

**Division 315
WATER RIGHT PERMIT EXTENSIONS**

Amend

690-315-0010

Purpose and Definitions

(1) OAR 690-315-0010 through 690-315-0100 establish the procedures and standards by which the Department shall evaluate applications for extensions of time for water right permit holders to:

(a) Begin actual construction pursuant to ORS 537.248 or as otherwise authorized by law; or

(b) Complete construction or completely apply water to the full beneficial use pursuant to ORS 537.230 and 537.630.

(2) OAR 690-315-0010 through 690-315-0100 do not apply to permit holders requiring Federal Energy Regulatory Commission permits pursuant to ORS 537.240.

(3) These rules shall become effective April 1, 2026. Except as provided in subsections (4) and (5), the rules in effect prior to April 1, 2026, apply to:

(a) extension applications for municipal, quasi-municipal, group domestic, and group domestic expanded uses submitted prior to April 1, 2026; and

(b) extension applications for all other uses if a proposed final order was issued on the extension application prior to April 1, 2026.

(4) The rules effective April 1, 2026, governing electronic forms of documents apply to applications submitted on or after April 1, 2026. The rules in effect prior to April 1, 2026, governing electronic submission of documents apply to applications submitted before April 1, 2026.

(5) The applicability of OAR 690-315-0060, and that portion of OAR 690-315-0100 incorporating OAR 690-315-0060, is governed by OAR chapter 690, division 002, including applicable operative dates for particular applications.

(6) For the purpose of the rules in this Division "Protest" has the same meaning as provided in OAR 690-002-0010.

(7) For the purpose of the rules in OAR 690-315-0070 through 690-315-0100:

(a) "Municipal Water Use" means the delivery and use of water through the water service system of a municipal corporation for all water uses usual and ordinary to such systems. Examples of these water uses shall include but are not limited to domestic water use, irrigation of lawns and gardens, commercial water use, industrial water use, fire protection, irrigation and other water uses in park and recreation facilities, and street washing. Such uses shall not include generation of hydroelectric power;

(b) "Municipal Corporation" means any county, city, town or district as defined in ORS 198.010 or 198.180(5) that is authorized by law to supply water for usual and ordinary municipal water uses except: an irrigation district organized under ORS Chapter 545, a drainage district organized under ORS Chapter 547, a water improvement district organized under ORS Chapter 552, or a water control district organized under ORS Chapter 553;

(c) "Quasi-Municipal Water Use" means the delivery and use of water through the water service system of a corporation, other than a public corporation, created for the purpose of operating a water supply system, for those uses usual and ordinary to municipal water use, or a federally recognized Indian tribe that operates a water supply system for uses usual and ordinary to a municipal water use;

(d) "Fish species listed as sensitive, threatened, or endangered under state or federal law" and "Listed fish species" means fish species listed as threatened or endangered under the federal Endangered Species Act of 1973 (PL 93-205, 16 U.S.C., section 1531), as amended, or listed as sensitive, threatened or endangered by the Oregon State Fish and Wildlife Commission under ORS 496.172 to 496.176 and OAR chapter 635, division 100;

(e) "Use of the undeveloped portion of the permit" means the diversion of the undeveloped portion of a surface water permit or the impact on a stream from pumping the undeveloped portion of a ground water permit where the Department has determined there is a potential for substantial interference pursuant to OAR chapter 690, division 9;

(f) "Portions of waterways affected by water use under the permit" means those portions of the drainage basin at or below the point of diversion for a surface water permit or the location of impact on a stream from a ground water permit where the Department has determined there is a potential for substantial interference pursuant to OAR chapter 690, division 9 downstream to the lower-most point within the applicable river basin as identified by the Department pursuant to its authority under ORS 536.700;

(g) "Undeveloped portion of the permit" as applied to permits for municipal water use issued prior to November 2, 1998, for the first extension issued after June 29, 2005, means the difference between the maximum rate or duty specified in a water right permit and the maximum rate or duty diverted or appropriated for beneficial use as of the later of:

(A) June 29, 2005;

(B) The time specified in the permit to perfect the water right; or

(C) The time specified in the last-approved extension of time to perfect the water right.

