted to the Department:

(a) Mapping scale.

(b) North directional symbol.

(c) Legend.

(d) General location of main canals, ditches, flumes, pipelines, pumps, or other water delivery features used to transport water from the point(s) of diversion or appropriation to the place use and to include the delivery features at the place of use.

(e) Other topographical features such as rivers, creeks, streams, lakes, reservoirs, ponds, roads, or railroads that may be helpful to clarify and identify the location of points of diversion, wells, dams, and places of use.

(f) Location and flow direction of the water way if the source is surface water. If multiple water ways exist in the area of the proposed diversion and use, the map must identify the location and flow direction of the additional water ways.

(g) Township, range, section, quarter-quarter, and tax lot(s), donation land claims, or government lots where water will be or has been diverted, conveyed, and used. If the map is for municipal use the map:

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(A) Must identify but does not need to label the quarter-quarters,

(B) Does not need to identify or label tax lots, donation land claims, or government lots.

(h) Location of each proposed or developed diversion point, well (point of appropriation), or dam by reference to a recognized public land survey corner. For a reservoir without a dam, the center of the reservoir shall be referenced to a recognized public land survey corner.

(A) The locations shall be shown by distance and bearing, or by coordinates (distance north or south and distance east or west from the corner). In addition, they shall also include latitude and longitude as established by a global positioning system.

(B) Latitude and longitude coordinates shall be expressed as degrees-decimal with five or more digits after the decimal (e.g., 42.53764°). The datum used to establish the coordinates shall be indicated on the map. Examples of datums include NAD 83, NAD 27 and WGS84.

(i) Location of the proposed or developed place of use by township, range, section, and nearest quarter-quarter section.

(A) For irrigation or nursery use, the map shall additionally indicate the place of use in each quarter-quarter of a section by shading or hatchuring and indicate the number of acres in each quarter-quarter section, donation land claim, government lot, or other recognized public land survey lines.

(B) For places of use that are limited to a point, such as a stock watering tank, the location may also be identified by distance and bearing, or by coordinates (distance north or south and distance east or west from the corner). In addition, they shall include latitude and longitude as established by a global positioning system.

(C) Latitude and longitude coordinates shall be expressed as degrees-decimal with five or more digits after the decimal (e.g., 42.53764°). The datum used to establish the coordinates shall be indicated on the map. Examples of datums include NAD 83, NAD 27 and WGS84.

(D) Where more than one point of diversion or well is included, the map must clearly identify the place(s) of use served by each point of diversion or well.

(j) If for a supplemental irrigation application or claim of beneficial use, the location and water right reference number of the underlying primary right, registration or claim.

(k) Any other information the Department requests and considers necessary to evaluate the water right transaction.

Statutory/Other Authority: ORS 536.027, ORS 537.409

Statutes/Others Implemented: ORS 537.140, ORS 537.144, ORS 537.211(4), ORS 537.225, ORS 537.230, ORS 537.252, ORS 537.400, ORS 537.610, ORS 537.615, ORS 537.780, ORS

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540.520, ORS 540.523, ORS 540.524, ORS 540.531, ORS 540.532, ORS 540.533, ORS 540.585; ORS 537 and ORS 540

Rule Summary: This rule is adopted to establish standardized criteria for maps submitted to the Department for water right transactions. This will reduce confusion and increase efficiencies by standardizing in one section.

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Division 310

WATER RIGHT APPLICATION PROCESSING

690-310-0000

Purpose

(1) The purpose of this division is to establish information requirements, and procedures and standards which shall be applied by the Department in the evaluation of applications for a permit to appropriate surface water, ground water, to construct a reservoir and store water, to use reserved water or to use water stored in a reservoir.

(2) Applicants should be aware that other rule divisions apply to applications for instream water rights (OAR 690, division 77), reservations for economic development (OAR 690, division 79), water right transfers (OAR 690, division 380), use of conserved water (OAR 690, division 18), water use for chemical process mining (OAR 690, division 78), out-of-basin diversions (OAR 690, division 12), drought mitigation (OAR 690, division 19), claims for pre-1909 vested water rights (OAR 690, division 28), hydroelectric power generation (OAR 690, division 51), minimum perennial streamflows (OAR 690, division 76) and other uses of water not subject to permit or certificate requirements (OAR 690, division 340).

Statutory/Other Authority: ORS 536.027

Statutes/Others Implemented: ORS 537.130 - 537.211

History:

WRD 1-1996, f. & cert. ef. 1-31-96, Renumbered from 690-011-0000

WRD 5-1995(Temp), f. & cert. ef. 8-4-95

WRD 5-1994, f. & cert. ef. 4-13-94

WRD 9-1992, f. & cert. ef. 7-1-92

690-310-0005

Determination of Appropriate Step in Process for Applications Pending on June 30, 1995

Pursuant to section 46, chapter 416, Oregon Laws 1995, for each application described under OAR 690-310-0000 that was pending or filed with the Commission or the Department on June 30, 1995, the Department shall determine an appropriate step in the process established in chapter 416, Oregon Laws 1995 and this division at which to continue the application process for the application. The definitions and provisions of this division shall be applied as appropriate, to reflect the step determined by the Department.

Statutory/Other Authority: ORS 536.027

Statutes/Other Implemented: Sec. 46, Ch. 416 & OL 1995

History:

WRD 1-1996, f. & cert. ef. 1-31-96

Repeal

690-310-0010

Application Processing Rules Control General Administrative Procedures Act Provisions

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~~Notwithstanding any provision of ORS 183.310 to 183.550, an application for a permit to appropriate water shall be processed in the manner set forth in ORS 537.120 to 537.360 or 537.505 to 537.795. Nothing in ORS 183.310 to 183.550 shall be construed to allow additional persons to participate in the process. To the extent that any provision in ORS 183.310 to 183.550 conflicts with a provision set forth in ORS 537.120 to 537.360 or 537.505 to 537.795, the provisions in ORS 537.120 to 537.360 or 537.505 to 537.795 shall control.~~

~~**Statutory/Other Authority:** ORS 536.027~~

~~**Statutes/Other Implemented:** ORS 537.140~~

~~**History:**~~

~~WRD 1-1996, f. & cert. ef. 1-31-96~~

Rule Summary: Or Laws 2025, ch 575, section 4, repeals similar language that appeared in statute that water laws supersede conflicts with the Oregon Administrative Procedure Act (ORS 183) for new water right applications. This rule is repealed because 690-002 and Or Laws 2025, ch 575 now are the governing authorities.

Amend

690-310-0020

Requirement to Notify Owner of Land Crossed by Proposed Ditch, Canal or Other Work

(1) The Department shall not issue a permit without notifying the owner, as identified in the application, of any lands not owned by the applicant to be crossed by a proposed ditch, canal or other work, or any lands not owned by the applicant within the proposed place of use, as set forth in the application. The Department shall provide the notice even if the applicant has obtained written authorization or an easement from the owner.

(2) If more than 25 persons are identified in the application as required under OAR 690-310-0040(1)(a)(F), the Department may provide the notice required under section (1) of this rule by publishing notice of the application in a newspaper having general circulation in the area in which the proposed ditch, canal or other work is located at least once each week for at least two successive weeks. The cost of the publication shall be paid by the applicant in advance to the Department.

Statutory/Other Authority: ORS 536.027, Or Const. Art 1, Section 10.

Statutes/Other Implemented: ORS 537.130

History:

WRD 1-2012, f 1-31-12, cert. ef. 2-1-12

WRD 1-1996, f. & cert. ef. 1-31-96

Rule Summary: This rule is amended to include a requirement for notice to the landowner if someone other than the landowner applies for a water right on the landowner's property. This is a due process improvement.

690-310-0030

Grounds for Refusal to Issue or Cancellation of Permit

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(1) In addition to any other provision for refusal to issue a permit, the following shall be grounds for refusal to issue a permit:

- (a) Failure of an applicant to comply with the requirements under OAR 690-310-0020; or
- (b) Failure to obtain written authorization, obtain an easement or acquire ownership of the land if required by a condition of issuance.

(2) If an applicant makes a statement under OAR 690-310-0040(1)(a)(G) that falsely states that the applicant owns all lands crossed by a proposed ditch, canal or other work or that the applicant has obtained written authorization or an easement permitting access across such lands, any permit issued in response to the application shall be subject to cancellation.

(3) The Department is not required to mediate or arbitrate a dispute between a permittee and a landowner with respect to the provisions of ORS 537.130, 537.133, 537.139, 537.140, 537.250, 772.305, and 772.310.

Statutory/Other Authority: ORS 536.027

Statutes/Other Implemented: ORS 537.130 & 537.139

History:

WRD 1-1996, f. & cert. ef. 1-31-96

Amend

690-310-0040

Application Requirements

(1)(a) Each application for a permit to appropriate water shall be made to the Department on a form prescribed by the Department and shall set forth:

- (A) The name, mailing address, and email address, if available, of the applicant(s);
- (B) The source(s) of water from which the water is proposed to be diverted or appropriated, including the name and mailing address of any owner of the land upon which the source of the water supply is located;
- (C) The amount of water to be appropriated from each source;
- (D) A map of the proposed water use as set forth in the mapping requirements in OAR 690-310-0050;
- (E) The nature of the proposed use(s);
- (F) The name and mailing address of the owner of any lands that are not owned by the applicant and that are crossed by the proposed ditch, canal or other work, or any lands not owned by the applicant within the proposed place of use, even if the applicant has obtained written authorization or an easement from the owner;
- (G) A statement declaring the existence of written authorization or an easement permitting access to land crossed by the proposed ditch, canal or other work. This requirement shall not apply to applications for irrigation or domestic use where the applicant would occupy state-owned

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submersible lands for the construction, maintenance, and operation of any structure or facility necessary for the use of water;

(H) Proposed dates for the beginning of construction, completion of construction, and complete application of the water to the proposed beneficial use;

(I) The legal description of:

(i) The property from which the water is to be diverted;

(ii) Any property crossed by the proposed ditch, canal or other work; and

(iii) Any property on which the water is to be used as depicted on the map.

(J) A description, including drawings if required by the Department, of the proposed means of diversion, construction, and operation of the diversion works and conveyance of the appropriated waters;

(K) Information the applicant has that describes why the amount of water requested is needed, measures the applicant proposes to prevent waste, to measure the amount of water diverted, to prevent damage to aquatic life and riparian habitat, to prevent the discharge of contaminated water to a surface stream and measures the applicant proposes to prevent damage to public uses of affected surface waters;

(L) Land use information as outlined in the Department's Land Use Planning Procedures Guide described in OAR 690-005-0035(4);

(M) Signature of the applicant(s), and, if the applicant is a public agency, corporation or business, trust, or other organization, the title or authority of the person who signs the application on behalf of the entity, and evidence of signatory authority or a signed statement that such authority exists;

(N) An oath that the information contained in the application is true and accurate;

(O) The estimated capacity of each pump in gallons per minute, and the horsepower of each pump motor;

(P) All other data concerning the proposed project and the applicant's ability and intention to construct the project, as the Department considers necessary;

(Q) Any other information required in the application form that is necessary to evaluate the application in accordance with applicable statutory requirements;

(R) If the requested water use is supplemental to an existing water use, identification of any application for a permit, permit, certificate or adjudicated right to appropriate water made or held by the applicant that is primary to the supplemental use.

(b) If the application is for a permit to appropriate ground water, in addition to the information required under subsection (a) of this section, the application shall contain:

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(A) For any well already constructed, a copy of the well constructor's log, if available. If a well log is not available, or if the well is not already constructed, the proposed total depth, depth of casing and seal, and the anticipated perforation and open intervals;

(B) If the groundwater is to be used for irrigation purposes, a description of the lands to be irrigated, giving the number of acres to be irrigated in each 40-acre legal subdivision;

(C) The depth to the water table, if known;

(D) The location of each well with reference to government survey corners or monuments or corners of recorded plats;

(E) The estimated capacity of each well;

(F) If the ground water does not require pumping, the rate of flow in gallons in such manner as the Commission may prescribe.

(c) If the application is to store water and to construct a reservoir, or multiple reservoirs on a single contiguous property on the same stream system, the application also shall include or be accompanied by:

(A) Preliminary plans, specifications and supporting information for the dam and impoundment area including dam height, width, crest width and surface area;

(B) Proposed dates for the beginning and completion of construction of the reservoir, the date the water will be stored and put to beneficial use and the uses to be made of the impounded water;

(C) A legal description of the property upon which the water is to be stored;

(D) A map of the proposed place of use prepared, stamped, and signed by a certified water right examiner in accordance with OAR 690--310-0050 unless the application is to construct a reservoir storing less than 9.2 acre-feet of water or with a dam less than 10 feet in height, in which case the map need not be prepared by a certified water right examiner.

(d) If the application is to appropriate stored surface water, the application also shall include or be accompanied by documentary evidence that:

(A) The applicant has provided notice of the application to the operator of the reservoir, if other than the applicant. This requirement may be satisfied by providing a copy of written notice to the operator of the reservoir, or a notarized affidavit signed by the applicant stating that notice has been provided to the operator of the reservoir;

(B) An agreement has been entered into with the owner of the reservoir to provide enough water for the purposes set forth in the application. If the applicant is the reservoir owner, no such agreement is required. If the application is made under the expedited review process for applications to use stored water under OAR 690-340-0060, the agreement may be submitted at any time prior to permit issuance; and

(C) An agreement has been entered into with any entity delivering the stored water other than the applicant. If the application is made under the expedited review process for applications to use

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stored water under OAR 690-340-0060, the agreement may be submitted at any time prior to permit issuance.

(e) If for agricultural purposes, in addition to any other information required, the application shall give the legal subdivisions of the land and the acreage to be irrigated, as near as may be;

(f) Except as otherwise provided in OAR 690, division 51, if for power purposes, in addition to any other information required, the application shall give the nature of the works by means of which the power is to be developed, the head and amount of water to be utilized, and the uses to which the power is to be applied;

(g) If for municipal or quasi-municipal water supply, in addition to any other information required, the application shall give the already installed and available capacities to provide water service, present population to be served, and, as near as may be, the future requirements of the population served, and if known, the methods that may be used to meet such future requirements;

(h) If for mining purposes, in addition to any other information required, the application shall give the nature of the mines to be served, and the methods of supplying and utilizing the water.

(2) Each application for a permit to appropriate water shall be accompanied by the portion of the examination fee set forth in ORS 536.050 stated on the Department's application form.

(3) If the proposed use of the water is for operation of a chemical process mine as defined in ORS 517.953, the applicant shall provide the information required under this section as part of the consolidated application under ORS 517.952 to 517.989.

(4) If the department determines that the source of a proposed use of water is in or above a scenic waterway, in addition to any other information required, the applicant shall provide the information required under OAR 690-310-0260.

(5) If the application is to appropriate ground water for group domestic use expanded for a public water system in an amount of water equivalent to the amount of water provided by abandoned water wells as provided in OAR 690-310-0130(3) and (4), the applicant shall provide evidence that, prior to being abandoned, the wells had used water as provided in:

(a) ORS 537.545 (1)(d); or

(b) If used by a household, ORS 537.545 (1)(b) and (d).

Statutory/Other Authority: ORS 536.027

Statutes/Other Implemented: ORS 390.835, ORS 517.952 - 517.989, ORS 536.050, ORS 537.140, ORS 537.615, ORS 537.545, Or Laws 2025, ch 282, section 14, Or Laws 2025, ch 282, section 20, Or Laws 2025, ch 605, section 20.

History:

WRD 3-2007, f. 3-28-07, cert. ef. 3-29-07

WRD 5-2004, f. & cert. ef. 6-15-04

WRD 1-1996, f. & cert. ef. 1-31-96, Renumbered from 690-011-0020

WRD 5-1995(Temp), f. & cert. ef. 8-4-95

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WRD 5-1994, f. & cert. ef. 4-13-94
 WRD 9-1992, f. & cert. ef. 7-1-92
 WRD 16-1990, f. & cert. ef. 8-23-90
 WRD 12-1990, f. & cert. ef. 8-8-90
 WRD 5-1988, f. & cert. ef. 6-28-88
 WRD 6-1987, f. & ef. 6-11-87

Rule Summary: This rule is amended to (a) require the email address, if available, of the applicant(s); (b) require that the application contain the name and mailing address of the owner of any land within the place of use so that the Department can fulfill its obligations under OAR 690-310-0020(1); (c) remove the option to meet the OAR 690-310-0040(1)(a)(L) application completeness requirement by submitting a receipt from a local government official, as this does not provide any information about land use compatibility; (d) require the application to include verification of signatory authority for a person(s) signing on behalf of an entity; (e) remove required information that is otherwise available to the Department; (f) specify that the map must be stamped and signed by, a certified water right examiner; (g) correct the rule reference for map requirements; (h) implement Or. Laws 2025, ch 282, sections 14 and 20, with respect to partial fee collection upon application submission; and (i) implement Or. Laws 2025, ch 605, section 20, to ensure the application contains sufficient information for the Department to determine if the application qualifies as an application described in OAR 690-310-0130(3) related to replacing wells with group water systems in groundwater quality management areas.

