

1 **OREGON ADMINISTRATIVE RULES**
2 **WATER RESOURCES DEPARTMENT**
3 **CHAPTER 690**
4 **DIVISION 382**
5 **GROUND WATER REGISTRATION MODIFICATIONS**
6
7
8

9 690-382-0010 Purpose.....2
10 690-382-0100 Definitions.....2
11 690-382-0200 Layered Water Rights and Certificates of Registration3
12 690-382-0300 Modification of Certificates of Registrations.....4
13 690-382-0400 Application for Modification of Certificate of Registration5
14 690-382-0450 Existing Documentation of Modifications6
15 690-382-0500 Fee Refunds.....7
16 690-382-0600 Request for Comments.....7
17 690-382-0700 Preliminary Determination.....7
18 690-382-0800 Notice of Preliminary Determination.....9
19 690-382-0900 Protests and Requests for Hearings.....10
20 690-382-1000 Recognition of Modifications10
21 690-382-1100 Hearings11
22 690-382-1200 Compatibility with Acknowledged Comprehensive Plans11
23

Bold, underlined text **example** is new text proposed in the May 1, 2006 hearing draft. Italicized, strikethrough text in brackets [~~example~~] is proposed for deletion in the May 1, 2006 hearing draft. Bold, double underlined text **example** is new text proposed in the recommended rules. Double strikethrough text in brackets [~~example~~] is text proposed for deletion in the recommended rules.

1 OREGON ADMINISTRATIVE RULES
2 WATER RESOURCES DEPARTMENT
3 CHAPTER 690
4 DIVISION 382
5 GROUND WATER REGISTRATION MODIFICATIONS
6
7
8

9 **690-382-0010**

10 **Purpose**

11 **(1) The rules in OAR Chapter 690, Division 382 establish the requirements and**
12 **procedures to be used by the Department to evaluate an application to modify a ground**
13 **water certificate of registration. The rules describe the requirements for changing the point**
14 **of appropriation, place of use, or character of use of a certificate of registration.**

15 ~~**(2) [The standards and criteria for Department review of an application to modify a**~~
16 ~~**certificate of registration are different than the standards and criteria established for the**~~
17 ~~**review of water right transfers under OAR Chapter 690, Division 380 and, except as**~~
18 ~~**specifically provided, the standards and criteria in these rules are not applicable to**~~
19 ~~**applications for water right transfers.**~~

20 ~~**(3) No change in point of appropriation, place of use, or character of use of a certificate**~~
21 ~~**of registration may be made except as provided under these rules and OAR Chapter 690,**~~
22 ~~**Division 380.**~~

23
24
25 **690-382-0100**

26 **Definitions**

27 **The definitions in this rule, along with the definitions in OAR 690-008-0001 and 690-**
28 **300-0010, apply to the rules in OAR Chapter 690, Division 382. Where a term is defined in**
29 **more than one rule, the definition in this rule applies.**

30 **(1) “Certificate of registration” or “registration” means a certificate of registration of**
31 **the right to appropriate ground water under ORS 537.585 and 537.595 as documented**
32 **under ORS 537.605. A certificate of registration is also known as a ground water**
33 **registration.**

34 **(2)“Enlargement” means an expansion of a certificate of registration and includes, but is**
35 **not limited to:**

36 **(a) Using a greater rate or duty of water per acre than currently allowed under a**
37 **certificate of registration;**

38 **(b) Increasing the acreage irrigated under a certificate of registration;**

39 **(c) Failing to keep the original place of use from receiving water from the same source;**

40 **or**

Bold, underlined text **example** is new text proposed in the May 1, 2006 hearing draft. Italicized, strikethrough text in brackets [*example*] is proposed for deletion in the May 1, 2006 hearing draft. Bold, double underlined text **example** is new text proposed in the recommended rules. Double strikethrough text in brackets [~~example~~] is text proposed for deletion in the recommended rules.

1 (d) Diverting more water at the new point of appropriation than is legally available to
2 that certificate of registration at the original point of appropriation.