(h) "Water Management and Conservation Plan" means a Water Management and Conservation Plan pursuant to OAR chapter 690, division 86.

Statutory/Other Authority: ORS 536.025 & 536.027

Statutes/Other Implemented: ORS 537.230, 537.248, 537.630 & 539.010

History:

WRD 2-2005, f. & cert. ef. 11-22-05

WRD 4 2002, f. & cert. ef. 11-1-02
WRD 1-2002, f. & cert. ef. 4-30-02
WRD 1-2001, f. & cert. ef. 1-31-01
WRD 4-1998, f. & cert. ef. 11-2-98

Rule Summary: This rule is amended to remove reference to OAR 690-320-0010, which has been repealed because there are no extension of time applications still pending that would be subject to those rules. This rule is amended to align the definition of “protest” with the definition in OAR 690-002-0010. This rule is amended to align the definition of “undeveloped portion” with the definitions in ORS 537.230(1) and ORS 537.630(1) and to make clearer which permits this applies to. This rule is amended to update the definition of “fish species listed as sensitive, threatened, or endangered under state or federal law” to include a more complete citation to the Endangered Species Act. The rule implements Or Laws 2025 ch.282 (does not apply to municipal; operative April 1; applies to new quasi-municipal or group domestic extension applications, as well as other types of extension applications where a PFO has not been issued) and ch.575 (OAR chapter 690, division 2 rules have own applicability) with respect to the different applicability provisions for pending applications; and removes the outdated reference to a 2006 implementation evaluation.

Amend

690-315-0020

Application for Extension of Time for Other Than Municipal and Quasi-Municipal Water Use Permits

(1) Under this rule, unless otherwise specified in ORS 537.230 or ORS 537.630, water right permit holders for other than municipal or quasi-municipal uses may apply to the Department for one extension of time to complete construction and/or apply the water to the full beneficial use pursuant to ORS 537.230 or 537.630, as follows:

(a) For extension of time applications submitted on or after April 1, 2026, for group domestic and group domestic expanded water use permits, a maximum of 10 years from the date of issuance of an extension final order may be granted.

(b) For other than group domestic and group domestic expanded water use permits, a maximum of two years from the date of issuance of an extension final order may be granted, provided:

(A) A proposed final order on the water right permit application was issued before April 1, 2026, and the extension application is submitted on or after April 1, 2026; or

(B) The extension application was submitted before April 1, 2026, and a proposed final order on the extension application has not been issued before April 1, 2026.

(2) To apply for an extension of time to complete construction and/or to apply the water to the full beneficial use, a water right permit holder shall submit to the Department a completed extension application. A separate extension application must be completed for each permit. Application forms are available from the Department.

(3) The completed extension application must include the fee specified in ORS 536.050 and an application form setting forth:

- (a) The name and mailing address of the water right permit holder(s);
- (b) The permit number for which an extension is requested;
- (c) If the water right permit holder receives delivery of the subject water right permit from a municipality, municipal corporation, or other special district, the applicant shall provide the name of the entity and evidence that a copy of the application for extension of time has been provided to the entity responsible for delivering the water;
- (d) Evidence of the actions taken to begin actual construction within the time period in the permit or previous extension:
 - (A) "Actual construction" means physical work performed towards completion of the water system, which demonstrates both the present good faith of the water right permit holder and the water right permit holder's intention to complete the project with reasonable diligence;
 - (B) "Actual construction" does not include planning a diversion system, formulating a business plan, securing financing, letting contracts, purchasing but not installing equipment, or surveying.
- (e) Evidence of progress made toward completion of the water development and application to full beneficial use, which includes but is not limited to:
 - (A) The annual accomplishments toward perfecting the water right under the terms and conditions of the permit, including the dates on which each condition contained in the relevant permit and any previous extension(s) was satisfied or the reason the condition was not satisfied;
 - (B) The maximum rate, or duty if applicable, of diversion, if any, made to date; and
 - (C) If for irrigation, a listing by year of the number of acres irrigated each year since permit issuance, the total number of acres irrigated to date under the permit or previous extension, and a copy of the application map showing the acres irrigated.
- (f) A description of financial expenditures made toward completion of the water development;
- (g) An estimate of the cost to complete the water development;
- (h) A summary of any additional unforeseen events which delayed completion of the water development or application of water to full beneficial use, including other governmental requirements, if any, relating to the project which have significantly delayed completion of construction or perfection of the right;
- (i) The date by which the water development will be completed and water put to full beneficial use;
- (j) A summary of the applicant's plan and schedule to complete construction and/or perfect the water right;

