



Updates to Water Rights, Contested Case, and Forfeiture Rulemaking

In response to legislative direction and calls to action from the water user community, the Oregon Water Resources Department is currently in rulemaking to make agency water right and contested case processes more **clear, efficient, and consistent** to better **serve the public**.

Addresses growing backlogs and inefficient processing rules

OWRD currently has **over 2,500 applications pending** for all types of water right transactions, with some in the processing queue for years. The contested case backlog has grown to **more than 200 protests now pending**, some for more than 30 years. **Outdated processing rules** are not providing timely decisions and are expensive for the Department, applicants, and other parties to the proceedings. Streamlining and modernizing the application review and contested case processes will also allow the Department to **maximize limited staff resources**.

A holistic approach to agency rules, procedures and review criteria

Addressing related issues holistically helps ensure **clear and consistent rules** across the board, supporting **transparency and good governance**. Past piecemeal changes to statutes and rules have resulted in different processing steps for various transactions, which can lead to a lack of clarity. Several rule divisions are out of alignment with statute - including the recent 2025 legislation - and this rulemaking is a necessary step to **modernize our water rights processes** and **streamline the contested case** processes. In addition to implementing legislative changes and aligning rule and statute, these rules propose clarifying and aligning inconsistent and ambiguous processes.

A time for action

Much of the enabling legislation has a **statutory implementation deadline of April 1, 2026**. Additional rule updates further support **maximizing limited resources** through modernizing and streamlining water right and contested case processes.

A transparent and inclusive process

OWRD convened a Rules Advisory Committee representing irrigators, conservation groups, local governments, Certified Water Rights Examiners (CWREs) and more to provide a **wide range of perspectives**. Staff from two of Oregon's Federally Recognized Tribes participated as well. Meetings were **open to the public**, with recordings and summaries posted online. The agency tracked and **responded to all questions, comments and feedback** in writing on the agency website.

Public comment and timeline for adoption

Written comment can be submitted from Jan. 2-Feb. 6, 2026, at 5 p.m. OWRD is hosting **public hearings and information sessions** in Salem (Jan. 27) and Bend (Jan. 29) with in-person and virtual participation. The Water Resources Commission is expected to **consider adoption of the rules in March 2026**.

Contact and submit comment:

WRD_DL_rule-coordinator@water.oregon.gov

Register for hearings, more information:

owrd.info/wr-rulemaking



Updates to Water Rights, Forfeiture and Contested Case Rules: Summary of Proposed Changes

Background and scope of rulemaking

OWRD is undertaking rulemaking to modernize the water rights, forfeiture, and contested case processes to be more efficient, transparent and predictable. In addition to implementing legislative changes, these rules propose other policy and process improvements, including clarifying ambiguous processes that contribute to uncertainty, and added time and cost.

This document provides a high-level summary of the proposed rule changes; it is not intended to be an exhaustive summary of all changes. More detailed information is included in the notice of rulemaking available on the Department's rulemaking website:

<https://www.oregon.gov/owrd/programs/policylawandrules/OARS/Pages/2025-Water-Rights-Rulemaking.aspx>

Summary of Draft Proposed Rule Changes by Division

Division 2 - Protests and contested cases

2025 Legislation: uniform process for water rights transactions and forfeiture including: protests, party status requests, and contested cases; automatic final orders; sending of electronic documents; establishing a default hearing schedules and completion in 180-days; and preference for oral testimony and remote hearings.

Policy/process: uniform process for all applicable contested cases: requires accurate contact information, defaults to electronic service upon referral with exceptions, clarifies information that must be included with exceptions; adds option to consolidate or bifurcate hearings prior to referral; limits admissions, interrogatories, hours of staff time for discovery before converting to public records request, establishes deadlines for subpoena, and limits site visits; and identifies items for pre-referral notice to encourage settlement discussions.

Rule clarity/cleanup and consistency with statute: clarifies interface and consistency with APA.

Applicability: apply to some, or all contested cases held by the Department, except for water rights adjudications held under ORS Chapter 539. Due to Or Laws 2025 ch 575, some provisions will apply earlier than rule adoption. See proposed rule 690-002-005 and Or Laws 2025, ch 575 for details.