3 (3) “Injury” or “Injury to an existing water right” means a proposed certificate of
4 registration modification would result in another, existing water right not receiving
5 previously available water to which it is legally entitled.

6 (4) “Layered” means a situation in which there are multiple water uses subject to
7 transfer, permits, or certificates of registration that are appurtenant to the same place of
8 use and that have been issued for the purpose of irrigation.

9 (5) “Point of appropriation” means a well or the pump location on a sump at which
10 ground water is withdrawn from the ground for use under a ground water right or
11 certificate of registration.

12 (6) “Protest” means a written statement expressing opposition to approval of a transfer
13 application or an application to modify a certificate of registration and disagreement with a
14 preliminary determination that is filed in response to the notice prescribed by OAR 690-
15 382-0800 and includes the fee prescribed in ORS 536.050.

16 (7) “Report of ownership and lien information” means a document prepared by a title
17 company that includes current ownership, a legal description of the lands, identification of
18 lien holders, and if a water right conveyance agreement has been recorded for the subject
19 lands, a copy of the agreement and identification of the owner of the lands at the time the
20 agreement was recorded.

21 (8) “Standing statement” means a written statement expressing support for a
22 preliminary determination that is filed in response to the notice prescribed by OAR 690-
23 382-0800.

24 (9) “Water right conveyance agreement” means a purchase and sale agreement, deed, or
25 other document that has been recorded in the deed records by the relevant county
26 describing land to which a water right is appurtenant and demonstrating that the interest
27 in that land and the interest in the appurtenant water right have been separately conveyed.

28 (10) “Water use subject to transfer” means a water use established by:

29 (a) An adjudication under ORS Chapter 539 as evidenced by court decree;

30 (b) A water right certificate;

31 (c) A water use permit for which a request for issuance of a water right certificate under
32 ORS 537.250 has been received and approved by the Commission under ORS 537.250; or

33 (d) A transfer application for which an order approving the change has been issued
34 under ORS 540.530 and for which proper proof of completion of the change has been filed
35 with the Commission.

36
37
38 **690-382-0200**

39 **Layered Water Rights and Certificates of Registration**

40 **(1) Except as provided in section (5) of this rule, a change in place of use or character of**
41 **use of a certificate of registration that is layered shall be approved or recognized only if**

Bold, underlined text **example** is new text proposed in the May 1, 2006 hearing draft. Italicized, strikethrough text in brackets [*example*] is proposed for deletion in the May 1, 2006 hearing draft. Bold, double underlined text **example** is new text proposed in the recommended rules. Double strikethrough text in brackets [~~example~~] is text proposed for deletion in the recommended rules.

1 concurrent changes to the other layered water uses subject to transfer, permits, and
2 certificates of registration are approved or recognized.

3 (2) When reviewing an application for a registration modification, the Department shall
4 notify the applicant if other layered water uses subject to transfer, permits, or certificates
5 of registration are identified for which applications for concurrent changes have not been
6 filed.

7 (3) The Department shall provide an applicant notified under section (2) of this rule a
8 period of not less than 30 days to:

9 (a) Submit applications for concurrent changes in the other layered water uses subject
10 to transfer, permits, and certificates of registration;

11 (b) Submit affidavits of voluntary cancellation for the other layered water uses subject
12 to transfer, permits, and certificates of registration; or

13 (c) Withdraw the application.

14 (4) If the Department determines that an application to modify a layered certificate of
15 registration should be denied, the Department shall notify the applicant of the
16 Department's intent to issue final orders denying the application and all associated
17 applications unless, within 30 days after the date of Department notification, the applicant:

18 (a) Submits an affidavit of voluntary cancellation for the portion of the water use subject
19 to transfer, permit, or certificate of registration that the Department has determined
20 cannot be transferred, amended, or modified; or

21 (b) Withdraws the applications.

