



2025-26 Water Rights Rulemaking

RULES ADVISORY COMMITTEE DRAFT MEETING SUMMARY FOR RAC REVIEW SEPTEMBER 24, 2025 (RAC 2)

The Oregon Water Resources Department (OWRD) convened the second RAC meeting on September 24, 2025, from 8:30 a.m. to approximately 12:05 p.m. The meet was hybrid, held in Salem at OWRD's headquarters and via Zoom. The meeting was recorded. The recording and other meeting materials are available online:

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

RAC Members in Attendance

- Jeremy Austin, Central Oregon LandWatch
- Glenn Barrett, Water for Life
- ~~Anton Chiono, Confederated Tribes of the Umatilla Indian Reservation~~
- Leah Cogan, GSI Water Solutions
- Gibb Evans (Proxy for J.R. Cook), Northeast Oregon Water Association
- Kate Fitzpatrick (Proxy for Genevieve Hubert), Deschutes River Conservancy
- James Fraser, Trout Unlimited
- Chris Hall, Water League
- Keri Morin Handaly, Confederated Tribes of Grand Ronde
- Ryan Krabill, Oregon Farm Bureau
- Greg Kupillas, Oregon Groundwater Association
- Mark Landauer, Special Districts Association
- Karen Lewotsky, Oregon Environmental Council
- Sarah Liljefelt, Oregon Cattlemen Association
- Michael Martin, League of Oregon Cities
- Austin Patch, Summit Water Resources
- Lauren Poor, Portland General Electric
- Kimberley Priestley, WaterWatch of Oregon
- Branden Pursinger, Association of Oregon Counties
- April Snell, Oregon Water Resources Congress
- Marika Sitz (Proxy for Jeff Stone), Oregon Association of Nurseries
- Jessi Talbott, Central Oregon Irrigation District

Public Attendees

- Brian Erickson (Oregon State University)
- Richard George (PGE)
- Ryan Gleason (City of Portland)

- Richard Koesan (Water for Life)
- Jeff Shaw (EKI Environment & Water, Inc.)
- Ken Yates (Oregon Water Resources Congress)

Oregon State Agency Staff

- Donna Brann (Oregon Office of Administrative Hearings)
- Gerry Clark (OWRD)
- Will Davidson (OWRD)
- Eliot Crafton (OWRD)
- Danette Faucera (Oregon Department of Fish and Wildlife)
- Cassidy Fredlund (OWRD)
- Cole Hendrickson (Oregon Department of Environmental Quality)
- Elyse Hennen (OWRD)
- Kim Fritz-Ogren (OWRD)
- Lisa Jaramillo (OWRD)
- Laura Hartt (OWRD)
- Mindy Lane (OWRD)
- Amanda Mather (OWRD)
- Racquel Rancier (OWRD)
- Katie Ratcliffe (OWRD)
- Jesse Ratcliffe (Oregon Department of Justice)
- Nicholas Reece (OWRD)
- Brandon Self (OWRD)
- Joan Smith (OWRD)

Welcome: Katie Ratcliffe (OWRD) welcomed the Rules Advisory Committee (RAC) and called the meeting to order.

Agenda Review; RAC Meeting Summaries; Schedule Updates; November Poll: Laura Hartt (OWRD) went over the meeting agenda and provided the RAC with an update on meeting summaries. She then went over the revised meeting schedule and reminded RAC members to complete the poll for November meeting availability. See RAC 2 Meeting Presentation, available online:

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

RAC Input on Proposed Rules for Division 305 (Map Criteria): Katie led a discussion on proposed rules for Division 305. During that discussion, she explained the nexus between Division 305 and those Divisions referencing the new mapping standards (14 – Certified Water Right Examiners; 18 – Allocation of Conserved Water; 310 – Water Right Application Processing; 320 – Water Right Permits; 325 – Assignment of a Water Right Permit & Request for Issuance of Replacement Permits; 340 – Water Use Authorizations; 380 – Water Right Transfers; 382 – Groundwater Registration Modifications).

One RAC member noted that a new Division with standardized mapping criteria is a good idea but questioned the Department's decision not to require geospatial data in lieu of the more dated forms of location information (e.g., quarter-quarter description) required by the new Division rules. OWRD responded that while the preference is for modernization, the Department must balance that interest against the realities and history of water rights as a property right.

A RAC member noted that the Department may be limited by statute, while another RAC member stated that geospatial data was not always as accurate as the paper documentation. OWRD responded that it would reexamine the issue to look for opportunities to incorporate modern location information while also acknowledging the property nature of the rights and necessary recording information of property.

The table below reflect RAC discussion on specific rules within Divisions 305.