(k) Justification of why the requested time in subsection (i) is needed to complete the project and/or apply the water to full beneficial use;

(l) A description of any undue hardship to the applicant which will result from denial of the extension, and that there are no other reasonable alternatives for meeting water use needs;

(m) Any other information the applicant determines is relevant to evaluate the application in accordance with applicable statutes and these rules; and

(n) Any other information required in the application form that is necessary to evaluate the application in accordance with applicable statutory requirements.

(4) If the Department does not receive a claim of beneficial use or an extension application within 90 days after the required date of completion specified by the permit or previous permit extension, the Department may begin cancellation proceedings on the permit pursuant to ORS 537.260 or 537.410.

Statutory/Other Authority: ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 536.050, ORS 537.230, ORS 537.248, ORS 537.630, ORS 539.010, Or Laws 2025, ch 282

History:

WRD 2-2005, f. & cert. ef. 11-22-05

WRD 4 2002, f. & cert. ef. 11-1-02

WRD 4-1998, f. & cert. ef. 11-2-98

Rule Summary: This rule is amended to implement the provisions of Or Laws 2025, ch 282, sections 25, 26, and 27 with respect to limiting the extension process for other than municipal and quasi-municipal water use permits and to removing it for new permits. The amended rule limits extensions to 10 years for group domestic use applications received on or after April 1, 2026; the new rule also limits extensions to 2 years for other types of applications (i.e., excluding municipal, group domestic, and quasi-municipal) with no PFO issued prior to April 1, 2026, unless otherwise specified in statute. The rule is amended to clarify that permit holders have 90 days to either submit a claim of beneficial use or an extension application before OWRD may begin cancellation proceedings, per ORS 537.260.

Amend

690-315-0030

Application for Extension of Time to Begin Construction on Storage Projects

(1) Counties, municipalities or districts constructing new storage projects pursuant to ORS 537.248 may apply for extensions of time to begin actual construction, complete construction, or complete perfection pursuant ORS 537.248.

(2) To apply for an extension of time under this rule, a water right permit holder shall submit to the Department a completed application for extension of time. A separate application must be completed for each permit. Application forms are available from the Department.

(3) The completed extension application to begin construction must include the fee specified in ORS 536.050 and an application form setting forth:

- (a) The name and mailing address of the water right permit holder(s);
 - (b) The permit number for which an extension is requested;
 - (c) A summary of any unforeseen events which delayed the beginning of construction;
 - (d) The date by which the water development will be completed and water applied to the full beneficial use;
 - (e) A justification of why the requested time is needed to begin construction and fully apply water to beneficial use;
 - (f) Any additional information the applicant determines is relevant to evaluate the application in accordance with applicable statutory requirements and these rules; and
 - (g) Any other information required in the application form that is necessary to evaluate the application in accordance with applicable statutory requirements.
- (4) If the Department does not receive an extension application 90 days after the required date specified by the permit to begin construction or previous permit extension, the Department may begin cancellation proceedings on the permit pursuant to ORS 537.410.

Statutory/Other Authority: ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 536.050, ORS 537.230, ORS 537.248, ORS 537.630, ORS 539.010

History:

WRD 2-2005, f. & cert. ef. 11-22-05

WRD 4-1998, f. & cert. ef. 11-2-98

Rule Summary: This rule is amended to align with existing internal guidance related to counties, municipalities or districts constructing new storage projects pursuant to ORS 537.248 that they may apply for extensions of time not just for completing construction and putting the water to full beneficial use, but also for beginning actual construction.

