



# 2025-26 Water Rights Rulemaking

## RULES ADVISORY COMMITTEE

### MEETING SUMMARY

### FOR RAC REVIEW

### NOVEMBER 21, 2025 (RAC 9)

The Oregon Water Resources Department (OWRD) convened the eight RAC meeting on November 21, 2025, from 8:30 a.m. to approximately 12:00 p.m. The meeting 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
- J.R. Cook, Northeast Oregon Water Association
- James Fraser, Trout Unlimited
- Chris Hall, Water League
- Keri Morin Handaly, Confederated Tribes of Grand Ronde
- Genevieve Hubert, Deschutes River Conservancy
- 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
- Jeff Stone, Oregon Association of Nurseries
- Jessi Talbott, Central Oregon Irrigation District

#### **Public Attendees**

- Morris Campbell
- Richard Kosesan (Water for Life)
- Jan Lee (Clackamas Soil and Water Conservation District)
- Mikaela Watson (Central Oregon Irrigation District)

**Oregon State Agency Staff**

- Corey Courchane (OWRD)
- Eliot Crafton (OWRD)
- Will Davidson (OWRD)
- Danette Faucera (Oregon Department of Fish and Wildlife)
- Cassidy Fredlund (OWRD)
- Ivan Gall (OWRD)
- Kim Fritz-Ogren (OWRD)
- Laura Hartt (OWRD)
- Sarah Henderson (OWRD)
- Bryn Hudson (OWRD)
- Lisa Jaramillo (OWRD)
- Jake Johnstone (OWRD)
- Mindy Lane (OWRD)
- Dante Luongo (OWRD)
- Amanda Mather (OWRD)
- Racquel Rancier (OWRD)
- Jesse Ratcliffe (Oregon Department of Justice)
- Katie Ratcliffe (OWRD)

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

**Agenda Review; Schedule:** Laura Hartt (OWRD) went over the agenda and provided a status update on draft meeting summaries and preferred deadlines for RAC input on the draft rules. The deadline for RAC members to provide feedback and input prior to filing for all rule divisions and rule filing notice documents (i.e., statements of need, racial equity impacts, fiscal and economic impacts) was extended from December 2<sup>nd</sup> to December 5<sup>th</sup>, end of business day. RAC comments received after December 5<sup>th</sup> will be incorporated as staff are able; otherwise, RAC members are encouraged to submit those comments during the public comment period.

The Department reminded the RAC that the notice of proposed rulemaking would be published in the January 2, 2026, Oregon Bulletin, allowing for at least 30 days of public comment; public hearings are planned for the last week in January 2026. The public comment period will end in early February, giving the Department time to review and incorporate input prior to presenting to the Water Resources Commission for consideration of adoption on March 19<sup>th</sup>.

RAC members discussed whether the Department could do more to clarify which proposed rule changes are driven by 2025 legislation. OWRD staff noted that the rule summaries provide that information, though perhaps not as detailed as desired by the RAC. RAC members also reiterated their concerns regarding the breadth of scope of the rulemaking, noting that some proposed changes are complicated and require more time for vetting.

Some RAC members expressed concerns relating proposed rule changes that may not align with Division 5 rules relating to compatibility with comprehensive plans which may impact local governments seeking financing for infrastructure projects. OWRD staff noted that it was coordinating with the Department of Land Conservation and Development (DLCD) on the issue. Staff also noted that it would share proposed revised language relating to land use later in the meeting.

A RAC member asked if OWRD had received input on the proposed rules from Oregon legislators; the Department responded that it had not. However, OWRD staff have provided periodic briefings to the authors of House Bill 3342 (2025) and House Bill 3544 (2025).

### **Proposed Rule Changes**

#### **Division 310**

Katie Ratcliffe (OWRD) discussed a new draft proposed rule revision made in response to land use related concerns. She noted that changes made in Division 310 would apply to other Divisions under revision. She explained that the changes were made to (1) require more thorough information on land use decisions at the time of application and (2) incorporate options into the administrative hold process to account for the Land Use Board of Appeals (LUBA) process. She noted that OWRD has been coordinating with DLCD on the recent revisions. She read the draft proposal aloud for the RAC; these draft changes were circulated in writing after the meeting.

<b>Rule</b>	<b>Comments/Questions</b>	<b>Department Response</b>
-0040(1)(a)(L)	<p>A RAC member noted that irrigation districts are quasi-municipal by nature so carve outs offered for municipalities should also be considered for irrigation districts. Another RAC member noted that any carve outs for municipalities should include language limiting those carve outs to municipal use.</p> <p>Another RAC member noted that the language is clearer but there is a missing reference to 005-0035(4)(c) and that this change could be out of alignment with the State Agency Coordination program.</p>	<p>The land use information form is already required by the Department to understand if the water use is allowed on the land or not. The major change is requiring applicants to have done more than just submit a land use request to the county.</p> <p>The Department will review.</p>

#### **Division 2**

Racquel Rancier (OWRD) led discussions on draft rule revisions made and RAC member feedback.

