OFFICE OF THE SECRETARY OF STATE
TOBIAS READ
SECRETARY OF STATE

MICHAEL KAPLAN
DEPUTY SECRETARY OF STATE

ARCHIVES DIVISION
STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

STATUTORY MINOR CORRECTION

WRD 89-2026

CHAPTER 690
WATER RESOURCES DEPARTMENT

FILED: 10/05/2026 7:25 PM
ARCHIVES DIVISION SECRETARY OF STATE & LEGISLATIVE COUNSEL

FILING CAPTION: Correcting the internal rule reference

CONTACT:
Laura Hartt
971-375-0016
laura.hartt@dsl.oregon.gov
775 Summer St NE
Suite 100
Salem, OR 97301

Filed By:
Laura Hartt
Rules Coordinator

AGENCY ATTESTS THE FOLLOWING CHANGES HAVE BEEN MADE, ACCORDING TO ORS 183.335(7):

Correcting statutory or rule references

AMEND: 690-077-0076

RULE TITLE: Application for an Instream Lease

RULE SUMMARY: Correcting the internal rule reference

RULE TEXT:
(1) A holder of a water use subject to transfer that is for surface water, above-ground storage of surface water, or the use of stored surface water may enter into a lease to change all or a portion of the existing water right to an instream water right for a specified time period not to exceed five years.
(2) The parties to the lease application shall include, but are not limited to:
(a) The holder(s) of the subject water right(s) as the lessor(s);
(b) Any irrigation district or similar organization as defined in ORS chapters 545, 547, 552, 553, or 554 which conveys water to the subject water right and the owner of any storage facility which is the source of the water, as co-lessor(s), if applicable; and
(c) The lessee, if different than the Department. The lessee may include, but is not limited to, individuals; organizations who may assist with the lease application; or organizations who may provide compensation to the lessor(s) for the leasing of the existing water right(s) instream.

(3) For an instream lease of an above-ground storage right, the applicant shall consult with the watermaster prior to submittal of the application to determine necessary measurement and reporting requirements to prevent enlargement.
(4) An application to lease an existing water right(s) for instream uses must be filed with the Department, on a form provided by the Department, and shall include:
(a) Names, signatures, mailing addresses, and email addresses (if available) of the parties. In the case where the lessor(s) is a district or water purveyor, the lease application shall be submitted by the district or water purveyor and signed by the manager or authorized representative of the district or water purveyor. In the case where the lessee is other than the Department, the lease application shall be submitted by the individual or organization and signed by the individual or an authorized representative of the organization, as applicable;
(b) If the lessor(s) is a district, the application shall include a statement by the district's manager or authorized representative that each district water user involved in the lease application has provided written authorizations for the lease, such authorization is on file with the district, and is available to the Department and the public upon request;
(c) A description of the existing water right(s) proposed for lease, including the point of diversion location. If only a portion of an existing water right is proposed for lease, a description of the place of use and maps consistent with OAR 690-077-0071 are required. If the lessor(s) is a district, the description shall include the name of each district water user by parcel;
(d) Rate, total volume, timing and location of the proposed instream leases;
(e) Provision ensuring the original use of the existing water right will be suspended;
(f) The term of the lease;
(g) A statement by the lessor(s) verifying that the existing water right(s) being leased instream has been used under the terms and conditions of the rights during the last five years, or as an instream water right, or an explanation why the existing water right(s) is not subject to forfeiture under ORS 540.610. As an alternative, an irrigation district or other water purveyor may provide evidence for owners, verifying delivery of water for the lands appurtenant to the rights to be leased;
(h) If the lessor(s), as identified in subsection (2)(a) of this rule, is not the deeded owner of the land to which the existing water right is appurtenant, sufficient documentation to demonstrate that the lessor(s) is authorized to pursue the instream lease. These also include what the district shall hold on file for subsection (4)(b). Such documentation shall include:
(A) A notarized statement from the landowner consenting to the lease and a copy of the recorded deed;
(B) A water right conveyance agreement(s) as defined in OAR chapter 690, division 380 and a copy of the recorded deed for the landowner at the time the water right was conveyed; or
(C) Other documentation that demonstrates to the Department's satisfaction that the lessor(s) is authorized to pursue the lease in the absence of the consent of the landowner;
(i) A map consistent with OAR 690-077-0071; and
(j) The appropriate fee as required under ORS 536.050.
(5) For instream lease of an above-ground storage right, in addition to the application requirements under this rule, the application shall:
(a) Be consistent with the results of the watermaster consultation outlined in section (3) of this rule and shall include, but is not limited to, the following requirements specified by the watermaster:
(A) A description of the location(s) and type(s) of measuring device(s);
(B) A description of the frequency of the measurements; and
(C) Identification of the parties responsible for performing the respective measurements;
(b) Identify the total volume or rate authorized under the above-ground storage right;
(c) Identify the total volume or rate of the storage right that is allocated to secondary water right(s) for use of the stored water;
(d) Identify the total volume or rate authorized under the above-ground storage right proposed for instream lease;
(e) If the combined total volume or rate of subsections (5)(c) and (d) of this rule exceeds the volume or rate identified

under subsection (5)(b) of this rule, list the secondary water right(s) under which use of the stored water will be suspended for the term of the lease to ensure the authorized volume or rate of water under the above-ground storage right is not exceeded; and

(f) If secondary water right(s) are identified for suspension pursuant to the calculation described in subsection (5)(e) of this rule, provide sufficient documentation to demonstrate that the lessor(s) is authorized to suspend the use of stored water under the secondary water right(s) and pursue the instream lease. Such documentation shall include:

(A) A notarized statement from the landowner or water right holder of record consenting to the lease and a copy of the recorded deed; or copies of contracts or agreements for the use of a reservoir owned by a federal government; or

(B) A water right conveyance agreement(s) as defined in OAR chapter 690, division 380 and a copy of the recorded deed for the landowner at the time the water right was conveyed; or

(C) Other documentation that demonstrates to the Department's satisfaction that the lessor(s) is authorized to pursue the lease in the absence of the consent of the landowner or water right holder of record; and

(g) Include a statement that the quantity of water proposed for instream lease will not be stored under the storage right for the term of the instream lease.

(6) Lease applications shall conform with applicable provisions of OAR 690-077-0015.

(7) If a final order was issued approving an existing instream lease, and the term of that lease has expired or is about to expire, and there are no changes to the instream use or to the water (or portion thereof) involved, an instream lease renewal application meeting the requirements set forth under OAR 690-077-0105 can be submitted.

STATUTORY/OTHER AUTHORITY: ORS 536.025, ORS 536.027

STATUTES/OTHER IMPLEMENTED: ORS 537.332 – 537.360