

**OREGON ADMINISTRATIVE RULES CHAPTER 690  
DIVISIONS 2, 14, 17, 18, 52, 53, 54, 77, 300, 305 (new),  
310, 315, 320, 325, 330, 340, 380, 382**

**NEED FOR THE RULE(S):**

First established in 1909, the Oregon Water Code establishes the procedures and review criteria to process and evaluate water right applications submitted to the Department for the allocation of water for instream and out-of-stream purposes. These procedures and review criteria have been amended and added to over the years, both in statute and rule. In some instances, over the past several decades, statutes have been amended or added, without subsequent changes to the corresponding rules. Many of the rules now contain outdated practices, unnecessary administrative steps, or unclear policies and standards that have reduced transparency, efficiency, and timely decision-making which leads to confusion, frustration, and increased disputes among applicants, the public, consultants, and Department staff.

There are currently over 2,500 applications in the backlog for all types of transactions, and they are not processed timely. For example, water right and permanent transfer application processing may take on average 6 months to 3 years, depending on the type and complexity of the proposed water use. Additionally, the contested case backlog has grown steadily over the years, with more than 200 protests now pending, with some pending for more than 30 years. The current processing standards are not providing timely decisions and are expensive for both the Department, applicants, and other parties to the proceedings.

Slow processing times have been largely driven by both a lack of adequate investment in staff and the need to modernize processes. Water right transaction fees have historically covered half of the cost of water right processing staff. For at least the past four biennia, the fees have not been sufficient to keep up with the cost of labor, which culminated in permanent staff reductions in 2021, and a greater proportion of the program being funded by general fund dollars in 2025 to maintain existing staff. While funding is a factor, improvements to process and policy can help streamline the application review process to allow the Department to maximize its limited staff resources.

There have been clear calls to action to improve the water rights transactions processes from water law experts, through customer feedback, in recent passage of bipartisan water right process improvement legislation, by legislators in Department budget hearings, in a signing letter from Governor Kotek on the Department's 2025-2027 budget, and by the agency itself. Updating the identified rule divisions is necessary for the Department to best serve Oregonians while continuing to steward Oregon's water resources for instream and out to stream uses now and for future generations.

The purpose of this rulemaking is to (1) implement 2025 legislation, including House Bill 3342 (Chapter 282, 2025 Oregon Law) relating to water rights transactions, House Bill 3544 (Chapter 575, 2025 Oregon Law) relating to contested case processes, and some provisions of Senate Bill 1154 (Chapter 605, 2025 Oregon Law) relating to issuing water rights to replace domestic wells in groundwater quality management areas; (2) reinstate efforts to update Oregon Administrative Rules (OAR) Chapter 690, Division 77 rules relating to instream water transactions; (3) implement other policy and process improvements across the rule divisions that are being

amended; and (4) clean up impacted rule divisions, including fixing grammatical errors, aligning rule language with statute, and repealing outdated provisions. Key divisions of focus for major updates include the following: 2 (contested case/protests), 17 (forfeiture/cancellation), 77 (instream water transactions), 305 (new standardized mapping criteria), 380 (transfers), and 382 (groundwater registrations). Additional rule divisions being amended include the following: 14 (certified water rights examiners), 18 (allocation of conserved water), 52 (decommissioning/non-FERC projects), 53 (hydroelectric license/power claim/certificate amendments), 54 (conversion of hydroelectric to instream), 300 (definitions), 310 (water right application processing), 315 (extensions), 320 (miscellaneous provisions), 325 (assignments/replacement permits), 330 (renamed – proof of appropriation), and 340 (water use authorizations).

In 2025, the Oregon Legislature passed House bills 3342 and 3544 which made significant changes to the water right application and contested case processes, with the overarching goals to reduce processing times, minimize and reduce future backlogs, and ensure a clear, consistent process that promotes timely and informed decisions, and while providing due process. These laws necessitate the updating of many of the rule divisions in this rulemaking effort to align with the new statutes.

Provisions being implemented from House Bill 3342 include: 1) having document transmittals be electronic where possible, 2) shifting public notice for transfers away from newspaper notice and to the Department's weekly public notice, 3) a phased application and fee collection process, depending on the type of transaction, 4) return of applications requesting water from certain types of sources that have been closed from further appropriation, 5) changes to extension allowances for non-municipal permits, and 6) proposed final orders becoming final after 33 days if no protests are filed.

