2/27/26

Proposed Rule Revision Tracker

Division 14 – Certified Water Right Examiners

Rule language changes made after the close of the public comment period February 5, 2026.

Rule(s)	Commenter/Comment	Response	Changed?
Applicability -0005	**OWRD staff proposed change -** Applicability language says claims of beneficial use submitted on or after April 1, but some portions of rules apply to other documents submitted by CWREs (-0050 and -0090).	Changed to include "other applicable documents prepared by CWREs".	Change made.
Copy/paste error -0050	**OWRD staff proposed change –** While the word versions of rule language were correct, the language copied into the filing system for notice was not the intended language. This is a copy and paste error that will be corrected in the final filing. The public received a copy of the correct version in an errata sheet post public notice.	The correct rule language is included, highlighted in yellow, and will be updated in the rule final rule filing.	Change made.
Rule summary -0100	**OWRD staff proposed change** – revise rule summary to better reflect intent of rule.	Adjusted rule summary to reflect rule language that pump tests can be submitted prior to or with the COBU. No change to rule.	Change made.
COBU -0080	**Kimberley Priestley (RAC; WW) -** We urge the OWRD to expand this section to direct that if a CWRE makes any material misstatement of fact in a COBU, that COBU is deemed invalid. And, for any certificate that had been issued that was based on false information, it should have to go through the COBU process again and/or be cancelled.	Outside the scope of this rulemaking. The Department cannot make changes to rule sections that were not included in the notice of proposed rulemaking. This rule section was not included in the notice. Note that existing rules at OAR 690-014-0080(1) state that, "Any violation of these rules by a CWRE and brought to the attention of the Director by Department staff, the public, or other means may be submitted to OSBEELS. A material misstatement of fact shall be referred to OSBEELS for disciplinary action." Existing rules in OAR 690-014-0100 require	No change made.

		"The following statement, signed by the CWRE, shall appear at the end of the Claim of Beneficial Use: "The facts contained in this Claim of Beneficial Use are true and correct to the best of my knowledge.""	
COBU -0110(3)	**Kimberley Priestley (RAC; WW) -** the "may" should be a "shall." If the CWRE does not meet the standards, the OWRD should refuse to accept the COBU.	Outside the scope of this rulemaking. The Department cannot make changes to rule sections that were not included in the notice of proposed rulemaking. This rule section was not included in the notice.	No change made.

2/27/26
Proposed Rule Revision Tracker
Division 2 – Protests and Contested Cases

Rule language changes made after the close of the public comment period February 5, 2026.

Rule(s)	Commenter/Comment	Response	Changed?
Grammar **-0005(7)** **-0000**	**OWRD Staff Proposed Change** - For cases not under subsection 2, these rules will apply to protests filed on or after April 1, 2026. 2025 is missing from reference to 2025 Oregon Law.	Added "on or". Added 2025 to legislative reference	Change made
Copy/paste error **-0081**	**OWRD Staff Proposed Change –** Rule Summary in filed Notice is incorrect; language inadvertently copied again from –0075.	Rule summary corrected	Change made
Discovery **-0095**	**Kimberley Priestley (RAC; WW)** - Part of the contested case process is "discovery," which allows a party to obtain documents and information from other parties to the case (and sometimes from third parties). The methods of discovery, and the limitations on those methods, are already defined, and the competing interests of efficiency and due process are already balanced, in the Department of Justice's model rules for contested cases, which have generally been adopted by OWRD. OAR Chapter 137, Division 3. HB 3544 did not disturb those definitions or balance, despite suggestions from some that it do so. OWRD's proposed rules nevertheless propose to limit discovery in contested cases in several significant ways:	The DOJ Model Rules recognize that the discovery methods and limitations in the Model Rules may not be appropriate for all types of cases and give the Commission authority to specify what methods of discovery apply in Commission/OWRD contested cases if the Commission makes certain findings. *See* OAR 137-003-0566(2). Early versions of HB 3544 included provisions addressing discovery, but those provisions were removed because the Commission already has authority to address discovery under the Model Rules. It should not be assumed that something that was in HB 3544 but later removed is indicative of legislative intent. It is important to recognize that there are expectations that OWRD will reduce processing timelines, reduce the protest backlog, and provide timely hearings to those that request them. The discovery changes in the proposed rules are intended to help meet those expectations by reducing the time and resources that OWRD and hearing participants spend on responding to discovery requests while still providing for the sharing of relevant information and ensuring the fundamental fairness of OWRD contested case proceedings. From OWRD's	No change made.

		standpoint, the fundamental fairness of OWRD's proceedings includes the timeliness of decisions. If OWRD spends all its resources on a small number or hearings while other parties wait years for a hearing, fairness and the public interest are not served.	
Requests for admission; DOJ Model Rules -0095(1)	**Kimberley Priestley (RAC; WW)-** The proposed rules would completely eliminate "requests for admission," which allow one party to ask another party to admit to certain facts and/or law to avoid having to conduct further discovery, present evidence and/or write briefs on an issue. The DOJ Model Rules allow up to 20 requests for admission, OAR 137-003-0566(1), and requests for admission are allowed in both state and federal court proceeding, which shows they are generally regarded as a useful method of discovery. OWRD's basis for eliminating requests for admission as a discovery tool is based on anecdotal experience from a limited number of cases, which should not be used to determine the process for all ca[s]es going forward.	See response above on discovery. From OWRD's perspective, requests for admission are not useful as a discovery tool. If a fact is in dispute, it is not difficult to avoid admitting to the fact in response to a request for admission. If a fact is not in dispute, alternative methods, such as stipulating to the fact, can be used to narrow the issues for hearing.	No change made
Interrogatories -0095(2)	**Kimberley Priestley (RAC; WW)** - The proposed rules would allow only 10 "interrogatories" (written questions to other parties), while the DOJ Model Rules allow 20. In our view, there is no justification for allowing less discovery in water related cases than the DOJ considers appropriate for challenges to agency actions generally.	See response above on discovery. In response to concerns raised during the RAC process, OWRD increased the proposed number of interrogatories from 5 to 10. OWRD believes 10 interrogatories will be sufficient for most OWRD contested cases. Where 10 interrogatories are not sufficient, the proposed rules allow OWRD to approve additional interrogatories.	No change made
-0095	**OWRD Staff Proposed Changes -** 690-002-0200 applies only to 2025 legislation, but discovery in 690-002-0095 is based on the premise that we are providing a file for all contested cases.	Added: Prior to or at the time of referral, the Department shall provide a copy of the agency file. Renumbered.	Change made.
Requests for documents -0095(3)	**Kimberley Priestley (RAC; WW) -** Perhaps most significantly, the proposed rules would not require OWRD to respond to requests for documents, the most important form of discovery, if doing so would exceed 30 hours of staff time. A party could still seek the documents by public records request, but OWRD could then charge for its time	See response above on discovery. Responding to broad requests for documents is a costly and time-consuming part of the hearing process and therefore one of the most important to address from an efficiency standpoint. In response to concerns raised during the RAC process, OWRD increased the proposed staff time limit from 25 to 30 hours. In many cases,	See OWRD staff proposed change above.