Amend

690-310-0050

Map to Accompany Application for Water Use Permit

Maps submitted as part of an application for water use permit shall meet the standards in OAR chapter 690, division 305.

Statutory/Other Authority: ORS 536.027

Statutes/Other Implemented: ORS 537.140, ORS 537.615

History:

WRD 1-2012, f 1-31-12, cert. ef. 2-1-12
 WRD 1-1996, f. & cert. ef. 1-31-96, Renumbered from 690-011-0070
 WRD 51-1995(Temp), f. & cert. ef. 8-4-95
 WRD 16-1990, f. & cert. ef. 8-23-90
 WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88
 WRD 6-1987, f. & ef. 6-11-87

Rule Summary: This rule is amended to refer to the standards in OAR chapter 690, division 305 for greater clarity and consistency in mapping requirements across water right transactions.

690-310-0060

Permits for Livestock Watering Outside of Riparian Areas (SB 150, 1989); Fees

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(1) Applications for permits to use water exclusively for livestock watering outside of riparian areas are subject to the following reduced fees:

- (a) For examining the application, \$40;
- (b) For filing and recording the permit, \$10.

(2) Applications submitted under this rule shall in all other respects be subject to the usual requirements for application processing.

Statutory/Other Authority: ORS 536.025 & 536.027

Statutes/Other Implemented: ORS 536.050

History:

WRD 5-2004, f. & cert. ef. 6-15-04

WRD 1-1996, f. & cert. ef. 1-31-95, Renumbered from 690-011-0048

WRD 5-1995(Temp), f. & cert. ef. 8-4-95

WRD 9-1992, f. & cert. ef. 7-1-92, Renumbered from 690-011-0083

WRD 9-1989, f. & cert. ef. 11-20-89

WRD 6-1989(Temp), f. 9-29-89, cert. ef. 10-3-89

Amend

690-310-0070

Completeness Review

(1) Within 15 days after receiving an application, the Department shall determine whether the application contains the information required under OAR 690-310-0040 and is complete and not defective, including the payment of the portion of the examination fees stated in the application form. If the Department determines that the application is incomplete or defective or that the portion of the examination fees stated in the application form has not been paid, the Department shall return all fees and the application.

(2) Upon determining that an application contains the required information and is complete and not defective, the Department shall indorse on the application the date upon which the application was received for filing at the Department. All applications that comply with the provisions of law shall be recorded in a suitable book kept for that purpose. For the purposes of this section, a suitable book shall include the Department's electronic water rights information system.

(3) The priority date for use of water not previously reserved under OAR 690, division 79 shall be the date the application was received for filing by the Department.

(4) If an application for the use or storage of surface water is complete and not defective, the Department shall determine whether the proposed use is prohibited because the source of water is withdrawn from appropriation under ORS 538 or by rule or order of the Water Resources Commission under ORS 536.410, if the Department has information sufficient to make the determination at the time of application intake. If the proposed use is prohibited, the Department

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shall return the application and return the portion of the fees stated in the application form to the applicant with an explanation of the reason for the return.

(5) If an application to appropriate groundwater is complete and not defective, the Department shall determine whether the proposed use is prohibited because the source of water is designated as a critical groundwater area under ORS 537.730, subject to restrictions on allowed groundwater uses by classification under ORS 536.340, or withdrawn from appropriation under ORS Chapter 538 or by rule or order of the Water Resources Commission under ORS 536.410, if the Department has information sufficient to make the determination at the time of application intake. If the proposed use is prohibited, the Department shall return the application and return the portion of the fees stated in the application form to the applicant with an explanation of the reason for the return. This subsection does not apply to applications related to the recovery of groundwater under an artificial recharge or aquifer storage and recovery project, or under ORS 536.295.

Statutory/Other Authority: ORS 536.027

Statutes/Other Implemented: ORS 537.150, ORS 537.620, ORS 536.340, ORS 536.410, ORS 537.730, ORS 538, Or Laws 2025, ch 282, section 14, Or Laws 2025, ch 282, section 20.

History:

WRD 1-1996, f. & cert. ef. 1-31-96

Rule Summary: This rule is amended to implement Or. Laws 2025, ch 282, sections 14 and 20. This amendment requires the Department to return applications and refund the relevant portion of fees if an application is for a prohibited use from: (a) a surface water source that is withdrawn from appropriation; or (b) a groundwater water source that is designated as a critical groundwater area, restrictively classified, or withdrawn from appropriation. This amendment does not apply to groundwater applications for recovery of groundwater under artificial recharge or aquifer storage and recovery project or if requesting an exception to basin program rules.

Amend

690-310-0080

Initial Review

(1) If the proposed use is not prohibited as described in OAR 690-310-0070(4) or (5), the Department shall undertake an initial review of the application and make a preliminary determination of:

- (a) Whether the proposed use is restricted or limited by statute or rule;
- (b) Except for applications described in ORS 537.615(7), the extent to which water is available from the proposed source during the times and in the amounts requested; and
- (c) Any other issue the Department identifies as a result of the initial review that may preclude approval of or restrict the proposed use.

(2) Upon completion of the initial review and no later than 30 days after determining an application to be complete and not defective as described in OAR 690-310-0070, the Department

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shall send the applicant an initial review report setting forth the Department's preliminary determinations. The initial review report shall be sent by electronic means, unless the applicant has requested mailing or other sending in written form, and notify the applicant of the remaining portion of the examination fee due. The applicant shall have 90 days from the date the Department sends the initial review report within which to notify the Department in writing to stop processing the application or to proceed with the application. If the applicant notifies the Department to stop processing the application, does not notify the Department whether to proceed with processing the application, or does not pay the remaining portion of the fee due, the Department shall permanently close the application file and take no further action on the application.

Statutory/Other Authority: ORS 536.027

Statutes/Other Implemented: ORS 537.150, ORS 537.620, ORS 537.615; Or Laws 2025, ch 282, section 2, Or Laws 2025, ch 282, section 14, Or Laws 2025, ch 282, section 20; Or Laws 2025, ch 605, section 35.

History:

WRD 6-2014, f. 11-25-14, cert. ef. 1-1-15

WRD 1-2012, f 1-31-12, cert. ef. 2-1-12

WRD 1-1996, f. & cert. ef. 1-31-96

Rule Summary: This rule is amended to (a) implement electronic documentation requirements under Or Laws 2025, ch 282, section 2; (b) implement Or Laws 2025, ch 282, sections 14 and 20, requiring affirmative confirmation and payment of all remaining fees within 90 days of initial review for OWRD to continue processing an application; (c) closure of the file without further notice if the applicant chooses not to advance or does not respond within the allotted time; and (d) implement Or. Laws 2025, ch 605, section 35, exempting the water availability analysis for groundwater applications for group domestic use expanded for a public water system in an amount of water equivalent to the amount of water provided by abandoned water wells.

Amend

690-310-0090

Public Notice and Comments

(1) If the applicant notifies the Department to proceed with the application as provided in OAR 690-310-0080(2) and pays any remaining portion of the application examination fees, the Department shall proceed with processing the application. The Department shall give notice of the initial review in the weekly public notice of the Department and accept written public comments for 30 days. The notice shall include a request for comments on the application, the date by which comments must be received by the Department, information about how an interested person may view or obtain future notices about the application and a copy of the proposed final order and information about how an interested person may review the application or obtain a copy of the application. The notice also shall include the following information about the application:

(a) Type of water use application;

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- (b) County of water use;
 - (c) Application file number;
 - (d) Applicant name and address;
 - (e) Amount of proposed water use in gallons per minute (gpm), cubic feet per second (cfs) or acre feet (af) of storage;
 - (f) Common name of surface water source(s) or basin;
 - (g) Nature of use; and
 - (h) Location of the proposed point of diversion by section, quarter-quarter, township and range.
- (2) The weekly notice shall be sent to the following:
- (a) Affected local, state and federal agencies, including the planning departments of affected local governments;
 - (b) Property owners listed on an application pursuant to OAR 690-310-0040;
 - (c) Affected Indian Tribes; and
 - (d) All persons on the Department's weekly mailing list.
- (3) The notice shall be sent by electronic means unless the recipient has requested mailing or other sending of the document in written form.
- (4) Within 30 days after the public notice under section (1) of this rule, any person interested in the application shall submit written comments to the Department. Any person who requests a copy of the Department's proposed final order shall submit to the Department a written request accompanied by the fee required under ORS 536.050(1). The 30-day comment period shall commence on the day the Department sends the notice. All comments must be received by the Department on or before 5 p.m. on the last day of the 30-day comment period.

Statutory/Other Authority: ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 536.050, ORS 536.220, ORS 536.300, ORS 536.310, ORS 537.150, ORS 537.620, ORS 537.338, ORS 537.356 - 537.358; Or Laws 2025, ch 282.

History:

WRD 1-2012, f 1-31-12, cert. ef. 2-1-12

WRD 1-1996, f. & cert. ef. 1-31-96, Renumbered from 690-011-0155

WRD 51-1995(Temp), f. & cert. ef. 8-4-95

WRD 9-1992, f. & cert. ef. 7-1-92

Rule Summary: This rule is amended to (a) implement electronic documentation requirements under Or Laws 2025, ch 282, section 2; (b) remove the requirement for affected local, state and federal agencies to post a copy of the Department's weekly public notice, given that all members of the public can access the Department's weekly public notice online; and (c) remove OAR 690-310-0090(5), because it is inconsistent with OAR 690-005-0035(4)(a).

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Amend**690-310-0100****Completion of Application Review; Additional Information and Proposed Final Order**

(1) Within 60 days after the applicant notifies the Department to proceed with the application as provided in OAR 690-310-0080(2) and pays any remaining portion of the application examination fees, the Department shall complete application review and issue a proposed final order approving or denying the application or approving the application with modifications or conditions.

(2) The Department may request the applicant to provide additional information needed to complete the review. If the Department requests additional information, the request shall be specific and shall be sent to the applicant by electronic means, unless the applicant has requested mailing or other sending in written form. The Department shall specify a date by which the information must be returned, which shall be not less than 10 days after the Department sends the request to the applicant. If the Department does not receive the information or a request for a time extension under OAR 690-310-0270 by the date specified in the request, the Department may reject the application and may refund fees in accordance with ORS 536.050(4)(a). The time period specified by the Department in a request for additional information shall allow the Department to comply with the 60-day time limit established by this subsection.

Statutory/Other Authority: ORS 536.027

Statutes/Other Implemented: ORS 537.153, ORS537.621, Or Laws 2025, ch 282

History:

WRD 1-2012, f. 1-31-12, cert. ef. 2-1-12

WRD 1-1996, f. & cert. ef. 1-31-96

Rule Summary: This rule is amended to implement partial payment and electronic documentation under Or Laws 2025, ch 282 and to add numbering for readability.

690-310-0110**Public Interest Presumption; Surface Water**

(1) The Department shall presume that a proposed surface water use will not impair or be detrimental to the public interest if:

(a) The proposed use is allowed in the applicable basin program established pursuant to ORS 536.300 and 536.340 or given a preference under ORS 536.310(12);

(b) Water is available;

(c) The proposed use will not injure other water rights; and

(d) The proposed use complies with the rules of the Commission.

(2) The presumption described in section (1) of this rule is a rebuttable presumption and may be overcome by a preponderance of the evidence that either:

(a) One or more of the criteria for establishing the presumption are not satisfied; or

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(b) The proposed use will impair or be detrimental to the public interest as demonstrated in comments, protests or a finding of the Department that shows:

(A) The specific public interest under ORS 537.170(7) that would be impaired or detrimentally affected; and

(B) Specifically how the identified public interest would be impaired or detrimentally affected.

Statutory/Other Authority: ORS 536.027

Statutes/Other Implemented: ORS 537.153, ORS 537.170, ORS 536.310

History:

WRD 1-1996, f. & cert. ef. 1-31-96

Amend

690-310-0120

Public Interest Review; Surface Water

(1) Before issuing a proposed final order, the Department shall determine whether the public interest presumption is established for the proposed water use, as described in OAR 690-310-0110.

(2) If the Department determines that the public interest presumption is not established, the Department shall determine whether the proposed use will impair or be detrimental to the public interest considering the factors listed in ORS 537.170(7) and may either:

(a) Propose denial of the application upon a finding that the use will impair or be detrimental to the public interest; or

(b) Make specific findings to demonstrate that even though the presumption is not established, the proposed use will not impair or be detrimental to the public interest and propose approval of the application with appropriate modifications or conditions.

(3) If the Department determines that the presumption is established or that the proposed use can be modified or conditioned to meet the presumption criteria:

(a) The Department shall further evaluate the proposed use, any comments received, information available in its files or received from other interested agencies and any other available information to determine whether the presumption is overcome. The Department may find that the presumption is overcome if a preponderance of evidence shows that the proposed use will impair or be detrimental to the public interest as demonstrated in comments or a finding of the Department that shows:

(A) The specific public interest under ORS 537.170(7) that would be impaired or detrimentally affected; and

(B) Specifically how the identified public interest would be impaired or detrimentally affected.

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(b) In making the determination in (3)(a) of this rule, the Department shall, at a minimum, consider the factors listed below, including any potential effects that the proposed use may have on these factors, where applicable:

(A) Water use efficiency and the avoidance of waste;

(B) Threatened, endangered or sensitive species;

(C) Water quality, with special attention to sources either listed as water quality limited or for which total maximum daily loads have been set under section 303(d) of the federal Clean Water Act and sources which the Environmental Quality Commission has classified as outstanding resource waters as defined in OAR 340-041-0006(42);

(D) Fish or wildlife;

(E) Recreation;

(F) Economic development; and

(G) Local comprehensive plans, including supporting provisions such as public facilities plans.

(c) In making the determination in (3)(a) of this rule, the Department may consult and communicate with state and federal agencies and local governments, as appropriate.

(4) If the Department determines that the presumption is established and not overcome under the provisions of section (3) of this rule, the Department shall issue a proposed final order recommending issuance of the permit subject to any appropriate modifications or conditions. If the Department then receives a protest filed pursuant to OAR 690-310-0160, which asserts the presumption is not established or should be overcome, the Department shall evaluate the protest and supporting evidence in accordance with this section and section (5)–(6) of this rule. The Department shall find that the presumption is overcome if a preponderance of evidence shows that:

(a) One or more of the four presumption criteria listed in OAR 690-310-0110(1)(a)–(d) are not met; or

(b) The proposed use will impair or be detrimental to the public interest as demonstrated in comments, protests or a finding of the Department that shows:

(A) The specific public interest under ORS 537.170(7) that would be impaired or detrimentally affected; and

(B) Specifically how the identified public interest would be impaired or detrimentally affected.

(5) If the Department finds that under section (4) of this rule the presumption is overcome, the Department shall issue a final order in accordance with OAR 690-310-0190 denying the application unless the Department makes specific findings to demonstrate that considering all of the public interest factors listed in ORS 537.170(7) the issuance of a permit will not impair or be detrimental to the public interest.

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(6) If the Department finds that under section (4) of this rule the presumption is not overcome, the Department shall issue a final order in accordance with OAR 690-310-0190 approving the application with any appropriate modifications or conditions.

Statutory Auth.: ORS 536.027

Statutes/Other Implemented: ORS 537.153, ORS 537.170

History:

WRD 1-1996, f. & cert. ef. 1-31-96

Rule Summary: This rule is amended to (a) remove provisions referring to application withdrawal after the initial review as this process is already established in OAR 690-310-0080; (b) remove the provisions related to protests that have been moved to OAR 690-310-0160; and (c) update citations to ORS 537.170(7) consistent with statutory renumbering.

Amend

690-310-0130

Public Interest Presumption; Groundwater

(1) The Department shall presume that a proposed groundwater use will ensure the preservation of the public welfare, safety and health as described in ORS 537.525 if:

(a) The proposed use is allowed in the applicable basin program established pursuant to ORS 536.300 and 536.340 or given a preference under ORS 536.310(12);

(b) Water is available;

(c) The proposed use will not injure other water rights; and

(d) The proposed use complies with the rules of the Commission.

(2) (a) The presumption described in subsection (1) of this section is a rebuttable presumption and may be overcome by a preponderance of the evidence that either:

(A) One or more of the criteria for establishing the presumption are not satisfied; or

(B) The proposed use would not ensure the preservation of the public welfare, safety and health as demonstrated in comments, protests or a finding of the Department that shows:

(i) The specific aspect of the public welfare, safety and health under ORS 537.525 that would be impaired or detrimentally affected; and

(ii) Specifically how the identified aspect of the public welfare, safety and health under ORS 537.525 would be impaired or detrimentally affected.

(b) In lieu of the factors described in subsections (1) and (2)(a) of this section, the Department shall presume that a proposed use will ensure the preservation of the public welfare, safety and health if the application is for group domestic use expanded for a public water system located in a ground water quality management area declared under ORS 468B.180 for an amount of water equivalent to the amount of water provided by abandoned water wells as provided in section (3).

