

OREGON



WATER RESOURCES
DEPARTMENT

Division 10 RAC Meeting Number 3

Oregon Water Resources Department Rules
Advisory Committee Meeting

February 16, 2023

Ground Rules

- Treat others respectfully
- You are here to express your viewpoint
- Remain muted when not speaking if you are online
- Use the “raise hand” feature to indicate you would like to speak if you are online

RAC Role

- Attend and participate in meetings
- Provide input/advice and help Department consider various perspectives

Department Role

- Facilitate meetings
- Foster collaboration and consensus building

Meeting Agenda

8:00 – 8:10 AM	Welcome & Introductions
8:10 – 9:00 AM	Changes to Rules Discussion
9:00 – 9:10 AM	Break
9:10- 10:20 AM	Changes to Rules Discussion
10:20 – 10:30 AM	Break
10:30 – 11:30 AM	Changes to Rules Discussion
11:30 – 12:00 AM	Public Comment Period

The background features a stylized landscape. The top portion shows a range of mountains in shades of brown and tan, with white snow-capped peaks. A large, white, fluffy cloud is positioned in the upper right. Below the mountains is a solid blue horizontal band. At the bottom, there are rolling green hills with light tan outlines, suggesting a valley or a path.

Review of Changes Made to the Rules

OREGON



WATER RESOURCES
DEPARTMENT

OAR 690-010-0100: Purpose

OAR 690-010-0100: Purpose

- No changes made

OREGON



WATER RESOURCES
DEPARTMENT

690-010-0110: Definitions

OAR 690-010-0100

In addition to the definitions ~~under~~ **in** OAR 690-008-0001, the following definitions apply to critical groundwater area designations conducted pursuant to ORS 537.730 to 537.742 and these rules, unless the context requires otherwise:

(1) “Affected local government” means any city, county, or metropolitan service district formed under ORS Chapter 268 or an association of local governments performing land use planning functions under ORS 197.190 located within the boundaries of the proposed critical groundwater area.

(2) “Groundwater right” means a permit, certificate, decree or certificate of groundwater registration as provided in ORS 537.610 authorizing the appropriation and use of groundwater.

OAR 690-010-0100

(3) “Groundwater reservoir” means a designated body of standing or moving groundwater having exterior boundaries which may be ascertained or reasonably inferred as provided in OAR 690-010-0130. ~~by (a) physically by coincidence with natural features such as groundwater reservoir boundaries, hydrological barriers, or recharge or discharge boundaries, or (b) Administratively by surrounding an affected area when that area does not coincide with an area bounded by natural features.~~

~~(a) For the purpose of definition above, reasonably inferred means a fair, proper, and moderate conclusion reached by considering all of the facts and deducing a logical conclusion from them.—~~

OAR 690-010-0100

- (4) “Person” includes individuals, corporations, associations, firms, partnerships, limited liability companies, joint stock companies and Indian tribes.
- (5) “Persons who exercise the right to use groundwater pursuant to the exemption in ORS 537.545” means persons other than the driller associated with the well log identification number for the exempt well.
- (6) “Water right” as used in ORS 537.730(1)(d)(A) means certificated and permitted water rights, inchoate transfers and determined claims, the source of which is surface water, including springs, streams, lakes, reservoirs, and rivers. A water right includes a “surface water diversion” as provided in OAR 690-008-0001(4). ~~is a “water right” as defined in this rule.~~



OAR 690-010-0120: Required Criteria for Designation of Critical Groundwater Area

OAR 690-010-0120

No Changes

690-010-0130: Additional Requirements for Critical Groundwater Area Rulemaking Process



OAR 690-010-0130

- (1) The rulemaking process for designation of a critical groundwater area is governed by the applicable provisions under ORS Chapter 183, ORS 537.730 to 537.742, OAR Chapter 690, Division 001, and these rules.
- (2) A rule adopted by the Water Resource Commission shall:
 - (a) Define the boundaries of the critical ground water area and shall indicate which of the ground water reservoirs located either in whole or in part within the area in question are included within the critical ground water area. Any number of ground water reservoirs which either wholly or partially overlie one another may be included within the same critical ground water area.
 - (b) Contain a provision requiring a periodic review of conditions in the critical ground water area. The review shall be in sufficient detail to evaluate the continuing need for the critical ground water area designation and shall occur no less frequently than once every 10 years.