22 (5) A certificate of registration that the applicant designates as being for supplemental
23 irrigation use may be moved separately from the associated primary irrigation water right
24 if another primary irrigation water right with similar reliability is appurtenant to the lands
25 to which the certificate of registration is to be moved.

26
27
28 **690-382-0300**

29 **Modification of Certificates of Registrations**

30 (1) An application for recognition of a modification of a certificate of registration may
31 be filed by:

32 (a) The person named on the certificate of registration or to whom the certificate of
33 registration has been assigned;

34 (b) The owner of the land to which the registration is appurtenant provided that the
35 application is accompanied by a request for assignment under OAR 690-320-0060; or

36 (c) Any other person or entity who can demonstrate that they are authorized to request
37 recognition of a modification.

38 (2) When modification of a certificate of registration is necessary to change the point of
39 appropriation, place of use, or character of use under the registration, an application for
40 recognition of the modification shall be submitted on a form provided by the Department.

Bold, underlined text **example** is new text proposed in the May 1, 2006 hearing draft. Italicized, strikethrough text in brackets [*example*] is proposed for deletion in the May 1, 2006 hearing draft. Bold, double underlined text **example** is new text proposed in the recommended rules. Double strikethrough text in brackets [~~example~~] is text proposed for deletion in the recommended rules.

1 The application may propose modification of only one certificate of registration unless the
2 registrations to be modified are layered.

3
4
5 **690-382-0400**

6 **Application for Modification of Certificate of Registration**

7 **Each application for modification of a certificate of registration shall be prepared in ink**
8 **or printed on a form provided by the Department. Applications shall contain the following**
9 **minimum information concerning the certificate of registration and any appurtenant water**
10 **right or permit, if applicable:**

11 **(1) Applicant's name, mailing address, and telephone number.**

12 **(2) Type of change proposed.**

13 **(3) Name appearing on the certificate of registration.**

14 **(4) Certificate of registration number for the registration to be modified.**

15 **(5) Water right certificate, permit, or certificate of registration numbers, as applicable,**
16 **for any layered water uses subject to transfer, permits, or certificates of registration.**

17 **(6) Source of water as described on the certificate of registration.**

18 **(7) Date of priority.**

19 **(8) The authorized and proposed point(s) of appropriation located accurately in**
20 **reference to a public land survey corner, if applicable.**

21 **(9) The authorized and proposed use of water, if applicable.**

22 **(10) The authorized and proposed place of use identified by its location within the public**
23 **land survey and tax lot number, if applicable.**

24 **(11) A map prepared pursuant to OAR 690-380-3100, except it need not be prepared by**
25 **a water rights examiner.**

26 **(12) Land use information as outlined in the Department's Land Use Planning**
27 **Procedures Guide, except for those modifications that meet the following four**
28 **requirements:**

29 **(a) Where existing and proposed water uses would be located entirely within lands**
30 **zoned for exclusive farm use as provided in ORS 215.203 or within irrigation districts;**

31 **(b) That involve changes in place of use only;**

32 **(c) That do not involve the placement or modification of structures including but not**
33 **limited to water diversion, impoundment, or distribution facilities, water wells, and well**
34 **houses; and**

35 **(d) That involve irrigation water uses only.**

36 **(13) For a change in point of appropriation, copies of water well reports for the**
37 **authorized and proposed point of appropriation. If water well reports are not available, a**
38 **description of the construction of each well, including but not limited to, well depth, static**
39 **water level, casing size, and any other necessary information to establish the ground water**
40 **body developed or proposed to be developed.**

41 **(14) A listing of the names and mailing addresses of:**

Bold, underlined text **example** is new text proposed in the May 1, 2006 hearing draft. Italicized, strikethrough text in brackets [*example*] is proposed for deletion in the May 1, 2006 hearing draft. Bold, double underlined text **example** is new text proposed in the recommended rules. Double strikethrough text in brackets [~~example~~] is text proposed for deletion in the recommended rules.