	in responding to the requests (per public records laws), which could make obtaining the requested documents prohibitively expenses, especially for nonprofits and other parties of limited means.	gathering requested documents will take less than 30 hours staff time, in part because, under the proposed OAR 690-002-0200 and 690-002-095 (with changes proposed by Department), OWRD is shifting to providing its file prior to or at time of referring a matter for a hearing, which will reduce the need to seek documents through requests for production. Parties may keep staff time low by ensuring their requests are crafted with specificity. This will conserve parties' resources as well as OWRD's. Where OWRD converts a request for production into a public records request because it will take more than 30 hours of staff time to respond to, the requester will not be charged for the first 30 hours of staff time used in preparing the response. As such, requesters will continue to be able to receive large numbers of documents at no cost. Finally, the rule states the Department "may" require a public records request, not shall.	
Site visits **-0095(4)**	**Kimberley Priestley (RAC; WW) -** The proposed rules would not allow a site visit unless all parties agreed to it. Site visits are rarely requested, but they may be of value, or even necessary, in some cases to learn facts important to a case. As such, no party should have veto power over a request for a site visit. Like other discovery or evidentiary offers, a party should be able to request one, subject to objections that could raise any issues of inconvenience, expense or undue hardship given the nature of the specific case.	See response above on discovery. Site visits are time consuming from a scheduling standpoint and for attendance; they also increase expenses for travel; and they increase the likelihood of a hearing exceeding the 180-target set by HB 3544.	No change made
-0200	**OWRD staff proposed change –** Rule may be interpreted to require settlement discussions even when there is not opportunity based on the particular scenario.	Modified: replaced "to engage in settlement discussions with" offer to "discuss whether there is opportunity for settlement"	Change made
Default hearing schedule **-0205**	**Kimberley Priestley (RAC; WW)** - This rule provides a default 180-day schedule, which HB 3544 directed without saying what should be included in the schedule other than discovery requests, responses to discovery requests, and motions to compel discovery. Although 180 days is an extremely tight schedule for litigating a contested case, the proposed default schedule would spend the first 28 days of valuable time on written	HB 3544 and the proposed rules include flexibility with respect to the default schedule that will allow the schedule to be adjusted to address concerns raised in the comment. Under HB 3544 section 2(5), the administrative law judge may extend any of the deadlines on their own motion or upon request by OWRD after consultation with the parties. Under proposed OAR 690-002-0205(1), the default schedule may be altered by agreement of the parties, OWRD, and the administrative law	No change made

	arguments and a decision over an unnecessary "issue list," which is not required by any statute or existing rule, has no analogy in either state or federal court, and was not required by HB 3544. The issues in a case can and should be defined by the protest, just as a "complaint" defines the issues in state and federal court proceedings, especially since HB 3544 includes increased specificity requirements for protests. Requiring an "issue list" will make the protests moot and could result in legitimate issues being removed from a case before hearing. Meanwhile, for example, the proposed default schedule would require motions to compel (i.e., to order discovery not provided in response to a request) within 14 days of the deadline for responses to discovery, which leaves too little time to review discovery responses (sometimes thousands of pages of documents) to determine if they are complete. The default schedule then spends 60 days on "motions for summary determination," which are time consuming motions seeking decisions without a hearing. In the interest of time and efficiency, we suggest eliminating those motions from the process unless all parties agree that all issues in the case are legal issues that do not require an evidentiary hearing, in which case the time allocated for hearing could be used for motions for summary determination. OWRD claims to have addressed these concerns with a provision allowing the schedule to be altered in appropriate cases, but that will be a significant uphill climb for any party, given the default schedule in the rules, if another party objects.	judge. As such, if briefing on the issue list or motions for summary determination is unnecessary, the default schedule can be altered to remove those deadlines and create more time for other events. In addition, proposed OAR 690-002-0205(2) allows OWRD, in consultation with the Office of Administrative Hearings, to establish alternate default schedules to govern cases in which parties and OWRD have agreed that certain events listed in the default schedule are unnecessary. OWRD is open to discussion about establishing alternate default schedules that include other procedural scenarios, such as no issue briefing or motions for summary determination. With respect to the "issue list," HB 3544 requires issues be raised with sufficient specificity. In some instances, OWRD may determine that issues included in protests are not raised with sufficient specificity and may not include them at the time of referral. If a party objects to this determination, the objection should be briefed at the beginning of the case to provide certainty regarding the issues to be addressed in the hearing. The issue list is somewhat analogous to a motion to dismiss in state or federal court, in that it allows improperly raised issues to be disposed of at the outset so that the parties, OAH, and OWRD need not expend resources arguing them. In many cases, the issue list will likely simply refer to the protest, or OWRD and the parties will agree on the issue list, in which case there should be no need for briefing. As with other deadlines in the default schedule, if issue briefing deadlines are not needed, the schedule can be adjusted. With respect to motions for summary determination ("MSDs"), MSD deadlines are routinely included in hearing schedules because parties often have not committed to either filing or not filing them at the time the schedule is set. If dates are not set, the likelihood of a schedule extension increases. If the parties and OWRD are willing to commit not to file MSDs at the initial prehearing conference, the default schedule can be adjusted	

		and the time allocated for MSDs redistributed to other events. That said, in the interest of efficient hearings, parties should not assume that all hearings should use the maximum timeline provided (180 days).	
Rule Efficacy	**Ryan Krabill (RAC; OFB)** - OFB is concerned that the proposed revisions to protests and contested case procedures may, in practice, make it harder for affected water users to participate meaningfully and protect existing interests through the administrative process. OFB supports accountability in appeals, including an appeal filing fee structure that is tied to the actual costs imposed on the applicant and the agency, with reimbursement if the appeal succeeds and cost responsibility if the appeal fails. We urge OWRD to ensure that any "efficiency" changes do not function as procedural barriers that prevent legitimate protests from being heard on the merits, particularly where long-term agricultural operations may be directly affected.	OWRD appreciates the commenter's concern but does not believe the proposed changes to Division 2 will act as procedural barriers that prevent protests from being heard on the merits. Many, though not all, of the provisions are required by 2025 legislation. They will make the hearing process more efficient while preserving the opportunity for full and fair hearings. By increasing efficiency, they will increase the number of hearings OWRD can provide as well as the timeliness with which OWRD can make decisions on protested applications. That will increase the number of protests which receive a timely, fair hearing. Currently, one of the largest procedural barriers to protests being heard on the merits is the protest backlog and the amount of time and resources individual hearings consume. If the Commission adopts the proposed rules, OWRD is committed to implementing them with the twin goals of increasing efficiency and providing full and fair hearings.	No change made
Scope	**April Snell (RAC; OWRC**) - This division contains proposed changes related to implementing HB 3544, which made changes to procedures and timing of water rights protests and contested cases. OWRC was not directly involved in the legislation as external stakeholders who weighed in were primarily water attorneys. Our understanding is that the intent of HB 3544 is to help reduce the amount of time it takes for these cases to be resolved, which can be an improvement for both the agency and external stakeholders. The proposed changes to Division 2 seem to line up with the statutory direction in HB 3544. We are supportive of the proposed changes for this division, including limiting the number of interrogatories and placing modest limits on discovery. Protests and contested cases are an important legal and procedural process of Oregon's water law. However, some	Comment in support or neutral	No change requested

