

# Oregon Water Resources Department Rulemaking

## What is a rule?

A rule is a generally applicable standard that interprets the law and defines the policies and procedures followed by the agency.

## Why are rules important?

Rules are important because they determine how agencies will carry out their statutory (i.e., legislative) responsibilities.

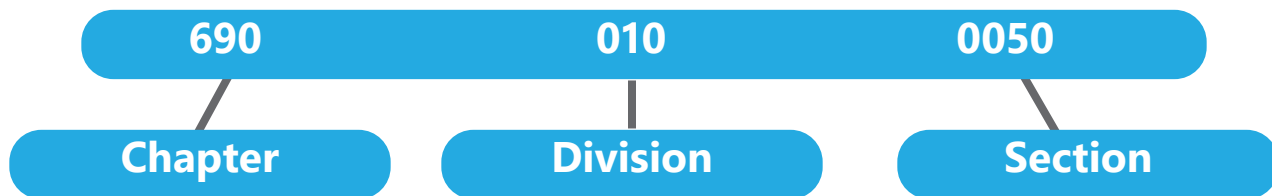
## Who can “make” rules?

Any state agency providing public services can make rules per Oregon’s Administrative Procedures Act (Oregon Revised Statutes (ORS), Chapter 183). Unless otherwise directed, the Oregon Water Resources Department (OWRD) relies on guidance in the Attorney General’s Uniform and Model Rules for Rulemaking to conduct its rulemaking process (See Oregon Administrative Rules (OAR), 690-001-0005).

All proposed new rules are posted on our website for public review and comment.

The Water Resources Commission (WRC) approves final draft rules.

## How to interpret a rule citation



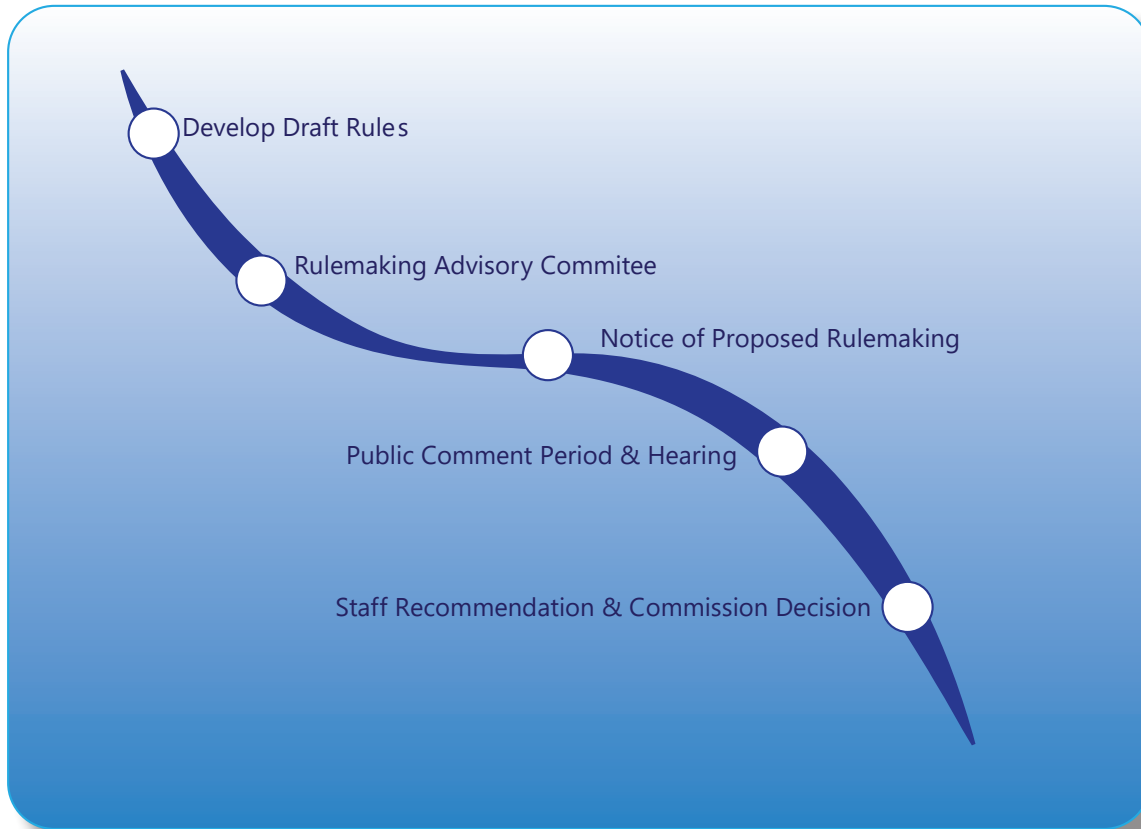
Rule citations reference the Chapter, Division, and Section within the Oregon Administrative Rules (OAR) where each rule resides. For example, OAR 690-010-0050 corresponds to

**Chapter 690:** The Chapter number is the first sequence of numbers, indicating the agency charged with the rule’s administration. Oregon Water Resources Department rules are in Chapter 690.

