

**Rule updates for  
hydroelectric, proof of  
appropriation, and  
miscellaneous water rights  
provisions**

**Informational Session  
May 26, 2026 – Zoom**



# Logistics

## Agenda

- Rulemaking Background & Need
- High-Level Overview of Proposed Rules
- Next Steps
- Time for Questions

## **This Informational Session is the time to ask questions**

- Please use this forum only for questions, not to share your views.
- Public hearing follows this meeting, during which time public comment will be accepted.

# Background & Need

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# Background – Rulemaking Phases

## June 2025 - Legislation

- House Bill (HB) 3342 – Modernization re: Water Rights Transactions
- HB 3544 – Streamlining re: Contested Case Management

## Sept - Nov 2025 – Rules Advisory Committee

- 18 Divisions - Implement 2025 Legislation and other process & policy improvements

## Dec 2025 – Bifurcation into 2 Phases

- Following input from Rules Advisory Committee & Water Resources Commission

## Jan – April 2026 – Phase 1

- 13 Divisions
- Adopted; Effective April 1

## May – Oct 2026 - Phase 2

- 5 Remaining Divisions, plus 1 minor change for Phase 1 Division 305
- Proposed for Adoption Sept 2026; Effective October 1

# Phase 2 – OAR 690 (Proposed)

|     |  |
|-----|--|
| 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<br>(Renamed from Water Right Permits)                 |
| 330 | Proof of Appropriation to Perfect a Water Right<br>(Renamed from Water Right Certificates) |

# Phase 2 – Rulemaking Need

- (1) Standardize issuance of orders and notices pertaining to select hydroelectric power generation processes
- (2) Reorganize, repeal, clarify, and align with statute and rule
  - Proof of appropriation/ claims of beneficial use
  - Miscellaneous provisions

# Proposed Rule Changes

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# Division 52 – Decommissioning Rules for Non-FERC Projects

| Electronic Standardization |  |
|----------------------------|--|
| Change                     | Weekly public notice in lieu of newspaper notice   |
| Contested Case Management  |  |
| Add                        | Automatic final orders if no protest (33 days after deadline for filing protest)   |
| Clarify                    | Director may choose to not hold hearing upon finding no significant issues, unless the operator has protested; <b>also removes separate request for a hearing period for the operator.</b> |
| Clarify                    | Action Director takes if exceptions are/are not filed to Administrative Law Judge’s (ALJ) proposed order   |
| Update                     | <b>Authority re: contested case hearings (ORS 183; OAR 137-003; OAR 690-002)</b>   |

# Division 53 – Hydroelectric License, Power Claim and Certificate Amendments

| Electronic Standardization        |  |
|-----------------------------------|--|
| Change                            | <ul style="list-style-type: none"> <li>Weekly public notice in lieu of newspaper notice</li> <li><b>Electronic notice (public hearing; proposed final order) in lieu of mail notice</b></li> </ul> |
| Contested Case Management         |  |
| Add                               | Automatic final orders if no protest (33 days after deadline for filing protest))  |
| Clarify                           | Director may choose to not hold hearing upon finding no significant issues, unless the applicant has protested.  |
| Clarify                           | Action Director takes if exceptions are/are not filed to ALJ's proposed order  |
| Clarify                           | <b>Authority to protest/request hearing (ORS 183)</b>  |
| Process Improvements/Housekeeping |  |
| Add                               | <b>Option to demonstrate water right not subject to forfeiture when applying for amendment (ORS 540.610)</b>   |

# Division 54 – Conversion of a Hydroelectric Water Right to an Instream Water Right

| Contested Case Management |  |
|---------------------------|--|
| Add                       | Automatic final orders if no protest (33 days after deadline for filing protest)   |
| Clarify                   | Director may choose to not hold hearing upon finding no significant issues, unless the holder has protested.                               |
| <b>Clarify</b>            | <b>Failure to raise issue with sufficient specificity during protest precludes consideration of issue during contested case proceeding</b> |
| <b>Clarify</b>            | <b>Process/authority for requesting party status (OAR 137); fee for requesting standing removed</b>  |

# Division 320 – Miscellaneous Water Right Provisions (formerly Water Right Permits)

| Change | Rule   | Rationale   |
|--------|--|---|
| Modify | Title  | Better reflect rules remaining after proposed changes   |
| Repeal | 320-0010 Extension of Time Limits  | Rule lapsed in 2001   |
| Repeal | 320-0020 Cancellation of Permit<br>320-0030 Claims of Beneficial Use for Applications Filed after June 30, 1987<br>320-0040 Incremental Perfection of a Muni Water Right | More appropriate for Division 330 relating to proof of appropriation/ claim of beneficial use |
| Repeal | 320-0050 Temperature Control   | Duplicative of 330-0030   |

# Division 330 – Proof of Appropriation to Perfect a Water Right (formerly Water Right Certificates)

| Change           | Rule   | Rationale   |
|------------------|--|---|
| Modify           | Title  | Better reflect rules remaining after proposed changes   |
| Repeal           | 330-0040 Primary and Supplemental Rights   | Duplicative of 320-0070   |
| Update/<br>Adopt | 320-0020 Cancellation of Permit<br>320-0030 Claims of Beneficial Use for Applications Filed after June 30, 1987<br>320-0040 Incremental Perfection of a Muni Water Right | More appropriate for Division 330 relating to proof of appropriation/ claim of beneficial use; Updates needed (next slides) |

# OAR 690-320-0020 moved to OAR 690-330-0050

## Cancellation of Permit

~~When it appears from an onsite examination by the Water Resources Department that no appropriation has been made under the terms of the permit, or that use once made has undergone a period of five successive years of nonuse, a certified letter of intent to cancel the permit shall be sent to the permittee, allowing 60 days from the date of the letter for response. Failure to respond during the 60-day period shall result in cancellation of the permit.~~

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

# OAR 690-320-0030 moved to OAR 690-330-0060

**Final Proof Survey:** Claims of Beneficial Use for Applications Filed After ~~June 30~~ **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.