Division 14 - Certified water right examiners and preparation of claims of beneficial use

2025 Legislation: electronic documents (by allowing digital seal and signature of Certified Water Right Examiners (CWREs) for any document they prepare).

Policy/process: requires pump test to be submitted with claims of beneficial use to align with pump test rules; removes redundant and outdated rule language pertaining to when a transfer application map must be prepared by CWRE; standardizes mapping criteria across transaction types (links to Division 305).

Applicability: applies to claims of beneficial use, maps, and other documents submitted by CWRE's on or after April 1, 2026.

Division 17 – Cancellation of perfected water rights

2025 Legislation: automatic final orders and uniform contested case, party status, and protests (links to Division 2).

Policy/process: clarifies process when forfeiture is raised as part of a transfer protest (links to Division 380); provides that the Director, and not the Commission, shall consider any exceptions to the Administrative Law

Judge's proposed order and issue a final order; and clarifies the information that must be in Department notices or public affidavits.

Rule cleanup/clarity and consistency with statute: aligns with statute the process for initiating cancellation, statutory exceptions related to "ready/willing/able" and drought, information a watermaster needs for affidavits submitted pursuant to ORS 540.660, and reasons for rebuttals to forfeiture; removes rules-only requirement for Department staff to submit affidavits under ORS 540.631.

Applicability: provisions linked to Division 2 will have the same applicability as Division 2. All other rule changes apply to cancellation proceedings initiated on or after April 1, 2026.

Division 18 – Allocation of conserved water

2025 Legislation: uniform contested case, party status, protests, and automatic final orders (links to Division 2); electronic documents including email addresses; replaces newspaper notice with weekly public notice; phased application processing (initial review, PFO); and amending public comment timing.

Policy/process: standardizes mapping criteria across transaction types (links to Division 305); aligns processes with other transfer processes, including same source criteria for injury; and specifies measurement and reporting requirements.

Rule cleanup/clarity: aligns and reorganizes rules; and clarifies processing steps for approval, completion, testing phase, and finalization of a conservation project (note some alignment is necessary for 2025 legislation).

Applicability: provisions linked to Division 2 will have the same applicability as Division 2. All other rule changes apply to applications submitted on or after April 1, 2026.

Division 077 – Instream water rights

2025 Legislation: electronic documents and email addresses; phased application processing; return of applications in withdrawn areas (new water rights); uniform requirements for protest, party status requests, and contested cases, and automatic final orders (links to Division 2); alignment with statute for orders issued without hearing; and standardizes processing steps and document naming for transfers.

Policy/process:

- Clarifies that the Department issues instream water rights only within Oregon's borders
- Refines mapping requirements
- Updates various definitions and aligns "enlargement" and "injury" with other rules
- Repeals forfeiture of instream water rights rules
- Clarifies existing rule on when a withdrawal applies to new instream water right applications
- Clarifies allowed timelines for administrative holds
- Removes requirements to post notice in certain offices
- Clarifies which rights that can be transferred, including storage rights
- Instream leases: allows a district to keep written authorization on file; allows copies of contracts for consent from federal government; removes requirement to post lease application notice in watermaster office; clarifies requirements for leasing a storage right; streamlines process for renewals
- Precedence of future uses of multipurpose projects: aligns with water right processing steps for efficiency and clarity purposes; changes public hearing to public comment period; and incorporates decision into a proposed final order

Consistency with statute: align/remove new and repealed language; removes estimated annual natural flow (EANF) from consideration of limit for transfers, leases, or allocations of conserved water; aligns language and workflows for minimum perennial streamflow conversions; implements 2023 legislation for split season leasing; and clarifies measurement and reporting requirements.

Rule cleanup/clarity: creates consistency for mailing notices with the APA; modifies definitions for consistency across rule divisions, removes unnecessary or unused definitions, and adds missing definitions; update statutory and rule references.

Applicability: provisions linked to Division 2 will have the same applicability as Division 2. The provisions related to returning water right applications for sources that are withdrawn from further appropriation apply to new and pending instream water right applications where a PFO has not been issued prior to April 1, 2026, and the source water was closed prior to application submission. All other rule changes are effective April 1 or apply to applications submitted on or after April 1, 2026.

Division 300 - Definitions

2025 Legislation: updates the statutory authority in the definition of “contested case”; and standardizes the definition of “protest” with the definition in Division 2.