	of these cases have led to protracted delays and high costs born by OWRD, the State of Oregon, the applicants, and protestants. These cases also drain staff and financial resources that could be better used in other program areas. It is worth noting that for OWRC and our members this issue can cut both ways. In some instances, the water right transaction subject to protest may be a water right held by a district and the district supports the decision made by OWRD, and is not a protestant. Conversely, if the district disagrees with OWRD's decision, they may choose to protest that decision as the applicant. At other times, our members may be the third party protesting a OWRD decision that impacts their water right. These actions are all equally important to have as options, but not drag on for decades before a legal resolution is reached.		
Scope	**Kimberley Priestley (RAC; WW)** - Proposed revisions to Division 2 would make multiple changes to procedural rules for contested cases, which are administrative proceedings analogous to court cases before an administrative law judge. Contested cases are used to resolve challenges to proposed agency actions, including most proposed water-right decisions. House Bill 3544 (2025) directed limited revisions to the contested case process for most water related decisions based on a belief that the current process was contributing unnecessarily to the "backlog" of unresolved cases. WaterWatch questions that assumption, but ultimately did not oppose the bill, believing it left intact, in response to push-back from WaterWatch and other organizations, sufficient means to prepare and present a case to support a challenge ("protest") to a proposed water-right decision; i.e., "due process" for protestants. OWRD's proposed changes to Division 2 rules were justified primarily as necessary to implement HB 3544. WaterWatch supports many of the changes and appreciates modifications to some proposed changes in response to WaterWatch's	OWRD response is included for specific sections in other rows above.	No change made

	comments. However, OWRD's proposed changes to Division 2 go well beyond what HB 3544 required, taking away important procedural rights that were not taken away in the balance struck by HB 3544. The proposed rules also include a "default" schedule that includes unnecessary steps and, partially because of that, leaves too little time for necessary steps. We have submitted detailed comments throughout the rulemaking but focus here on our most significant comments that have not been adequately addressed.		

2/27/26
Proposed Rule Revision Tracker
Division 300 - Definitions

Rule language changes made after the close of the public comment period February 5, 2026.

Rule(s)	Commenter/Comment	Response	Changed?
"beneficial use" -0010(5)	**Mary Powell (N/A; Bend)** - Beneficial Use definition is excellent. Beneficial use was described to me by an ID manager in the Deschutes as "growing anything non-native."	Comment in support.	No change requested.
"municipality" Div 300, 382	**Kimberley Priestley (RAC; WW)** - Since this section has been expanded to also apply to Div 382, this section likely needs a definition of "municipality" as required by ORS 540.510(3)(b). See comment, Div 382.	The definition of municipality varies across statutes (for example, ORS 537.260(4) and ORS 540.510(3) are different) and rule divisions; therefore, it cannot be defined in Division 300 – which pertains to many different water right transaction processes. See 380 for further response. For 382, there is no need to define, as the rule that uses the term municipality points to the ORS statutory citation. Note, 690-300 already applied to 690-382 (per 690-382-0100); it just was not referenced in 690-300.	No change made.
Other Definitions Div 18, 77; Deschutes	**Mary Powell (N/A; Bend) -** Some of the terminology commonly used and understood by water professionals have misleading names or attached conditions that alter the meaning that are not apparent at first. Such as: • "Natural Flow." one would think this is the natural unimpeded flow available year to year to the river maybe even a historical flow however the Districts in Bend consider it any water not otherwise appropriated or stored in reservoirs and available to them by seniority. I don't know whether it is used otherwise in water law, rules, writings, but someone had to explain it to me. In OAR-690-018: a definition of natural flow would be helpful and if it is otherwise used I would hope it would be explained. • "Water Rights" can be understood as a personal property right rather than a "usufruct." English (Roman) law has a "usus, fructus, and abusus" meaning and some districts in	No change made as the purpose of definitions in rules is to define the terms as they are used in the rules. Other venues such as agency publications are better suited for terms that are commonly used but are not used in the rules, or terms that have other meanings beyond the rules. Proposed definitions are beyond the scope of this rulemaking. Division 77 includes definitions of Estimated Average Natural Flow and Minimum Streamflow/Minimum Perennial Streamflow as they are used in those rules, but those are different than what is being requested. Natural flow is not used in division 18. The Deschutes Groundwater Mitigation program is governed by other rule divisions. Defining the legal properties of a water right is beyond the notice proposed by this rulemaking.	No change made.

	the Deschutes basin dried the river below dams and diversions seasonally agen differently? • "Groundwater Mitigation." For a while I was under the impression that there was inherent in the act some protection or consideration to protect groundwater from being drawn down. The proposal that mitigation credits be a 2 to 1 rather than a 1 to 1 exchange might slow groundwater losses in the Deschutes Basin. The groundwater hydrology here is so complex that it is hard to determine in the "general zone" what the flow is and how it will impact surrounding wells and the river. • "Minimum Stream Flow" [Div 77] with all of its hidden limiting reductions is maybe the worst. The minimum should be the lowest acceptable flow for a healthy river and enforced. Educating the public is important, clarity is important, and teasing out this one adds confusion. It is likely that OWRD already has a really enlightening definition somewhere in the statutes, rules and handouts but I have not seen it anywhere and for those of us trying to plan a more flexible and equitable management of water in the Deschutes Basin it's been an adventure finding out all the hidden meanings.		

2/27/26

Proposed Rule Revision Tracker
Division 305 – General Map Criteria

Rule language changes made after the close of the public comment period February 5, 2026.

