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.