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(3) Notwithstanding any contrary provision of law, and subject to subsection (4) of this section, the Department may approve an application under ORS 537.615 by a public water system to appropriate ground water in a ground water quality management area declared under ORS 468B.180 for group domestic use expanded in an amount of water equivalent to the amount of water provided by abandoned water wells that, prior to being abandoned, had used water as provided in:

(a) ORS 537.545 (1)(d); or

(b) If used by a household, ORS 537.545 (1)(b) and (d).

(4) The Department may not approve an application described in subsection (3) of this section unless:

(a) The amount of equivalent water described in subsection (3) of this section is less than or equal to 5,000 gallons per abandoned well per day; and

(b) The impact of the proposed public water system well on hydraulically connected surface water bodies is similar to or less than the cumulative impact of the abandoned water wells described in this section.

Statutory/Other Authority: ORS 536.027

Statutes/Other Implemented: ORS 537.525, 537.621, ORS 536.300, ORS 536.310, ORS 536.340, ORS 468B.180, ORS 537.545, Or Laws 2025, ch 605, section 20, Or Laws 2025, ch 605, section 34

History:

WRD 1-1996, f. & cert. ef. 1-31-96

Rule Summary: This rule is amended to implement the provisions of Or Laws 2025, ch 605, sections 20 and 34, with respect to groundwater permit issuance in a groundwater quality area to consolidate drinking water wells.

Amend

690-310-0140

Public Interest Review; Groundwater

(1) Before issuing a proposed final order, the Department shall determine whether the presumption under OAR 690-310-0130 is established for the proposed groundwater use, as described in OAR 690-310-0130.

(2) If the Department determines that the presumption is not established, the Department shall determine whether the proposed use will impair or adversely affect the public welfare, safety and health under ORS 537.525 and may either:

(a) Propose denial of the application upon a finding that the use will impair or adversely affect the public welfare, safety and health; or

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(b) Make specific findings to demonstrate that even though the presumption is not established, the proposed use will not impair or adversely affect the public welfare, safety and health and propose approval of the application with appropriate modifications or conditions.

(3) If the Department determines that the presumption is established or that the proposed use can be modified or conditioned to meet the presumption criteria:

(a) The Department shall further evaluate the proposed use, any comments received, information available in its files or received from other interested agencies and any other available information to determine whether the presumption is overcome. The Department may find that the presumption is overcome if a preponderance of evidence shows that the proposed use will not ensure the preservation of the public welfare, safety, and health under ORS 537.525 as demonstrated in comments or a finding of the Department that shows:

(A) The specific aspect of the public welfare, safety, and health under ORS 537.525 that would be impaired or detrimentally affected; and

(B) Specifically how the identified aspect of the public welfare, safety, and health under ORS 537.525 would be impaired or adversely affected.

(b) In making the determination in (3)(a) of this rule, the Department shall, at a minimum, consider the factors listed below, including any potential effects that the proposed use may have on these factors, where applicable:

(A) Water use efficiency and the avoidance of waste;

(B) Threatened, endangered or sensitive species;

(C) Water quality;

(D) Fish or wildlife;

(E) Recreation;

(F) Economic development;

(G) Local comprehensive plans, including supporting provisions such as public facilities plans;

(H) Stability of groundwater levels; and

(I) Thermal characteristics of groundwater source.

(c) In making any determination or finding in subsection (3)(a) of this rule, the Department may consult and communicate with state and federal agencies and local governments, as appropriate.

(4) If the Department determines that the presumption is established and not overcome under the provisions of section (3) of this rule, the Department shall issue a proposed final order recommending issuance of the permit subject to any appropriate modifications or conditions. If the Department then receives a protest filed pursuant to OAR 690-310-0160, which asserts the presumption is not established or should be overcome, the Department shall evaluate the protest

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and supporting evidence in accordance with this section and section (5)–(6) of this rule. The Department shall find that the presumption is overcome if a preponderance of evidence shows that:

- (a) One or more of the four presumption criteria listed in OAR 690-310-0130(1)(a)–(d) are not met; or
- (b) The proposed use would not ensure the preservation of the public welfare, safety and health, including:
 - (A) The specific aspect of the public welfare, safety and health that would be impaired or detrimentally affected; and
 - (B) Specifically how the identified aspect of the public welfare, safety and health would be impaired or detrimentally affected.
- (5) If the Department finds under section (4) of this rule that the presumption is overcome, the Department shall issue a final order in accordance with OAR 690-310-0190 denying the application unless the Department makes specific findings to demonstrate that the issuance of a permit will ensure the preservation of the public welfare, safety and health under ORS 537.525.
- (6) If the Department finds under section (4) of this rule that the presumption is not overcome, the Department shall issue a final order in accordance with OAR 690-310-0190 approving the application with any appropriate modifications or conditions.

Statutory/Other Authority: ORS 536.027

Statutes/Other Implemented: ORS 537.525, ORS 537.621

History:

WRD 1-1996, f. & cert. ef. 1-31-96

Rule Summary: This rule is amended to (a) remove provisions referring to application withdrawal after the initial review to simplify the rule, as this process is already established in OAR 690-310-0080; and (b) remove the provisions related to protests that have been moved to OAR 690-310-0160.

Amend

690-310-0150

Proposed Final Order

- (1) In developing the proposed final order, the Department shall consider all comments received under OAR 690-310-0090(4), but the proposed final order need not separately address each comment received.
- (2)(a) The proposed final order shall cite findings of fact and conclusions of law and shall include but need not be limited to:
 - (A) Confirmation or modification of the preliminary determinations made in the initial review;

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- (B) A brief statement that explains the criteria considered relevant to the decision, including the applicable basin program and the compatibility of the proposed use with applicable land use plans;
- (C) An assessment of water availability;
- (D) The amount of water necessary for the proposed use;
- (E) An assessment of whether the proposed use would result in injury to existing water rights;
- (F) If the application is for the use of surface water, an assessment of whether the proposed use would impair or be detrimental to the public interest as provided in ORS 537.170;
- (G) If the application is for the use of ground water, an assessment of whether the proposed use would ensure the preservation of the public welfare, safety and health as described in ORS 537.525;
- (H) Whether the rebuttable presumption set forth in OAR 690-310-0110 or 690-310-0130 has been established;
- (I) If the public interest presumption is established, the Department's determination as to whether the presumption is overcome.
- (J) An assessment of the measures, if any, proposed by the applicant to prevent waste, measure the amount of water diverted, prevent damage to aquatic life and riparian habitat, prevent discharge of contaminated water to a surface stream and to prevent damage to public uses of any affected surface waters;
- (K) A draft permit, including any proposed conditions, or a recommendation to deny the application; and
- (L) The dates by which protests to the proposed final order and requests for party status must be received by the Department.
- (b) Notwithstanding paragraph (a) of this subsection, if the application is to appropriate ground water for group domestic use expanded for a public water system located in a ground water quality management area declared under ORS 468B.180 for an amount of water equivalent to the amount of water provided by abandoned water wells as provided in OAR 690-310-0130(3) and (4), the proposed final order need not cite the findings of fact and conclusions of law described in paragraph (a)(B) to (E) of this subsection, except that the order must include a brief statement that explains the criteria considered relevant to the decision and the compatibility of the proposed use with applicable land use plans.
- (3) The Department shall send copies of the proposed final order to the applicant by registered or certified mail. The Department shall send copies of the proposed final order by electronic means, unless the recipient requests mailing, to persons other than the applicant who have requested copies and paid the fee required under ORS 536.050. Within seven days after issuing the proposed final order, the Department also shall publish notice of the proposed final order by publication in the weekly notice published by the Department.

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Statutory/Other Authority: ORS 536.027**Statutes/Other Implemented:** ORS 537.153, ORS 537.621, ORS 537.620, ORS 537.615, ORS 537.525, ORS 183.415, Or Laws 2025, ch 605, section 20, Or Laws 2025, ch 605, sections 33 - 36, Or Laws 2025, ch 575, section 3a, Or Laws 2025, ch 575, section 5a, Or Laws 2025, ch 575, section 16a**History:**

WRD 1-2012, f. 1-31-12, cert. ef. 2-1-12

WRD 5-2004, f. & cert. ef. 6-15-04

WRD 1-1996, f. & cert. ef. 1-31-96

Rule Summary: This rule is amended to (a) implement Or Laws 2025, ch 605, sections 20, 33, 34, 35, and 36 with respect to consolidation of wells to a public water system (b) implement Or Laws 2025, ch 575, sections 3a, 5a, and 16a with respect to the replacement of requests for standing with requests for party status; (c) remove redundant language requiring notice of the proposed final order to include an explanation of the requirement to raise all issues in a protest, as notice of that requirement is required by ORS 183.415(3)(a) and 2025 legislation; (d) reflect that, under ORS 183.415(2), the Department must send the proposed final order to the applicant by certified or registered mail; and (e) implement Or Laws 2025, ch 575, section 5a, by deleting the reference to a deadline for the applicant to request a contested case hearing that is different from the protest deadline.**Amend****690-310-0160****Protests and Conduct of Contested Case; Final Orders on Default when No Protest Filed**

(1) Proposed final orders shall become final if no protest is filed or by default as provided in OAR 690-002-0235. Protests of, requests for party status, and contested case proceedings concerning proposed final orders are governed by Or Laws 2025, ch 575, and OAR chapter 690, division 002.

(2) Within 60 days after the close of the period for receiving protests, if a protest was timely submitted, the Department shall:

(a) Issue a final order as provided under ORS 537.170 (1) or (2), if the applicant has not filed a protest and the director finds that there are no significant issues related to the proposed use of water;

(b) Schedule a contested case hearing if a protest has been submitted; or

(c) Provide any person who timely submitted a protest or request for party status with an estimate of the timing of referring the contested case to the Office of Administrative Hearings for a hearing and notice that parties may provide settlement proposals.

Statutory/Other Authority: ORS 536.027**Statutes/Other Implemented:** ORS 537.153, ORS 537.170, ORS 537.621, ORS 537.622, Or Laws 2025, ch 575**History:**

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WRD 5-2004, f. & cert. ef. 6-15-04

WRD 1-1996, f. & cert. ef. 1-31-96

Rule Summary: This rule amendment implements Or Laws 2025, ch 575, sections 3 and 5a, by adding procedures concerning actions the Department must take when a protest is timely filed, noting that protests of and contested case proceedings concerning proposed final orders are governed by Or Laws 2025, ch 575 and OAR chapter 690, division 2, and removing rules concerning requirements for protests and requests for standing that have been replaced with rules in OAR Chapter 690, division 2 that are consistent with Or Laws 2025, ch 575.

Repeal

~~690-310-0170~~

~~Determination of Director to Refer Application for Contested Case Hearing, Final Order of Director~~

~~(1) Within 60 days after the close of the period for receiving protests, the Director shall determine whether to:~~

~~(a) Issue a final order as provided under OAR 690-310-0190 or 690-310-0200; or~~

~~(b) Schedule a contested case hearing.~~

~~(2) The Director:~~

~~(a) May schedule a contested case hearing if:~~

~~(A) A protest has been submitted; and~~

~~(B) Upon review of the issues, the Director finds that there are significant disputes related to the proposed use of water.~~

~~(b) Shall schedule a contested case hearing, if within 30 days after the close of the period for submitting protests, the applicant submits the information required for a protest under OAR 690-310-0160 and requests a contested case hearing.~~

~~(3) As soon as possible after making a determination under subsection (1) of this rule to refer an application to a contested case hearing, the Director shall advise the applicant, the protestant and any person requesting standing that the matter is being referred to contested case hearing and describe the procedure each must follow to participate in the contested case hearing. Such notification to the participants shall not be considered to be the scheduling of the contested case hearing for purposes of the running of the 45 day time period under OAR 690-310-0180.~~

~~Statutory/Other Authority: ORS 536.027~~

~~Statutes/Other Implemented: ORS 537.153 & 537.621~~

~~History:~~

~~WRD 1-1996, f. & cert. ef. 1-31-96~~

Rule Summary: This rule is repealed because (a) the provisions concerning the actions the Department must take after the protest period ends have been revised in accordance with Or

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Laws 2025, ch 575, sections 5a and 16a, and moved to OAR 690-310-0160; and (b) the provisions concerning notice of referral for a contested case hearing have been revised and moved to OAR 690-002.

Repeal

~~690-310-0180~~

~~Conduct of Contested Case~~

~~(1) Within 45 days after the Director schedules a contested case hearing under OAR 690-310-0170, the Department shall hold the contested case hearing, which shall be conducted in accordance with the provisions of OAR 690, division 2. The issues to be considered in the contested case hearing shall be limited to issues identified by the hearings officer.~~

~~(2) The parties to any contested case hearing initiated under this section shall be limited to:~~

~~(a) The applicant;~~

~~(b) Any person who timely filed a protest; and~~

~~(c) Any person who timely filed a request for standing under OAR 690-310-0160, pays the fee required under ORS 536.050 for participating in the contested case hearing and requests to intervene in the contested case hearing prior to the start of the proceeding.~~

~~(3) The contested case proceeding shall be conducted in accordance with the applicable provisions of ORS 183.310 to 183.550 except:~~

~~(a) As provided in sections (1) and (2) of this rule; and~~

~~(b) An interlocutory appeal under ORS 183.480(3) shall not be allowed.~~

~~Statutory/Other Authority: ORS 536.027~~

~~Statutes/Other Implemented: ORS 537.170 & 537.622~~

~~History:~~

~~WRD 5-2004, f. & cert. ef. 6-15-04~~

~~WRD 1-1996, f. & cert. ef. 1-31-96~~

Rule Summary: This rule is repealed based on Or Laws 2025, ch 575, section 6's deletion of the portions of ORS 537.170 upon which this rule was based; the portion of the rule concerning the conduct of contested case proceedings has been revised in accordance with Or Laws 2025, ch 575, sections 2 and 5a and moved to OAR 690-310-0160.

Amend

690-310-0190

Final Order for Proposed Use of Surface Water when Proposed Final Order Protested

(1) If a protest of a proposed final order issued under ORS 537.153 is timely filed and, after the contested case hearing or, if a hearing is not held, after the close of the period allowed to file a protest, the Director determines that the proposed use of surface water does not comply with the standards set forth in ORS 543.017 or rules adopted by the Water Resources Commission under

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ORS 543.017 or would otherwise impair or be detrimental to the public interest, the Director shall issue a final order denying the application or modifying the proposed final order to conform to the public interest.

(2) If a protest of a proposed final order issued under ORS 537.153 is timely filed and, after the contested case hearing or, if a hearing is not held, after the close of the period allowed to file a protest, the Director determines that the proposed use of surface water would not impair or be detrimental to the public interest, the Director shall issue a final order approving the application or otherwise modifying the proposed final order.

(3) A final order may set forth any of the provisions or restrictions to be included in the permit concerning the use, control and management of the water to be appropriated for the project, including, but not limited to, a specification of reservoir operation and minimum releases to protect the public interest.

Statutory/Other Authority: ORS 536.027

Statutes/Other Implemented: ORS 537.170, ORS 537.153, Or Laws 2025, ch 575, section 3, Or Laws 2025, ch 575, section 6.

History:

WRD 1-1996, f. & cert. ef. 1-31-96

Rule Summary: This rule is amended to (a) implement Or Laws 2025, ch 575, section 6, to align with statutory updates to ORS 537.170 and (b) implement Or Laws 2025, ch 575, section 3, by making changes that reflect that the Director must issue a final order only when a protest is timely filed because under the new law, if no protest is timely filed, the proposed final order becomes a final order by operation of law.

Amend

690-310-0200

Final Order for Proposed Use of Groundwater when Proposed Final Order Protested

(1) If a protest of a proposed final order issued under ORS 537.621 is timely filed and, after the contested case hearing or, if a hearing is not held, after the close of the period allowed to file a protest, the Director determines that the proposed use of ground water does not ensure the preservation of the public welfare, safety and health as described in ORS 537.525, the Director shall issue a final order denying the application or modifying the proposed final order as necessary to ensure the preservation of the public welfare, safety and health as described in ORS 537.525.

(2) If a protest of a proposed final order issued under ORS 537.621 is timely filed and, after the contested case hearing or, if a hearing is not held, after the close of the period allowed to file a protest, the Director determines that the proposed use would ensure the preservation of the public welfare, safety and health as described in ORS 537.525, the Director shall issue a final order approving the application or otherwise modifying the proposed final order.

(3) A final order may set forth any of the provisions or restrictions to be included in the permit concerning the use, control and management of the water to be appropriated for the project.

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Statutory/Other Authority: ORS 536.027**Statutes/Other Implemented:** ORS 537.625, ORS 537.621, Or Laws 2025, ch 575, section 3.**History:**

WRD 1-1996, f. & cert. ef. 1-31-96

Rule Summary: This rule is amended to implement Or Laws 2025, ch 575, section 3 by making changes that reflect that the Director must issue a final order only when a protest is timely filed, because under the new law if no protest is timely filed, the proposed final order becomes a final order by operation of law.