Amend

690-315-0040

Criteria for Department Review of Extension Applications for Other Than Municipal and Quasi-Municipal Water Use Permits

(1) In order to approve an application for an extension of time to complete construction and/or apply water to full beneficial use pursuant to ORS 537.230 or 537.630, or to begin construction pursuant to ORS 537.248, the Department shall find:

- (a) The applicant has submitted a completed extension application, including the fee specified in ORS 536.050. The Department shall return any incomplete or deficient applications to the applicant, and shall specify the deficiency; and

(b) There is good cause to approve the extension.

(2) In order to make a finding of good cause to approve the extension, the Department shall consider, but is not limited to, the following criteria:

(a) Whether the applicant has demonstrated reasonable diligence in previous performance under the permit;

(b) The cost to appropriate and apply the water to a beneficial purpose;

(c) The good faith of the appropriator;

(d) The market for water or power to be supplied;

(e) The present demands for water or power to be supplied;

(f) The income or use that may be required to provide fair and reasonable returns on investment;

(g) Whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection the right;

(h) Any unforeseen events over which the water right permit holder had no control and which delayed development under the permit;

(i) Whether denial of the extension will result in undue hardship to the applicant and that there are no other reasonable alternatives exist for meeting water use needs; and

(j) Any other factors relevant to a determination of good cause.

(3) In determining reasonable diligence in subsection (2)(a), the Department shall consider, but is not limited to, the following factors:

(a) The amount of construction completed within the time allowed in the permit or previous extension;

(b) The amount of beneficial use made of the water during the permit or previous extension time limits;

(c) Water right permit holder conformance with the permit or previous extension conditions; and

(d) Financial investments made toward developing the beneficial water use.

(4) In determining the market and the present demand for water or power to be supplied pursuant to subsections (2)(d) and (e) above, the Department shall consider, but is not limited to, the following factors:

(a) The amount of water available to satisfy other affected water rights and scenic waterway flows;

(b) Special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d);

(c) The habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife;

(d) Economic investment in the project to date;

(e) Other economic interests dependent on completion of the project; and

(f) Other factors relevant to the determination of the market and present demand for water and power.

(5) In evaluating subsection (2), the Department shall find that good cause has not been shown and deny the extension if:

(a) The applicant did not begin actual construction on the project, as defined in OAR 690-315-0020(3)(d)(A) and (B), during the time period required by statute; or

(b) The permit holder has used water and has failed to demonstrate compliance with fish-related permit conditions that are required to be met before water use began. These permit conditions include fish screening, fish bypass, fish passage, or any other permit conditions intended to protect fish; or

(c) The Department's evaluation under (2) otherwise finds that good cause has not been shown.

(6) If the Department finds that the permit cannot be extended, and if the requirements for initiating cancellation proceedings under ORS 537.260(1) are met, the Department may initiate proceedings to cancel the permit. The Department's Proposed Final Order on the extension application may initiate cancellation proceedings under ORS 537.260(1) by including a proposed cancellation of the permit pursuant to ORS 537.260(1), which shall constitute the notice required by ORS 537.260(1).

(7) The Department may request additional information necessary to evaluate an application.

Statutory/Other Authority: ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 536.050, ORS 537.230, ORS 537.248, ORS 537.630, ORS 539.010, Or Laws 2025, ch 282, ORS 537.260

History:

WRD 2-2005, f. & cert. ef. 11-22-05

WRD 4-1998, cert. ef. 11-2-98

Rule Summary: This rule is amended to implement provisions of Or Laws 2025, ch 282, sections 25, 26, and 27 with respect to limiting the extension process for other than municipal, quasi-municipal, ground domestic, and group domestic expanded water use permits. This rule is amended to make clearer the Department's longstanding practice of denying applications when the permit holder has used water and has failed to demonstrate compliance with fish-related permit conditions that are required to be met before water use began, and to restructure the location of the begin construction requirement within the rules. This rule is amended to make it clear that factors beyond the new (5)(a) and (b) rules are part of the good cause determination, as already found in (2). This rule is amended to add information about how the Proposed Final

Order on the extension application may initiate cancellation proceedings under ORS 537.260(1), if the Department finds that the permit cannot be extended, and if the requirements for initiating cancellation proceedings under ORS 537.260(1) are met.