Rule(s)	Commenter/Comment	Response	Changed?
General – geospatial requirements	**Ryan Krabill (RAC; OFB)** - OFB cautions against the Department adopting overly burdensome mapping and geospatial submission requirements—such as mandatory GPS coordinates, detailed tax lot and quarter-quarter identifiers, and any future requirements that maps include an OWRD-specified geospatial digital file (e.g., shapefile). Such reporting tools and formats should remain optional. We have concerns that such requirements could become a costly, technical "gatekeeping" hurdle for routine water-right transactions and may expand administrative requirements with a direct land and property nexus. Technical reporting requirements should not exceed commonly available tools. We respectfully request clear guardrails that keep mapping and data submission requirements practical and voluntary where appropriate…	OWRD's existing rules require much of the same information. What Division 305 does is standardize mapping requirements across rule divisions, and in some cases specify exceptions to when this information must be provided. GIS software has existed since the 1960s and became widely used by the early 2000s. However, the agency recognizes that this tool is most frequently used by professionals. Rather than requiring that every applicant provide a digital file (as a shapefile or other approved format), the Division 305 rules would require this for maps prepared by a Certified Water Right Examiner. In addition, the proposed rules create a phase-in window where the requirement would not apply prior to April 1, 2029. Finally, the proposed rules also allow the Department to provide a waiver to this requirement. OWRD did review the rules again to make sure that they were not overly burdensome and have made one adjustment, which is to remove the requirement that gps devices be accurate to within 10 feet, as we understand that for some geographic areas that may not be reasonable.	Change made
General - administration of program rather than boundary enforcement; privacy	**Ryan Krabill (RAC; OFB)** - Additionally, OFB believes that private property rights are among the most basic human rights and we oppose any actions that erode private property rights, and that where permits are required, processes should be simplified to reduce the time and burden to obtain them. We therefore urge OWRD to ensure mapping standards remain	The intent of Division 305 is to reduce confusion and increase efficiencies by standardizing map criteria in one place. (Additional specific mapping criteria may apply as provided in application-specific rule divisions, but Division 305 sets the "base" criteria.) Without the proposed rules, mapping requirements would continue to differ across 8 rule divisions. The information	No change made.

	focused on water-right administration (not boundary enforcement), include clear, predictable, and readily available waivers and compliance pathways for small and family operations, and establish strong limits on secondary use and sharing of submitted geospatial data, consistent with OFB's position that producer-generated data should not be accessed or shared without explicit consent and that producers must retain control over their data	required for water right transaction maps is to enable efficient review of those transactions, public participation, and the agency's regulatory responsibilities. Maps submitted for water right transactions have always been public records. In addition, many water rights are mapped in the Water Rights Mapping Tool. The availability of this information better enables staff reviews and public participation, including from existing water right holders, in water right transaction reviews. In addition, the availability of this information allows applicants and agents to determine if a transaction they would like to apply for may conflict with an existing water right. The proposed Division 305 rules contain opportunities for some requirements to be waived or modified by the Department if requested by the applicant.	

2/27/26
Proposed Rule Revision Tracker
Division 310 – Water Right Application Processing

Rule language changes made after the close of the public comment period February 5, 2026.

Rule(s)	Commenter/Comment	Response	Changed?
Application requirements -0040(1)(c)(A)	**Kimberley Priestley (RAC, WW) -** We appreciate the reversion to the existing rule language here.	Comment in support.	No change requested.
Initial review -0080(2)	**Kimberley Priestley (RAC; WW) -** As OWRD clarified in the RAC, once the application file is closed it is permanently closed and no further action can be taken on it ever. That said, we will repeat our comment in V1 and V2, that given the questions on this at the RAC which made clear some did not interpret it this way, we would request the OWRD insert the word "permanently" before the word "closed" for clarity's sake. OWRD's response to our comments was that "no further action on the application" is synonymous with "permanently closed". While that might be true, in this case we feel it is a good idea to be redundant so that it is crystal clear and there is no room for mischief in the future. This is a very small change and if the OWRD reads the existing language to mean this anyway, we see no harm in being redundant.	For clarity, OWRD has added "permanently" to the sentence.	Change made.
Proposed Final Order -0150(2)(b)	**OWRD staff proposed change –** Language should refer to "proposed final order" instead of "proposed order" and cite to paragraphs (a)(B) to (E) instead of (a)(B) to (D).	Changes made. Citations to which findings of fact and conclusions of law need not be included in the proposed final order have been corrected to align with Or Laws 2025, ch 605.	Change made.
Administrative Holds			
Administrative holds -0270	**OWRD staff proposed change –** Consider language that would make it clearer that it is the applicant's burden to show that their request is reasonable and necessary.	Changed to include the phrase "that the applicant has shown."	Change made.
Administrative holds -0270	**Submitted by Leah Cogan (RAC; GSI) on behalf of Michael Martin (RAC; League of OR Cities); Mark Landauer (RAC; Special Districts Association of OR); Adam Denlinger (OR Water Utilities Council); Mike Buettner (OR Water Utilities Council); Jason Green (OR**	Even under current rules, there must be a "reasonable and necessary" basis for extending an administrative hold beyond 180 days. The addition of criteria that would support the Director's finding that a longer extension is "reasonable and	Change made.

	Assoc. of Water Utilities) - Finally, our members would like to express concerns about the changes to the timelines for administrative holds for water right applications proposed in OAR 690-310-0270. Limiting administrative holds to 180 days unless the applicant meets one of only five highly specific exceptions is overly restrictive and not required by the legislation passed in 2025 that is prompting this rulemaking. We understand that the intention is to promote faster processing of applications, but the proposed rules unnecessarily eliminate OWRD's discretion to grant longer holds, even if it deems it reasonable to do so. In particular, we do not believe that the proposed one-year extension to complete the administrative appeal period for land use approval will be sufficient in all cases, and we recommend extending this to two years. There are undoubtedly other project-specific issues that would reasonably require a longer extension but do not appear on the list of five approved exceptions. Complex, legitimate issues have kept some municipal water right applications with unique circumstances on hold for longer timeframes, and we recommend that OWRD retain its discretion to grant longer holds on a case-by-case basis**.**	necessary" provides applicants with notice and greater certainty with respect to extension requests. That said, the Department acknowledges that exhausting the administrative appeals process for land use approval may require longer than a one-year extension period. The proposed rules have been revised to allow for a two-year period.	
Administrative holds -0270(2)	**Kimberley Priestley (RAC; WW) -** As noted in previous comments, as a general matter, we support the OWRD putting time limitations on administrative holds. Administrative holds have been too often used to stall a final decision after OWRD relays a proposed denial to an applicant, which has allowed applicants to hold on to priority dates for years after a decision should have been made. We have just a few comments: (1) we support the removal of the municipal exception that emerged in V2; (2) we appreciate the OWRD's retention of the word "cooperative"; (3) we will repeat that the extension to gather groundwater data seems unreasonably long and allows a hold for what should have been done before the application was filed'; and (4) now that the OWRD is	OWRD believes that the included opportunities and timelines for extending administrative holds beyond the initial allowed cumulative 180 days of administrative holds balances the need for reasonable and necessary administrative holds with the need to continue processing applications. The Department recognizes that the proposed allowable length for an administrative hold to collect Annual High Water Level data is longer than other administrative hold categories. In some cases, five years of data collection is necessary to evaluate Reasonably Stable Groundwater Levels to determine if water is available. Applicants do not always know at the time of application submittal that insufficient data exist at that time to evaluate Reasonably Stable Groundwater Levels, and may	No change made.