Provisions being implemented from House Bill 3544 include: 1) establishment of a uniform administrative hearing process and standardized schedule and timelines not exceeding 180 days for certain application types, 2) preference for testimony to be provided orally and for hearings to be remote, 3) proposed final orders become final after 33 days if no protests are filed, 4) removing the two-step process for requesting standing and intervention and replacing it with a combined one-step process for certain application types.

Provisions being implemented from Senate Bill 1154 include allowing the Department to issue a new water right permit without consideration of some components of the new water right criteria to allow for consolidation of exempt, domestic wells under a single group domestic water right permit in designated Groundwater Quality Management Areas.

*Reinitiate efforts to update Division 77 rules:* As consumptive water right and transfer applications become more complicated, attention to instream water rights emerges as ever important as the Department seeks to balance instream and out of stream needs. Meaningful stewardship of water resources for instream uses largely relies on voluntary actions from out of stream water right holders. Outdated and cumbersome practices hinder the Departments ability to both incentivize voluntary instream leasing programs and adequately protect the resource instream.

*Policy and process improvements:* In addition to implementing legislative changes that improve processing efficiencies, increase transparency, and enable the Department to readily process water right transactions, the Department has identified opportunities for rule changes to achieve

the same goals. These changes aim to 1) improve clarity and transparency on Department authorities, standards and processes, 2) provide clear standards for information submitted with a complete application, and 3) align like processes to create consistency and predictability across applications.

Additionally, the Department is proposing a new division to establish uniform criteria for maps submitted for water right transactions and to incorporate mapping requirements beyond those standards throughout the relevant rules. The goal is to provide predictability and transparency for mapping requirements for applicants and their consultants. This will also enable the Department to keep better records of water rights to support more effective management.

The Department is also proposing items to improve the contested case process that include streamlining the process for filing exceptions and narrowing the discovery phase, establishing referral notification requirements to encourage settlement discussions, and allowing for the consolidation of like issues into one hearing.

The Department is also proposing changes to the water right forfeiture and cancellation process. Water right forfeiture and cancellation proceedings are important to ensure that appropriated water not being put to beneficial use can either be re-appropriated for new uses or protected instream or in aquifers in overallocated areas. Additionally, rights that go uncanceled can cause supply conflicts when water use begins after years of non-use, especially when junior users have made business decisions based on the reliability of water. These rule changes aim to 1) be transparent about information that can be used, 2) align the process that the Department uses to initiate cancellation proceedings with statute, 3) establish the process for when forfeiture is raised in a protest on a transfer application, and 4) correct punctuation, grammatical errors, and statutory references, and resolve inconsistencies between rule and statute.

#### **DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE :**

This is an abbreviated list of the principal documents relied upon for the proposed rulemaking. Please contact the Oregon Water Resources Department for a complete list of documents relied upon and the location(s) of those documents.

House Bill 3342 (Chapter 282, 2025 Oregon Law), available online at  
[https://www.oregonlegislature.gov/bills\\_laws/lawsstatutes/2025orlaw0282.pdf](https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2025orlaw0282.pdf)

House Bill 3544 (Chapter 575, 2025 Oregon Law), available online at  
[https://www.oregonlegislature.gov/bills\\_laws/lawsstatutes/2025orlaw0575.pdf](https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2025orlaw0575.pdf)

Senate Bill 1154 (Chapter 605, 2025 Oregon Law), available online at  
[https://www.oregonlegislature.gov/bills\\_laws/lawsstatutes/2025orlaw0605.pdf](https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2025orlaw0605.pdf)

House Bill 199 (Chapter 165, 2013 Oregon Law), available online at  
[https://www.oregonlegislature.gov/bills\\_laws/lawsstatutes/2013orLaw0165.pdf](https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2013orLaw0165.pdf)

House Bill 206 (Chapter 445, 2015 Oregon Law), available online at  
[https://www.oregonlegislature.gov/bills\\_laws/lawsstatutes/2015orLaw0445.pdf](https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2015orLaw0445.pdf)