Amend

690-315-0050

Department Action on Extension Applications

If the Department finds an applicant has submitted a completed extension application as required in OAR 690-315-0020 or 690-315-0030, the Department shall process the extension application as established in this rule.

(1) The Department shall publish notice of the extension application in its weekly public notice prior to issuance of a proposed final order on the extension request. The notice shall include a request for comments on the extension application, the date by which comments must be received by the Department and information about how an interested person may review or obtain a copy of the extension application. The comment period shall be at least 30 days. The notice shall also include the following information about the permit and the extension application:

- (a) Applicant name and address;
- (b) Amount of water use permitted in gallons per minute (gpm), cubic feet per second (cfs) or acre feet (af) of storage;
- (c) Common name of water source(s) listed in the permit;
- (d) Permit number;
- (e) Use allowed in the permit;
- (f) Proposed extended date of completion; and
- (g) A statement that copy fees are required to receive a proposed final order under subsection 3.

(2) After consideration of the administrative record, including but not limited to any comments filed on the extension application, the Department shall issue a proposed final order granting the extension request, with or without additional conditions, or denying the extension request. The Department is not required to respond directly to comments, but may respond to the issue, if applicable and relevant to the decision, within the proposed final order.

(3) The Department shall send the proposed final order issued under subsection (2) of this rule to the applicant by certified or registered mail. The Department shall send a copy of the proposed final order by regular mail to any person other than the applicant who submitted comments and has paid the copy fee required under ORS 536.050. The Department shall also publish notice of the proposed final order in the weekly notice published by the Department.

(4) Permit time extensions may be granted for the reasonable time necessary to complete water development or apply all the water to beneficial use, within the time allowed by the applicable statute.

(5) Extension orders may include, but are not limited to, any condition or provision needed to:

(a) Ensure future diligence;

(b) Mitigate the effects of the subsequent development on competing demands on the resource; and

(c) Periodically document the continued need for the permit.

Statutory/Other Authority: ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 536.050, ORS 537.230, ORS 537.248, ORS 537.630, ORS 539.010, Or Laws 2025, ch 282

History:

WRD 1-2012, f. 1-31-12, cert. ef. 2-1-12

WRD 4-1998, f. & cert. ef. 11-2-98

Rule Summary: This rule is amended to implement provisions of Or Laws 2025, ch 282, sections 25, 26, and 27 with respect to time limits on extensions for other than municipal and quasi-municipal water use permits. This rule eliminates the requirement for checkpoint conditions because of the new limitations on the allowable length of an extension of time but maintains the Department's authority to condition or provision an extension order to periodically document the continued need for the permit, which may include checkpoints. Elimination of the mandatory checkpoint conditions does not impact the requirements elsewhere in this division for municipal and quasi-municipal water use permit holders to submit a Water Management and Conservation Plan.

Amend

690-315-0060

Proposed Final Order Hearing Rights

The applicant or any other person adversely affected or aggrieved by the proposed final order described in OAR 690-315-0050(2) may submit a written protest to the proposed final order. The written protest must be filed within 45 days from the date of publication of the proposed final order in the Department's weekly notice. The provisions of Or Laws 2025, ch 575, sections 2 and 3 and rules adopted thereunder apply to protests of, requests for party status, and contested case proceedings on proposed final orders issued under this division. Proposed final orders shall become final if no protest is filed or by default as provided in OAR 690-002-0235.

Statutory/Other Authority: ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 536.050, ORS 537.230, ORS 537.248, ORS 537.630, ORS 539.010, Or Laws 2025, ch 575

History:

WRD 2-2005, f. & cert. ef. 11-22-05

WRD 4-1998, f. & cert. ef. 11-2-98

Rule Summary: This rule is amended to implement provisions of Or Laws 2025, ch 575 to standardize protests, requests for party status, and contested cases for various water right processes and as outlined in OAR-chapter 690, division 002.