OAR 690-010-0130

(3) For the purposes of ORS 537.735(1)(a) the exterior boundaries of groundwater reservoirs may be reasonably inferred or ascertained:

(a) According to the presence of physical natural boundaries, hydrological conditions, or recharge or discharge areas; or

(b) Administratively by defining an affected area that does not coincide with an area the boundaries of which are defined by natural features.

OAR 690-010-0130

~~(4) For purposes of subsection (3)(c), the Department may rely upon any available records, including, but not limited to, reports, studies, maps, data, and model results.~~

(4) For purposes of subsection (5)(c), the Department may rely upon any available records, including, but not limited to, reports, studies, maps, data, and model results .

OAR 690-010-0130

- (5) In addition to the requirements under section (1), prior to Commission adoption of a rule designating a critical groundwater area, the Department shall:
- (a) coordinate with the affected local government and to the process described in OAR 690-010-0140; and
 - (b) Consult with any federally recognized Indian tribes with in the proposed Critical Ground Water Area;
 - (c) Provide and present to the Commission a report, that is based on the best scientific and commercial data and information available, that identifies and characterizes the groundwater reservoirs subject to the proposed critical groundwater designation; supports any of the Department findings required under ORS 537.730(1)(a) – (g); and if applicable, supports the Department’s recommendation or proposal for any of the corrective control provisions under ORS 537.735(3)(a) – (f).
 - (d) The Department shall post the report presented to the Commission on the Department’s website at least 120 days prior to the public hearing as provided in section (7) of this rule.

OAR 690-010-0130

- ~~(5)(c) Ensure there is substantial evidence in the rulemaking record to:~~
- ~~—— (A) Justify the imposition of restrictions on groundwater use in the affected area; and~~
 - ~~—— (B) If applicable, support a determination that a groundwater use will impair, substantially interfere, or unduly interfere with a surface water source.~~

OAR 690-010-0130

(6) In addition to the notice requirements under ORS 183.335, the Department shall give notice of the proposed rules by regular mail to:

(a) The owners of record of all groundwater registrations, permits and certificates for water use within the affected area.

(b) For the purpose of providing notice by regular mail, The Department may rely upon the available county tax lot ownership information for parcels underlying or overlapping with water right places of use in the proposed critical groundwater area. ~~when providing notice of the rulemaking to owners of record under ORS 537.730(3)(a).~~

(c) ~~(6) The Department will also notify~~ Each-well constructor licensed under ORS 537.747 ~~with the proposed critical groundwater area under 537.730(3)(b).~~

OAR 690-010-0130

(7) Within 60 days after notice of the proposed rules is provided under ORS 183.335, ORS 537.730(3) and these rules, The Department shall hold the public hearing ~~required under ORS 537.730(2)~~ within the county in which the proposed critical groundwater area lies. Notice of the hearing shall be provided in a manner consistent with ORS 537.730(3) and ORS 183.335 (3)(b).



690-010-0140: Land Use Planning Coordination with Affected Local ~~and Indian~~ Tribes

OAR 690-010-0140

- (1) Prior to notification **of the proposed rules** under ORS 183.335, the Department shall coordinate with the affected local government pursuant to the applicable provisions under ORS Chapter 197 (State Agency Planning Responsibilities), ~~OAR Chapter 660 Division 030 (Review And Approval Of State Agency Coordination Programs)~~, OAR Chapter 690, Division 005 (Compliance With Statewide Planning Goals, Compatibility With Comprehensive Plans, And Coordination On Land Use Matters), and these rules.
- (2) To facilitate coordination **in the rulemaking process to designate a critical groundwater area**, the Department shall provide ~~the~~ following information to affected local governments:
 - (a) Boundaries of the proposed critical groundwater area;
 - (b) List of any groundwater reservoirs located either in whole or in part within the proposed

OAR 690-010-0140

- (c) List of subsections under ORS 537.730 relied upon for the designation of the proposed critical groundwater area;
- (d) Information ~~Copies of any evidence~~ relied upon to compile the list under subsection (2)(c) and;
- (e) A list of any proposed corrective control provisions to be included in the proposed critical groundwater area rule under ORS 537.735; and
- (f) A of copy the proposed rules.