Amend**690-310-0210****Contested Case Hearing on Final Order that Modifies Proposed Final Order**

If a timely protest of a proposed final order was filed by a person other than the applicant and, as described in ORS 537.153(7)(a) or 537.621(8)(a), the Director issues a final order without holding a contested case hearing, and the final order modifies the proposed final order, the applicant, a person granted party status or a protestant may submit a protest as provided in OAR 690-002-0220 within 14 days after the Director issues the final order. The issues on which a contested case hearing may be requested and conducted under this paragraph shall be limited to issues based on the modifications to the proposed final order. The Department must refer the protest to the Office of Administrative Hearings for hearing if the protestant is an applicant, unless the applicant withdraws the protest or the protest is resolved through a settlement prior to referral.

Statutory/Other Authority: ORS 536.027**Statutes/Other Implemented:** ORS 537.170, ORS 537.625, ORS 537.153, ORS 537.621, Or Laws, ch 575, section 6, Or Laws 2025, ch 575, section 18**History:**

WRD 1-1996, f. & cert. ef. 1-31-96

Rule Summary: This rule amendment implements Or Laws 2025, ch 575 sections 6(5) and 18(2), by conforming the rule to changes to ORS 537.170 and ORS 537.625 concerning final orders issued without a hearing that modify proposed final orders; the amendment also removes language from the rule that was based on portions of ORS 537.170 and ORS 537.625, which are now repealed by Or Laws 2025, ch 575, sections 6 and 18.

Amend**690-310-0220****Final Determination of Public Interest (Surface Water) or Public Welfare, Safety and Health (Groundwater)**

(1) If the presumption of public interest under OAR 690-310-0110 or 690-310-0130 is overcome, then before issuing a final order, the Director or the Commission, if applicable, shall make the final determination of whether the proposed use or the proposed use as modified in the proposed final order would impair or be detrimental to the public interest by considering the factors set

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forth in ORS 537.170(7) or, if the application is for the use of ground water, whether the proposed use or the proposed use as modified in the proposed final order would preserve the public welfare, safety and health as described in ORS 537.525 by considering the factors set forth in ORS 537.625(4).

(2) In complying with section (1), the Director shall consider all comments and protests received and all findings of the Department, but the final order need not separately address each comment and protest received.

(3) Upon issuing a final order, or upon a proposed final order becoming final by default as provided in OAR 690-002-0235, the Director shall notify the applicant and each person who submitted written comments or protests or otherwise requested notice of the final order and send a copy of the final order to any person who requested a copy and paid the fee required under ORS 536.050. Within seven days after issuing the final order, the Department also shall publish notice of the final order by publication in the weekly notice published by the Department.

Statutory/Other Authority: ORS 536.027

Statutes/Other Implemented: ORS 537.170, ORS 537.625, ORS 537.525, Or Laws 2025, ch 575, section 3.

History:

WRD 5-2004, f. & cert. ef. 6-15-04

WRD 1-1996, f. & cert. ef. 1-31-96

Rule Summary: This rule amendment (a) implements Or Laws 2025, ch 575, section 3 with respect to proposed final orders becoming final if no protest is filed or upon default and (b) updates statutory references.

Repeal

~~690-310-0230~~

~~Exceptions~~

~~Any party may file exceptions to the hearing referee's proposed order in the manner provided in OAR 690-002-0175.~~

~~Statutory/Other Authority: ORS 536.027~~

~~Statutes/Other Implemented: ORS 537.173 & 537.626~~

~~History:~~

~~WRD 1-1996, f. & cert. ef. 1-31-96~~

Rule Summary: This rule is repealed to remove the outdated reference to the Department's hearing referee and because the right to file exceptions and procedures for filing exceptions are addressed in OAR 137-003 and 690-002.

690-310-0240

Approval, Condition or Rejection of Permit Application Generally

(1) When an application discloses the probability of wasteful use or undue interference with existing wells or that any proposed use or well will impair or substantially interfere with existing

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rights to appropriate surface water by others, or that any proposed use or well will impair or substantially interfere with existing rights to appropriate ground water for the beneficial use of the water less than 250°F for its thermal characteristics, the Department may impose conditions or limitations in the permit to prevent the same or reject the application after hearing, or, in the Department's discretion, request the Water Resources Commission to initiate a rulemaking proceeding to declare the affected area a critical ground water area under ORS 537.730 to 537.740.

(2)(a) When an application discloses the probability that a proposed use or well will impair or interfere with the ability to extract heat from a well with a bottom hole temperature of at least 250°F, the Department may:

(A) Approve the permit;

(B) Impose conditions or limitations in the permit to prevent the probable interference or impairment;

(C) After a hearing under ORS 537.622, reject the application; or

(D) Request the Commission to initiate a rulemaking proceeding to declare the affected area a critical ground water area under ORS 537.730 to 537.740.

(b) In deciding whether to issue, deny or condition a permit under this subsection, the Department shall consider any orders or permits applicable to the ground water reservoir issued by the State Geologist or the governing board of the State Department of Geology and Mineral Industries under ORS Chapter 522.

(3) The Department may issue a permit for a water use that is conditioned or modified from the use originally proposed in the application only if the conditioned or modified use does not change the source of the water, increase the amount of land appurtenant to the water use or enlarge the proposed use of water in any way.

Statutory/Other Authority: ORS 536.027

Statutes/Other Implemented: ORS 537.190 & 537.629

History:

WRD 1-1996, f. & cert. ef. 1-31-96

690-310-0250

Permit Conditions Related to Well Construction and Maintenance

All permits for use of water from wells shall provide that the well shall be constructed in accordance with the Water Resources Department's General Standards for the Construction and Maintenance of Wells in Oregon. All permits shall further provide that the well may be controlled or shut off if a determination is made, in accordance with OAR 690-009, that it caused substantial interference with a surface water source.

Statutory/Other Authority: ORS 536.027

Statutes/Other Implemented: ORS 537.628, 537.629 & 537.780

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History:

WRD 1-1996, f. & cert. ef. 1-31-96

690-310-0260**Water Rights Within or Above State Scenic Waterways**

(1) Pursuant to the provisions of ORS 390.835, and these rules the Director is authorized to:

(a) Issue water rights within or above the designated reach of a scenic waterway provided the free-flowing character of the waterway is maintained in quantities necessary for recreation, fish and wildlife uses;

(b) Issue water rights for limited human consumption and livestock consumption uses within or above a designated reach of a scenic waterway when flows are less than quantities necessary for recreation, fish and wildlife.

(2) The Director may issue water rights under subsection (1)(b) of this rule for human consumption and livestock consumption uses upon the following findings:

(a) Issuing the water right does not significantly impair the free-flowing character of these waters in quantities necessary for recreation, fish and wildlife;

(b) Appropriation of water under the water right is consistent with the provisions of ORS Chapters 536 and 537 and OAR 690;

(c) Construction, operation and maintenance of the diversion system will be carried out in a manner consistent with the purposes set forth in ORS 390.805 to 390.925;

(d) Water rights for human consumption shall not exceed 0.005 cubic foot per second per household; and

(e) Water rights for livestock consumption uses shall not exceed one-tenth of one cubic foot per second per 1,000 head of livestock.

(3) In addition to the requirements under OAR 690-310-0040, an application to appropriate water for human consumption or livestock consumption uses under subsection (1)(b) of this rule shall include:

(a) Information which identifies all potential alternate source(s) of water, if any, and describes why the applicant cannot reasonably obtain water from such sources;

(b) If the application proposes to appropriate water for human consumption, evidence that denial of the application will result in loss of reasonable expectations for use of the property; and

(c) If the application proposes to appropriate water for livestock consumption use, a description of how livestock will be excluded from the stream and its riparian zone and information that the water right is necessary to prevent the livestock from watering in or along the stream bed.

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(4) In addition to the findings set out in section (2) of this rule, before a water right permit may be issued for human consumption or for livestock consumption uses under subsection (1)(b) of this rule the Director must find:

(a) The water right meets a need for a use which is given preference under ORS 536.310(12) when available supplies of water are insufficient to meet all uses;

(b) No alternate sources of water are reasonably available;

(c) For applications for human consumption, denial of the application will result in loss of reasonable expectations for use of the property;

(d) For applications for livestock consumption uses, the water right is necessary to prevent livestock from watering in or along the stream bed and the applicant has excluded livestock from the stream and its adjacent riparian zone; and

(e) Water is available within the combined cumulative total limitation described in section (5) of this rule.

(5) The Director shall limit the total water use authorized under subsection (1)(b) of this rule within or above each scenic waterway to no more than a combined cumulative total of one percent of the average daily flow or one cubic foot per second, whichever is less. Such combined cumulative total may be exceeded if representatives of the Departments of Water Resources, Parks and Recreation, Fish and Wildlife, Environmental Quality and the Division of State Lands agree that exceeding the one percent or one cubic foot per second limit will not significantly impair the free-flowing character of the waters in quantities necessary for recreation, fish and wildlife.

(6) Water rights issued for human consumption shall contain measuring and reporting conditions which require permittees to install meters or other suitable measuring devices, to keep complete records of amounts of water used and to submit periodic reports to the Department as specified in the permits.

(7) Water rights issued for livestock consumption uses shall contain conditions that require permittees to exclude livestock from the stream and its adjacent riparian zone.

(8) The Department's proposed final order shall:

(a) Set forth a summary of the findings required under sections (2) and (4) of this rule;

(b) State that the applicant has submitted the information described in section (3) of this rule;

(c) Identify the maximum amount of water available within or above the applicable scenic water way in accordance with the limitations set out in section (5) of this rule; and

(d) State the residual amount of water available from the source for the proposed human consumption or livestock consumption use.

(9)(a) The provisions of this rule shall not apply to a water right application for the use of ground water except upon a finding by the Director based on a preponderance of evidence that the use of

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ground water will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife;

(b) The Department shall review every application for the use of ground water to determine whether to make the finding specified in subsection (a) of this section. The finding shall be based upon the application of generally accepted hydrogeologic methods using relevant and available field information concerning the proposed use;

(c) In making the determination required by subsection (a) of this section, the Department shall consider the timing of projected impacts of the proposed use in relation to other factors, including but not limited to: Changing climate, recharge, incidental precipitation, out-of-stream appropriations and return flows;

(d) If the Director makes the finding specified in subsection (a) of this section, the Director shall issue an order denying the application unless:

(A) Mitigation is provided in accordance with provisions of ORS 390.835(9); or

(B) The applicant submits evidence to overcome the finding under subsection (a) of this section.

(e) Except as provided under section (12) of this rule, if the Director does not make the finding specified in subsection (a) of this section, the Director shall issue an order approving the application if the application otherwise meets the requirements of ORS 537.505 to 537.795 and rules adopted thereunder;

(f) A protest of any order issued under this subsection may be filed in the same manner as a protest on any application for a right to appropriate ground water;

(g) Each water right permit and certificate for appropriation of ground water issued after July 19, 1995, for which a source of appropriation is within or above a scenic waterway shall be conditioned to allow the regulation of the use if analysis of data available after the permit or certificate is issued discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of the right or as those quantities may be subsequently reduced;

(h) Nothing in this section shall limit the use of ground water for a use exempted under ORS 537.545.

(10) The Commission and the Director shall consider mitigation measures and may include mitigation measures as conditions in any water right permit or certificate to ensure the maintenance of the free-flowing character of the scenic waterway in quantities necessary for recreation, fish and wildlife.

(11) As used in this rule 'measurably reduce' means that the use authorized under section (9) of this rule will individually or cumulatively with other groundwater uses, reduce surface water flows within the scenic waterway in excess of a combined cumulative total of one percent of the average daily flow by month or one cubic foot per second, whichever is less, unless:

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- (a) The Department, the State Parks and Recreation Department, the State Department of Fish and Wildlife, the Department of Environmental Quality and the Division of State Lands unanimously agree to exceed that amount; and
- (b) exceeding that amount will not significantly impair the free-flowing character of these waters in quantities necessary for recreation, fish and wildlife.
- (12) Before authorizing an appropriation that will reduce streamflows within a scenic waterway in amounts up to but not exceeding the amounts described in section (11) of this rule, the Director shall find:
- (a) That the appropriation will not significantly impair the free-flowing character of these waters in quantities necessary for recreation, fish and wildlife.
- (b) That the appropriation is consistent with provisions pertaining to water appropriations and water rights under ORS Chapters 536 and 537 and the rules adopted thereunder.
- (c) That construction, operation and maintenance of the appropriation will be carried out in a manner consistent with the purposes set forth in ORS 390.805 to 390.925.

Statutory/Other Authority: ORS 536.027 & 390.835

Statutes/Other Implemented: ORS 390.835

History:

WRD 1-1996, f. & cert. ef. 1-31-96, Renumbered from 690-011-0196

WRD 5-1995(Temp), f. & cert. ef. 8-4-95

WRD 14-1994, f. & cert. ef. 11-14-94

Amend

690-310-0270

Timelines

- (1) Except as provided in section (2) of this rule, the Department shall issue a final order or schedule a contested case hearing on an application for a water right within 180 days after the Department proceeds with the application under OAR 690-310-0080(2).
- (2) If the applicant requests an administrative hold on processing of the application, the Department may extend the 180-day period set forth in section (1) of this rule for a reasonable period of time. The cumulative length of extensions requested through administrative holds shall not exceed 180 days except upon a finding by the Director that the applicant has shown that a longer extension is reasonable and necessary for the applicant to:
- (a) Bring a well into compliance with current minimum well construction standards, and the extension does not exceed two years;
- (b) Engage in collaborative conversations with interested parties that provided public comment under OAR 690-310-0090(4), and the extension does not exceed two years;
- (c) Explore mitigation under OAR 690, division 33 for impacts to sensitive, threatened, or endangered fish species, or mitigation under OAR 690-310-0260 for impacts to a scenic

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waterway, including submitting a mitigation proposal to the Department, and the extension does not exceed two years;

(d) Exhaust the administrative appeal process for a land use approval, and the extension does not exceed two years; or

(e) Collect Annual High Water Level data sufficient to evaluate Reasonably Stable Groundwater Levels, as those terms are defined in OAR 690-008, and the extension does not exceed seven years, except that the administrative hold shall expire if the applicant fails to submit the first static water level measurement to the Department within three years of approval of the administrative hold.

(3) If the applicant does not request an extension under section (2) of this rule and the Department fails to issue a proposed final order or schedule a contested case hearing on an application for a water right within 180 days after the Department proceeds with the application under OAR 690-310-0080(2), the applicant may apply in the Circuit Court for Marion County for a writ of mandamus to compel the Department to issue a final order or schedule a contested case hearing on an application for a water right. If the application is for an out-of-stream use or for the use of ground water, the writ of mandamus shall compel the Department to issue a water right permit, unless the Department shows by affidavit that to issue a permit may result in harm to an existing water right holder.

Statutory/Other Authority: ORS 536.027

Statutes/Other Implemented: ORS 537.175, ORS 537.627, Or Laws 2025, ch 575, section 7, Or Laws 2025, ch 575, section 19

History:

WRD 1-1996, f. & cert. ef. 1-31-96

Rule Summary: This rule is amended to (a) provide parameters on what qualifies as a reasonable and necessary extension on the application processing timeline requested by the applicant through an administrative hold, and (b) implement Or Laws 2025, ch 575 sections, 7 and 19, by removing subsection (3) of the rule that were based on subsections of ORS 537.175 and 537.628 now repealed by Or Laws 2025, ch 575, sections 7 and 19.

690-310-0275

Applicability of Mandatory Timelines

The mandatory timelines set forth in division 310 for processing applications shall not apply to applications filed before October 31, 1996.

Statutory/Other Authority: ORS 536.027

Statutes/Other Implemented: Sec. 46, Ch. 416 & OL 1995

History:

WRD 1-1996, f. & cert. ef. 1-31-96

690-310-0280

Assignment of Application

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Assignment or change of ownership of application:

- (1) When a change of interest or ownership occurs in lands covered by a pending application the record holder may request, in writing, the Director to record the assignment to the new owner;
- (2) Should the record holder of the application be unavailable, the current owner of the property involved may furnish proof of such ownership to the Commission to obtain ownership of the application. The Department shall also record a change in ownership to an heir or devisee under a will upon receiving proof of death of the record holder, or to a trustee upon receiving proof of a transfer to trust by the record holder. Proof of ownership of the involved lands shall include, but not be limited to one or more of the following documents:
 - (a) A copy of the deed to the land;
 - (b) A copy of a land sales contract;
 - (c) A court order or decree; or
 - (d) Documentation of survivorship of property held jointly.

Statutory/Other Authority: ORS 536.027

Statutes/Other Implemented: ORS 537.220 & 537.635

History:

WRD 3-2007, f. 3-28-07, cert. ef. 3-29-07

WRD 1-1996, f. & cert. ef. 1-31-96

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Division 315
WATER RIGHT PERMIT EXTENSIONS

Amend

690-315-0010

Purpose and Definitions

(1) OAR 690-315-0010 through 690-315-0100 establish the procedures and standards by which the Department shall evaluate applications for extensions of time for water right permit holders to:

(a) Begin actual construction pursuant to ORS 537.248 or as otherwise authorized by law; or

(b) Complete construction or completely apply water to the full beneficial use pursuant to ORS 537.230 and 537.630.

(2) OAR 690-315-0010 through 690-315-0100 do not apply to permit holders requiring Federal Energy Regulatory Commission permits pursuant to ORS 537.240.