	proposing that "consent to injury" processing take place at the IR stage, OWRD might consider addressing the time this might add in this section.	first learn this upon completion of the agency's Groundwater Review. Prior to the five years of data collection, an applicant may need time to engage a well driller. The proposed rules, however, include a caveat that the administrative hold shall expire if the applicant fails to submit the first static water level measurement to the Department within three years of approval of the administrative hold. The consent to injury process applies to some transfers (see the Division 380 rules) but is not part of Division 310.	
Land Use Compatibility			
General - land use **Div 18, 310, 380**	**Submitted by Leah Cogan (RAC; GSI) on behalf of Michael Martin (RAC; League of OR Cities); Mark Landauer (RAC; Special Districts Association of OR); Adam Denlinger (OR Water Utilities Council); Mike Buettner (OR Water Utilities Council); Jason Green (OR Assoc. of Water Utilities) -** During the rulemaking, our members paid close attention to the proposed changes related to land use compatibility in Divisions 18, 310, 380, and 382. Land use issues are very complex. We appreciate OWRD's willingness to listen to the concerns of public water suppliers and to postpone any major rule changes to allow time for better coordination between OWRD and the Department of Land Conservation and Development (DLCD) and potentially to update the Land Use Planning Procedures Guide. Taking a step back now allows more time for thoughtful consideration of these issues and a better outcome that maintains consistency with the State Agency Coordination program, the Land Use Planning Procedures Guide, and Division 5 rules. OWRD shared that it plans to work more closely with DLCD to better integrate land use and water management and that interested parties will have an opportunity to share concerns and ideas. OWUC, LOC, OAWU, and SDAO look forward to being part of these conversations.	Comment in support.	No change requested.

Application requirements; land use -0040(1)(a)(L)	**Jeremy Austin (RAC; COLW)** - The rulemaking proposes to strike from rule the language "or a receipt signed and dated by a local government official acknowledging the land use information request was received by the local planning Department." LandWatch supports this change. Further, LandWatch generally supports the proposed process outlined by this subsection, relying on the authorities in OAR 690-005-0035 and the 1990 Water Resources Department's State Agency Coordination Land Use Planning Procedures Guide ("Guide"). Given it is over 35 years old, we suggest the Department prioritize updating the Guide to ensure it meets modern needs. However, as we shared in our comments during the RAC process, the proposed rule language is still problematic. The proposed rule language would amend the application requirements for a permit to appropriate water concerning the required compliance with local land use regulations required by ORS 197.180. ORS 197.180(1) requires that "state agencies shall carry out their planning duties, powers and responsibilities and take actions that are authorized by law with respect to programs affecting land use: (a) In compliance with the goals, rules implementing the goals and rules implementing this section; and (b) In a manner compatible with acknowledged comprehensive plans and land use regulations. The proposed language does not adequately ensure the Department will "take actions" "in a manner compatible with acknowledged comprehensive plans and land use regulations" as required by ORS 197.180(1) because the proposed language, OAR 690-005-0035, and the Guide, all omit the critical language "and land use regulations." Comprehensive plans are guiding policy documents, but their language is often vague or aspirational, often including language like "The County should do…" or "Seek opportunities to do…" or "Support efforts to	OWRD's Land Use Information Form asks the local planning official to cite the "most significant, applicable plan policies & ordinance section references" if the planning official identifies that a discretionary land use approval is required. Therefore, the planning official cites the land use regulations relevant to the approval, in addition to identifying if the approval has been obtained, denied, is being pursued, or is not being pursued. OWRD acknowledges that OAR Chapter 690, Division 5 does not contain a definition of acknowledged comprehensive plan. Note that the Land Conservation and Development Commission's rules at OAR 660-031-0010 define acknowledged comprehensive plan to mean both the comprehensive plan and implementing ordinances. The Department has determined that any broader changes around land use should be addressed at a later time that allows for a more comprehensive review. Discussions with the Commission about future updates to the State Agency Coordination program will begin with the February 2026 Commission meeting.	No changes made.

	do…" More regulatory local land use law is most often found in other local land use regulations, usually a local zoning code or local development code. Therefore, it is critical to add the language "local land use regulations" in addition to "acknowledged comprehensive plans[s]" in order to ensure that proposed water permits are reviewed for compliance with all relevant local land use regulations, as required by ORS 197.180(1).		
Application requirements; land use -0040(1)(a)(L)	**Kimberley Priestley (RAC; WW) -** Please see comments under Div. 5.	OWRD does not understand this comment as there were no comments on division 5. This section pertains to land use compatibility. The only other comment within WaterWatch's submittal pertaining to comprehensive plan compatibility is 380-5100 changes relating to receipts.	No change made.
PFOs; land use -0150	**Jeremy Austin (RAC; COLW)** - We want to emphasize that in order to comply with ORS 197.180(1), the proposed rule language should require a final land use decision from a local government before issuing a permit to appropriate water. This includes exhaustion of the administrative appeal process for a land use approval. We would recommend including this requirement as a criteri[on] for approval in the PFO subsection, 690-310-0150, or other subsection that OWRD deems appropriate.	OWRD's Chapter 690, Division 5 rules define "Land Use Approval" to mean "a final decision or determination made by a local government that concerns the adoption, amendment, or application of: the goals; a comprehensive plan provision; implementing ordinance; or a new land use regulation. A land use approval does not include ministerial decisions of local governments (i.e., building permits) for which no right to hearing is provided. A land use approval is final when all corresponding appeal periods have expired." While the existing Division 5 definition appears to address part of the comment, OWRD understands the comment to request clarity on at what point in the water right transaction process the applicant must demonstrate that land use approval has been obtained. The Department has determined that any broader changes around land use should be addressed at a later time that allows for a more comprehensive review. Discussions with the Commission about future updates to the State Agency Coordination program will begin with the February 2026 Commission meeting.	No change made.
Timelines; land use -0270(2)(d)	**Jeremy Austin (RAC; COLW)** - LandWatch supports the proposed language. OWRD should not approve a water permit application if a LUBA appeal is ongoing. Many local	In response to comments on -0270(2)(d), the Department proposes to increase the timeframe related to an administrative hold to exhaust the administrative appeal	Change made.