Rule	Comments/Questions	Department Response
General	Regarding the scale, if there is a larger one than proposed in the rules, would be okay, for example, 1 inch = 400 ft?	Yes, that would be an acceptable scale. Will review to make sure that we aren't requiring a waiver on items we always find acceptable.
- 0010(3)(d)	Does the required inclusion of infrastructure features apply regardless of ownership (private, local, etc.)?	All infrastructure pertaining to movement of water from points of diversion to place of use were required.
- 0010(3)(g)	Items in (B) belong in the higher-level narrative in (g). For stockwater tank should this also include a bearing from a designated land corner - should it be the same as how PODs are described? Should donation land claims and government tax lots be included?	OWRD will review.
- 0010(3)(k)	The language "any other information the Department requests and considers necessary to evaluate the water right transaction" was overly broad.	OWRD invited the RAC member to submit suggested language, but that it was already confined to the information needed for the transaction.

RAC Input on Proposed Rules for Division 300 (Definitions): Racquel Rancier (OWRD) led a discussion on proposed rules for Division 300. During that discussion, one RAC

member stated that several definitions other than those proposed for revision needed revision; the RAC member suggested taking this opportunity to make those changes. OWRD responded that the rulemaking was already ambitious for the time given and the definitions changes were limited intentionally; however, RAC members can flag the issues, and staff can determine whether to include or whether they were beyond scope.

The tables below reflect RAC discussion on specific rules within Division 300.

Rule	Comments/Questions	Department Response
-0010(16)	Capitalize “geological”	OWRD will correct.
-0010(19)	Change “ensure” to “insure”	OWRD will review.
-0010(32)	Replace “either the public or the private sector” with “both the public and private sector,” because the latter implies a public-private partnership.	OWRD will review.

RAC Input on Proposed Rules for Division 2 (Protests and Contested Cases): Racquel led a discussion on proposed rules for Division 2. During that discussion, she summarized how the processes contained in the division would be impacted by the proposed rule changes, emphasizing those changes made to implement HB 3544.

Several RAC members noted the complexity of the proposed changes and requested the opportunity to review them with legal counsel. OWRD responded that this would not be the RAC’s only opportunity to provide input, and that the Department was scheduling RAC meetings in November to provide time to revisit Divisions already covered.

One RAC member noted that several proposed changes were unnecessary for implementing House Bill 3544 (2025) and suggested removing any of those rule proposals that may be controversial among RAC members. OWRD noted that this rulemaking is intended to be broader than the legislation and responsive to the desire by the legislature and governor for the agency to make progress on reducing processing timelines.

One RAC member suggested adding a section to the rules that made it clear for applicants that had been referred that the new rules would not apply. OWRD responded that they would provide guidance online as well as directions for accessing the archived rules.

The table below reflect RAC discussion on specific rules within Division 2.

Rule	Comments/Questions	Department Response
-0005	If the purpose of the rule changes is to create a uniform process across the board, the current proposed rules are confusing. Some of the statutes weren't called out in the HB 3544 (2025) or HB 3342 (2025). They also have no statutory authority or direction on protests, e.g., hydro conversions. Although there is	OWRD will review, but some rules changes may be limited by statute.

	nothing in statute allowing for protests or standing statements, the state decided to put that in Division 54. This is confusing if we aren't consistent across the board. What is the point the Department is making regarding the APA? I.e., if OWRD is saying the APA allows for changes across the board, then why can't OWRD make changes across the board here to decrease confusion.	
-0005	Is the reference to APA ORS 183 appropriate as statutory implementation?	OWRD will review. OWRD reviewed after meeting: ORS 183 reference is appropriate, which is the administrative procedures act.
-0005(6)	<p>"this 2025 Act" - should be updated.</p> <p>If someone seeks standing, but the case is not advanced to OAH by April 1, 2026 (see (4)(a), how do you go from standing to party status?</p> <p>What standards re: protests apply in this case?</p>	<p>OWRD agreed and will revise.</p> <p>OWRD will review regarding the matter of standing and party status. Folks that have already requested party status would not need to amend their request. Folks that have protested will need to update their protest. This is outlined in the statute.</p> <p>.</p>
-0005(6)(a)	"in an existing contested case proceeding" seems to lack of clarity regarding what an existing contested case proceeding is.	The rules apply to contested cases not referred to OAH, as of April 1, 2026. See OAR 690-002-0002(4). However, there may be a need to further define what is a contested case, as this is not the only way that agencies refer to contested cases.
-0010(5)	Change "...to which the document was mailed." to "...to which the document was sent, or to delivered"	OWRD will review.
-0023	Intro passage does not align with statute	OWRD will review but noted that the rule is not within the scope of the rulemaking. RAC member said would submit more info.
-0025(3)	<p>How does Dept ensure receipt of electronic documents?</p> <p>Is there an auto-email receipt?</p> <p>What constitutes timely electronic payment?</p>	OWRD does provide an email receipt; however, timely payment is when the check is received; OWRD is investigating electronic