OAR 690-010-0140

~~(3) Prior to notification of the proposed rule under ORS 183.335, Tthe department shall consult notify Indian tribes of the proposed rulemaking and also consult with any federally recognized tribes who have expressed an interest with in the proposed Critical Ground Water Area and in aid of consultation will provide to the tribe the information in section (2) of this rule.~~

~~(a) Posting on the Department website; and~~

~~(b) The newspaper(s) of record for any county within the proposed boundary.~~

OREGON



WATER RESOURCES
DEPARTMENT

OAR 690-010-0150:
Consultation with Federally
Recognized Tribes

OAR 690-010-0150

(1) Prior to convening the Rules Advisory Committee, the department shall consult with any federally recognized tribes within the basin and also consult with any federally recognized tribes who have expressed an interest in the proposed Critical Ground Water Area.

(2) To aid with consultation the department will provide the information in 690-010-0140(2)(a) – (e) to the federally recognized tribe and any interested federally recognized tribes.

OAR 690-010-0160: Content, Filing, and Review of Adopted Critical Groundwater Area Rules



OAR 690-010-0160

- (1) (1) Any rule adopted by the Commission under ORS 537.730 and these rules shall meet the requirements of ORS 537.735.
- (2) A critical groundwater area rule may include any one or more of the corrective control provisions under ORS 537.735(3)(a)–(f). These corrective controls provisions may include ~~can be~~:

No changes made to the rest of the section.



OAR 690-010-0170: Initial Notification of Proposed Corrective Actions

OAR 690-010-0170

(1) At any time after the Commission adopts a rule designating a critical groundwater area, the Commission may initiate a contested case proceeding to propose limitation on groundwater rights or limitations on persons who exercise the right to use groundwater pursuant to the exemption in ORS 537.545 in the designated area. A contested case hearing shall be initiated by issuance of an Initial Notification of Proposed Corrective Action(s) followed by a Notice of Proposed Corrective Action(s).

OAR 690-010-0170

~~(2) If the Department intends to initiate a contested case proceeding to implement the corrective control provision(s) it proposes, the Department shall provide initial notification of its proposed corrective action(s) in accordance with this rule.~~

(2) An Initial Notification of Proposed Corrective Action(s) may be issued at any time after the Commission adopts a rule designating a critical groundwater area, and prior to issuing a Notice of Proposed Corrective Actions. ~~, the Department may~~ The Initial Notification of Proposed Corrective Actions shall identify ~~propose~~ corrective control provisions as specified in ORS 537.742(2)(a)–(f) that the Department believes will resolve the problems that resulted in the designation of a critical groundwater area and ~~. These corrective control provisions~~ will form the basis of a Notice of Proposed Corrective Action(s) ~~the contested case hearing~~ as provided in OAR 690-010-0170.

(3) The proposed corrective actions that limit or restrict the use of groundwater in the critical groundwater area that may be included in the Initial Notification of Proposed Corrective Actions are as follows ~~can be~~:

(a) A provision apportioning the permissible total withdrawal as established by rule under ORS 537.730, among the appropriators holding valid rights to ground water in the critical area in accordance with the relative dates of priority of such rights

(b) A provision according preference, without reference to relative priorities, to withdrawals of ground water in the critical area for residential and livestock watering purposes first. Thereafter, the commission may authorize withdrawals of ground water in the critical area for other beneficial purposes, including agricultural, industrial, municipal other than residential, and recreational purposes, in such order as the commission considers advisable under the circumstances, so long as such withdrawal will not materially affect a properly designed and operating well with prior rights that penetrates the aquifer.

- (c) A provision reducing the permissible withdrawal of ground water by any one or more appropriators or wells in the critical area.
- (d) Where two or more wells in the critical area are used by the same appropriator, a provision adjusting the total permissible withdrawal of ground water by such appropriator, or a provision forbidding the use of one or more of such wells completely.
- (e) A provision requiring the abatement, in whole or part, or the sealing of any well in the critical area responsible for the admission of polluting materials into the ground water supply or responsible for the progressive impairment of the quality of the ground water supply by dispersing polluting materials that have entered the ground water supply previously.
- (f) A provision requiring and specifying a system of rotation of use of ground water in the critical area.