1 (a) All affected local governments, including but not limited to, county, city, municipal
2 corporations, and tribal governments; and

3 (b) Any district in which the affected registration is located or that serves the
4 registration and any district in which the affected registration would be located or that
5 would serve the registration after the proposed modification.

6 (15) An oath that the information contained in the application is true and accurate.

7 (16) The following information related to the authority of the applicant to pursue the
8 proposed modification:

9 (a) A signed statement that the applicant understands that, upon receipt of the draft
10 preliminary determination described in OAR 690-382-0700(4) and prior to Department
11 recognition of the modification, the applicant will be required to provide the
12 landownership information and evidence identified in OAR 690-382-0700(5) to
13 demonstrate that the applicant is authorized to pursue the modification;

14 (b) A statement affirming that the applicant is a municipality as defined in ORS
15 540.510(3)(b) and that the right is in the name of the municipality or a predecessor; or

16 (c) Documentation that the applicant is an entity with the authority to condemn
17 property and is acquiring by condemnation the property to which the certificate of
18 registration proposed for modification is appurtenant. Such an entity may only apply for
19 recognition of a modification under this subsection if it has filed a condemnation action to
20 acquire the property and deposited the funds with the court as required by ORS 35.265.
21 Such an entity need not obtain the consent or authorization for the change from any other
22 person or entity.

23 (17) The signature of the applicant, and if an entity, the title of the person signing the
24 form.

25 (18) The appropriate fee required under ORS 537.610 as follows:

26 (a) For examination of an application to only change the place of use under a certificate
27 of registration, \$350.

28 (b) For examination of all other applications to modify a certificate of registration, \$500.

29
30
31 **690-382-0450**

32 **Existing Documentation of Modifications**

33 **If documentation of a modification under a ground water registration was on file with**
34 **the Department prior to July 22, 2005, the Department shall provide an application for**
35 **recognition of the modification described in the notice priority with respect to processing**
36 **other applications for recognition of ground water registration modifications. An**
37 **application filed under OAR 690-382-0400 may incorporate by reference information**
38 **about the modification that is on file with the Department.**

39
40
Bold, underlined text **example** is new text proposed in the May 1, 2006 hearing draft. Italicized, strikethrough text in brackets [*example*] is proposed for deletion in the May 1, 2006 hearing draft. Bold, double underlined text **example** is new text proposed in the recommended rules. Double strikethrough text in brackets [~~example~~] is text proposed for deletion in the recommended rules.

1 **690-382-0500**

2 **Fee Refunds**

3 **If an applicant for a modification to change the point of appropriation abandons the**
4 **original well according to well construction standards within one year of the Department's**
5 **recognition of the modification , the applicant may request a refund of \$100 of the fee paid**
6 **under OAR 690-382-0400(17)(b).**
7
8

9 **690-382-0600**

10 **Request for Comments**

11 **(1) On receipt of an application for modification, the Department shall review the**
12 **application to determine if the applicant has included the information required by OAR**
13 **690-382-0400.**

14 **(2) If the Department determines that the application does not include the required**
15 **information, the Department shall return the application and any fees to the applicant**
16 **along with a written description of the deficiencies in the application.**

17 **(3) If the Department determines the application is complete, the Department shall file**
18 **the application and request public comments on the application:**

19 **(a) In the weekly notice published by the Department; and**

20 **(b) By mail to each affected local government and irrigation district identified by the**
21 **applicant pursuant to OAR 690-382-0400(14).**

22 **(4) The request for comments shall provide a period of at least 30 days for interested**
23 **persons to comment on the application.**
24
25

26 **690-382-0700**

27 **Preliminary Determination**

28 **(1) After the conclusion of the public comment period described in OAR 690-382-**
29 **0600(4), the Department shall prepare a preliminary determination of whether the**
30 **modification should be recognized, taking into account comments received in response to**
31 **the notice provided under OAR 690-382-0600 and the considerations described in section**
32 **(2) of this rule.**

33 **(2) The Department's preliminary determination shall include an assessment of**
34 **whether:**

