



**Request for Adoption of Rules –
OAR 690-340-0030, 690-340-0040,
690-310-0080, 690-382-0400,
Revisions to Transaction Fees**

Dwight French

Water Right Services Division Administrator



Need for Rule Change

HB 2259 raised statutory water right process fees an average of 13% (0% - 20%) during the 2013 session.

Some of HB 2259 fees also appear in our rules and need to be updated for consistency.

Other fees levels are controlled only by rule. The Department is suggesting the same level of increase for the WR fees that are controlled by rule.



Need for Rule Change

<u>RULE</u>	<u>ISSUE</u>	<u>RULE/STATUE</u>
690-340-0030	Limited License	Rule only
690-340-0040	Road Watering Reg	Rule only
690-310-0080	Refund after IR	Set by statute
690-382-0400	GW Reg Modifications	Set by statute



RAC Participants

Lisa Brown, WaterWatch of Oregon

Jeanne Boatwright, Boatwright Engineering

Norm Daft, water-rights consultant

Met on August 11, 2014



Public Comment

Public Comment Period: 9/1 – 10/6

One written comment (WaterWatch)

Hearing: 10/5

No testimony at the hearing



Comments and Response

WaterWatch opposed new two fee elements related to placer mining

These elements were removed



Alternatives & Recommendation

1. Adopt the proposed amendments to OAR 690-340-0030, 690-340-0040, 690-310-0080, and 690-382-0400 as proposed in Attachment 3.
2. Modify and adopt the proposed rules.
3. Request staff to return with further amendments for consideration later.



Alternatives & Recommendation

- 1. Adopt the proposed amendments to OAR 690-340-0030, 690-340-0040, 690-310-0080, and 690-382-0400 as proposed in Attachment 3.**
- 2. Modify and adopt the proposed rules.**
- 3. Request staff to return with further amendments for consideration later.**



Questions?



**Request for Adoption of Rules
OAR 690-033-0120
Fish Habitat Mitigation Rules**

**Dwight French
Water Right Services Division Administrator**



Need for Rule Change

Our Div. 33-120 rules, adopted in 1994, allow mitigation to occur as long as the mitigation is consistent with ODFW's 1991 mitigation rules. These rules no longer allow for mitigation in this stretch of the Columbia River.

ODFW has updated their rules. Their current rules, adopted in 2000, allow for mitigation (Quantity, Timing and Location must match).



Need for Rule Change

Additionally:

1. 1 typo
2. One oddly worded rule reference
3. Updating some statutory references that have changed over the years
4. Updating the name of the NW Power & Conservation Council



RAC Participants

Rick Kepler (ODFW)

Kimberley Priestley (WaterWatch)

JR Cook (Northeast Oregon Water Association)

Spencer Hovekamp (National Oceanic and Atmospheric Administration)

Met on July 10



Public Comment

Public Comment Period: 9/1 – 9/30

One written comment (WaterWatch)

Hearing: 9/22 (Salem) & 9/25 (Hermiston)

**JR Cook testified in Hermiston supporting the
proposed rules**



Comments and Response

- **WaterWatch:** Stated their understanding of the limited scope and intent of the rulemaking to simply make the Division 33 rules consistent with ODFW policy



Alternatives & Recommendation

1. Adopt the final proposed amended rule OAR 690-033-0120, as contained in Attachment 1.
2. Modify and adopt the proposed amended rule OAR 690-033-0120.
3. Find that the amended rules are not needed and retain the existing rules.
4. Direct Department staff to do further work on the rules and return to a future Commission meeting.



Alternatives & Recommendation

- 1. Adopt the final proposed amended rule OAR 690-033-0120, as contained in Attachment 1.**
- 2. Modify and adopt the proposed amended rule OAR 690-033-0120.**
- 3. Find that the amended rules are not needed and retain the existing rules.**
- 4. Direct Department staff to do further work on the rules and return to a future Commission meeting.**



Questions?



Request for Adoption of Rules

OAR 690-325

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

Dwight French

Water Right Services Division Administrator



Need for Rule Change

Those who share a permit may have different development plans. One may want a certificate while another needs an extension to complete development.

These rules seek to implement SB 200 (2013)



RAC Participants

April Snell, Oregon Water Resources Congress

Kimberley Priestley, WaterWatch of Oregon

Steve Shropshire, Jordan Schrader Ramis

Greg Kupillas, Pacific Hydro-Geology, Inc.

Katie Fast, Oregon Farm Bureau



RAC Meeting Dates

February 28

March 10

(Agreement attempted)

July 10



Area of disagreement

WaterWatch wants the applicant to ascertain whether the most recent use under the entire permit has been used consistent with the terms and conditions of the permit.

WRD and the majority of the RAC want the applicant to only have to ascertain that their own most recent use of the permit has been used consistent....

DOJ agrees that the language in the final proposed rules is a permissible interpretation of the statute.



Public Comment

1st Public Comment Period

8/1 – 8/29

Hearing 8/28

Why two comment periods?

2nd Public Comment Period

10/1 – 10/23

Hearing 10/22



Attachments

1. Proposed Final Rules OAR 690-325-0120
2. Comments Received to the Department's 1st Notice
3. Comments Received to the Department's 2nd Notice
4. Department's responses to comments (Langford & WW)
5. Second hearing draft with changes identified from First hearing draft
6. Proposed Final Rules with changes identified from Second hearing draft
7. Senate Bill 200 (2013)



Comments

1st Public Comment Period:

Shonee Langford, Schwabe

Kimberley Priestley, WaterWatch

Greg Kupillas (at hearing)

2nd Public Comment Period:

Kimberley Priestley, WaterWatch

Greg Kupillas (at hearing)



Responses to Comments

WaterWatch & WRD/DOJ disagree on one item

All of the other suggestions were accepted into the proposed final rules



Alternatives & Recommendation

1. Adopt the final proposed rules, OAR 690, Division 325 contained in Attachment 1.
2. Modify and adopt the final proposed rules.
3. Not adopt rules and request the Department to further evaluate the issues.



Alternatives & Recommendation

- 1. Adopt the final proposed rules, OAR 690, Division 325 contained in Attachment 1.**
2. Modify and adopt the final proposed rules.
3. Not adopt rules and request the Department to further evaluate the issues.



Questions?