(3) These rules shall become effective April 1, 2026. Except as provided in subsections (4) and (5), the rules in effect prior to April 1, 2026, apply to:

(a) extension applications for municipal, quasi-municipal, group domestic, and group domestic expanded uses submitted prior to April 1, 2026; and

(b) extension applications for all other uses if a proposed final order was issued on the extension application prior to April 1, 2026.

(4) The rules effective April 1, 2026, governing electronic forms of documents apply to applications submitted on or after April 1, 2026. The rules in effect prior to April 1, 2026, governing electronic submission of documents apply to applications submitted before April 1, 2026.

(5) The applicability of OAR 690-315-0060, and that portion of OAR 690-315-0100 incorporating OAR 690-315-0060, is governed by OAR chapter 690, division 002, including applicable operative dates for particular applications.

(6) For the purpose of the rules in this Division "Protest" has the same meaning as provided in OAR 690-002-0010.

(7) For the purpose of the rules in OAR 690-315-0070 through 690-315-0100:

(a) "Municipal Water Use" means the delivery and use of water through the water service system of a municipal corporation for all water uses usual and ordinary to such systems. Examples of these water uses shall include but are not limited to domestic water use, irrigation of lawns and gardens, commercial water use, industrial water use, fire protection, irrigation and other water uses in park and recreation facilities, and street washing. Such uses shall not include generation of hydroelectric power;

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(b) "Municipal Corporation" means any county, city, town or district as defined in ORS 198.010 or 198.180(5) that is authorized by law to supply water for usual and ordinary municipal water uses except: an irrigation district organized under ORS Chapter 545, a drainage district organized under ORS Chapter 547, a water improvement district organized under ORS Chapter 552, or a water control district organized under ORS Chapter 553;

(c) "Quasi-Municipal Water Use" means the delivery and use of water through the water service system of a corporation, other than a public corporation, created for the purpose of operating a water supply system, for those uses usual and ordinary to municipal water use, or a federally recognized Indian tribe that operates a water supply system for uses usual and ordinary to a municipal water use;

(d) "Fish species listed as sensitive, threatened, or endangered under state or federal law" and "Listed fish species" means fish species listed as threatened or endangered under the federal Endangered Species Act of 1973 (PL 93-205, 16 U.S.C., section 1531), as amended, or listed as sensitive, threatened or endangered by the Oregon State Fish and Wildlife Commission under ORS 496.172 to 496.176 and OAR chapter 635, division 100;

(e) "Use of the undeveloped portion of the permit" means the diversion of the undeveloped portion of a surface water permit or the impact on a stream from pumping the undeveloped portion of a ground water permit where the Department has determined there is a potential for substantial interference pursuant to OAR chapter 690, division 9;

(f) "Portions of waterways affected by water use under the permit" means those portions of the drainage basin at or below the point of diversion for a surface water permit or the location of impact on a stream from a ground water permit where the Department has determined there is a potential for substantial interference pursuant to OAR chapter 690, division 9 downstream to the lower-most point within the applicable river basin as identified by the Department pursuant to its authority under ORS 536.700;

(g) "Undeveloped portion of the permit" as applied to permits for municipal water use issued prior to November 2, 1998, for the first extension issued after June 29, 2005, means the difference between the maximum rate or duty specified in a water right permit and the maximum rate or duty diverted or appropriated for beneficial use as of the later of:

(A) June 29, 2005;

(B) The time specified in the permit to perfect the water right; or

(C) The time specified in the last-approved extension of time to perfect the water right.

(h) "Water Management and Conservation Plan" means a Water Management and Conservation Plan pursuant to OAR chapter 690, division 86.

Statutory/Other Authority: ORS 536.025 & 536.027

Statutes/Other Implemented: ORS 537.230, 537.248, 537.630 & 539.010

History:

WRD 2-2005, f. & cert. ef. 11-22-05

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WRD 4 2002, f. & cert. ef. 11-1-02
 WRD 1-2002, f. & cert. ef. 4-30-02
 WRD 1-2001, f. & cert. ef. 1-31-01
 WRD 4-1998, f. & cert. ef. 11-2-98

Rule Summary: This rule is amended to remove reference to OAR 690-320-0010, which has been repealed because there are no extension of time applications still pending that would be subject to those rules. This rule is amended to align the definition of “protest” with the definition in OAR 690-002-0010. This rule is amended to align the definition of “undeveloped portion” with the definitions in ORS 537.230(1) and ORS 537.630(1) and to make clearer which permits this applies to. This rule is amended to update the definition of “fish species listed as sensitive, threatened, or endangered under state or federal law” to include a more complete citation to the Endangered Species Act. The rule implements Or Laws 2025 ch.282 (does not apply to municipal; operative April 1; applies to new quasi-municipal or group domestic extension applications, as well as other types of extension applications where a PFO has not been issued) and ch.575 (OAR chapter 690, division 2 rules have own applicability) with respect to the different applicability provisions for pending applications; and removes the outdated reference to a 2006 implementation evaluation.

Amend

690-315-0020

Application for Extension of Time for Other Than Municipal and Quasi-Municipal Water Use Permits

(1) Under this rule, unless otherwise specified in ORS 537.230 or ORS 537.630, water right permit holders for other than municipal or quasi-municipal uses may apply to the Department for one extension of time to complete construction and/or apply the water to the full beneficial use pursuant to ORS 537.230 or 537.630, as follows:

(a) For extension of time applications submitted on or after April 1, 2026, for group domestic and group domestic expanded water use permits, a maximum of 10 years from the date of issuance of an extension final order may be granted.

(b) For other than group domestic and group domestic expanded water use permits, a maximum of two years from the date of issuance of an extension final order may be granted, provided:

(A) A proposed final order on the water right permit application was issued before April 1, 2026, and the extension application is submitted on or after April 1, 2026; or

(B) The extension application was submitted before April 1, 2026, and a proposed final order on the extension application has not been issued before April 1, 2026.

(2) To apply for an extension of time to complete construction and/or to apply the water to the full beneficial use, a water right permit holder shall submit to the Department a completed extension application. A separate extension application must be completed for each permit. Application forms are available from the Department.

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(3) The completed extension application must include the fee specified in ORS 536.050 and an application form setting forth:

- (a) The name and mailing address of the water right permit holder(s);
- (b) The permit number for which an extension is requested;
- (c) If the water right permit holder receives delivery of the subject water right permit from a municipality, municipal corporation, or other special district, the applicant shall provide the name of the entity and evidence that a copy of the application for extension of time has been provided to the entity responsible for delivering the water;
- (d) Evidence of the actions taken to begin actual construction within the time period in the permit or previous extension:
 - (A) "Actual construction" means physical work performed towards completion of the water system, which demonstrates both the present good faith of the water right permit holder and the water right permit holder's intention to complete the project with reasonable diligence;
 - (B) "Actual construction" does not include planning a diversion system, formulating a business plan, securing financing, letting contracts, purchasing but not installing equipment, or surveying.
- (e) Evidence of progress made toward completion of the water development and application to full beneficial use, which includes but is not limited to:
 - (A) The annual accomplishments toward perfecting the water right under the terms and conditions of the permit, including the dates on which each condition contained in the relevant permit and any previous extension(s) was satisfied or the reason the condition was not satisfied;
 - (B) The maximum rate, or duty if applicable, of diversion, if any, made to date; and
 - (C) If for irrigation, a listing by year of the number of acres irrigated each year since permit issuance, the total number of acres irrigated to date under the permit or previous extension, and a copy of the application map showing the acres irrigated.
- (f) A description of financial expenditures made toward completion of the water development;
- (g) An estimate of the cost to complete the water development;
- (h) A summary of any additional unforeseen events which delayed completion of the water development or application of water to full beneficial use, including other governmental requirements, if any, relating to the project which have significantly delayed completion of construction or perfection of the right;
- (i) The date by which the water development will be completed and water put to full beneficial use;
- (j) A summary of the applicant's plan and schedule to complete construction and/or perfect the water right;

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(k) Justification of why the requested time in subsection (i) is needed to complete the project and/or apply the water to full beneficial use;

(l) A description of any undue hardship to the applicant which will result from denial of the extension, and that there are no other reasonable alternatives for meeting water use needs;

(m) Any other information the applicant determines is relevant to evaluate the application in accordance with applicable statutes and these rules; and

(n) Any other information required in the application form that is necessary to evaluate the application in accordance with applicable statutory requirements.

(4) If the Department does not receive a claim of beneficial use or an extension application within 90 days after the required date of completion specified by the permit or previous permit extension, the Department may begin cancellation proceedings on the permit pursuant to ORS 537.260 or 537.410.

Statutory/Other Authority: ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 536.050, ORS 537.230, ORS 537.248, ORS 537.630, ORS 539.010, Or Laws 2025, ch 282

History:

WRD 2-2005, f. & cert. ef. 11-22-05

WRD 4 2002, f. & cert. ef. 11-1-02

WRD 4-1998, f. & cert. ef. 11-2-98

Rule Summary: This rule is amended to implement the provisions of Or Laws 2025, ch 282, sections 25, 26, and 27 with respect to limiting the extension process for other than municipal and quasi-municipal water use permits and to removing it for new permits. The amended rule limits extensions to 10 years for group domestic use applications received on or after April 1, 2026; the new rule also limits extensions to 2 years for other types of applications (i.e., excluding municipal, group domestic, and quasi-municipal) with no PFO issued prior to April 1, 2026, unless otherwise specified in statute. The rule is amended to clarify that permit holders have 90 days to either submit a claim of beneficial use or an extension application before OWRD may begin cancellation proceedings, per ORS 537.260.

Amend

690-315-0030

Application for Extension of Time to Begin Construction on Storage Projects

(1) Counties, municipalities or districts constructing new storage projects pursuant to ORS 537.248 may apply for extensions of time to begin actual construction, complete construction, or complete perfection pursuant ORS 537.248.

(2) To apply for an extension of time under this rule, a water right permit holder shall submit to the Department a completed application for extension of time. A separate application must be completed for each permit. Application forms are available from the Department.

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(3) The completed extension application to begin construction must include the fee specified in ORS 536.050 and an application form setting forth:

- (a) The name and mailing address of the water right permit holder(s);
 - (b) The permit number for which an extension is requested;
 - (c) A summary of any unforeseen events which delayed the beginning of construction;
 - (d) The date by which the water development will be completed and water applied to the full beneficial use;
 - (e) A justification of why the requested time is needed to begin construction and fully apply water to beneficial use;
 - (f) Any additional information the applicant determines is relevant to evaluate the application in accordance with applicable statutory requirements and these rules; and
 - (g) Any other information required in the application form that is necessary to evaluate the application in accordance with applicable statutory requirements.
- (4) If the Department does not receive an extension application 90 days after the required date specified by the permit to begin construction or previous permit extension, the Department may begin cancellation proceedings on the permit pursuant to ORS 537.410.

Statutory/Other Authority: ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 536.050, ORS 537.230, ORS 537.248, ORS 537.630, ORS 539.010

History:

WRD 2-2005, f. & cert. ef. 11-22-05

WRD 4-1998, f. & cert. ef. 11-2-98

Rule Summary: This rule is amended to align with existing internal guidance related to counties, municipalities or districts constructing new storage projects pursuant to ORS 537.248 that they may apply for extensions of time not just for completing construction and putting the water to full beneficial use, but also for beginning actual construction.

Amend

690-315-0040

Criteria for Department Review of Extension Applications for Other Than Municipal and Quasi-Municipal Water Use Permits

(1) In order to approve an application for an extension of time to complete construction and/or apply water to full beneficial use pursuant to ORS 537.230 or 537.630, or to begin construction pursuant to ORS 537.248, the Department shall find:

- (a) The applicant has submitted a completed extension application, including the fee specified in ORS 536.050. The Department shall return any incomplete or deficient applications to the applicant, and shall specify the deficiency; and

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- (b) There is good cause to approve the extension.
- (2) In order to make a finding of good cause to approve the extension, the Department shall consider, but is not limited to, the following criteria:
- (a) Whether the applicant has demonstrated reasonable diligence in previous performance under the permit;
 - (b) The cost to appropriate and apply the water to a beneficial purpose;
 - (c) The good faith of the appropriator;
 - (d) The market for water or power to be supplied;
 - (e) The present demands for water or power to be supplied;
 - (f) The income or use that may be required to provide fair and reasonable returns on investment;
 - (g) Whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection the right;
 - (h) Any unforeseen events over which the water right permit holder had no control and which delayed development under the permit;
 - (i) Whether denial of the extension will result in undue hardship to the applicant and that there are no other reasonable alternatives exist for meeting water use needs; and
 - (j) Any other factors relevant to a determination of good cause.
- (3) In determining reasonable diligence in subsection (2)(a), the Department shall consider, but is not limited to, the following factors:
- (a) The amount of construction completed within the time allowed in the permit or previous extension;
 - (b) The amount of beneficial use made of the water during the permit or previous extension time limits;
 - (c) Water right permit holder conformance with the permit or previous extension conditions; and
 - (d) Financial investments made toward developing the beneficial water use.
- (4) In determining the market and the present demand for water or power to be supplied pursuant to subsections (2)(d) and (e) above, the Department shall consider, but is not limited to, the following factors:
- (a) The amount of water available to satisfy other affected water rights and scenic waterway flows;
 - (b) Special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d);

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- (c) The habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife;
 - (d) Economic investment in the project to date;
 - (e) Other economic interests dependent on completion of the project; and
 - (f) Other factors relevant to the determination of the market and present demand for water and power.
- (5) In evaluating subsection (2), the Department shall find that good cause has not been shown and deny the extension if:
- (a) The applicant did not begin actual construction on the project, as defined in OAR 690-315-0020(3)(d)(A) and (B), during the time period required by statute; or
 - (b) The permit holder has used water and has failed to demonstrate compliance with fish-related permit conditions that are required to be met before water use began. These permit conditions include fish screening, fish bypass, fish passage, or any other permit conditions intended to protect fish; or
 - (c) The Department's evaluation under (2) otherwise finds that good cause has not been shown.
- (6) If the Department finds that the permit cannot be extended, and if the requirements for initiating cancellation proceedings under ORS 537.260(1) are met, the Department may initiate proceedings to cancel the permit. The Department's Proposed Final Order on the extension application may initiate cancellation proceedings under ORS 537.260(1) by including a proposed cancellation of the permit pursuant to ORS 537.260(1), which shall constitute the notice required by ORS 537.260(1).
- (7) The Department may request additional information necessary to evaluate an application.

Statutory/Other Authority: ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 536.050, ORS 537.230, ORS 537.248, ORS 537.630, ORS 539.010, Or Laws 2025, ch 282, ORS 537.260

History:

WRD 2-2005, f. & cert. ef. 11-22-05

WRD 4-1998, cert. ef. 11-2-98

Rule Summary: This rule is amended to implement provisions of Or Laws 2025, ch 282, sections 25, 26, and 27 with respect to limiting the extension process for other than municipal, quasi-municipal, ground domestic, and group domestic expanded water use permits. This rule is amended to make clearer the Department's longstanding practice of denying applications when the permit holder has used water and has failed to demonstrate compliance with fish-related permit conditions that are required to be met before water use began, and to restructure the location of the begin construction requirement within the rules. This rule is amended to make it clear that factors beyond the new (5)(a) and (b) rules are part of the good cause determination, as already found in (2). This rule is amended to add information about how the Proposed Final

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Order on the extension application may initiate cancellation proceedings under ORS 537.260(1), if the Department finds that the permit cannot be extended, and if the requirements for initiating cancellation proceedings under ORS 537.260(1) are met.

Amend

690-315-0050

Department Action on Extension Applications

If the Department finds an applicant has submitted a completed extension application as required in OAR 690-315-0020 or 690-315-0030, the Department shall process the extension application as established in this rule.

(1) The Department shall publish notice of the extension application in its weekly public notice prior to issuance of a proposed final order on the extension request. The notice shall include a request for comments on the extension application, the date by which comments must be received by the Department and information about how an interested person may review or obtain a copy of the extension application. The comment period shall be at least 30 days. The notice shall also include the following information about the permit and the extension application:

- (a) Applicant name and address;
- (b) Amount of water use permitted in gallons per minute (gpm), cubic feet per second (cfs) or acre feet (af) of storage;
- (c) Common name of water source(s) listed in the permit;
- (d) Permit number;
- (e) Use allowed in the permit;
- (f) Proposed extended date of completion; and
- (g) A statement that copy fees are required to receive a proposed final order under subsection 3.

(2) After consideration of the administrative record, including but not limited to any comments filed on the extension application, the Department shall issue a proposed final order granting the extension request, with or without additional conditions, or denying the extension request. The Department is not required to respond directly to comments, but may respond to the issue, if applicable and relevant to the decision, within the proposed final order.

(3) The Department shall send the proposed final order issued under subsection (2) of this rule to the applicant by certified or registered mail. The Department shall send a copy of the proposed final order by regular mail to any person other than the applicant who submitted comments and has paid the copy fee required under ORS 536.050. The Department shall also publish notice of the proposed final order in the weekly notice published by the Department.

