

## 2025–26 Water Rights Rulemaking: Land Use

The language below pertains to Chapter 690, Division 310, applications for new water use permits.

### Application Completeness

#### Existing rule language:

##### **690-310-0040**

##### **Application Requirements**

(1)(a) Each application for a permit to appropriate water shall be made to the Department on a form prescribed by the Department and shall set forth:

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(L) Land use information as outlined in the Department's Land Use Planning Procedures Guide described in OAR 690-005-0035(4) or a receipt signed and dated by a local government official acknowledging the land use information request was received by the local planning Department;

#### Current draft rule language:

(L) ~~A Land Use Information Form completed by the affected local government with information sufficient to assess compatibility with the acknowledged comprehensive plan as outlined in the Department's Land Use Planning Procedures Guide described in OAR 690-005-0035(4) or a receipt signed and dated by a local government official acknowledging the land use information request was received by the local planning Department;~~

#### Potential revised draft rule language:

(L) As described in OAR 690-005-0035(3)(b), (4)(a), and (4)(b)(B) and (C), a Land Use Information Form completed by the affected local government showing that the land use that corresponds with the water use(s) is allowed outright, does not require discretionary land use approval under the applicable acknowledged comprehensive plan and implementing ordinances, all discretionary land use approvals as defined in OAR 690-005-0015(5) have been granted, or that all discretionary land use approvals have been granted but the Land Use Board of Appeals process has not been exhausted. For municipal water use applications, a Land Use Information Form completed by the affected local government showing that all necessary land use approvals

are pending is sufficient for the completeness review under OAR 690-310-0070(1) pertaining to land use information.

## Proposed Final Order

Potential revision to **OAR 690-310-0150(2)(b)** to pair with potential revision to OAR 690-310-0040(1)(a)(L) above.

### Existing rule language:

#### **690-310-0150**

#### **Proposed Final Order**

(2)(b) A brief statement that explains the criteria considered relevant to the decision, including the applicable basin program and the compatibility of the proposed use with applicable land use plans;

### Potential draft rule language:

(2)(b) A brief statement that explains the criteria considered relevant to the decision, including the applicable basin program and the compatibility of the proposed use with applicable land use plans. **The Director may find that municipal water use applications are compatible with acknowledged comprehensive plans by applying OAR 690-005-0035(4)(c).**

See [Oregon Secretary of State Administrative Rules](#).

## Administrative Hold

The Department agrees that the processing hold in the draft rules could expand to include exhaustion of the LUBA administrative appeal process (LUBA hearing and decision, potential remand to the county, potential appeal beyond LUBA, etc.) on a land use approval if it does not exceed a specified timeframe.

For example, the current draft rule language:

*(d) Complete the administrative appeal period for a land use approval that has already been obtained, and the extension does not exceed one year;*

Could be modified to state:

*(d) Exhaust the administrative appeal process for a land use approval, and the extension does not exceed one year;*

OWRD is interested in feedback about the length of time and could consider increasing one year to two. The length of time should not be so long that a water right transaction is pending for an

extensive period with OWRD. If the LUBA administrative appeal period has not been exhausted within the time allowable for a processing hold, OWRD could issue a Proposed Final Order recommending denial of the requested water right permit. This would avoid the applicant, for an extended time, maintaining a tentative priority date that is senior to other applicants who have all the information and approvals needed to proceed. This would also reduce concerns related to applicants trying to “hold space” within “caps” – such as the Deschutes Groundwater Study Area mitigation cap or the Water Availability Reporting System – as the amount of remaining water to allocate decreases.

## Public Notice and Comments

**690-310-0090**

### **Public Notice and Comments**

#### **Current draft rule language:**

~~(5) If the land use information required under OAR 690-310-0040(1)(a)(L) is not received by the Department within the 30-day comment period, the Department shall conclude that the requirement for obtaining land use information has been satisfied and may presume the proposed use is compatible with the comprehensive land use plans and land use regulations of affected local governments.~~

No new changes proposed following RAC meeting #9.