(4) In addition to proposed corrective control measures as provided in subsection

(2), the Department's Initial Notification of Proposed Corrective Actions must include:

- (a) Identification of the critical groundwater area in which the corrective actions are proposed ;
- (b) A statement describing the factors that led to the designation of the critical groundwater area;
- (c) A description of the proposed corrective actions that the Department believes will resolve the problems that resulted in the designation of the critical groundwater area;
- (d) A description of the geographic area in which corrective actions will be proposed; and
- (e) A description of how persons may request a Notice of Proposed Corrective Action and the deadline for requesting such notice.

- (5) The Department shall give notice of its Initial Notice of Proposed Corrective Action(s) by :
- (a) Publication in a newspaper having general circulation in the area in which the corrective actions will be proposed, for a period of at least two weeks and not less than one publication each week.
 - (b) Publication in the weekly notice published by the Department for four consecutive weeks.
 - (c) First class mail to any affected local governments and to tribal governments within or adjacent to the geographic area in which corrective actions are identified .
 - (d) Holding a public meeting in the area in which the corrective actions will be proposed; and
 - (e) Posting the Initial Notification of Proposed Corrective Actions on its

(6) Persons requesting a copy of the Department’s Notice of Proposed Corrective Actions must request a copy of the notice by the deadline specified in the Initial Proposed Corrective Actions. The request shall be on a form provided by the Department on its website, and shall include information from the requestor that establishes whether:

(a) The requester holds a groundwater right within the area of the initial notification of proposed corrective action;

(b) The requester exercises the right to use groundwater pursuant to the exemption in ORS 537.545; or

(c) The requester otherwise has an interest in the proceedings; and

(d) The mailing address and electronic mail address to which the Department may mail and e-mail its Notice of Proposed Corrective Action.

690-010-0180: Notice of Proposed Corrective Actions

OREGON



WATER RESOURCES
DEPARTMENT

OAR 690-010-0180

(1) Following issuance and notification of the Initial Proposed Corrective Action(s), and prior to implementation of any proposed corrective actions as may limit the use of groundwater in the critical groundwater area, the Department shall~~At any time after the deadline for requesting a notice as provided in OAR 690-010-0160(3), the Commission may~~ issue a Notice of Proposed Corrective Actions proposing implementation of one or more corrective control provisions as specified in ORS 537.742(2)(a)–(f).

(2) The Notice of Proposed Corrective Action(s) is a notice for the purposes of ORS 183.415 and shall, ~~also~~ in addition to those elements in ORS 183.415 and OAR 137-003-0505, include ~~contain~~ the following:

- (a) A case caption that identifies the critical groundwater area at issue including a citation to the rule establishing the critical groundwater area and identification of the county or counties in which the critical groundwater area is located;
- (b) A statement of the ~~problem~~ factors resulting in designation of the critical groundwater area that may be addressed by limiting the use of groundwater in the critical groundwater area;

- (c) A clear and concise description of the proposed corrective action(s);
- (d) A description of the area where the Director intends to implement the proposed corrective actions including attachment of any maps as necessary to clearly show the area of intended action(s) such that groundwater right holders and users of groundwater exempt under ORS 537.545 located within the area of intended action may determine whether they will be affected by the proposed corrective action(s);
- (e) Identification of those groundwater right holders and persons who exercise the right to use groundwater pursuant to the exemption in ORS 537.545 whose rights to use groundwater may be limited ~~affected~~ by the proposed corrective actions. ~~and exempt groundwater users who have identified themselves in a request pursuant to OAR 690-010-0160(5);~~

- (f) Findings of fact that support a conclusion that the problem(s) that resulted in designation of a critical groundwater area may be corrected by implementing the corrective control measures specified in the Notice of Proposed Corrective Action(s);
- (g) Reference to observations, evidence, reports, studies, maps data, model results or any other substantial information that supports the agency's findings of fact;
- (h) Conclusions of law based on the findings of fact and applicable law;
- (i) An explanation of the reasoning that leads from the findings of fact to the conclusion that the problems that resulted in designation of the critical groundwater area may be resolved by implementation of the corrective control measure(s) identified in the notice;

OAR 690-010-0180

• ~~(j) A citation to any laws involved;~~

~~(j) A ~~statement~~ notice of a party's right to a contested case hearing pursuant to ORS chapter 183.415 and OAR 137-003-0505;~~ and

(k) A deadline for submitting a request for hearing, or, for persons other than those holding a groundwater right or persons who exercise the right to use groundwater pursuant to the exemption in ORS 537.545, a deadline for filing a Petition or for Party S status as provided in OAR 690-010-0180.