	land use decisions are not final until appeals are resolved. See ORS 197.625(1)(b) (concerning the effect of appeal on post acknowledgment plan amendment decisions); ORS 197.845 (concerning stays of local land use decisions pending appeal at LUBA). Thus, a land use approval has not been "obtained" until the appeals process is exhausted. Further, once a land use appeal is "complete," a water permit extension should not be granted unless the completion of the land use appeal results in the sought land use application being approved. Many appeals of land use decisions approving a proposed land use result in remand or reversal of the approval. Conversely, many appeals of land use decisions denying a proposed land use are affirmed. In those cases, OWRD should not continue reviewing a water permit application, and should deny the application under ORS 197.180(1). Lastly, the proposed language would allow for an extension of up to one year to exhaust the administrative appeal process for a land use approval. LandWatch is fine with the proposed language but would suggest that if one year is deemed to be insufficient, a more discretionary timeline could suffice. For example, in place of the one year extension language, the rules could state something along the lines of "a reasonable period of time, as determined by Director, that allows exhaustion of any land use appeals.";	process for a land use approval. The proposed rules have been revised to specify that the extension would not exceed two years (up from one year).	
Minor			
Rule summary -0070	**OWRD staff proposed change -** Summary clarification.	Summary updated to clarify that the use must be prohibited by the designation (withdrawal, classification or critical area).	Change made.
Clarity -0100	**OWRD staff proposed change -** Long rule with no numbering.	Add numbering for readability	Change made.

2/27/26
Proposed Rule Revision Tracker
Division 315 – Water Right Permit Extensions

Rule language changes made after the close of the public comment period February 5, 2026.

Rule(s)	Commenter/Comment	Response	Changed
Undeveloped portion of permit -0010(7)(e), (f)	**Kimberley Priestley (RAC; WW)** - Please change "chapter 690, division 9" to OAR 690-009-0040. RE: This needs to reflect the new groundwater allocation definition, not the old one for regulation that OWRD retained in the Div 9 rules. This comment was not accepted with the response being that –0040 is included in the OAR 690-009 citation. OAR 690-009-0040 pertains to Proposed Groundwater Use and therefore is the relevant definition here. OAR 690-009-0060 applies only to groundwater controls (i.e. regulation) and thus is not applicable to extensions. We think the WRD is missing an opportunity to draft clear rules by failing to cite the correct rule subsection here. WRD should draft clear rules to avoid later confusion and unneeded work by referring to the relevant rule sub-section here.	Though providing the granularity in the reference to only a specific subsection could provide clarity at this time, it does pose potential issues and confusion in the future if the Div 9 rules are amended, and numbering conventions change. Keeping the broad reference provides the Department a more general rule reference in the 315 rules. The PFO and FO can provide more granular citations when appropriate.	No change made.
Grammar/Rule Summary -0020	**OWRD Staff Proposed Change** - The draft rule is correct, but the rule summary said, "after April 1."	The rule summary has been corrected to read "on or after April 1."	Change made.
-0020(1)	**OWRD staff proposed change: "**For the following" is confusing when (a) and (b) start with "for."	Replace for the following, with "as follows"	Change made.
Extension pathways -0020	**OWRD Staff Proposed Change** - HB 4004 (2026) would create an additional extension of time pathway for permits other than municipal and quasi-municipal water use (e.g., irrigation, commercial, etc.), subject to certain requirements. Consider adding language that refers to statute in case this bill becomes law.	Added the phrase "unless otherwise specified in ORS 537.230 or ORS 537.630" to -0020(1). This ensures the rules do not conflict with statute if the HB does become law, and the statement remains accurate even if the bill does not become law.	Change made.
Grace period for extensions -0020(4)	**Kimberley Priestley (RAC; WW) -** We appreciate that the OWRD has reinstated this section. However, as we noted in our V1 comments, while there is a 90-day grace period for completion, there is not a 90-day grace period for	The Department's interpretation of ORS 537.260, as well as the Department's long-standing practice, is that permit holders have 90 days to either submit a claim of beneficial use or an extension application before OWRD may begin cancellation	No change made.

	extensions. Please make this distinction clear in the final rule.	proceedings. The rule language is consistent with this interpretation and practice.	
Due diligence -0040(2)	**Kimberley Priestley (RAC; WW)** - In our V1/V2 comments we asked that the OWRD add two additional subsections under due diligence, based on DOJ Advice on Compliance with Permit Conditions of February 7, 2002 and also Dwight French's Guidance Memo on same topic of Oct. 15, 2002: ▪ Whether the permit holder has complied with all permit conditions; ▪ Where there has been a failure to comply with a permit condition, whether measures are available to serve the public interest purposes that the condition was intended to address and achieve a result equivalent to what the permit required; We reiterate our comments on this. OWRD's response seems to confuse evaluation of due diligence (which should certainly include evaluating compliance with all permit conditions) with identifying permit conditions for which non-compliance requires denial of the extension. These are related but separate inquiries. Non-compliance with a permit condition should not ever be excluded from evaluating due diligence.	Evaluation of permit condition compliance is already a component of the diligence review. The addition of the word "all" does not change the reviews of diligence in the extension, and would only remove the discretion the Department has to approve an extension in the situation where noncompliance (or timely compliance) is not what is considered a fatal flaw that would result in a denial of the extension. The reference to sub (2) in 0040(5)(c) provides that consideration of compliance with conditions, including those intended to protect the public interest, is part of the finding of good cause. Because many permits contain unique conditions, often to address public interest issues, there is a risk that providing a list of such conditions could restrict the Department's ability to consider these unique conditions when determining good cause. If during review of the extension of time it is found that there was failure to comply with permit conditions which have the potential to have caused harm to the public interest, a denial of the extension of time is proposed. In the proposed final order, the Department makes specific findings pertaining to the failure to comply with the conditions, and that failure to comply may have caused harm to the public interest.	No change made.
Muni/quasi-muni; false statements -0040(5)	**Kimberley Priestley (RAC; WW)** - In our V1 comments we urged that the OWRD add a subsection that directs denial if an applicant "knowingly makes a false statement on an application". The OWRD responded that the extension application addresses this. For our V2 comments, we reviewed the extension applications forms available on the OWRD's website and found that only the applications for non-municipal/quasi-municipal applications had this language. OWRD responded that they will review and possibly update municipal/quasi-municipal applications; we would ask that they commit to do updating defin[i]tively.	Application updates are part of the implementation process, and at that time the Department will evaluate adding the requested statement to the application form for extension of time for municipal and quasi-municipal permits. The affirmation that information provided in the application is true and accurate is intended to provide the applicant a warning that it is not in their interest to knowingly provide false statements. If the applicant knowingly provides one or more false statements, and the Department has evidence of the intent to deceive, this is a factor in considering if good cause exists under 315-0040(2)(j).	No change made