	<p>What incentive is there to file electronically if payment must still occur by check in the mail?</p> <p>Are we setting people up for failure because they will file last minute and expect to be able to pay simultaneously?</p>	<p>payment options. OWRD will follow up.</p>
-0030(1)	<p>To the extent not dictated by other statutes, the Department ensure consistency across programs for form and content. E.g., although standing was removed in the hydro rules, the relevant statute does not have a protest provision.</p> <p>RAC members suggested the Department check to make sure 690-052-110 & 690-053-040 & 690-002-0030 all work together, i.e., look at cross references.</p>	<p>Standing language was removed because OWRD lacks authority to charge a fee for standing statements. OWRD will review. [Note upon review following the RAC meeting, is the concern that standing may be removed and the RAC member wants to make sure its allowed?]</p> <p>OWRD will review</p>
-0075	<p>“and as identified by the administrative law judge” is confusing.</p>	<p>OWRD agreed and questions if the whole rule provides value or not. Provisions in AG's Model Rules address what can be raised in those proceedings. This rule doesn't really add anything and may create confusion Would be curious to hear folks input as to whether this rule should be retained.</p>
-0080(2)	<p>Why documents served through USPS presumed “received,” given how unreliable mail service often is? Why does the presumption not work in both directions (i.e., documents put into the mail by applicants are presumed received)?</p> <p>What qualifies as “subject to evidence to the contrary”?</p>	<p>OWRD will review potential alternative language.</p> <p>Due process allows the recipient to provide evidence, e.g., providing an affidavit stating that they did not receive the document.</p>
-0085	<p>“subject to this Division” is confusing.</p>	<p>OWRD will delete “subject to this Division” and clarify that the new rules apply to cases once referred, which was the intent.</p>
-0090	<p>There was a lot of discussion back and forth over the ability for parties to object to a consolidation. Some RAC members suggested that parties should be able to object to consolidation. Other RAC members supported streamlining by allowing for consolidation if all parties agree consolidation is a good idea</p>	<p>OWRD agreed to work on redrafting this section. The new rules do not remove the existing process in the APA and are intended to be a streamlining measure that allows a case to be referred as</p>

		a consolidated case. Because HB 3544 (2025) requires hearings to be complete in 180 days, OWRD was hoping to frontload.
-0095	<p>These draft rules do not implement HB 3544; much of what is contained herein was opposed by certain parties during the legislative session; where did this all come from? Some lobbied against these constraints during the legislative session. They were not included in HB 3544. Does not seem fair to do so now.</p> <p>Proposed rules may prejudice protestors because of truncated timelines. In other instances, limiting discovery may actually increase workloads/and slow things down because back and forth between OWRD and the requestor of documents may narrow the request.</p>	<p>These proposed rule changes are coming from the Department. Several of the provisions in HB 3544 were removed during Session because the Department had authority to do them under existing statute and could be implemented later.</p> <p>It should not be assumed that something that was in the legislation but later removed was indicative of legislative intent. Further, it's important to recognize that there are expectations that OWRD will reduce processing timelines. OWRD wants to reduce processing timelines. From our standpoint, due process also includes the timeliness of decisions.</p>
-0095(1) and 2	<p>Barring requests for admission as a means of discovery will slow things down; admissions help to narrow issues down.</p> <p>What is the justification for the 5-interrogatory limit, which is less than the model rules specify? Doesn't this undermine the ALJs judgement? Isn't this fewer than what is prescribed by the Model Rules?</p>	<p>Intent of proposed rules is to reduce processing times and costs to all parties, while providing due process. Further discussion will be scheduled. Based on our experience, we have not seen requests for admissions that actually moved the process along.</p>
-0095(3)	<p>How did you get to 25-hour limit on staff time to produce documents?</p> <p>Did OWRD consider charging fees after the first 25 hours?</p>	<p>Some of this is a desire to move things to our public records experts, who have more familiarity and expertise with processing document requests. We also have 180 days to complete contested cases: so there needs to be some practicality built in. In many cases we won't exceed 25 hours of staff time because we are moving towards the agency producing its file</p>

		<p>upfront. The types of things that take significant time are a party saying, “I’d like to see every file the agency has every produced on this particular application type.”</p> <p>Also, note that all of these proposals are a starting point for discussion. Folks can bring different proposals – including increasing or decreasing the number of hours.</p>
-0095(4)	Seems unnecessary to bar ALJ from ordering a site visit	The intent of the proposed rule is to reduce processing times and costs to all parties, while providing due process. Further discussions will be scheduled
-0095(6)	<p>Public records request should specifically reference OWRD.</p> <p>What is the justification for the 2 weeks deadline on public records request w/ respect to the motion to compel?</p> <p>Does OWRD have authority to limit ALJ’s discretion?</p>	People need to do work upfront and not delay in a way that pushes beyond the 180 days set in statute.
-0175(1)	“Administrative Law Judge” should not be capitalized; it’s not capitalized anywhere else and is not a defined term	OWRD agreed and will review.
-0205	Move away from “cookie cutter” approach and defer to OAH	HB 3544 requires a default hearing schedule, so the new rules need to contain one.

Public Comment: Comments received by RAC members are reflected above. No other public comments were received orally. Written comments will be compiled and posted online after the deadline given to the RAC for receiving written input (October 8):

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

Wrap Up/Next Steps: OWRD requested feedback on the draft rules presented by October 8, 2025. OWRD noted that the next 2 RAC meetings are scheduled for October 14 and 15. RAC members were reminded to complete the poll for November meeting availability.