**Division 010:** The Division is the middle sequence of numbers, indicating a general category of rules. Division 10 pertains to “Appropriation and Use of Ground Water.”

**Section 0050:** The Section is the last sequence of numbers, representing a specific rule. Section 0050 outlines the process for “determination of Critical Groundwater Area-Notification.”

## Overview of the Rulemaking Process



### How OWRD will make rules for Division 10 and Division 512

#### *Develop Draft Rules*

- OWRD drafts the proposed rules and conducts a preliminary assessment of the need for the rules and their potential fiscal impact.

#### *Rulemaking Advisory Committee (RAC)*

- OWRD selects Rules Advisory Committee (RAC) members from among those who are likely to be affected by the proposed new rule or rule change. We gain valuable feedback on the draft rules and any fiscal impacts from the RAC members. Meetings are generally 2-3 hours but may last longer.
- We anticipate 3-5 RAC meetings for each of these rulemakings. RAC meetings may be held virtually, in person, or in a hybrid format. RAC members are expected to review available materials prior to each meeting.
- The Division 10 RAC selection is currently underway.
- If you are interested in serving on the Division 512 RAC, please contact Kelly Mainz, Rules Coordinator ([kelly.a.meinz@water.oregon.gov](mailto:kelly.a.meinz@water.oregon.gov)). We anticipate convening Division 515 RAC meetings beginning in April 2023.

- To follow rulemaking efforts, please go to our website ([oregon.gov/owrd/programs/policylawandrules/OARS](https://oregon.gov/owrd/programs/policylawandrules/OARS)) or scan the QR code below. The link directs you to our GovDelivery system, where you can sign up to receive updates on upcoming Division 10, Division 512, and all other upcoming rulemaking.



### *Notice of Proposed Rulemaking*

- After the RAC has provided sufficient input on the draft rules, the Rules Coordinator will finalize the rules and file a *Notice of Proposed Rulemaking* with the Secretary of State's office. The notice will include information about upcoming public hearings and public comment opportunities, the final proposed rule language, and a fiscal impact statement.
- The Secretary of State publishes the notice in the *Oregon Bulletin*, signaling the commencement of formal rulemaking. The Oregon Revised Statutes (ORS 183.335(1)) sets the minimum requirements for providing notice to stakeholders before the effective rule date: 49 days for legislators, 28 days for interested parties, and 21 days for the public.

### *Public Comment Periods and Hearings*

- During the public comment period, interested parties can submit comments on the proposed rules to OWRD Rules Coordinator.
- OWRD will convene a public hearing to allow interested parties an opportunity to provide in-person comments.

### *Staff Recommendation and Commission Decision*

- Once a public hearing is held and the public comment period closes, OWRD staff prepare a report and present a recommendation to the Water Resources Commission for consideration.
- The Commission then decides whether to adopt, amend, or repeal a rule.

### *Adoptions of Rules*

- Once the Commission adopts the rules, OWRD files the rules with the Secretary of State, and the rules become effective.

### *Estimated Rule Making Schedule*

- The Division 10 rule making process will begin Fall 2022. The goal for adoption is September 2023.
- The Division 512 rule making process will start April 2023. The goal for adoption is Spring 2024.

**Oregon Water Resources Department (OWRD)  
Division 10 Rulemaking and Its Relationship to Division 512**

Oregon Revised Statutes (ORS 537.730-537.742) outline the process for designating critical groundwater areas. A critical groundwater area (CGWA) is an area that has experienced excessive groundwater declines and corrective action is needed to prevent further damage to the aquifer.

OWRD is updating Division 10 rules, which govern groundwater appropriation and use, to be consistent with the CGWA designation process outlined by statute. This rule update will include a series of corrective actions that the Water Resources Commission can take to protect groundwater in designated CGWAs.

Division 512 will be the first rule to undergo review under the updated Division 10 rules. Division 512 governs the use of groundwater in the Malheur Lake Basin, including use within the Greater Harney Valley Groundwater Area of Concern. Once the Division 10 rules are in place, OWRD will engage another Rules Advisory Committee (RAC) to update the Division 512 Harney Basin-specific rules with new CGWA corrective actions.