(3) The Department shall provide notification of the Notice of Proposed Corrective Actions by:

(a) Mailing copies of the Notice of Proposed Actions by certified or registered mail to:

(A) Groundwater right holders and persons who exercise the right to use groundwater pursuant to the exemption in ORS 537.545 whose wells are within the identified area in which corrective actions are proposed and whose use of groundwater will be limited by proposed corrective actions but only as the Department possesses contact information or may reasonably obtain contact information. ~~or;~~

OAR 690-010-0180

(b) Mailing copies of the Notice of Proposed Actions by regular mail to persons who have timely requested copies of the notice as provided in OAR 690-010-0170(4) ~~and who have identified themselves as persons who hold a groundwater right or exercise the right to use groundwater pursuant to the exemption in ORS 537.545.~~

(c) Publication in the weekly notice published by the Department for four consecutive weeks.

(d) Publication on the Department's website.

OREGON



WATER RESOURCES
DEPARTMENT

690-010-0190: Request
for Hearing and Petitions
for Party Status

OAR 690-010-0190

- (1) Holders of groundwater rights or persons who exercise the right to use groundwater pursuant to the exemption in ORS 537.545 and whose use of groundwater will be limited as described in the Notice of Proposed Corrective Action(s) are parties to the contested case regarding a Notice of Proposed Corrective Action(s). ~~Only those persons identified by the Department as parties may participate in the contested case hearing regarding the Notice of Proposed Corrective Action(s).~~
- ~~(a) For the purposes of these rules, “person” includes individuals, corporations, associations, firms, partnerships, limited liability companies, joint stock companies and Indian tribes.~~

OAR 690-010-0190

- ~~(2) After receipt of a timely petition for party status, the Department may identify persons who shall be parties or limited parties in a contested case hearing regarding the Notice of Proposed Corrective Action(s).~~
- ~~(a) The Department's order on party status shall be a written order directed to the petitioner. An order denying party status shall be promptly served by first class mail on the petitioner and may be appealed in accordance with the provisions of ORS 183.484.~~
- ~~(b) If the Department grants a petition for party status, the agency shall specify areas of participation and procedural limitations as it deems appropriate and shall list those issues raised by petitioner in petitioner's request for party status.~~

OAR 690-010-0190

(2) Persons who do not hold groundwater rights or persons who do not exercise the right to use groundwater pursuant to the exemption in ORS 537.545 may seek party status in the contested case regarding a Notice of Proposed Corrective Action(s) by filing a Petition for Party Status with the Department by the deadline specified in the Notice of Proposed Corrective Actions.

(a) A Petition for Party Status must be in writing, must be filed at least 120 days before the date set for hearing, must be consistent with the provisions in OAR 137-003-0535 and OAR 137-003-0630 and must be timely filed in the Department's Salem office by the deadline described in the Notice of Proposed Corrective Action(s). ~~Parties are identified only as provided in these rules according to the timelines provided 690-010-170(2)(l) in these rules.~~

OAR 690-010-0190

(b) Consistent with the provisions of OAR 137-003-0535 the Department may identify persons who shall be parties or limited parties in a contested case hearing regarding the Notice of Proposed Corrective Action(s).

OAR 690-010-0190

(3) Persons who hold a groundwater right or persons who exercise the right to use groundwater pursuant to the exemption in ORS 537.545 and whose groundwater use will be limited as provided in the Notice of Proposed Corrective Action(s) ~~who exercise the right to use groundwater pursuant to the exemption in ORS 537.545~~ may request a hearing to respond to the matters asserted in the Notice of Proposed Corrective Action(s). ~~A request for hearing party status or limited party status to participate in a contested case hearing involving the Notice of Proposed Corrective Action(s). The petition for party status~~ must be in writing and filed by the deadline specified in the Notice of Proposed Corrective Actions.

(a) Requests for hearing shall include ~~the following:~~

(b) Names and addresses of the petitioner;

(c) Name and address of the petitioner's attorney, if any; and

(d) Identification of the water right held by petitioner or identification of the exempt well, and exempt uses, used or owned by petitioner.