	But more to the point, we would urge OWRD to put language on this point in rule. The OWRD did respond to our V2 comments by explaining that if an applicant makes one or more false statements and OWRD determines there was an intent to deceive, that that is a factor they consider under good cause under OAR 690-315-4000(2)(j). If this is in fact the case, we would urge the OWRD to put this language in rule so that applicants are aware of this; and so that the OWRD has language in rule in case any decision based on this is challenged.	It is not immediately clear if the Department would have any additional authority to apply consequences to false statements knowingly submitted.	
False statements -0040(5)(a)	**Kimberley Priestley (RAC; WW)** - We support the OWRD's decision to reinsert language V1 had proposed to delete.	Comment in support.	No change made.
Rule summary -0040	**OWRD Staff Proposed Change –** The rule summary could be misinterpreted to mean that the legislation only impacts extension applications for "other than" permits pending at the time the rules take effect; however, as shown in -0020(1)(b)(A), certain extension applications submitted on or after April 1 would also be subject to statutory and rule changes.	Removed the phrase "for pending extension applications" from the rule summary to reduce the risk of confusion.	Change made.
Copy fee -0050(3)	**Kimberley Priestley (RAC; WW) -** In V1 we suggested amendments to reflect that commenters do not need to pay a "copy fee" to receive the PFO electronically. While this is current practice, we would urge OWRD to reconsider the request to put this in rule so there is no confusion.	The rule is about the copy fee associated with mailing. OWRD has updated to reference the mailing provision.	Change made.
Reasonable time extension -0050(4)	**Kimberley Priestley (RAC; WW)** - We support the clarification in V2 and retained in V3.	Comment in support.	No change made.
Checkpoint deletion -0050(6)	**Kimberley Priestley (RAC; WW)** -As noted in our V1 and V2 comments, we object to the proposed deletion of provisions that require checkpoints for any extension exceeding 5 years. HB 3342 still allows for extensions beyond 5 years thus checkpoints and the ability to cancel should still continue forward for the remaining extensions allowed. This does not only apply to domestic expanded as	OWRD has removed because 1) most extensions are limited to no more than 2 years, which would not trigger the checkpoint requirement; 2) QM use permit extensions are limited to 20 years, and with few exceptions require submittal of a water management and conservation plan, which would include reporting on all of the items required in a progress report. Group domestic will be eligible for 10 year extensions. 3) Both QM and	Change made.

	it appears OWRD believed in their response to comments. It also applies to quasi-municipal and municipal extensions. WMPCs "greenlight" provisions are every 10 years, not 5, and do not have the same requirements/provisions of the checkpoints. Moreover, quasi-municipal water right holders that serve less than 1000 can be exempted from the WMPC requirement. Importantly, these "check-points" offer an onramp to cancellation proceedings, which is critical in ensuring against speculation. This was a heavily negotiated provision in the original rules. Please reconsider your proposed deletion and retain this section. It will be a small subset of extensions that these rules will apply to, but it is still very important to protect against speculation. The OWRD should retain the authority to modify conditions and/or begin cancellation proceedings allowed under the current rules.	Group Domestic permits will be limited to one additional extension under the bill (going forward). (4) Municipalities are required to update their WMCPs. A WMCP is typically due within 3 years after approval of an extension. An updated WMCP is typically required to be submitted within 5-10 years after a WMCP is approved. The commenter appears to refer to -0090(4), exempting quasi-municipal water use permit holders that serve a population of less than 1,000 from the WMCP requirement. However, that same rule maintains OWRD's discretion to still impose a WMCP requirement if the Department determines during review of the extension application that a WMCP is necessary. While OWRD declines to reinstate the checkpoint condition rule language, the agency no longer proposes to remove its authority to condition or provision an extension order to periodically document the continued need for the permit. That language has been restored to -0050(5)(c) of the proposed rules and maintains flexibility in if and how OWRD may require a permit holder to periodically document the continued need for the permit, which could include a checkpoint condition.	
690-315-0060	OWRD staff proposed change: Standard "request for party status" language is missing.	Modified: … apply to protests of, **requests for party status,** and contested case proceedings on proposed final orders…	Change made.
Muni extension trigger -0070(1)(d)	**Kimberley Priestley (RAC; WW)** -Extensions are allowed for a reasonable time necessary. Given municipalities are statutorily granted 20 years to develop a permit, we continue to urge the OWRD to change the trigger from 50 to 20 years, which is consistent with what the legislature has granted by statute for development. In contrast, we are not aware of any statutory basis for utilizing or allowing a 50-year timeframe. OWRD declined to address this in V2 based on the reasoning that HB 3342 purposefully exempted municipal extensions from any changes. While we don't necessarily agree, we would point out that if the OWRD is going to use this logic here, this same logic needs to apply to the checkpoints. In other words, under this	OWRD assumes the comment refers to -0080(1)(d), although the comment may also relate to -0070(3)(l). WMCPs include reporting on all of the items required in a checkpoint progress report. Municipalities are periodically required to update their WMCPs. A WMCP is typically due within 3 years after approval of an extension. An updated WMCP is typically required to be submitted within 5-10 years after a WMCP is approved. Therefore, eliminating checkpoint conditions is a minimal change for municipal water use permits that reduces unnecessary duplication.	No changes made.

	reasoning the checkpoints the OWRD is proposing to delete in –005(6) should not be deleted as that would be a change to municipal extension requirements.	It is worth noting that -0070(3)(l) is specific to the application for extension, and in the review of the extension of time application, if it is apparent that the permit cannot be developed within the time being requested, the extension would be denied unless the permit holder amended the request to show the permit can be developed within the time requested. The Department maintains the ability under OAR 690-315-0070(3)(p) to request the information that must be provided for extension requests exceeding 50-years under 690-315-0070(3)(l), if determined necessary. Setting a hard limit on the length of municipal water use permit extensions is a substantial change that is outside of the scope of the rulemaking notice.	
Well Location or Place of Use Changes	**Bryce Withers (CWRE; Water Right Services, LLC)** - In advocating for water users as they navigate permitting requirements, I frequently observe a disconnect between the apparent intent of statutes and rules and their practical effects, particularly when a project encounters delays or unforeseen complications. My comments below are intended to highlight common scenarios that arise in practice and to suggest adjustments that would better align rule implementation with both legislative intent and practical realities. **Topic 1: Permit Amendments and Extensions of Time for Well Location or Place of Use Changes:** A common situation encountered in practice involves a permit holder who drills a well at the authorized location but encounters no water. The permit holder may then drill a nearby well that successfully produces water, but the new well location may be more than 150 feet from the authorized point of diversion. In these cases, the current path forward typically requires the permit holder to apply for an Extension of Time to complete development, followed by a Permit Amendment to authorize the new well location. In practice, Permit	HB 3342 sets the two-year period from the date an extension is approved. The rules therefore cannot change when the two-year period begins or pause it after it begins.	No changes made.

