

B – Rulemaking for Hydroelectric, Proof of Appropriation, and Miscellaneous Water Rights Provisions

**Water Resources Commission
Meeting – September 10, 2026**

Laura Hartt
Tribal Liaison & Rules Coordinator,
OWRD



Background

Prior Commission Briefings

- Agenda Item H (18 Divisions - Update) – December 2025
- Agenda Item H (Phase 1 - Update) – February 2026
- Agenda Item A (Phase 1 - Adoption) – March 2026
- Agenda Item C (Phase 2 – Update) – June 2026

Integrated Water Resources Strategy

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

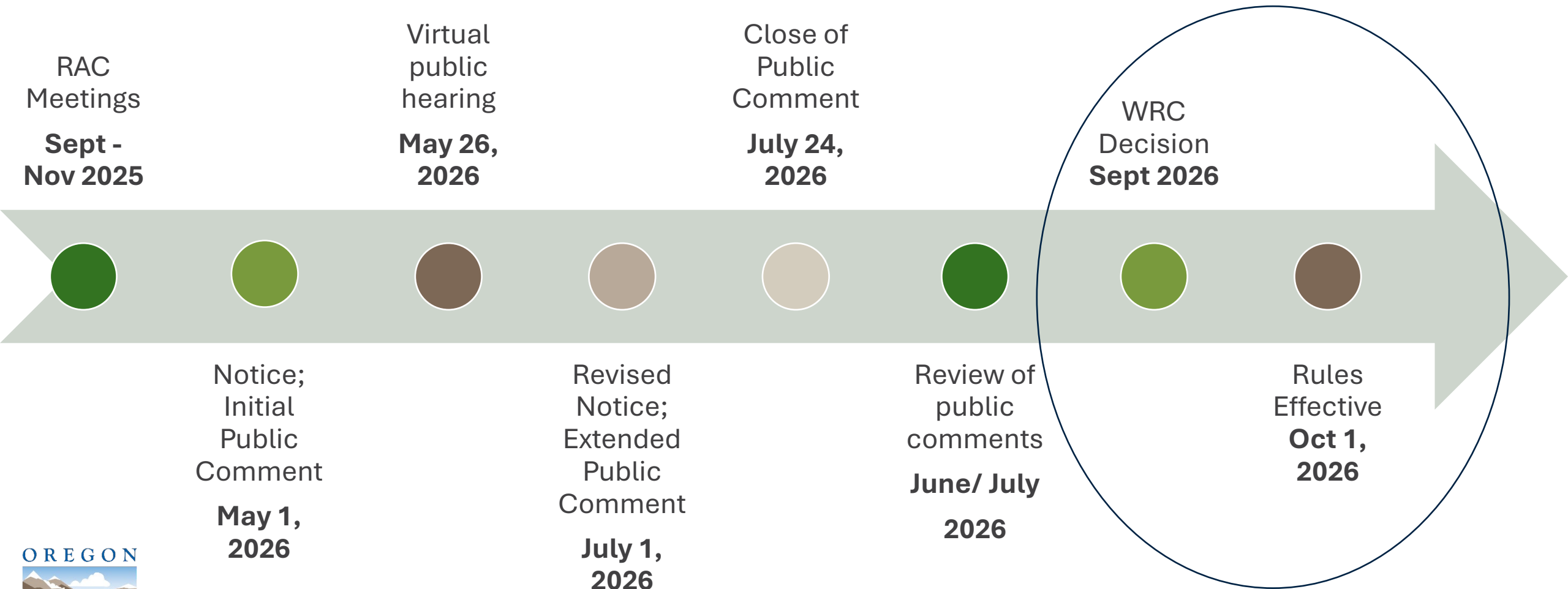
Phase 2 – OAR 690 (Proposed)

Division	Name
052	Decommissioning Rules for Non-FERC Projects
053	Hydroelectric License, Power Claim and Certificate Amendments
054	Conversion of a Hydroelectric Water Right to an Instream Water Right
305*	General Map Criteria – conforming amendment
320	Miscellaneous Water Right Provisions (Renamed from Water Right Permits)
330	Proof of Appropriation to Perfect a Water Right (Renamed from Water Right Certificates)