35 **(a) The proposed modification would result in enlargement;**

36 **(b) The proposed modification would result in a state Scenic Waterway not receiving**
37 **previously available water during periods in which streamflows are less than the quantities**
38 **determined by the Department to be necessary to meet the requirements of ORS 390.835;**

39 **(c) The proposed modification would result in injury; and**

40 **(d) Any other requirements for registration modifications are met.**

Bold, underlined text **example** is new text proposed in the May 1, 2006 hearing draft. Italicized, strikethrough text in brackets [*example*] is proposed for deletion in the May 1, 2006 hearing draft. Bold, double underlined text **example** is new text proposed in the recommended rules. Double strikethrough text in brackets [~~example~~] is text proposed for deletion in the recommended rules.

1 (3) For a preliminary determination that indicates that an application should not be
2 recognized , the preliminary determination shall:

3 (a) Describe the basis for the Department's conclusions; and

4 (b) Identify any conditions or restrictions that, if included in the order recognizing the
5 modification, would allow recognition of the modification.

6 (4) The Department shall provide a copy of the draft preliminary determination to the
7 applicant and provide the applicant a period of at least 30 days to amend the application to
8 address any issues identified by the Department in the preliminary determination,
9 including the quantity of water to be included in the modification, or to withdraw the
10 application.

11 (5) Upon receipt of the draft preliminary determination, an applicant other than an
12 entity that meets the criteria described in OAR 690-382-0400(16)(b) or (c) shall submit the
13 following information to demonstrate that the applicant is authorized to pursue the
14 modification:

15 (a) A report of ownership and lien information as defined in OAR 690-382-0100(7) for
16 the land to which the water right is appurtenant that has been prepared within the prior
17 three months;

18 (b) A copy of a written notification of the proposed modification provided by the
19 applicant to all lien holders on the subject lands unless the report on ownership and lien
20 information shows that a water right conveyance agreement has been recorded for the
21 subject lands; and

22 (c) If the applicant is not both the person named on the certificate of registration or the
23 assignee and the owner of the lands to which the registration is appurtenant as identified in
24 the report of ownership and lien information:

25 (A) Notarized statements consenting to the modification by all persons, other than the
26 applicant, who are named on the certificate of registration or identified as landowners in
27 the report of ownership and lien information or who are authorized representatives of an
28 entity to whom the interest in the water right has been conveyed as identified in a water
29 right conveyance agreement; or

30 (B) Documentation demonstrating that the applicant is authorized to pursue the
31 modification in the absence of the consent of the persons named on the certificate of
32 registration or the assignee and the owner of the lands to which registration is appurtenant.

33 (6) The draft preliminary determination shall constitute the notification required under
34 OAR 690-382-0200 that there are other layered rights, permits, or registrations that must
35 be addressed prior to recognition of the modification.

36 (7) If the applicant amends the application or provides additional information in
37 support of approval of the application, the Department shall revise the draft preliminary
38 determination as appropriate.

39
40
Bold, underlined text **example** is new text proposed in the May 1, 2006 hearing draft. Italicized, strikethrough text in brackets [*example*] is proposed for deletion in the May 1, 2006 hearing draft. Bold, double underlined text **example** is new text proposed in the recommended rules. Double strikethrough text in brackets [~~example~~] is text proposed for deletion in the recommended rules.

1 **690-382-0800**

2 **Notice of Preliminary Determination**

3 **(1) After the time for the applicant to respond to the Department's draft preliminary**
4 **determination, the Department shall issue the preliminary determination and give notice of**
5 **the application to modify the registration and the preliminary determination:**

6 **(a) By publication in the Department's weekly notice;**

7 **(b) Except as provided in section (5) of this rule, by publication in a newspaper having a**
8 **general circulation in the area in which the certificate of registration(s) is located for a**
9 **period of at least three weeks and not less than one publication each week; and**

10 **(c) By mailing a copy of the preliminary determination and notice to the applicant and**
11 **each person who submitted comments under OAR 690-382-0600.**

