

Summary of Potential Rule Changes

OAR 690-340 WATER USE AUTHORIZATIONS

Rule Draft Date: 11/5/2025; Summary Date: 11/5/2025

V2 changes highlighted in yellow. See rule changes for more specific information.

*Items in italics are intended to provide a quick grounding for RAC members and whether a rule change is implementing legislation, a rule update or clarification, a process improvement or some other substantive policy change. OWRD acknowledges that there may be different opinions as to whether an item is a substantive policy change or a rule update and encourages RAC members to review all materials. OWRD has done an initial rough cut in an attempt to assist RAC members per request at the first RAC meeting. Due to the short turnaround to fulfill this request, OWRD cannot assure accuracy.

** Or Laws 2025, ch 282 = House Bill 3342 (water rights transactions); Or Laws 2025, ch 575 = House Bill 3544 (contested cases), ORS 183 = Oregon Administrative Procedures Act (APA).

690-340-0030 Limited License	This rule is amended to refer to the standards in OAR 690-305, 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. <i>OWRD process/efficiency improvement: mapping standardization.</i>
690-340-0060 Expedited Review Process for Applications to Use Stored Water Exclusively	This rule is amended to (a) correct circular or conflicting references related to 690-310-0040 and 0050; (b) refer to the standards in OAR 690-305, 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. <i>Rule cleanup/clarity, Mapping standardization. Specified by 2025 legislation: electronic docs. Policy matter: when comment raises public interest issue.</i>

V1=8/27

V2=11/5/2025=changes highlighted in yellow

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.

(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;
 - (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

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 rules 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:

(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

(a) A completed water availability statement from the local watermaster on forms provided by the department; and

(b) A ~~site map~~ meeting the standards in OAR Chapter 690, Division 305. ~~of reproducible quality, drawn to a standard, even scale of not less than 2 inches = 1 mile, showing:~~

~~(A) The locations of all proposed points of diversion referenced by coordinates or by bearing and distance to the nearest established or projected public land survey corner;~~

~~(B) The general course of the source for the proposed use, if applicable;~~

~~(C) Other topographical features such as roads, streams, railroads, etc., which may be helpful in locating the diversion points in the field.~~

(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 mailing 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) ~~A limited license does not receive a priority date and is not protected under ORS 540.045. 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 & 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

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.~~

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.

(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 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

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 ~~690-310-0040, 690-310-0050, and 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 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 ~~sent by facsimile, postmarked, or hand-delivered to~~ 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: ~~and shall identify:~~

(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 ~~t~~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 ~~Specifically how the identified public interest would be affected.~~

(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, Ch. 595 & 654

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 690-310-0040 and 0050; (b) refer to the standards in OAR Chapter 690, Division 05, 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.