

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.*

<b>Rule(s)</b>	<b>Commenter/Comment</b>	<b>Response</b>	<b>Changed?</b>
<b>Application requirements -0040(1)(c)(A)</b>	<b>Kimberley Priestley (RAC, WW)</b> - We appreciate the reversion to the existing rule language here.	Comment in support.	No change requested.
<b>Initial review -0080(2)</b>	<b>Kimberley Priestley (RAC; WW)</b> - 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.
<b>Proposed Final Order -0150(2)(b)</b>	<b>OWRD staff proposed change</b> – 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.
<b>Administrative Holds</b>			
<b>Administrative holds -0270</b>	<b>OWRD staff proposed change</b> – 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.
<b>Administrative holds -0270</b>	<b>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</b>	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.

	<p><b>Assoc. of Water Utilities</b>) - 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.</p>	<p>necessary” provides applicants with notice and greater certainty with respect to extension requests.</p> <p>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.</p>	
<p><b>Administrative holds -0270(2)</b></p>	<p><b>Kimberley Priestley (RAC; WW)</b> - 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</p>	<p>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.</p> <p>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</p>	<p>No change made.</p>

	<p>proposing that “consent to injury” processing take place at the IR stage, OWRD might consider addressing the time this might add in this section.</p>	<p>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.</p> <p>The consent to injury process applies to some transfers (see the Division 380 rules) but is not part of Division 310.</p>	
<p><b>Land Use Compatibility</b></p>			
<p><b>General - land use Div 18, 310, 380</b></p>	<p><b>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)</b> - 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.</p>	<p>Comment in support.</p>	<p>No change requested.</p>

<p><b>Application requirements; land use -0040(1)(a)(L)</b></p>	<p><b>Jeremy Austin (RAC; COLW)</b> - 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.</p> <p>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.</p> <p>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.”</p> <p>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</p>	<p>OWRD’s Land Use Information Form asks the local planning official to cite the “most significant, applicable plan policies &amp; 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.</p> <p>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.</p> <p>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.</p>	<p>No changes made.</p>
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	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).		
<b>Application requirements; land use -0040(1)(a)(L)</b>	<b>Kimberley Priestley (RAC; WW)</b> - 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.
<b>PFOs; land use -0150</b>	<b>Jeremy Austin (RAC; COLW)</b> - 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.
<b>Timelines; land use -0270(2)(d)</b>	<b>Jeremy Austin (RAC; COLW)</b> - 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.

	<p>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.</p> <p>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).</p> <p>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.”;</p>	<p>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).</p>	
<b>Minor</b>			
<b>Rule summary -0070</b>	<b>OWRD staff proposed change</b> - Summary clarification.	Summary updated to clarify that the use must be prohibited by the designation (withdrawal, classification or critical area).	Change made.
<b>Clarity -0100</b>	<b>OWRD staff proposed change</b> - Long rule with no numbering.	Add numbering for readability	Change made.