	Amendment review can take two to three years. If the proposed rules limit the allowable extension period to two years in certain circumstances, this creates a significant challenge. Under such a framework, the permit holder would be required to: • Prepare and submit a Permit Amendment application • Await OWRD review and approval of the amendment • Potentially drill additional wells, or develop diversion points • Complete associated requirements such as meter installation or fish screening, all within a two-year extension period. This timeline is often unrealistic. There is a substantial risk that the extended permit would expire while the Permit Amendment remains under agency review. Under prior rules, a permit holder could seek an additional extension if necessary; under the new statutory framework, only one extension may be allowed before cancellation. **Comment and Recommendation**: I respectfully suggest consideration of a mechanism that allows the Permit Amendment process to occur outside—or pause—the extension development window. Specifically, could the extension "clock" begin only after a Permit Amendment is approved or denied? Alternatively, could a pending Permit Amendment toll the extension period in a manner similar to how transfers toll the "use it or lose it" provisions related to beneficial use for certificates? Water development projects are often affected by factors outside a permit holder's control, including health issues, caregiving responsibilities, supply chain disruptions, and broader events such as global pandemics. Water users frequently have substantial financial investments and livelihoods at stake. A regulatory framework that allows		

	reasonable flexibility in these circumstances would promote fairness while still maintaining accountability.		
Long expired developed permits	**Bryce Withers (CWRE; Water Right Services, LLC)** **Topic 2: Extensions of Time for Long-Expired but Developed Permits** Another recurring issue involves permits that are long expired—often more than two years past the development deadline—but have been partially or fully developed. In many of these cases, a required permit condition was missed or completed after the original development period, even though the actual water use was developed on time. A typical example includes a permit holder who completed water development within the permit window but took a required March static water level measurement, installed a totalizing flow meter, or began required reporting several years after the deadline. Although the water use is physically in place, the permit is not eligible for a Claim of Beneficial Use because one or more conditions were satisfied late. Under current practice, this situation is often resolved by applying for an Extension of Time. Once approved, the previously completed actions fall within the extended development window, allowing the permit holder to proceed with the Claim of Beneficial Use and ultimately obtain a certificate. However, if the proposed rules prohibit extensions where a permit has been expired for more than two years at the time of application, this pathway may no longer be available—even where the underlying water use was timely developed and beneficially used. **Comment and Recommendation:** I respectfully request clarification or revision to ensure that permits which have been expired for more than two years may still be eligible for an Extension of Time when appropriate. In particular, consideration should be given to allowing the extension period to run prospectively from the date of extension	HB 3342 sets the two-year period from the date an extension is approved (final order issuance) rather than the completion date specified in the water right permit. The limit of one extension for no more than two years applies to permits other than municipal water use, quasi-municipal water use, group domestic water use, and group domestic expanded water use. The limitation is not based on how far past the completion date the extension of time application is submitted. The opportunity to potentially qualify for an extension is available to those "other than" permits for which a proposed final order *on the water right permit application* was issued before April 1, 2026. (Please note: Per HB 3342, for new water right applications that receive a proposed final order on the permit application on or after April 1, 2026, the development timeline will increase from 5 years to 7 years. However, no extension of time opportunity will be available.)	No change made.

	approval, rather than being constrained by the length of time since the original development deadline. Providing this flexibility would allow permit holders to cure technical or procedural deficiencies and complete the Claim of Beneficial Use process, consistent with the underlying purpose of the permitting system.		
Rule summaries	**OWRD Staff Proposed Change –** Several rule summaries appear to refer to incorrect sections of Or Laws 2025, ch 282. Some have also been updated to provide a clearer discussion of the changes.	Fixes made to the rule summaries for -0020, -0030, 0040, -0050, -0070, -0080, and -0090.	Change made.

2/27/26

Proposed Rule Revision Tracker

Division 325 – Assignment of a Water Right Permit and Request for Issuance of Replacement Permits

Rule language changes made after the close of the public comment period February 5, 2026.

Rule(s)	Commenter/Comment	Response	Changed?
Purpose -0010	**Kimberley Priestley (RAC; WW)** - Proposed language in the "purpose" section states that the applicability of OAR 690-325-0100 is subject to and governed by OAR 690. To the extent that the very broad OAR 690 rules diverge from the governing statute, this statement is basically saying the rules govern over statute. Rules cannot do this; please remove this language and or amend to say: "The applicability of OAR 690-325-0100 is governed by ORS 537.225".	This section already states that ORS 537.225 are the statutes implemented. However, it then states that these rules apply to all applications for assignments submitted on or after April 1. It then says one exception to this is for 690-325-0100, because 690-002 governs contested cases which are the subject of 690-325-0100. Specifically, 690-002 states when the 690-002 rules will apply to applications submitted prior to April 1, which is pursuant to statute (Or Laws 2025, 575). Therefore, as written in the draft rules, this is correct.	No change made.
Applicability; extensions -0020(1)(b)	**Kimberley Priestley (RAC; WW)** - We object to the proposed expansion of this section that allows applications for water right assignments/splits if there is an extension in play. Unless the OWRD agrees to amend the extension rules so that people cannot apply for extensions long after their "c" date has expired, expanding this section to allow splits after the original c date will only invite attempts to revive long expire water rights by setting a pathway for first an extension then a split. As such, we object to (1)(b) that extends applicability. Please delete this section. WaterWatch was involved in bill negotiations on this concept; this was never meant to revive long unused permits.	OWRD does not see evidence that this was limited to the original "c" date. The statute states that one may apply if they have a "subsequent completion date." The rule states they may only apply if they have an unexpired completion date on their permit or on an approved extension. If the completion date expires while the assignment application is pending, the Department can still approve it. However, an application cannot be accepted if the expiration date was prior to application for assignment (is expired). Assignments also do not result in an extension of the completion date. See also staff change under 0020(2).	See staff change below.
Applicability; extensions -0020(2) and (3)	**OWRD staff proposed change** in partial response to comment on -0020.	To make intent clear, OWRD added to -0020(2) that applications for expired permits that don't meet the requirement in subsection (1) cannot be accepted, which also required a restructure of (3).	Change made.

2/27/26

Applicability; statutory alignment -0020(3)	**Kimberley Priestley (RAC; WW)** - We object to the deletion of this section. This is a substantive change that has nothing to do with HB 3342, HB 2544 or ensuring that rule language that does not conform with statute is deleted. The existing language reflects the intent of the statute.	This rule was deleted because it was inconsistent with statute. Statue states that a "record landowner holding a water right permit for … that has a subsequent completion date may apply for assignment." See also response above on (1)(b).	No change made.

2/27/26

Proposed Rule Revision Tracker
Division 340 – Water Use Authorizations

Rule language changes made after the close of the public comment period February 5, 2026.

Rule(s)	Commenter/Comment	Response	Changed?
-0030	**OWRD staff proposed change -** Updated rule summary to include public notice.	Summary updated.	Change made.