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(4) Permit time extensions may be granted for the reasonable time necessary to complete water development or apply all the water to beneficial use, within the time allowed by the applicable statute.

(5) Extension orders may include, but are not limited to, any condition or provision needed to:

(a) Ensure future diligence;

(b) Mitigate the effects of the subsequent development on competing demands on the resource; and

(c) Periodically document the continued need for the permit.

Statutory/Other Authority: ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 536.050, ORS 537.230, ORS 537.248, ORS 537.630, ORS 539.010, Or Laws 2025, ch 282

History:

WRD 1-2012, f. 1-31-12, cert. ef. 2-1-12

WRD 4-1998, f. & cert. ef. 11-2-98

Rule Summary: This rule is amended to implement provisions of Or Laws 2025, ch 282, sections 25, 26, and 27 with respect to time limits on extensions for other than municipal and quasi-municipal water use permits. This rule eliminates the requirement for checkpoint conditions because of the new limitations on the allowable length of an extension of time but maintains the Department's authority to condition or provision an extension order to periodically document the continued need for the permit, which may include checkpoints. Elimination of the mandatory checkpoint conditions does not impact the requirements elsewhere in this division for municipal and quasi-municipal water use permit holders to submit a Water Management and Conservation Plan.

Amend

690-315-0060

Proposed Final Order Hearing Rights

The applicant or any other person adversely affected or aggrieved by the proposed final order described in OAR 690-315-0050(2) may submit a written protest to the proposed final order. The written protest must be filed within 45 days from the date of publication of the proposed final order in the Department's weekly notice. The provisions of Or Laws 2025, ch 575, sections 2 and 3 and rules adopted thereunder apply to protests of, requests for party status, and contested case proceedings on proposed final orders issued under this division. Proposed final orders shall become final if no protest is filed or by default as provided in OAR 690-002-0235.

Statutory/Other Authority: ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 536.050, ORS 537.230, ORS 537.248, ORS 537.630, ORS 539.010, Or Laws 2025, ch 575

History:

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WRD 2-2005, f. & cert. ef. 11-22-05

WRD 4-1998, f. & cert. ef. 11-2-98

Rule Summary: This rule is amended to implement provisions of Or Laws 2025, ch 575 to standardize protests, requests for party status, and contested cases for various water right processes and as outlined in OAR-chapter 690, division 002.

Amend**690-315-0070****Application for Extension of Time for Municipal and Quasi-Municipal Water Use Permits**

- (1) Under this rule, holders of municipal and quasi-municipal water use permits may apply to the Department for an extension of time to complete construction and/or apply the water to full beneficial use pursuant to ORS 537.230 or 537.630.
- (2) To apply for an extension of time to complete construction and/or to apply the water to the full beneficial use, a holder of a municipal or quasi-municipal water use permit shall submit to the Department a completed extension application. A separate application must be completed for each permit. Application forms are available from the Department.
- (3) The completed application must include the fee specified in ORS 536.050 and an application form setting forth:
- (a) The name and mailing address of the water right permit holder(s);
 - (b) The permit number for which an extension is requested;
 - (c) For quasi-municipal water use permit holders, evidence of the actions taken to begin actual construction on the project, as defined in 690-315-0020(3)(d), if required under the applicable statute;
 - (d) For municipal water use permits issued on or after June 29, 2005, evidence of the actions taken to begin actual construction on the project, as defined in 690-315-0020(3)(d);
 - (e) Evidence of actions taken to develop the right within the permitted time period and/or time period of the previous extension;
 - (f) Evidence of compliance with conditions contained in the permit and any previous extension(s) or the reason the condition was not satisfied;
 - (g) Evidence of the maximum rate, or duty if applicable, diverted for beneficial use, if any, made to date;
 - (h) An estimate of the population served and a description of the methodology(ies) used to make the estimate;
 - (i) A description of financial expenditures made toward completion of the water development;
 - (j) An estimate of the cost to complete the water development;

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(k) A summary of any events that delayed completion of the water development or application of water to full beneficial use, including other governmental requirements, if any, relating to the project that have significantly delayed completion of construction or perfection of the right;

(l) An estimated demand projection and a description of the methodology(ies) used for the subject water right permit, considering the other water rights held by the municipal or quasi-municipal water use permit holder, and a date by which the water development is anticipated to be completed and water put to full beneficial use. Municipal water right permit extension requests for greater than 50 years must include documentation that the demand projection is consistent with the amount and types of lands and uses proposed to be served by the permit holder.

(m) A summary of the applicant's plan and schedule to complete construction and/or perfect the water right;

(n) Justification for the time requested to complete the project and/or apply the water to full beneficial use;

(o) Any other information the applicant determines is relevant to evaluate the application in accordance with applicable statutes and rules;

(p) Any other information required by the Department that is necessary to evaluate the application in accordance with applicable statutory requirements; and

(q) For municipal water use permits issued before November 2, 1998, for the first extension issued after June 29, 2005, the completed application must include a copy of any agreements regarding use of the undeveloped portion of the permit between the permit holder and a federal or state agency that include conditions or required actions that maintain the persistence of listed fish species in the portions of waterways affected by water use under the permit.

Statutory/Other Authority: ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 536.050, ORS 537.230, ORS 537.248, ORS 537.630, ORS 539.010, Or Laws 2025, ch 282.

History:

WRD 2-2005, f. & cert. ef. 11-22-05

WRD 4-2002, f. & cert. ef. 11-1-02

Rule Summary: This rule is amended to implement the provisions of Or Laws 2025, ch 282, sections 25, 26 and 27, with respect to capping the total extension time allowed for quasi-municipal water uses to 20 years. For requirements regarding extension requests for greater than 50 years, the amendment clarifies that this is for municipal water right permit extension requests, as no other type of request could be made for that length of time based on the legislation.

Amend

690-315-0080

Criteria for Department Review of Extension Applications for Municipal and Quasi-Municipal Water Use Permits

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(1) In order to approve an application for an extension of time for municipal and quasi-municipal water use permits holders to complete construction and/or apply water to full beneficial use pursuant to ORS 537.230 or 537.630, the Department shall find:

- (a) The extension application is complete, including the fee specified in ORS 536.050. The Department shall return any incomplete or deficient applications to the applicant, and shall specify the deficiency;
 - (b) The applicant began actual construction on the project, as defined in 690-315-0020(3)(d), within the time period, if any, required under the applicable statute;
 - (c) The time requested to complete construction or apply water to full beneficial use is reasonable;
 - (d) For municipal water use permits, the applicant can complete the project within the time period requested for the extension; and, if the request is for more than 50 years that the estimated demand projection is consistent with the amount and types of lands and uses proposed to be served by the permit holder;
 - (e) There is good cause to approve the extension; and
 - (f) For the first extension issued after June 29, 2005 for municipal water use permits issued before November 2, 1998:
 - (A) There are agreements regarding use of the undeveloped portion of the permit between the permit holder and a federal or state agency that include conditions or required actions that maintain the persistence of listed fish species in the portions of waterways affected by water use under the permit; or
 - (B) It is determined that use of the undeveloped portion of the permit will maintain the persistence of listed fish species in the portions of waterways affected by water use under the permit; or
 - (C) If it is determined that use of the undeveloped portion of the permit would not maintain the persistence of listed fish species in the portions of the waterways affected by water use under the permit, the undeveloped portion of the permit is conditioned to maintain the persistence of listed fish species in the portions of the waterways affected by water use under the permit.
- (2) The Department's finding for municipal use permits under subsection (1)(f) of this rule shall be based on existing data and advice of the Oregon Department of Fish and Wildlife (ODFW). The Department's finding shall be limited to impacts related to streamflow as a result of use of the undeveloped portion of the permit and further limited to where, as a result of use of the undeveloped portion of the permit, ODFW indicates that streamflow would be a limiting factor for the subject listed fish species.
- (a) Except for municipal ground water permit extension applications where the Department has determined there is not the potential for substantial interference with surface water under OAR chapter 690 division 9, the Department shall notify ODFW of each pending municipal water use

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permit extension application that is subject to subsection (1)(f) of this rule and provide at least 60 days for ODFW to respond prior to issuing a proposed final order under 690-315-0050. The Department may issue a proposed final order prior to 60 days if comments are received from ODFW.

(b) Upon notifying ODFW under subsection (2)(a) of this rule, the Department shall also notify the applicant and, within 10 days, give public notice in the weekly notice published by the Department that the municipal permit extension application has been sent to ODFW for review.

(c) For ground water permits submitted to ODFW under this rule, the Department shall provide to ODFW and the applicant the Department's estimate of surface water impacts that would result from use of the undeveloped portion of the ground water permit.

(d) ODFW shall provide its written advice to the Department on the extension application within 60 days of the Department's notice in subsection (2)(a) of this rule or notify the Department that additional time, not to exceed 120 days unless the applicant consents to more time, will be needed to complete its evaluation.

(e) ODFW may recommend to the Department fishery resource protection conditions for inclusion in the proposed final order under OAR 690-315-0050 that would provide protection to maintain the persistence of listed fish species if its written advice to the Department indicates that:

(A) Use of the undeveloped portion of the permit would not maintain persistence in the portions of the waterways affected by water use under the permit; and

(B) As a result of the use of the undeveloped portion of the permit, streamflow would be a limiting factor for the listed fish species.

(f) Upon receiving ODFW's written advice, the Department shall notify the applicant and any persons that requested notification of any fishery resource protection conditions that may be proposed in the proposed final order under OAR 690-315-0050. The Department's notice shall also provide the applicant an opportunity to request the Department place the permit extension application on administrative hold.

(g) The Department may place fishery resource protection conditions on the undeveloped portion of the permit in the extension proposed and final order under 690-315-0050 if the Department finds that, without such conditions, use of the undeveloped portion of the permit will not maintain, in the portions of waterway affected by water use under the permit, the persistence of listed fish species.

(3) The Department's determination of good cause shall consider:

(a) Whether the applicant has demonstrated reasonable diligence in previous performance under the permit;

(b) The cost to appropriate and apply the water to a beneficial purpose;

(c) The good faith of the appropriator;

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- (d) The market and present demands for water or power to be supplied;
- (e) The income or use that may be required to provide fair and reasonable returns on investment;
- (f) Whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right; and
- (g) Any events over which the water right permit holder had no control and which delayed development under the permit.

(4) In determining reasonable diligence and good faith of the holder of a municipal or quasi-municipal water use permit, the Department shall consider activities associated with the development of the right that may include, but are not limited to: water management planning; conservation planning; development of a water master plan for the Oregon Health Division; planning of a diversion system; demand forecasting; flow or water quality monitoring; source evaluation; entry into intergovernmental agreements for water delivery; property acquisition; engagement in governmental permitting or project financing; procurement of planning, design, or construction services; surveying; and any physical work performed toward completion of the system and development of the right.

(5) For municipal and quasi-municipal water use permits issued after November 2, 1998, in making a determination of good cause pursuant to subsection (3)(d) above, in addition to subsections (1)(a)–(e), (3), and (4) of this rule, the Department shall also consider, but is not limited to, the following factors:

- (a) The amount of water available to satisfy other affected water rights and scenic waterway flows;
- (b) Special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d);
- (c) The habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife;
- (d) Economic investment in the project to date;
- (e) Other economic interests dependent on completion of the project; and
- (f) Other factors relevant to the determination of the market and present demand for water and power.

Statutory/Other Authority: ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 537.230, ORS 537.248, ORS 537.630, ORS 539.010, Or Laws 2025, ch 282

History:

WRD 2-2005, f. & cert. ef. 11-22-05

WRD 4-2002, f. & cert. ef. 11-1-02

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Rule Summary: This rule is amended to implement the provisions of Or Laws 2025, ch 282, sections 25, 26 and 27, with respect to capping the total extension time allowed for quasi-municipal water uses to 20 years, by clarifying that some provisions only apply to municipal rights.

Amend

690-315-0090

Time of Extensions and Additional Development of Municipal and Quasi-Municipal Water Use Permits

(1) Extensions may be granted for the reasonable time necessary to complete water development or apply all the water to beneficial use; however, for quasi-municipal water use permits, the extension shall not exceed 20 years from the date of the issuance of an extension final order.

(2) A holder of a municipal water use permit is not precluded from seeking additional extensions of time as provided in OAR 690-315-0070 through 690-315-0100.

(3) Except as provided in subsection (4) and (5), any water right permit extended under OAR 690-315-0070 to 690-315-0100 shall be conditioned to provide that diversion of water beyond the maximum rate, or duty if applicable, diverted for beneficial use before the extension shall only be authorized upon issuance of a final order approving a Water Management and Conservation Plan. The required Water Management and Conservation Plan shall be submitted within 3 years of an approved extension application.

(4) Quasi-municipal water use permit holders that serve a population of less than 1000 are not subject to subsection (3) of this rule unless on review of the criteria under 690-315-0080(1) and (2) the Department determines that compliance with subsection (3) of this rule is necessary.

(5) Quasi-municipal water use permit holders that can reasonably demonstrate that fewer than 5 years is necessary to complete construction and apply the water to beneficial use are not subject to subsection (3) of this rule unless on review of the criteria under 690-315-0080(1) and (2) the Department determines that compliance with subsection (3) of this rule is necessary. The permit holder will be subject to the requirements of subsection (3) of this rule if the extension request, when combined with the length of prior extensions, exceeds a cumulative total of 5 years.

Statutory/Other Authority: ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 537.230, ORS 537.248, ORS 537.630, ORS 539.010, Or Laws 2025, ch 282

History:

WRD 2-2005, f. & cert. ef. 11-22-05

WRD 4-2002, f. & cert. ef. 11-1-02

Rule Summary: This rule is amended to implement the provisions of Or Laws 2025, ch 282, sections 25, 26 and 27, with respect to capping the total extension time allowed for quasi-municipal water uses to 20 years. Clarifies language for assessing cumulative quasi-municipal extensions.

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**Amend
690-315-0100
Department Action on Extension Applications by Holders of Municipal Water Supply
Permits**

If the Department finds an applicant has submitted a completed application as required under OAR 690-315-0070, the Department shall process the application as established under OARs 690-315-0050 and 690-315-0060.

Statutory/Other Authority: ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 537.230, ORS 537.248, ORS 537.630, ORS 539.010

History:

WRD 4-2002, f. & cert. ef. 11-1-02

Rule Summary: This rule change removes subsection references consistent with changes to OAR 690-315-0050.

DRAFT

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Division 325**ASSIGNMENT FOR A WATER RIGHT PERMIT SPLIT AND REQUEST FOR ISSUANCE OF REPLACEMENT PERMITS****Amend****690-325-0010****Purpose**

The rules in OAR chapter 690, division 325 establish requirements and procedures to implement assignments under ORS 537.225 to 537.227. Except for OAR 690-325-0100, these rules shall apply to applications for assignments submitted on or after April 1, 2026. Applications for assignments submitted before this date shall be subject to the rules in effect at the time of submittal. The applicability of OAR 690-325-0100 is subject to and governed by OAR chapter 690, division 2. These rules shall be used by the Department to evaluate an application by a landowner of record - holding a water right permit for irrigation, nursery, temperature control, stock watering or agricultural water use - to assign all or part of the water right permit and to issue a replacement water right permit to reflect an assignment from the current water right permit holder to one or more additional water right permit holders. These rules do not replace OAR chapter 690-320-0060, which governs assignments under ORS 537.220 and 537.635.

Statutory/Other Authority: ORS 536.027**Statutes/Other Implemented:** ORS 537.225 - 537.227, Or Laws 2025, ch 575**History:**

WRD 4-2014, f. & cert. ef. 11-25-14

Rule Summary: This rule is amended to align with terminology used in statute (ORS 537.225) and to clarify rule applicability. Rule changes apply to applications submitted on or after April 1, 2026, except as provided in OAR 690-002 (relating to final orders, contested cases, and protests) pursuant to Or Laws 2025, ch 575. Additional minor edits made for rule clarity.

Amend**690-325-0020****Applicability**

(1) Pursuant to ORS 537.225, the Department can only accept an application for an assignment for a water right permit split and request for issuance of replacement water right permits to reflect the assignment if:

- (a) The original water right permit is issued for the purpose of irrigation, nursery, temperature control, stock watering or agricultural water use; and
- (b) The time specified in the water right permit or, if applicable, the last approved extension of time to perfect the water right is not expired.

(2) The Department may not accept an application for assignment and request for issuance of replacement water right permits under the rules in OAR chapter 690, division 325 for permits that do not meet the requirements in subsection (1).

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(3) Pursuant to ORS 537.225(7), municipal water right permits, quasi-municipal water right permits, or water right permits held by a unit of local government, including but not limited to water right permits held by a port, water authority, or a district are not eligible to apply.

Statutory/Other Authority: ORS 536.027

Statutes/Other Implemented: ORS 537.225

History:

WRD 4-2014, f. & cert. ef. 11-25-14

Rule Summary: This rule is amended to (a) align with terminology used in statute (ORS 537.225) including that a permit is a water right permit; (b) clarify the citation of the statute and function of the rule; (c) add language to provide a better description of the expired completion date; (d) remove language stating that the application cannot be approved if the water right permit completion date is expired, as ORS 537.225 states that a person may apply for assignment if the permit has a subsequent completion date; and (e) restructures rule so ensure clarity that applications can only be accepted if the completion date is unexpired.