(e) Requests for hearing may also include:

(f) A detailed description of how the corrective actions in the Notice of Proposed Corrective Action(s) would adversely affect or aggrieve petitioner supported by an affidavit stating such facts;

(g) A detailed description of how the Notice of Proposed Corrective Action(s) is in error or deficient and how to correct the alleged error or deficiency;

(h) A detailed description of whether the problem(s) that resulted in the designation of the critical groundwater area may or may not be corrected by implementing the corrective control measures specified in the agency notice and why; and

(i) Any citation of legal authority supporting the petition, if known.

OAR 690-010-0190

~~(4) Persons who do not hold a groundwater right or who do not exercise the right to use groundwater pursuant to the exemption in ORS 537.545 may request party status as provided in OAR 137-003-0535 except that the agency need not serve a copy of the petition as provided in OAR 137-003-0535(5).~~

(4) Requests for Hearings and Petitions for Party Status shall be considered filed on the date postmarked. Requests for Hearing or Petitions for Party Status sent by facsimile or hand-delivered are considered filed when received by the Department in its Salem office.

(a) In computing the period of time for timely filing ~~of a petition for party~~ status, the last day of the time period shall be included, unless it is a scheduled day of office closure, in which event the time period runs until the end of the next day that the office is open. Scheduled days of office closure include, but are not limited to, Saturdays and legal holidays identified in ORS 187.010 and 187.020, including Sundays.

OREGON



WATER RESOURCES
DEPARTMENT

690-010-0200: Scope of Contested Case Hearing

(1) A contested case hearing shall be conducted to establish one or more of the corrective control provisions in ORS 537.742 that limit use of groundwater in the critical groundwater area as provided in the Notice of Proposed Corrective Actions. ~~determine whether the corrective actions proposed in the Notice of Proposed Corrective Action(s) will resolve the problems that resulted in the designation of the critical groundwater area.~~

OAR 690-010-0200

(2) Except as otherwise provided in ORS 183.417(8) the Director shall create a list of issues to be heard in the contested case and shall refer that list to the Office of Administrative Hearings at the time the Notice of Proposed Corrective Action(s) is referred.

(a) The list of issues shall include those issues raised in a timely-filed Request for Hearing though issues may be categorized or summarized as furthers efficient administration of the contested case.

(b) Parties to the contested case may seek amendment or clarification of the list of issues consistent with the provisions of OAR 137-003-0630.

OAR 690-010-0200

~~(c) The list of issues shall identify each party that has been granted party status, shall detail the scope of each party's participation in the contested case hearing and shall list the issues raised by each party in their petition for party status.~~

~~(3) Any party seeking to amend or add to the list of issues filed by the Department in its referral to the Office of Administrative Hearings must make a motion to the Administrative Law Judge.~~

-

~~(a) Good cause must be asserted if the party moves to add an issue not raised in the party's petition for party status.~~

-

~~(b) For the purposes of this rule, "good cause" is defined in OAR 137-003-0501(7).~~

OREGON



WATER RESOURCES
DEPARTMENT

690-010-0210: Conduct of Contested Case

OAR 690-010-0210

(1) The conduct of the contested case regarding the Notice of Proposed Corrective Action(s) shall be governed by OAR 137-003-0501 to 137-003-0700 except as otherwise provided in these rules.

(2) The Department shall refer the contested case submit to the Office of Administrative Hearings as provided in OAR 137-003-0515 . ~~the following documents when it refers the Notice of Proposed Corrective Actions to the Office of Administrative Hearings:~~

~~(a) The Notice of Proposed Corrective Actions; and~~

~~(b) Copies of evidence, maps, reports or any other information that supports the Department's findings of fact, conclusions and determination of corrective actions that will resolve the problems that resulted in designation of the critical groundwater area;~~

~~(c) Copies of each order on party status with the petition for party status attached;~~

~~(d) The list of issues compiled by the Director;~~

~~(e) A certificate of service that includes each party's or a party's representative's name, mailing address, electronic mail address and phone number; and~~

~~(f) Any other information that the Director reasonably believes is necessary to support the Notice of Proposed Corrective Actions or is relevant to the proceedings-~~

OAR 690-010-0210

- (3) ~~In addition to submitting the information in subsection (2) above,~~ The Department shall post ~~all of~~ on its webpage the information contained in its referral to the Office of Administrative Hearings ~~on its webpage~~ and ~~will~~ may also post maps, reports or any other information supporting the Notice of Proposed Corrective Action including ~~provide any necessary~~ links to information evidence referred to in the Notice of Proposed Corrective Action. ~~that supports the agency's findings of fact, conclusions, and determinations of corrective actions.~~
- (4) Due to the extensive scope of the contested case hearing and the large number of parties, the availability of the information posted ~~Department's case-in-chief~~ as provided in subsections (2) and (3), and the availability of public seeking record requests pursuant to Oregon's Public Records Law, discovery against the Department is only as provided in OAR 137-003-0566(1) (a) – (c).