<b>Rule</b>	<b>Comments/Questions</b>	<b>Department Response</b>
-0005(6)(b)	A RAC member flagged a grammar typo (maybe a word is missing) and requested	Will review typo.

	that any interagency feedback that drives changes would be helpful to know.	Interagency feedback is included in the rule trackers if changes are made as a result.
-0025(3)	RAC members discussed options for electronic payment, including the option for entities with existing accounts with OWRD to have OWRD deduct fees from those accounts.	OWRD is concerned about equity, given that those with accounts would not have to plan ahead to meet deadlines while those without would. Staff also noted the added workload of setting up accounts and then manually reconciling the funds.
-0090(3)	One RAC member commented on how much time is generally involved in responding to production requests.	OWRD does not have numbers. However, under this proposal, as an example, for 100 cases, 30 hours per case would amount to 3,000 hours of staff time.
-0210	One RAC member flagged the second half of the rule was missing.	The rule is supposed to say: "give preference for testimony to be provided orally rather than in writing without requiring testimony in writing." The Department will correct.

### Division 17- Cancellation of Perfected Water Rights

Racquel Rancier (OWRD) led discussions regarding the preponderance of evidence standard referenced throughout the division and concerns that referencing the standard might imply that the standard is not already in statute. She noted that the evidentiary standard lies in Chapter 183, and the reference was added to the definition of "cancellation" in OAR 690-017-0010(4).

Rule	Comments/Questions	Department Response
General	A RAC member noted inconsistencies in the spelling of "cancellation." Both ways are correct, but she recommended consistency.	The Department will review, and revise as needed.
-0400(4)	A RAC member noted that aerial imagery and evapotranspiration are helpful tools but should not be the solitary tool.	The Department recognizes that some of tools are not appropriate in every circumstance and that the sum of the evidence must meet the preponderance of evidence standard.
-0400(5)(b)	A RAC member noted that the revised rule does not require OWRD to state the reason why they are closing the matter as opposed to pursuing cancellation when affidavits are received. The RAC	The Department responded that it can decide not to move forward for a litany of reasons, including lack of sufficient resources and/or evidentiary strength. The

	member also asked what the outcome would be if the agency refused to act.	Department noted that there is not really a recourse through the ALJ, so the Circuit Court of Appeals was the most likely venue for addressing the issue, though that option may not be available. <i>[Note: WRD revised in the public comment draft of rules based on further RAC comment and a review of statute.]</i>
-0600(3)	One RAC member stated that he believed legislation was needed to support the proposed rule changes.	The Department indicated that legislation may be preferred, but having legislation would not necessarily provide parties with adequate notice.
-0700	A RAC member noted support for the proposed rule revision.	Noted.

### Division 18

Racquel Rancier (OWRD) discussed comments received concerning protecting groundwater in the aquifer, similar to protecting surface water instream. For Division 18, the originating statutes did include groundwater but have since been changed to “water use subject to transfer.” This also brings up issues around how groundwater can be legally protected in the ground. So far, five projects (three in the Willamette and two in the Rogue) have been approved for allocation of conserved water involving groundwater.

Several RAC members noted that allocation of conserved water is a helpful tool for water users in a water scarce environment. The Department agreed that more conversations related to protecting groundwater “in ground” was needed but beyond the scope of this rulemaking.

Rule	Comments/Questions	Department Response
-0040 and 0050	A RAC member noted that there shouldn't be a responsibility to report to local governments.	The Department will review.

### Division 380

Rule	Comments/Questions	Department Response
General	Two RAC members noted that many of their written comments related to the consent to injury process were not incorporated and that those sections still need a lot of work.	The Department will review.
-2120(3)(a)(E)	One RAC member noted that the removal of “upstream” causes problems and is a departure from the existing process.	The Department will review. The intent of the change was not to depart from the existing process.

**Division 77**

<b>Rule</b>	<b>Comments/Questions</b>	<b>Department Response</b>
General	A few RAC members noted that several suggested changes to these rules have not been made. There are many areas that do not align with statute, including notice to local governments.	The Department will review.
	Another RAC member noted that Division 77 has been largely discussed in previous rulemaking efforts but some issues that have been added that were not part of past RACs should be reconsidered for inclusion.	The Department will review.
	With 15 minutes left to review the Division, one RAC member expressed concern that not enough time was allotted to cover the revisions made in response to RAC input.	
-0000(7)	<p>One RAC member noted that water rights not being protected across state lines could be problematic for work with Washington and Tribes in the Walla Walla Basin.</p> <p>Another RAC member suggested including references to interstate compacts to provide clarity.</p>	The Department acknowledged the need to follow up with the Confederated Tribes of the Umatilla Indian Reservation staff and regional staff on the topic but noted that the Department does not protect instream leases across state lines.

**Public Comment:** Comments received by RAC members are reflected above. No oral public comments were received.

**Wrap-Up & Next Steps**

Laura Hartt (OWRD) reiterated that the final deadline for RAC member input on the draft rules and other filing documents (i.e., statements of need, racial equity impacts, fiscal and economic impacts) is December 5<sup>th</sup>. After December 5<sup>th</sup>, staff will consider and incorporate input as they are able. Otherwise, RAC members will be encouraged to submit their comments during the public comment period, beginning January 2, 2026. Staff will ask for corrections on Draft RAC Meeting Summaries in December.