Amend

690-325-0030

Definitions

The definitions in this rule, along with the definitions in OAR 690-300-0010 (Definitions) and OAR 690-380-0100 (Water Right Transfers), apply to the rules in OAR chapter 690, division 325. Where a term is defined in more than one rule, the definition in this rule applies.

(1) “Enlargement” means an expansion of a water right permit and includes, but is not limited to:

(a) Using a greater rate or duty of water per acre than currently allowed under a water right permit; or

(b) Increasing the acreage irrigated under a water right permit.

(2) “District” means an irrigation district formed under ORS Chapter 545, a drainage district formed under Chapter 547, a water improvement district formed under Chapter 552, a water control district formed under Chapter 553 or a corporation organized under Chapter 554.

(3) “Injury” or “Injury to an existing water right” means a water right transaction that would result in another, existing water right not receiving previously available water to which it is legally entitled.

(4) “Unit of local government” includes a county, city, district or other public corporation, commission, authority or entity organized and existing under statute or city or county charter.

Statutory/Other Authority: ORS 536.027

Statutes/Other Implemented: ORS 537.225

History:

WRD 4-2014, f. & cert. ef. 11-25-14

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Rule Summary: This rule is amended to align with terminology used in statute (ORS 537.225), clarifying that permit is referring to a water right permit.

Amend

690-325-0040

Application Requirements

Each application shall be prepared in ink or typewritten on forms provided by the Department. The application shall contain the following information concerning the subject water right permit and assignment:

- (1) The name, mailing address, e-mail address (if available), and telephone number of each applicant. Each applicant's name shall have an assigned alphabet letter or number that corresponds with the application map as required under OAR 690-325-0050(2)(e).
- (2) Name(s) of the water right permit holder(s).
- (3) Water right permit number.
- (4) Water right permit use. Must be one or more of the following uses approved for assignment under OAR 690-325-0010: irrigation, nursery, temperature control, stock watering or agricultural water use.
- (5) A map meeting the criteria set forth in OAR 690-325-0050.
- (6) A copy of the recorded deed showing the applicant is an owner of the land to which the water right permit is appurtenant.
- (7) An affidavit signed by the applicant certifying that the water right permit has not been conveyed or withheld and remains appurtenant to the applicant's land, and also certifying that the applicant has read the water right permit.
- (8) A statement by the applicant that the most recent water use under the applicant's portion of the water right permit, if any, has been exercised within relevant terms and conditions of the water right permit.
- (9) Agreements to the assignment and to the request of replacement water right permits submitted jointly or individually by all owners of the land to which the water right is appurtenant; or an assignment of interest and request for the issuance of replacement water right permits by one or more of the owners of land to which the water right permit is appurtenant and information identifying other landowners not participating in the assignment and request for issuance of replacement water right permit. Such information for each landowner shall include:
 - (a) Landowner's name;
 - (b) Mailing address;
 - (c) Description of the property by public land survey and tax lot number; and
 - (d) Number of acres, water right permit rate, and any applicable acre-feet allowance held by the landowner.

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(10) A listing of the names and mailing addresses of any district within which the water right permit is located.

(11) The Department may require the applicant to provide any additional information the Department deems appropriate in determining whether or not to approve the application.

Statutory/Other Authority: ORS 536.027

Statutes/Other Implemented: ORS 537.225

History:

WRD 4-2014, f. & cert. ef. 11-25-14

Rule Summary: This rule is amended to (a) align with terminology used in statute (ORS 537.225), (b) clarify that, in addition to the name of each applicant, the Department is seeking the name(s) of the holder(s) of the water right permit, (c) clarify that the affidavit must be signed by the applicant, (d) provide more specificity for required information, and (e) include any applicable acre-feet allowance for the identified landowner's portion of the water right permit.

Amend

690-325-0050

Map Requirements

(1) A map shall be included with the application required under OAR 690-325-0040. The map shall meet the standards in OAR chapter 690, division 305 as well as the following criteria:

(a) The map shall be prepared by a certified water right examiner as defined in OAR 690-014-0020.

(b) The map shall be based upon the original water right application map or permit amendment map.

(c) The map shall not include:

(A) Any unauthorized change to the location of the authorized place of use outside of its original perimeters as exhibited on the original water right application map or approved permit amendment application map.

(B) Any unauthorized change to the location of the point(s) of diversion/appropriation as exhibited on the original water right application map or approved permit amendment application map.

(d) Horizontal field accuracy shall be consistent with standard surveying practices for the purpose of locating and quantifying water rights.

(2) The map shall include the following information:

(a) The certified water rights examiner's stamp and signature. A digital stamp or seal and signature are acceptable, provided the requirements under OAR 690-014-0050 are satisfied.

(b) The place of use of each applicant's portion of the water right permit shall be clearly defined by outline and shaded or hachured and shall show the number of acres for each portion in each

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quarter-quarter section, government lot, or quarter-quarter section as projected within government lots, donation land claims, or other recognized public land survey subdivisions. If the water right permit has multiple priority dates or uses, the lands to be served by each priority date and on which each use is authorized, must be separately identified.

(c) The place of use of any part of the water right permit not being assigned shall be clearly defined by outline and shaded or hachured and shall show the number of acres in each quarter-quarter section, government lot, or quarter-quarter section as projected within government lots, donation land claims, or other recognized public land survey subdivisions. If the portion of the water right permit not being assigned has multiple priority dates or uses, the lands to be served by each priority date and on which each use is authorized, must be separately identified.

(d) Each applicant's portion of the water right permit shall be referenced, by either alphabet letter or number, to each assignee listed in the application form under OAR 690-325-0040(2).

(e) The rate and any applicable acre-feet allowance of water use under the water right permit for each applicant's portion of the water right permit shall be clearly labeled on the map.

(f) The location of each authorized point of diversion or appropriation.

(g) The location of tax lot lines for all properties upon which the water right permit is located.

Statutory/Other Authority: ORS 536.027

Statutes/Other Implemented: ORS 537.225

History:

WRD 4-2014, f. & cert. ef. 11-25-14

Rule Summary: This rule is amended to (a) refer to the standards in OAR Chapter 690, Division 305, which improves clarity and consistency in mapping requirements across water right transactions, (b) align with terminology used in statute (ORS 537.225), and (c) refer to OAR 690-014-0050 which outlines certain requirements for certified water right examiners.

690-325-0060

Receipt of Application; Fees

(1) The applicant is required to pay the Water Resources Department the full cost to the Department of processing the application.

(2) Within 15 days upon receipt of an application containing all the requirements described under OAR 690-325-0040 and 690-325-0050, the Department shall estimate the actual cost of work involved in processing the application.

(3) The Department shall notify the applicant of the estimate of the actual cost of work and provide a time period of:

(a) 30 days for the applicant to submit the appropriate fees covering the estimated actual cost of work, or

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(b) Upon a written or e-mailed request from the applicant, a reasonable time period greater than 30 days to submit the appropriate fees.

(4) If the Department does not receive the appropriate fees after the expiration of the appropriate time period described in OAR 690-325-0060(3), the Department will send notice to the applicant that if the fees are not received by the Department within 10 days of the mailing of this notice, the Department will consider the application incomplete and will notify the applicant that the application is not properly filed and that the application will be of no further force or effect.

(5) All required fees must be received before the final assignment is made and replacement water right permits reflecting the assignment are issued. Excess fees will be returned after the final order is issued.

Statutory/Other Authority: ORS 536.027

Statutes/Other Implemented: ORS 536.050, ORS 537.225

History:

WRD 4-2014, f. & cert. ef. 11-25-14

Amend

690-325-0070

Initial Review and Issuance of Draft Documents

(1) The Department's evaluation of the application shall include:

(a) Verification of the mailing address of each owner of the authorized place of use identified on the map contained in the application;

(b) Verification that the deed(s) supplied with the application matches the properties proposed for the assignments;

(c) Verification that the most recent water use under the water right permit, if any, has been exercised within relevant terms and conditions of the water right permit; and

(d) Assessment of whether the application will result in enlargement of the original water right permit and in injury to other, existing water rights.

(2) Once the evaluation described in OAR 690-325-0070(1) has been completed, the Department shall either:

(a) Prepare an initial review to approve the application. The initial review shall include finding(s) that the Department has found that the proposed replacement water right permits will not result in the enlargement of the original water right permit nor injury to other, existing water rights, and that the water right permit has been exercised by the applicant in compliance with the terms and conditions of the water right permit. If an initial review to approve the application is prepared under this subsection, the Department shall also prepare drafts of the replacement water right permits; or

(b) Prepare an initial review to deny the application. The initial review shall include finding(s) that the Department has found that the proposed replacement water right permits will result in

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the enlargement of the original water right permit and/or injury to other, existing water rights and/or that the water right permit has not been exercised by the applicant in compliance with the terms and conditions of the water right permit.

(3) Within 30 days after the appropriate fees specified in OAR 690-325-0060 have been received, the Department shall send by electronic means, or if requested by the applicant, by regular mail, copies of the application, map, existing water right permit, initial review, and, if the criteria in OAR 690-325-0070(2)(a) are met, draft replacement water right permits, to each owner of land upon which the water right permit is appurtenant.

Statutory/Other Authority: ORS 536.027

Statutes/Other Implemented: ORS 537.225, Or Laws 2025, ch 282

History:

WRD 4-2014, f. & cert. ef. 11-25-14

Rule Summary: This rule is amended to (a) update “Draft Proposed Final Order” to “Initial Review” for consistency in terminology across water right transactions;(b) be consistent with the definition of “injury” in OAR 690-325-0030(3); (c) modify the Department’s procedure following evaluation of the application to include preparation of draft replacement permits as part of the initial review to approve process; (d) clarify what part of the process is associated with the fees referenced in OAR 690-325-0060; (e) implement Or. Laws 2025, ch 282 with respect to electronic documentation; (f) reference the approval criteria in OAR 690-325-0070(2)(a); and (g) update “technical review” to “evaluation” to avoid possible confusion between technical review and initial review.

Amend

690-325-0080

Public Notice and Request for Comments

(1) Within ten days of proceeding with the application under OAR 690-325-0070(3), the Department shall give notice of the application in the weekly public notice published by the Department. The notice shall include a request for comments on the application, the date by which the comments must be received by the Department, information about how an interested person may view or obtain future notices about the application and a copy of the proposed final order when issued, and information about how an interested person may review the application or obtain a copy of the application.

(2) The public notice shall include the following information about the application:

(a) County of water use;

(b) Water right permit number;

(c) Authorized use and associated rate and/or duty;

(d) The time specified in the water right permit, or the last approved extension of time, to perfect the water right;

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(e) Applicant name(s);

(f) Number of acres, rate (or applicable acre-feet allowances), allowed under the existing water right permit;

(g) Source(s) of water; and

(h) Location of the point(s) of diversion/appropriation by quarter-quarter, section, township and range.

(3) Within 30 days after the public notice under OAR 690-325-0080(1), any record landowner, applicant, assignee, affected water right permit holder, or other person interested in the application may submit written comments or request copies of the documents described in OAR 690-325-0070(3). All comments and requests for copies must be received by the Department on or before 5 p.m. on the last day of the 30-day comment period.

Statutory/Other Authority: ORS 536.027

Statutes/Other Implemented: ORS 537.225

History:

WRD 4-2014, f. & cert. ef. 11-25-14

Rule Summary: This rule is amended for clarity and to provide a better description of completion date.

Amend

690-325-0090

Proposed Final Order; Public Notice

(1) Within 30 days after the comment period closes under OAR 690-325-0080(3), the Department shall issue a proposed final order either approving or denying the application, taking into account comments received in response to the public notice under 690-325-0080. If the proposed final order is to approve the application, the Department shall also issue draft replacement permits.

(2) The Department shall send copies of the proposed final order and, if applicable, draft replacement permits, to each owner of land described in OAR 690-325-0070(3) by registered or certified mail. The Department shall also send copies of the proposed final order and, if applicable, draft replacement permits to each person who submitted comments under 690-325-0080(3) by electronic means, or if requested by that person, by regular mail.

(3) Within seven days of issuance of the proposed final order, the Department shall publish notice of the proposed final order by publication in the weekly public notice published by the Department. The public notice shall give the date that protests must be received by the Department, being 45 days after the date the weekly public notice is published.

Statutory/Other Authority: ORS 536.027

Statutes/Other Implemented: ORS 537.225, Or Law 2025, ch 282, ORS 183

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History:

WRD 4-2014, f. & cert. ef. 11-25-14

Rule Summary: This rule is amended to (a) provide more clarity to the process, (b) implement Or. Laws 2025, ch 282 with respect to electronic documentation and clarifying weekly public notice, and (c) ensure mailing of notice of the opportunity for hearing is consistent with ORS 183.415.

Amend**690-325-0100****Protests**

(1) Protests of and contested case proceedings concerning proposed final orders are governed by Or Laws 2025, ch 575 and OAR Chapter 690, division 002, except that the issues raised in the protest must directly pertain to whether the proposed replacement water right permits are authorized under and in conformance with ORS 537.225. Proposed final orders and draft replacement permits shall become final if no protest is filed or by default as provided in OAR 690-002-0235. In addition to any other authority the Water Resources Department may have, if a protest is properly filed, the Department may work with the applicant and the person filing the protest to determine whether the issues raised by the protest can be resolved informally.

(2) Notwithstanding ORS 183.310, Or Laws 2025, ch 575 sections 2 and 3, and OAR 690-002, the parties to a contested case hearing held under this section are limited to:

(a) The applicant for the water right permit assignment; and

(b) Persons that timely filed a protest against the proposed final order under OAR 690-325-0090(3) and OAR 690-002.

Statutory/Other Authority: ORS 536.027

Statutes/Other Implemented: ORS 537.225, ORS 537.227, Or Laws 2025, ch 575

History:

WRD 4-2014, f. & cert. ef. 11-25-14

Rule Summary: This rule is amended to implement Or Laws 2025, ch 575 sections 2 and 3 and to conform the rule to ORS 537.225 and 537.227, as amended by Or Laws 2025, ch 575 sections 8 and 9.

Amend**690-325-0110****Criteria for Approval and Replacement Water Right Permits**

(1) An application for an assignment for a water right permit split and issuance of replacement water right permits shall be approved regardless of whether the time specified in the permit or, if applicable, the last approved extension of time to perfect the water right is expired, provided that the Department determines:

(a) The assignments and issuance of replacement water right permits do not enlarge the water right permit as defined in OAR 690-325-0030(1);

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(b) The assignments and issuance of replacement water right permits do not injure other, existing water rights as defined in OAR 690-325-0030(3); and

(c) All other requirements for assignments and issuance of replacement water right permits are met.

(2) The replacement water right permits shall:

(a) Include the same conditions as the replaced water right permit, including, but not limited to priority date, source of water, and type of use;

(b) Identify the land to which the replacement water right permit is appurtenant and the owner(s) of that land;

(c) Apportion the rate and, if applicable, the duty, or, if applicable, the acre-foot allowance in proportion to the amount of land to which the replacement water right permits are appurtenant.

(3) The replacement water right permits shall not:

(a) Authorize any change to the authorized point(s) of diversion or appropriation, including the addition of a point of diversion or appropriation; nor

(b) Authorize any change to the authorized place of use outside of its original perimeters as exhibited on the original water right application map or approved permit amendment application map.

Statutory/Other Authority: ORS 536.027

Statutes/Other Implemented: ORS 537.225; Or Laws 2025, ch 575 section 3

History:

WRD 4-2014, f. & cert. ef. 11-25-14

Rule Summary: This rule is amended to (a) clarify rule language, (b) implement Or Laws 2025, ch 575, section 3, by noting that, if no protests are timely filed, the proposed final order and draft replacement water right permits shall become final by operation of law, (c) clarify that approval of the application is not contingent upon the permit completion date being non-expired, and (d) make a grammatical edit.

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Division 340
WATER USE AUTHORIZATIONS

690-340-0010

Exempt Uses

The uses of water listed below do not require a water right permit under ORS 537.211 or a water right certificate under 537.250:

(1) The statutory exemptions from permit requirements for use of groundwater include watering any lawn or noncommercial garden not exceeding 1/2 acre in area. Not more than 1/2 acre of lawn and noncommercial garden in total area may be irrigated through a group delivery system under such exemption. The statutory exemptions from permit and certificate requirements for use of groundwater include:

(a) Stockwater use;

(b) Lawn or non-commercial garden watering of not more than 1/2 acre in total can be irrigated from any groundwater source under the exemptions listed in ORS 537.545(1)(b);

(c) Single or group domestic water uses of no more than 15,000 gallons per day;

(d) Industrial or commercial water uses not exceeding 5,000 gallons per day based on peak daily use. A commercial or industrial operation shall be allowed only one well system and exemption under ORS 537.545(1)(f) on each ownership or tax lot, whichever is larger.