Rule cleanup/clarity and consistency with statute: aligns “water use subject to transfer” definition with statutory definition; modifies definition of “stockwater use” and “proposed certificate” for clarity; deletes definitions and provisions that are not used elsewhere in the rules or are no longer relevant to any pending applications; and updates references and rennumbers rules due to deletions.

Applicability: provisions in these rules are effective April 1, 2026.

Division 305 – NEW DIVISION - General Map Criteria

Policy/process: establishes standardized criteria for maps submitted to the Department for water right transactions to reduce confusion and increase efficiencies by consolidating standard requirements in one section. Certain transaction specific requirements are still included in the applicable rule division.

Applicability: provisions in these rules apply to maps submitted on or after April 1, 2026.

Division 310 – Water right application processing

2025 Legislation: allows for groundwater permit issuance in a groundwater quality area to consolidate drinking water wells (exempt from water availability review); phased application processing; electronic documentation and email addresses; return of applications for sources that are closed to further appropriation; automatic final orders, and uniform contested cases, protests, and requests for party status (links to Division 2).

Policy/process: standardizes mapping criteria across transaction types (links to Division 305); requires notice to landowner if someone else applies for a water right on their property; requires proof of signatory authority for representatives of certain entities; removes required application information that the Department can get elsewhere; removes requirements for certain entities to post the Department’s weekly public notice; and provides clear parameters for when an administrative hold may be issued.

Rule cleanup/clarity and consistency with statute: clarifies notice requirements of the APA; removes language linked to authorities no longer in statute; updates rule and statutory references and makes grammatical fixes; removes ability to accept land use receipts and to approve without land use information, which is inconsistent with OAR 690, Division 5 rules; updates rules to conform with other rule amendments.

Applicability: provisions linked to Division 2 will have the same applicability as Division 2. The provisions related to returning applications for sources that are withdrawn from further appropriation apply to new and pending applications where a PFO has not been issued prior to April 1, 2026, and the source water was closed prior to application submission; except for groundwater applications for recovery of groundwater under an artificial recharge or aquifer storage and recovery project or requesting a basin program rule exception. All other rule changes apply to applications submitted on or after April 1, 2026.

Division 315 – Water rights permit extensions

2025 Legislation: implements 20-year and 10-year extension limits for quasi-municipal and group domestic permits, respectively, and two-year limits for all other pending permits; repeals extension process for new permits (excluding municipal) that receive proposed final orders on or after April 1, 2026 (new statutes provides seven years with no extension instead of five); electronic documentation and email addresses; uniform protests and contested cases, and automatic final orders (links to Division 2); and clarifies relationship between good cause findings in relation to the new statute.

Policy/process: eliminates the requirement for checkpoint conditions because of the new limitations on the length of extensions; conforms existing agency policy of denying extension applications when water use began prior to before use fish-related permit conditions being met; and adds information about how the proposed final order on the extension application may initiate cancellation proceedings if an extension is denied and requirements for cancellation are met.

Consistency with statute: aligns process with existing internal guidance and statute related to counties, municipalities or districts constructing new storage projects that may apply for extensions; aligns definition of “undeveloped portion” with the definitions in ORS 537.230(1) and ORS 537.630(1); conforms with APA notice requirements; and clarifies per statute that the permit holder has 90 days after completion date to either submit a claim of beneficial use or an extension application.

Rule cleanup/clarity: updates rules to conform with other rule amendments; removes the outdated reference to a 2006 implementation evaluation; reorganizes the location of the begin construction requirement.

Applicability: rules in effect prior to April 1, 2026, apply to: extension applications submitted prior to April 1 for municipal, quasi-municipal, group domestic, and group domestic expanded uses, and to extension applications for all other uses if a PFO was issued on the extension application prior to April 1, 2026. Except as provided above, rule changes apply to extension applications for which a PFO has not been issued on or after April 1, 2026. The provisions linked to Division 2 will have the same applicability as Division 2.

Division 325 – Assignment of a water right permit and request for issuance of replacement permits

2025 Legislation: electronic documents and email addresses; automatic final orders, and uniform contested case and protests (links to Division 2).