OAR 690-010-0210

~~(a) Parties may seek discovery against each other as provided in OAR 137-003-0566.~~

(5) Service and filing of documents in the contested case hearing may be by electronic means only **as directed and allowed by the Administrative Law Judge.**

~~(a) In lieu of mail or electronic service to individual parties, the Office of Administrative Hearings or the Department may maintain a webpage where any party may access all the documents filed in the proceeding. Service may consist only of notification to a party that documents have been uploaded to the webpage.~~

~~(6) Notwithstanding OAR 137-003-0630(3), the timelines for filing and response to motions for ruling on legal issues shall be only as provided in a prehearing order from the Administrative Law Judge.~~

OREGON



WATER RESOURCES
DEPARTMENT

690-010-0220: Exceptions to Proposed Order

OAR 690-010-0220

- ~~(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 the Department may file exceptions and present argument to the Commission.~~
- (1) Exceptions to the Proposed Order issued by the Administrative Law Judge after a contested case hearing must be ~~in writing and must clearly and concisely identify the portions of the proposed order excepted to and must be filed~~ within 60 days following the date of service of the Proposed Order.
- (2) The Commission must consider timely-filed ~~the~~ exceptions but need not individually address each exception in any final order issued. The Commission may form a subcommittee to review the exceptions and may provide a report to the Commission prior to the Commission issuing a final order.

OREGON



WATER RESOURCES
DEPARTMENT

690-010-0230: Final Order **in Contested Case**

OAR 690-010-0230

- (1) Upon conclusion of the contested case hearing including the consideration of exceptions filed against a proposed order issued by the administrative law judge, the Commission shall issue a final order in contested case .

- (2) If, after consideration of the contested case record, the Commission finds that the ~~problems~~ factors that resulted in the designation of a critical groundwater area under ORS 537.730 can be resolved by implementing one or more of the corrective control measures specified in the Notice of Proposed Corrective Action(s), the Commission shall issue a final order establishing one or more of the proposed corrective actions which may include limitations on the use of groundwater by those holding groundwater rights or on persons who exercise the right to use groundwater pursuant to the exemption in ORS 537.545.

OAR 690-010-0230

~~(3) If, after consideration of the contested case record, the Commission finds that the problems that resulted in the designation of a critical groundwater area under ORS 537.730 cannot be resolved by implementing one or more of the corrective control measures specified in the Notice of Proposed Corrective Action(s), the Commission may issue a final order:-~~

~~(a) Remanding all or a portion of the Notice of Proposed Corrective Actions back to the Department for further review considering the contested case record.~~

~~-~~

~~(b) Insofar as any modifications are supported by the contested case record, modifying the corrective actions to specify corrective control measures that can resolve the problems that resulted in designation of the critical groundwater area.~~

OAR 690-010-0230

~~(c) Finding that corrective control measures cannot resolve the problems that resulted in the designation of a critical groundwater area and making any recommendations as the Commission believes is in the best interest of the public's health, welfare and safety as provided in ORS 537.525.~~

(3) Final orders in contested case must be consistent with ORS 183.650 and OAR 137-003-0665 and directed to the named parties in the contested case proceeding.

(4) Final orders in default issued to a party in the contested case hearing must be consistent with OAR 137-003-0670.

(5) The Commission's final order in contested case is appealable to the Oregon Court of Appeals pursuant to ORS 183.482.

OAR 690-010-0230

~~(7) Subsequent to the Commission's final order becoming final by operation of law or after all appeals are resolved, the Commission may promulgate the order's provisions as a rule consistent with laws governing rulemaking proceedings and basin program plan amendments.~~

690-010-0240:
Procedure for Making
Changes to Existing
Critical Groundwater
Area



No Changes

OREGON



WATER RESOURCES
DEPARTMENT