(2) The statutory exemptions from permit and certificate requirements for use of surface water include:

(a) Use of waste, spring or seepage waters which are exempt under ORS 537.800;

(b) Water used for egg incubation projects under the Salmon and Trout Enhancement Program (STEP);

(c) Fish screens, fishways and fish by-pass structures. A fish screen, fish way or fish by-pass structure is an exempt use if it either:

(A) Is part of a hydroelectric project permitted or licensed by the Department; or

(B) Is found to not be harmful to fish or wildlife after consultation with the Oregon Department of Fish and Wildlife and causes no injury to existing water rights.

(d) Water uses that divert water to water tanks or troughs from a reservoir for a use allowed under an existing water permit or certificate for the reservoir;

(e) Reservoirs that store less than 9.2 acre feet of water or with a dam less than 10 feet in height; that are located off-channel and outside the immediate riparian area; that do not divert water directly from a natural stream, lake or other on-channel source; that were constructed before January 1, 1993; and for which a written notice is submitted under section (4) of this rule.

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(3) Water used for emergency firefighting is exempt from permit and certificate requirements regardless of the source of water.

(4) To qualify as an exempt water use under subsection (2)(e) of this rule, the landowner shall provide written notice of the use to the Department on or before January 1, 1995. Such notice shall be on a form provided by the Department and signed and verified by the owner of the land or the owner's authorized agent upon which the reservoir is located. The notice shall include the following:

- (a) The volume of water stored;
- (b) The source of the water used to fill the reservoir;
- (c) The height of the dam measured at its highest point above natural ground elevation;
- (d) A U.S. Geological Survey topographic map or a tax lot map showing the location of the reservoir;
- (e) Evidence that the reservoir existed on or before January 1, 1993 as described in OAR 690-340-0020; and
- (f) A statement describing the off-channel nature of the reservoir.

(5) The Commission may require other information from the landowner regarding an exempt use including, but not limited to, estimates of the quantity of water used; diversion location; place of use; or photographs showing the scale of the project and the immediate area above, below and surrounding a reservoir.

Statutory/Other Authority: ORS 536.027, 595 & 654

Statutes/Other Implemented: ORS 537.141

History:

WRD 1-1996, f. & cert. ef. 1-31-96, Renumbered from 690-011-0014

WRD 5-1994, f. & cert. ef. 4-13-94

690-340-0020

Ponds in Existence Prior to January 1, 1993 (HB 2153, 1993)

(1) A landowner with an unpermitted reservoir constructed before January 1, 1993 may apply for a water right permit and continue the use of water while a decision is pending on the application. The water right application, if approved in accordance with OAR 690-011-0155 through 690-011-0185 (dated 4-13-94), will receive a priority date of January 1, 1993. In order to qualify for these benefits, an application must be filed on or before January 1, 1995. In addition to the information and fees required under OAR 690-011-0020 and 690-011-0040 (dated 4-13-94), an application shall also be accompanied by evidence that the reservoir existed before January 1, 1993. Such evidence may include:

- (a) A dated aerial photograph which shows the immediate area above, below and surrounding the reservoir;

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- (b) An affidavit signed by the landowner or other knowledgeable person;
 - (c) A dated map prepared by a local, state or federal agency showing the location of the reservoir; or
 - (d) Construction receipts or other forms of documentation.
- (2) Notwithstanding the requirements for a survey set forth in ORS 537.230, no survey of the appropriation is required for a reservoir storing less than 9.2 acre feet or with a dam less than 10 feet in height. Maps submitted with the application shall be of sufficient quality and scale to establish the location of the reservoir to the nearest quarter-quarter section, township and range.
- (3) Up to 10 reservoirs may be included in a single application if the reservoirs existed prior to January 1, 1993; have dams that are less than 10 feet in height or that store less than 9.2 acre-feet of water; are in the same drainage basin; and within the same ownership on contiguous property. For a rural fire protection district formed under ORS 478.010 or a forest protection district formed under ORS 477.225, up to 10 reservoirs may be included in a single application if all the reservoirs are within the boundaries of the district; are within the same drainage basin; and are an element of the district's fire protection system.
- (4) A water right certificate under ORS 537.250 may be issued in lieu of a permit if:
- (a) The reservoir existed before January 1, 1993;
 - (b) The records of the Department provide satisfactory documentation to describe the location and volume of storage;
 - (c) Modifications or alterations to the impoundment structure are not required; and
 - (d) The Commission determines under section (1) of this rule that the reservoir would qualify for issuance of a permit.

Statutory/Other Authority: ORS 536.027, 595 & 654

Statutes/Other Implemented: ORS 595, OL 1993 & ORS 537.405 - 537.409

History:

WRD 1-1996, f. & cert. ef. 1-31-96, Renumbered from 690-011-0041

WRD 5-1994, f. & cert. ef. 4-13-94

Amend

690-340-0030

Limited License

This rule applies to limited license applications submitted to the Department on or after April 1, 2026. Applications submitted before this date shall be subject to rule in effect at the time of submittal.

- (1) A request for a limited license shall be submitted on a form provided by the Water Resources Department, and shall be accompanied by the following:
 - (a) The fee for examination and recording:

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- (A) \$1150 for a limited license filing requesting the use of water for Aquifer Storage and Recovery testing purposes.
- (B) \$575 for renewal of a limited license for Aquifer Storage and Recovery testing purposes.
- (C) \$575 for modification of a limited license for Aquifer Storage and Recovery testing purposes.
- (D) \$1150 for a limited license filing requesting the use of water for Artificial Groundwater Recharge purposes.
- (E) For limited license applications, \$280 for the first point of diversion plus \$30 for each additional point of diversion; and
- (b) A completed water availability statement from the local watermaster on forms provided by the department; and
- (c) A map meeting the standards in OAR chapter 690, division 305.
- (2) The Director shall provide notice of the request to the public in the same manner as other water use applications, but may approve the license after 14 days from the date of issuance of the weekly public notice, upon a finding that the proposed water use will not impair or be detrimental to the public interest.
- (3) Each limited license shall be limited to an area within a single drainage basin.
- (4) Except for a licensee using water under a limited license issued in conjunction with an enforcement order, the licensee shall give notice to the watermaster in the district where use is to occur not less than 15 days or more than 60 days in advance of using the water under the limited license. The notice shall include the location of the diversion, the quantity of water to be diverted and the intended use and place of use.
- (5) The licensee shall maintain a record of use, including the total number of hours of pumping, an estimate of the total quantity pumped, and the categories of beneficial use to which the water is applied. The record of use shall be submitted to the watermaster upon request.
- (6) The Director may revoke the right to use water for any reason described in ORS 537.143(2). Such revocation may be prompted by field regulatory activities or by any other reason.
- (7) The use of water under a limited license shall not have priority over any water right exercised according to a permit or certificate and shall be subordinate to all other authorized uses that rely upon the same source.

Statutory/Other Authority: ORS 536.027

Statutes/Other Implemented: ORS 537.143, ORS 537.144

History:

WRD 6-2014, f. 11-25-14, cert. ef. 1-1-15

WRD 9-2009, f. 12-8-09, cert. ef. 12-15-09

WRD 5-2004, f. & cert. ef. 6-15-04

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WRD 1-1996, f. & cert. ef. 1-31-96, Renumbered from 690-011-0046

WRD 5-1995(Temp), f. & cert. ef. 8-4-95

WRD 5-1994, f. & cert. ef. 4-13-94

WRD 9-1992, f. & cert. ef. 7-1-92, Renumbered from 690-011-0082

WRD 16-1990, f. & cert. ef. 8-23-90

WRD 9-1989, f. & cert. ef. 11-20-89

WRD 6-1989(Temp), f. 9-29-89, cert. ef. 10-3-89

Rule Summary: This rule is amended to refer to the standards in OAR chapter 690, division 305, which provide clarity and consistency in mapping requirements across water right transactions, thereby reducing confusion and inefficiencies. Subsection 7 is inconsistent with statute and has been replaced with language from statute. The rule amendment also updates language related to public notice issuance.

690-340-0040

Registration of Water Use for Road Maintenance and Construction

- (1) A request by a public agency to register water use for road and highway maintenance, construction and reconstruction shall be submitted on a form provided by the Water Resources Department and shall include at least the following:
- (a) The name and authorized agent of the public agency;
 - (b) The address and telephone number of the agency's authorized agent;
 - (c) If the source of water to be used for the agency's road maintenance or construction program:
 - (A) Is groundwater, attach copy of well log or description of the well;
 - (B) Is surface water, identify the name of the source and the stream, or river the source is tributary to.
 - (d) The maximum amount of water to be used during the calendar year in gallons or acre-feet;
 - (e) The maximum amount of water to be used during any 24-hour period in gallons or acre-feet;
 - (f) A map indicating the location(s) of the point(s) of diversion of water to be used for road maintenance or construction (the map shall be of sufficient scale to establish the location(s) of the point(s) of diversion to the nearest quarter section, township and range);
 - (g) A fee in the amount of \$340 (more than one point of diversion may be identified per registration); and
 - (h) If water is obtained from a well, conveyance or storage facility that has a perfected or certificated water right:
 - (A) Provide the permit or certificate number or the court decree identification of the right; and
 - (B) Written authorization from the owner of the right that allows use of water from the well, conveyance or storage facility.

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(2) The registrant may use either a county road map or a Water Resources Department basin map to indicate the location(s) of point(s) of diversion. Counties may submit one registration for all uses within the county. State-wide public agencies shall submit one registration for each of the agencies' administrative units. (The Oregon Department of Transportation shall submit one registration for each of its Regions within which road construction or maintenance water is to be used). Federal agencies with jurisdiction over roads/highways shall submit one registration for each of their administrative units.

(3) An Oregon Department of Fish and Wildlife "Requirements for Small Pump Screen", Self-Certification form shall accompany the registration form.

(4) As used in this rule, public agency means:

(a) The State of Oregon or any agency of the State of Oregon;

(b) A county or a special road district of a county;

(c) A city, town or incorporated municipality; and

(d) Any federal agency that has jurisdiction over a roadway in this state.

(5) The registration is subject to the following terms:

(a) Water use authorized by the registration shall not have priority over any existing water right;

(b) Water use authorized by the registration shall be subordinate to all future permitted or certificated water rights;

(c) Water use authorized under the registration shall not exceed 50,000 gallons from a single source during any 24-hour period;

(d) The registration shall be valid until the public agency voluntarily withdraws the registration or the public agency fails to file the annual renewal statement as required under section (8) of this rule;

(e) No person may construct any dam, reservoir or other impoundment facility to divert water from within a designated scenic waterway;

(f) Under no circumstances may the registrant cause the water course to be dewatered to a degree that the live, continuous flow is obstructed;

(g) The department may require the public agency to cease diversion of water at any time the director has reason to believe use of water under the registration is causing a significant adverse impact upon:

(A) The affected watershed; or

(B) Any existing water right; and

(h) The registrant shall notify the watermaster for the district in which the water is to be diverted not fewer than 30 days nor more than 60 days prior to the date diversion under the registration is

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to be initiated. If the proposed diversion is within or above a designated scenic waterway, the registrant shall not withdraw water under the registration until the watermaster provides written findings that the proposed withdrawal will not interfere with the free-flowing character of the scenic waterway in quantities necessary for recreation, fish and wildlife uses.

(6) The registrant may authorize any person(s) to divert, transport or apply water under the registration; however, the registrant is responsible for the acts of such person(s) as authorized by the registration and these rules.

(7) The registrant shall provide copies of its registration form and map to the local office of the Oregon Department of Fish and Wildlife (ODFW) at least 30 days before water use under the registration is initiated. If sensitive, threatened or endangered aquatic species are present in the stream(s) proposed as a source(s) of water under the registration and such species may be adversely affected by withdrawal of water by the registrant, ODFW shall advise the watermaster to direct the registrant to withdraw water from an alternative location(s) or stream(s) wherein the proposed withdrawal will not cause significant adverse impact to the affected watershed.

(8) The public agency must submit an annual renewal statement on or before February 1 of each calendar year. The annual renewal statement shall be accompanied with a \$60 renewal fee and shall specify any change in:

- (a) The registrant's map;
- (b) The sources of water to be used;
- (c) The maximum amount of water to be used during the calendar year or during any 24-hour period; and
- (d) A map delineating any changes in the location(s) of point(s) of diversion.

Statutory/Other Authority: ORS 536.027

Statutes/Other Implemented: ORS 537.040

History:

WRD 6-2014, f. 11-25-14, cert. ef. 1-1-15

WRD 1-1996, f. & cert. ef. 1-31-96, Renumbered from 690-011-0047

WRD 6-1995, f. & cert. ef. 6-10-94

Amend

690-340-0060

Expedited Review Process for Applications to Use Stored Water Exclusively

This rule applies to applications submitted to the Department on or after April 1, 2026. Applications submitted before this date shall be subject to rules in effect at the time of submittal.

(1) In lieu of the application process described in OAR 690-310-0070 through 690-310-0275, a person may apply for a permit to use stored surface water exclusively, to be evaluated through an expedited process. This process may not be used to apply for a permit to use water stored

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through an aquifer storage and recovery or artificial ground water recharge project under OAR chapter 690, division 350.

(2) In addition to the information, materials, and fees required by OAR 690-310-0040 and a map that meets the standards in OAR chapter 690, division 305, a person applying under section (1) of this rule shall submit:

(a) A copy of the permit, certificate, or decree as evidence that the proposed use of the stored water is one of the authorized uses under the permit, certificate or decree that allows the storage of water; or

(b) If the storage is authorized under a permit or certificate, the permit or certificate number sufficient to allow the Department to determine that the proposed use of the stored water is one of the authorized uses under the permit or certificate that allows the storage of water; or

(c) If the storage is authorized under a decree, the name of the decree, the volume number, and the page number(s) of the decree sufficient to allow the Department to determine that the proposed use of the stored water is one of the authorized uses under the decree that allows the storage of water.

(3) Within 15 days after receiving an application, the Department shall determine whether the application contains the information required under section (2) of this rule and is complete and not defective, including the payment of all required fees. If the Department determines that the application is incomplete or defective or that all fees have not been paid, the Department shall return all fees and the application.

(4) Upon determining that an application contains the required information and is complete and not defective, the Department shall indorse on the application the date upon which the application was received for filing at the Department. The priority date for use of water not previously reserved under OAR chapter 690, division 79 shall be the date the application was received for filing by the Department.

(5) If an application is complete and not defective, the Department shall determine whether the proposed use is prohibited by any statute. If the proposed use is prohibited by statute, the Department shall reject the application and return all fees to the applicant with an explanation of the statutory prohibition.

(6) As soon as practicable after determining that an application is complete and not defective, that all fees have been paid, and the use is not prohibited by statute as prescribed in section (5) of this rule, the Department shall give public notice of the application in the weekly notice published by the Department.

(7) Within 30 days after the public notice prescribed in section (6) of this rule, any person may submit written comments to the Department. The 30-day comment period shall commence on the day the Department gives notice. All comments must be received by the Department on or before the last day of the 30-day comment period. For the Department to determine that a comment has raised or identified a public interest issue, the comment must:

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(a) Be relevant to the use of stored water proposed in the application, or to conditions that the Department has the authority to impose under ORS 537.147. The comment must allege facts in support of and specifically explain the relevance. Comments relevant only to the storage of water authorized by a previous water right transaction will not be determined to have raised a public interest issue relevant to the application;

(b) Identify the specific public interest under ORS 537.170(8) that the commenter alleges would be affected by the proposed use of stored water; and

(c) Allege facts relevant to the proposed use of stored water that, if true, would affect the identified public interest.

(8) Following the end of the 30-day comment period, the Department may issue a final order and permit approving the application.

(9) If the Department determines public interest issues are raised or identified pursuant to section (7) of this rule, the Department shall process the application as an application under ORS 537.150 and issue a proposed final order pursuant OAR 690-310-0150.

(10) At a minimum, a permit issued under subsection (8) of this rule shall be conditioned to require:

(a) Fish screens and by-pass devices and fish passage consistent with Oregon Department of Fish and Wildlife (ODFW) standards, unless the permittee submits written evidence that ODFW has determined that the devices are not necessary;

(b) A measuring device at each point of diversion authorized under the permit.

(11) Within 10 days of issuing a permit under subsection (8) of this rule, the Department shall:

(a) Provide notice of the issuance in the weekly notice published by the Department, and

(b) Send a copy of the permit to persons who have submitted comments pursuant to section (7) of this rule. The copy shall be sent by electronic means unless a person has requested mailing.

Statutory/Other Authority: ORS 536.027

Statutes/Other Implemented: 537.017 - 537.032, Or Laws 2025, ch 282.

History:

WRD 3-2007, f. 3-28-07, cert. ef. 3-29-07

Rule Summary: This rule is amended to (a) correct circular or conflicting references related to OAR 690-310-0040 and -0050; (b) refer to the standards in OAR chapter 690, division 305, which provide clarity and consistency in mapping requirements across water right transactions; (c) provide greater clarity on how the Department will determine that a comment has raised or identified a public interest issue that merits the standard process to provide greater clarity following recent litigation; and (d) implement electronic sending of documents as per Or Laws 2025, ch 282.