Policy/process: clarifies application requirements; creates consistency with divisions 380 and 382 in renaming a technical review to initial review (2025 legislation); standardizes mapping criteria across transaction types (links to Division 305) and allows for acceptance of digital seal of CWREs.

Rule cleanup/clarity and consistency with statute: aligns consistency on mailing of notices with the APA; clarifies that permit means water right permit; clarifies function of the rule; improves description of completion date; and aligns definition of injury.

Applicability: The provisions linked to Division 2 will have the same applicability as Division 2. All other rule changes apply to applications submitted on or after April 1, 2026.

Division 340 – Water use authorizations (limited to limited licenses and expedited stored water)

2025 Legislation: electronic documents.

Policy/process: standardizes mapping criteria across transaction types (links to Division 305); and in response to recent court ruling on expedited use of stored water, provides clarity on when a public comment has raised a public interest issue that merits the standard process.

Rule cleanup/clarity and consistency with statute: removes circular and conflicting references.

Applicability: provisions in these rules apply to applications submitted on or after April 1, 2026.

Division 380 – Water right transfers

2025 Legislation: electronic documents and email addresses; weekly public notice and change in newspaper notice; phased application processes; and uniform protest, party status and contested case procedures, and automatic final orders (links to Division 2); and standardizes document naming with water rights documents.

Policy/Process:

- Adopts new rules governing permit amendments as no rules currently exist, mirrors requirements for regular transfers, except as otherwise provided by statute
- Temporary transfers: removes character of use to store water which is inconsistent with statute; adopts new rule to allow temporary transfer renewals; delegates authority to the Department (instead of

- Commission) to issue a final order after a contested case hearing even when exceptions to the Administrative Law Judge's proposed order are timely filed
- Historical POD changes: clarifies claim of injury process, applicant is required to provide proof of notification to affected water right holders per statute, criteria for approval including adding enlargement, that instream water rights are considered affected rights, and timely comments are part of injury and enlargement analysis; clarifies process applies to surface water (not groundwater) and does not apply to changing the location of a dam
 - Substitutions: clarifies that substitution must be terminated before a new change can occur
 - Specific-to-General Industrial: specifies information necessary to demonstrate the quantity of water diverted for the original industrial use and allows Department to ask for additional information
 - Clarifies that the Department may condition transfers and permit amendments to prevent injury and enlargement resulting from the proposed changes
 - Standardizes mapping criteria across transaction types (links to Division 305)
 - Describes the mechanism for the transfer holder or receiving landowner to inform the Department that the approved change in point of diversion or appropriation was not completed and to request reversion back to the last authorized location
 - Clarifies process when forfeiture is asserted as part of a transfer protest (links to Division 17)
 - Clarifies that place of use transfer must involve a physical change that alters where the water right is located consistent with enlargement provisions
 - Clarifies notification process for an applicant of layering issues and how they may be resolved
 - Updates application requirements to include information to assist with fish screen and passage evaluation, to clarify information needed to assess evidence of use, and clarify when ownership information is required
 - Clarifies process for consent to injury
 - Removes ability to approve without land use information, which is inconsistent with OAR 690, Division 5 rules

Rule cleanup/clarity and consistency with statute: removes obsolete applicability language; addresses rule language consistency; removes redundant definitions; and updates rule references.

Applicability: provisions linked to Division 2 will have the same applicability as Division 2. All other rule changes apply to applications submitted on or after April 1, 2026.

Division 382 – Groundwater registration modifications

Consistency with 2025 Legislation: electronic documents and email addresses; increases fee (\$1,900 - 70% of max for a POU change only and \$2,730 - 100% of max for all other changes/combination of changes); replaces newspaper notice with weekly public notice; 45-day protest period; and uniform protest, party status, and contested case process, automatic final orders (links to Division 2); and consistent document terminology.

Policy/process: standardizes mapping criteria across transaction types (links to Division 305); clarifies notification process to an applicant of layering issues and how they may be resolved; aligns processes with Division 380 pertaining to transfers and permit amendments.

Rule cleanup/clarity: removes redundant definitions and language; aligns with statute terminology regarding tentative priority date and certificate of registration; and cleans up rule references and structure.

Applicability: provisions linked to Division 2 will have the same applicability as Division 2. All other rule changes apply to applications submitted on or after April 1, 2026.