

Division 330
Proof of Appropriation to Perfect a Water Right

690-330-0010

Proof of Appropriation

(1) ORS 537.250(1) and 537.630(3) prescribe that the Director shall issue a certificate of water right upon satisfactory proof of appropriation. Satisfactory proof shall be following:

(a) A determination by the Department that appropriation of water to beneficial use under the terms of the permit has been accomplished to the extent authorized;

(b) A determination by the Department that appropriation of water to a beneficial use under the terms of the permit was accomplished to an extent less than authorized shall constitute proof for that portion of the appropriation.

(2) If the Department determines that proof has been made to an extent different from or less than that granted by the permit, a proposed certificate of water right shall be prepared. The proposed certificate shall describe the right determined completed under the provisions of the permit. The proposed certificate shall be sent by first class mail to the permittee at the last known address, or with the consent of the recipient, by electronic means together with notice that the permittee or landowner has a period of 60 days from the date the proposed certificate was sent within which to request the Department reconsider the contents of the proposed certificate of water right. If no request for reconsideration is received within the 60-day period, the Director shall issue a water right certificate to the permittee pursuant to ORS 537.250(1) or 537.630(4).

(3) If the Department determines that proof has been made on the full extent granted by the permit, a certificate may be issued without the necessity of a proposed certificate.

Statutory/Other Authority: ORS 536.025 & 536.027

Statutes/Other Implemented: ORS 536.220, 536.300, 536.310, 537.250, 537.338, 537.356 - 537.358, 537.630, 540 & 543

History:

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

WRD 1-1996, f. & cert. ef. 1-31-96, Renumbered from 690-011-0225

WRD 9-1992, f. & cert. ef. 7-1-92, Renumbered from 690-011-0110

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

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

690-330-0020

Request for Reconsideration of the Contents of a Proposed Certificate

(1) A request for reconsideration of the contents of a proposed certificate may be prepared by the permittee or landowner and submitted to the Department. The requests shall describe any disagreement with the contents of the proposed certificate.

(2) The request for reconsideration may be in the form of a phone call or personal contact, unless the disagreement proposes a change to any of the following:

- (a) The source of water;
 - (b) The purpose for which the water is used;
 - (c) The quantity of water;
 - (d) The location of the points of diversion;
 - (e) The location of the use;
 - (f) The extent of the use; and
 - (g) Any conditions imposed upon the use.
- (3) If the disagreement results in a change to any item listed in subsections (2)(a) through (g) of this rule, the request for reconsideration shall be completed in writing. The request shall set forth the changes to the proposed certificate or the final proof map, and shall include any facts which support the request. Maps, photographs, affidavits, receipts or other such evidence may be included to support the request.
- (4) The Director may allow reasonable time beyond the time limit set under OAR 690-330-0010(2) for a permittee or landowner to complete and submit a written request for reconsideration.
- (5) Upon receipt of a request for reconsideration, the Director shall:
- (a) Approve the request without verification and issue a certificate with the changes included;
 - (b) Schedule field verification of the requested changes; or
 - (c) Deny the request by letter from Department staff to the requesting party.
- (6) If field verification is scheduled, a new proposed certificate shall be prepared and sent as prescribed by OAR 690-330-0010.
- (7) A request for reconsideration resulting from section (6) of this rule shall be approved or denied. If denied, the denial shall be in the form of an Order of the Director. The order shall provide for either issuance of a certificate of water right in conformance with the Director's findings, or for the scheduling of a contested case hearing as provided under OAR 690, division 2.

Statutory/Other Authority: ORS 536.025 & 536.027

Statutes/Other Implemented: ORS 536.220, 536.300, 536.310, 537.250, 537.338, 537.356 - 537.358, 537.630, 540 & 543

History:

WRD 1-1996, f. & cert. ef. 1-31-96, Renumbered from 690-011-0230
WRD 9-1992, f. & cert. ef. 7-1-92, Renumbered from 690-011-0120
WRD 16-1990, f. & cert. ef. 8-23-90

690-330-0030

Temperature Control

Where a permit has been issued for use of water for temperature control (either heat or cold), a report detailing the amount of water used, the times of application and conditions requiring the use of water for temperature control shall be required annually. These shall be required as an element of proof of appropriation to the satisfaction of the Department prior to issuance of a confirming water right certificate.