12 **(2) The notice shall include the following information about the application:**

13 **(a) The type of modification proposed and any amendments to the application that were**
14 **made subsequent to the notice required OAR 690-382-0600;**

15 **(b) The locations of the applicant's existing and proposed water uses, the amount of**
16 **water allowed under the registration to be modified, and the authorized source for the**
17 **registration;**

18 **(c) The registration and certificate numbers;**

19 **(d) The applicant's name and address;**

20 **(e) A statement that any person may file, jointly or severally, with the Department a**
21 **protest or standing statement within 30 days after the date of final publication of the**
22 **notices prescribed by subsections (1)(a) and (b) of this rule, whichever is later;**

23 **(f) A summary of the Department's preliminary determination; and**

24 **(g) For a notice published in a newspaper, the date on which the last publication will**
25 **occur.**

26 **(3) The cost of publication in a newspaper shall be paid by the applicant. At the**
27 **discretion of the Director, the applicant may satisfy this requirement by arranging for the**
28 **publication of the notice prepared by the Department in a newspaper that meets the**
29 **criteria in subsection (1)(b) and providing the Department with an affidavit of publication**
30 **or by paying the costs of the publication in advance to the Department.**

31 **(4) On issuance of the preliminary determination, the Department shall mail to the**
32 **applicant a copy of the preliminary determination and, if publication in a newspaper is**
33 **required, a copy of the notice. The Department shall allow the applicant a period of not**
34 **fewer than 45 days after mailing of the preliminary determination to provide the**
35 **Department with the affidavit required under section (3) of this rule.**

36 **(5) No notice by publication in a newspaper is required for:**

37 **(a) A change in place of use; or**

38 **(b) Applications for a change in the point of appropriation of less than one-fourth mile**
39 **and where there are no intervening wells between the documented point of appropriation**
40 **and the proposed point of appropriation that is listed in the modification application.**

Bold, underlined text **example** is new text proposed in the May 1, 2006 hearing draft. Italicized, strikethrough text in brackets [*example*] is proposed for deletion in the May 1, 2006 hearing draft. Bold, double underlined text **example** is new text proposed in the recommended rules. Double strikethrough text in brackets [~~example~~] is text proposed for deletion in the recommended rules.

1 (6) The Department shall not take action on an application prior to the end of the
2 protest period described in this rule.

3 (7) The Department may deny recognition of the modification if the applicant fails to
4 provide the Department with the affidavit required under section (3) of this rule within the
5 period allowed under section (4) of this rule.

6
7
8 **690-382-0900**

9 **Protests and Requests for Hearings**

10 (1) Within 30 days after the date of last publication of the newspaper notice or the
11 Department's weekly notice as prescribed by OAR 690-382-0800, whichever is later, any
12 person may file, jointly or severally, with the Department, a protest or standing statement.

13 (2) A person filing a protest must comply with the provisions of OAR 690-002-0030 and
14 include the fee required under ORS 536.050.

15 (3) An applicant filing a protest under this rule must provide the affidavit required
16 under OAR 690-382-0800(3) to the Department prior to or concurrent with the filing of the
17 protest.

18 (4) Each person submitting a protest must raise all reasonably ascertainable issues and
19 submit all reasonably available arguments supporting the person's position by the close of
20 the protest period. Failure to raise a reasonably ascertainable issue in a protest or failure to
21 provide sufficient specificity to afford the Department an opportunity to respond to the
22 issue may preclude consideration of the issue during the hearing.

23 (5) The Department shall provide to persons who have filed standing statements as
24 defined in OAR 690-382-0100(8) notice of any differences between the Department's
25 preliminary determination and the final order, notice of a hearing on the application under
26 OAR 137-003-0535, and an opportunity to request limited party status or party status in
27 the hearing.