# OAR 690-320-0040 moved to OAR 690-330-0070

## Incremental Perfection of a Municipal Water Right

**(1) These rules shall apply to requests submitted on or after October 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.**

**(12)** 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.

**(23)** 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.

# OAR 690-320-0040 moved to OAR 690-330-0070

## Incremental Perfection of a Municipal Water Right

**(34)** 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.

**(45)** 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;**

**(ab)** 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**

**(bc)** A plan of how the municipal supplier intends to develop successive increments of its water right; ~~and~~

# OAR 690-320-0040 moved to OAR 690-330-0070

## Incremental Perfection of a Municipal Water Right

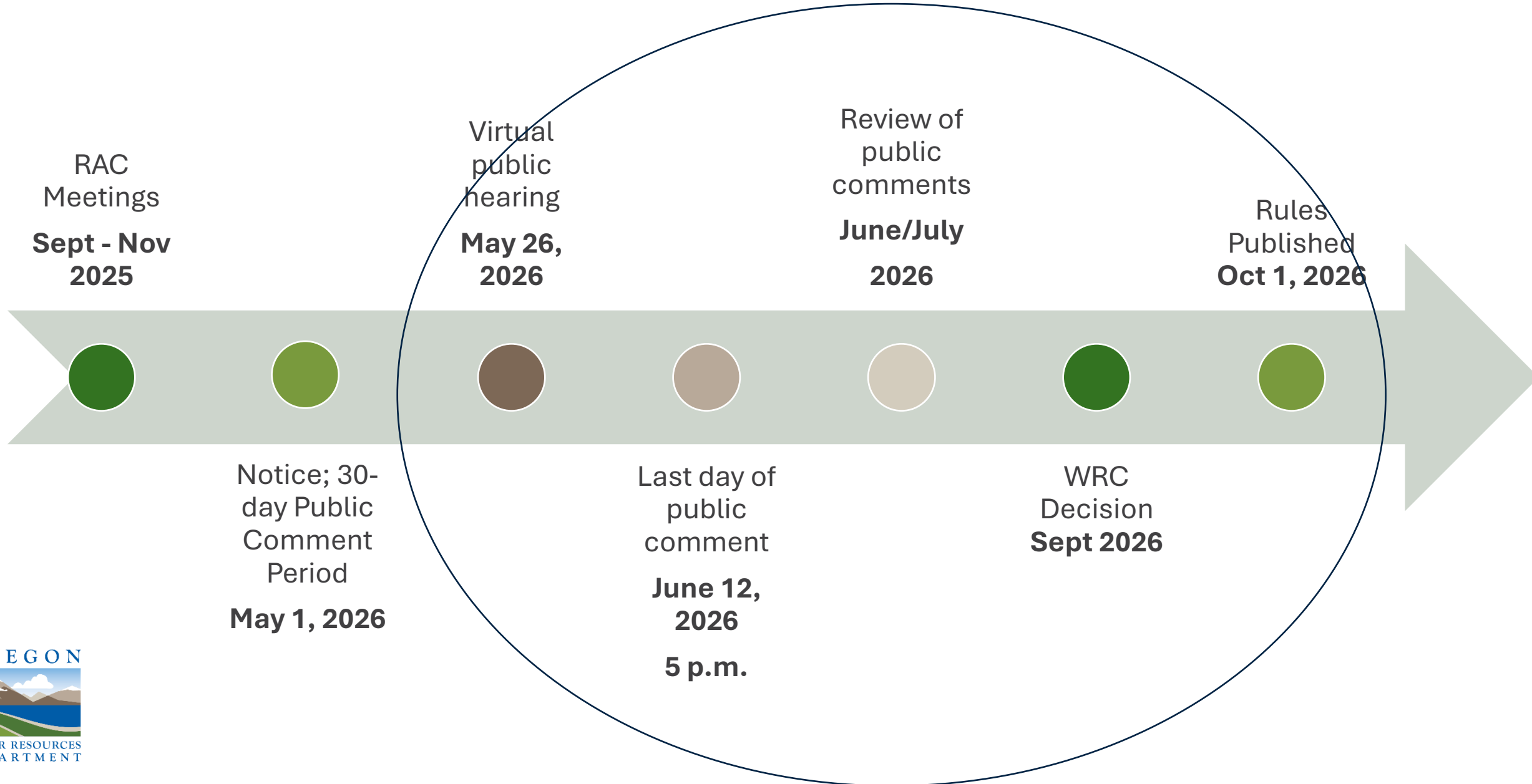
~~(c) Maps that show where water will be put to use. Maps accompanying notification of intent to perfect an increment of a water right shall be prepared to the specifications described in OAR 690-310-0050, except that a standard even scale less than 4" = one mile may be used if appropriate.~~

**(56)** 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-~~315 320~~-0010 governing extension of time limits applies to unperfected municipal water rights.

# Next Steps

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# Rulemaking Timeline - Phase 2



# How to Comment

## In person today, May 26, 2026

### Zoom, beginning at 5:00 p.m.

To comment during the hearing, you must sign up by entering your request in the chat or using the raise hand function.

## In writing by 5 p.m. on June 12, 2026

**Mail:** Laura Hartt, Rules Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301

**Email:** [WRD\\_DL\\_rule-coordinator@water.oregon.gov](mailto:WRD_DL_rule-coordinator@water.oregon.gov)

# Questions?

OREGON



WATER RESOURCES  
DEPARTMENT

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