Statutory/Other Authority: ORS 536.027

Statutes/Other Implemented: ORS 537.170, 537.250, 537.525 & 537.630

History:

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

Repeal

690-330-0040

~~Primary and Supplemental Rights~~

~~(1) Cancellation of primary rights:~~

~~(a) A notice given pursuant to ORS 540.631 for the proposed cancellation of a primary water right for irrigation of certain lands shall include notice of the proposed cancellation of any supplemental water right for irrigation of the same lands;~~

~~(b) If the primary right is determined to have been forfeited by non-use and the supplemental right is not determined also to have been forfeited by non-use, the owner of the land to which the right is appurtenant may apply to transfer the supplemental right, without loss of priority, to become the primary right.~~

~~(2) Diminution of a water right: A primary right may, at the request of the owner of the right, be diminished to a supplemental status to allow for a new primary right application from a more dependable source of water.~~

~~(3) Supplemental rights: Where more than one right exists, water shall be used from the primary source so long as there is sufficient quantity to satisfy the terms of the permit or certificate. Nevertheless, if requested by the applicant, a permit may be issued which describes a surface water source as supplemental to a groundwater right and shall provide that, in the interest of conserving the groundwater supplies, the supplemental right may be exercised at time when water is available from the surface water supply.~~

~~**Statutory/Other Authority:** ORS 536.025~~

~~**Statutes/Other Implemented:** ORS 540.610 – 540.650~~

~~**History:**~~

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

Rule Summary: This rule is proposed to be repealed as it is duplicative of OAR 690-320-0070.

Adopt
690-330-0050
Cancellation of Permit

The Department may initiate cancellation of a permit pursuant to ORS 537.260 or ORS 537.410 - 537.450.

Statutory/Other Authority: ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 536.220, ORS 536.300, ORS 536.310, ORS 537.260, ORS 537.410 - 537.450, ORS 540, ORS 543

Rule Summary: This rule was formerly OAR 690-320-0020. That rule has been updated and is proposed for adoption here because it is better suited for this division as it pertains to proving up on a water right. The new updated rule points to the correct statutory authority for Department initiation of permit cancellation.

Adopt
690-330-0060
Final Proof Survey: Claims of Beneficial Use for Applications Filed After July 9, 1987

(1) Except for applications filed under the provisions of OAR 690-340-0220, all final proof surveys and claims of beneficial use for water right permit applications filed after July 9, 1987, shall be performed by Certified Water Right Examiners in accordance with OAR 690-014.

(2) Applicants prior to July 10, 1987, may either wait for the Department to perform the final proof survey on its own schedule or may hire a certified Water Right Examiner.

Statutory/Other Authority: ORS 536.027

Statutes/Other Implemented: ORS 537.797, ORS 537.798, ORS 537.799

Rule Summary: This rule was formerly OAR 690-320-0030. That rule has been updated and is proposed for adoption here because it is better suited for this division as it pertains to proving up on a water right. The new rule specifies proof survey requirements for applications filed through July 9, 1987, as well as those filed after July 9, 1987.

Adopt
690-330-0070
Incremental Perfection of a Municipal Water Right

(1) These rules shall apply to requests submitted on or after July 1, 2026, for partial perfection of a municipal water right permit. Requests submitted before this date shall be subject to the rules in effect at the time of submittal.

(2) A municipal supplier may incrementally perfect a portion of the quantity of water authorized by any of its municipal water use permits. For the purpose of incrementally perfecting water rights, a municipal supplier means:

- (a) Any incorporated city, village, or town;
 - (b) A port formed under ORS 777.005 to 777.725 and 777.915 to 777.953;
 - (c) A domestic water supply district formed under ORS chapter 264; or
 - (d) A water supply authority formed under ORS chapter 450.
- (3) The portion of water use that may be incrementally perfected by a municipal supplier shall not be less than 25 percent of the quantity originally authorized by permit. The perfection, or proof of appropriation, of each increment of water shall conform to the proof of appropriation requirements of OAR 690-330-0010.
- (4) When a portion of a permit issued for municipal use is perfected by a municipal supplier, the remaining unperfected quantity of water shall remain in permit status without loss of priority. The increment of water perfected and confirmed by certificate shall be subtracted from the quantity of water originally authorized by permit. The remainder shall be the quantity of water subject to future perfection under the terms of the permit.
- (5) A municipal supplier shall notify the Department, in writing, of its intent to incrementally perfect a portion of its water right. Written notice shall include the following information:
- (a) A claim of beneficial use meeting the standards identified in OAR chapter 690, division 14;
 - (b) The quantity of water diverted from each point of diversion, by month, for the preceding three years and the maximum rate diverted under the permit to date, including the date; and
 - (c) A plan of how the municipal supplier intends to develop successive increments of its water right.
- (6) Municipal suppliers that incrementally perfect less than the full quantity of water authorized by permit may request further extension of the time limit to complete construction and apply water to beneficial use for the remaining, unperfected quantity of water. OAR 690-315 extension of time limits applies to unperfected municipal water rights.

Statutory/Other Authority: ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 536.220, ORS 536.300, ORS 536.310, ORS 537.260, ORS 540

Rule Summary: This rule was formerly OAR 690-320-0040. That rule has been updated and is proposed for adoption here because it is better suited for this division as it pertains to proving up on a water right. The new rule includes an applicability statement for clarity and refers to the submittal of the claim of beneficial use meeting the standards of OAR chapter 690, division 14 as part of the request for incremental perfection.