28
29
30 **690-382-1000**

31 **Recognition of Modifications**

32 (1) An application for modification of a certificate of registration shall be recognized if
33 the Department determines that:

34 (a) The proposed modification would not result in enlargement as defined in OAR 690-
35 382-0100(2);

36 (b) The proposed modification would not result in a state Scenic Waterway receiving
37 previously available water during periods in which streamflows are less than the quantities
38 determined by the Department to be necessary to meet the requirements of ORS 390.835;

39 (c) The proposed modification would not result in injury as defined in OAR 690-382-
40 0100(3); and

41 (d) Any other requirements for modification of the certificate of registration are met.

Bold, underlined text **example** is new text proposed in the May 1, 2006 hearing draft. Italicized, strikethrough text in brackets [*example*] is proposed for deletion in the May 1, 2006 hearing draft. Bold, double underlined text **example** is new text proposed in the recommended rules. Double strikethrough text in brackets [~~example~~] is text proposed for deletion in the recommended rules.

1 (2) Except as otherwise provided in OAR 690-382-0800(7), the Department shall issue a
2 final order consistent with the preliminary determination described in OAR 690-382-0700
3 if no protests are received under OAR 690-382-0900.

4 (3) Issuance of the final order recognizing changes in character of use or place of use
5 shall terminate the right to use water for the character of use or place of use under the
6 original certificate of registration or a previously recognized modification of a registration.

7 (4) ~~Issuance of the final order recognizing~~ A modification of a certificate of registration
8 shall not be construed as final or conclusive ~~until it is~~ determined under an adjudication
9 proceeding under ORS 537.670 to 537.695.

10 (5) A copy of the final order and all supporting documentation will be filed with the
11 original request for registration and made available at the time of adjudication under ORS
12 537.670 to 537.695.

13 690-382-1100

14 Hearings

15 (1) If a protest is filed under OAR 690-382-0900, the Department shall, within 60 days
16 after the close of the period for receiving protests, determine whether to:

17 (a) Issue a final order that is consistent with the preliminary determination described in
18 OAR 690-382-0700;

19 (b) Issue a final order that is not consistent with the preliminary determination
20 described in OAR 690-382-0700 that addresses any significant disputes raised in the
21 protest; or

22 (c) Schedule a contested case hearing to resolve any significant disputes raised in the
23 protest.

24 (2) Notice and conduct of the hearing shall be under the applicable provisions of ORS
25 183.310 to 183.550, pertaining to contested cases, and the hearing shall be held in the area
26 where the rights are located unless all parties and persons who filed a protest stipulate
27 otherwise.

28 690-382-1200

29 Compatibility with Acknowledged Comprehensive Plans

30 (1) The Department and Commission shall meet requirements established in OAR 690-
31 005-0045 (Standards for Goal Compliance and Compatibility with Acknowledged
32 Comprehensive Plans) in evaluating and taking action on applications for certificate of
33 registration modifications except as specified in OAR 690-005-0025 and 690-380-0070(13).

34 (2) In the event of a land use dispute, as defined in OAR 690-005-0015 (Definitions), the
35 Department shall follow procedures provided in OAR 690-005-0040 (Resolution of Land
36 Use Dispute).

37
38
39
40
Bold, underlined text **example** is new text proposed in the May 1, 2006 hearing draft. Italicized, strikethrough text in brackets [*example*] is proposed for deletion in the May 1, 2006 hearing draft. Bold, double underlined text **example** is new text proposed in the recommended rules. Double strikethrough text in brackets [~~example~~] is text proposed for deletion in the recommended rules.

1 **(3) The Director may presume that the certificate modification would be allowed by, and**
2 **compatible with comprehensive plans unless an affected local government informs the**
3 **Director otherwise within 30 days after the date shown on the notice issued pursuant to**
4 **OAR 690-382-0800.**

Bold, underlined text **example** is new text proposed in the May 1, 2006 hearing draft. Italicized, strikethrough text in brackets [*~~example~~*] is proposed for deletion in the May 1, 2006 hearing draft. Bold, double underlined text **example** is new text proposed in the recommended rules. Double strikethrough text in brackets [~~**example**~~] is text proposed for deletion in the recommended rules.