Rulemaking Need

- (1) Standardize issuance of orders and notices for select hydroelectric power generation processes (Div 52, 53, 54)
- (2) Reorganize, repeal, clarify, and align with statute and rule
 - Proof of appropriation/ claims of beneficial use (Div 330)
 - Miscellaneous provisions (Div 320)

Rulemaking Timeline – Phase 2



Tribal Engagement

Rules Advisory Committee (RAC)

- Confederated Tribes of the Grand Ronde
- Confederated Tribes of the Umatilla Indian Reservation

Briefings and Consultation

- Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians
- Klamath Tribes

RAC Roster (22 Members)

Jeremy Austin, Central Oregon LandWatch

Glenn Barrett, Water for Life

Anton Chiono, Confederated Tribes of the
Umatilla Indian Reservation

Leah Cogan, GSI Water Solutions

J.R. Cook, Northeast Oregon Water Association

Genevieve Hubert, Deschutes River
Conservancy

James Fraser, Trout Unlimited

Chris Hall, Water League

Keri Morin Handaly, Confederated Tribes of
Grand Ronde

Ryan Krabill, Oregon Farm Bureau

Greg Kupillas, Oregon Groundwater Association

Mark Landauer, Special Districts Association

Karen Lewotsky, Oregon Environmental Council

Sarah Liljefelt, Oregon Cattlemen Association

Michael Martin, League of Oregon Cities

Austin Patch, Summit Water Resources

Lauren Poor, Portland General Electric

Kimberley Priestley, WaterWatch of Oregon

Branden Pursinger, Association of Oregon
Counties

April Snell, Oregon Water Resources Congress

Jeff Stone, Oregon Association of Nurseries

Jessi Talbott, Central Oregon Irrigation District

Comment Review

Written Comments – Attachment 1

Comments Received and Department Response – Attachment 3

- 2 rule revisions – Incorporated in Revised Notice
- 1 rule revision – Incorporated in Final Proposed Rules

Phase 2 – OAR 690 (Comments)

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Comments – Outside Scope

- Alignment of rule re: contested case hearing processes, protests, and requests for party status in Div 52, 53, and 54 with Phase 1 updates implementing HB 3544 (2025)
- Several Div 54 comments revisit issues discussed during the 2022 rulemaking
- Div 51 should be included

No changes made

Comments – Within Scope

- Director should retain discretion to bypass contested case hearing if no significant issues are raised during a protest, even if the operator/applicant/holder requests a hearing
 - **No change made**
- Statute requires protest fees for operator/applicant
 - **Revised; Incorporated in Revised Notice**
- Revised rule allowing applicant the option of demonstrating a water right is not subject to forfeiture does not align with statute
 - **Revised; Incorporated in Final Proposed Rules**

Commission Decision

Director's Recommendation

The Commission may consider the following alternatives:

1. Adopt final proposed rules in Attachments 4 and 5.
2. Adopt final proposed rules as modified by the Commission.
3. Do not adopt final proposed rules and request the Department to further evaluate the issues.

The Director recommends Alternative 1 - Adopt final proposed rules in Attachments 4 and 5.

Thank you!

OREGON



WATER RESOURCES
DEPARTMENT

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DRAFT MOTION

I move to adopt the proposed Division 52, 53, 54, 305, 320, and 330 rules in Attachments 4 and 5.

Comment – Protest Fees

OAR 690-052-0110

(4) Any person may submit a protest against a proposed final order. A protest shall be in writing and shall include:

- (f) ~~For persons other than the applicant, t~~Ihe protest fee required under ORS 536.050.

OAR 690-053-0040

(1) Any person may submit a protest against a proposed ~~amendment~~final order. A protest shall be in writing and include:

- (f) ~~For persons other than the applicant, t~~Ihe protest fee required under ORS 536.050.

Comment – Forfeiture

OAR 690-053-0010

An amendment application shall be prepared in ink or typewritten on forms provided by the Department. Applications shall contain the following information:

(10) Evidence that the water has been used beneficially within the past five years in accordance with the terms and conditions of the permit, certificate or license, ~~or the right is not subject to forfeiture under ORS 540.610~~. The evidence may include:

- (a) Affidavits from knowledgeable persons, such as the owner or operator, a neighbor, power purchaser.
- (b) Receipts or expenditures related to the use of water.
- (c) Other records such as dated photographs.