Amend

690-315-0070

Application for Extension of Time for Municipal and Quasi-Municipal Water Use Permits

(1) Under this rule, holders of municipal and quasi-municipal water use permits may apply to the Department for an extension of time to complete construction and/or apply the water to full beneficial use pursuant to ORS 537.230 or 537.630.

(2) To apply for an extension of time to complete construction and/or to apply the water to the full beneficial use, a holder of a municipal or quasi-municipal water use permit shall submit to the Department a completed extension application. A separate application must be completed for each permit. Application forms are available from the Department.

(3) The completed application must include the fee specified in ORS 536.050 and an application form setting forth:

(a) The name and mailing address of the water right permit holder(s);

(b) The permit number for which an extension is requested;

(c) For quasi-municipal water use permit holders, evidence of the actions taken to begin actual construction on the project, as defined in 690-315-0020(3)(d), if required under the applicable statute;

(d) For municipal water use permits issued on or after June 29, 2005, evidence of the actions taken to begin actual construction on the project, as defined in 690-315-0020(3)(d);

(e) Evidence of actions taken to develop the right within the permitted time period and/or time period of the previous extension;

(f) Evidence of compliance with conditions contained in the permit and any previous extension(s) or the reason the condition was not satisfied;

(g) Evidence of the maximum rate, or duty if applicable, diverted for beneficial use, if any, made to date;

(h) An estimate of the population served and a description of the methodology(ies) used to make the estimate;

(i) A description of financial expenditures made toward completion of the water development;

(j) An estimate of the cost to complete the water development;

(k) A summary of any events that delayed completion of the water development or application of water to full beneficial use, including other governmental requirements, if any, relating to the project that have significantly delayed completion of construction or perfection of the right;

(l) An estimated demand projection and a description of the methodology(ies) used for the subject water right permit, considering the other water rights held by the municipal or quasi-municipal water use permit holder, and a date by which the water development is anticipated to be completed and water put to full beneficial use. Municipal water right permit extension requests for greater than 50 years must include documentation that the demand projection is consistent with the amount and types of lands and uses proposed to be served by the permit holder.

(m) A summary of the applicant's plan and schedule to complete construction and/or perfect the water right;

(n) Justification for the time requested to complete the project and/or apply the water to full beneficial use;

(o) Any other information the applicant determines is relevant to evaluate the application in accordance with applicable statutes and rules;

(p) Any other information required by the Department that is necessary to evaluate the application in accordance with applicable statutory requirements; and

(q) For municipal water use permits issued before November 2, 1998, for the first extension issued after June 29, 2005, the completed application must include a copy of any agreements regarding use of the undeveloped portion of the permit between the permit holder and a federal or state agency that include conditions or required actions that maintain the persistence of listed fish species in the portions of waterways affected by water use under the permit.

Statutory/Other Authority: ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 536.050, ORS 537.230, ORS 537.248, ORS 537.630, ORS 539.010, Or Laws 2025, ch 282.

History:

WRD 2-2005, f. & cert. ef. 11-22-05

WRD 4-2002, f. & cert. ef. 11-1-02

Rule Summary: This rule is amended to implement the provisions of Or Laws 2025, ch 282, sections 25, 26 and 27, with respect to capping the total extension time allowed for quasi-municipal water uses to 20 years. For requirements regarding extension requests for greater than 50 years, the amendment clarifies that this is for municipal water right permit extension requests, as no other type of request could be made for that length of time based on the legislation.

Amend

690-315-0080

Criteria for Department Review of Extension Applications for Municipal and Quasi-Municipal Water Use Permits

(1) In order to approve an application for an extension of time for municipal and quasi-municipal water use permits holders to complete construction and/or apply water to full beneficial use pursuant to ORS 537.230 or 537.630, the Department shall find:

- (a) The extension application is complete, including the fee specified in ORS 536.050. The Department shall return any incomplete or deficient applications to the applicant, and shall specify the deficiency;
- (b) The applicant began actual construction on the project, as defined in 690-315-0020(3)(d), within the time period, if any, required under the applicable statute;
- (c) The time requested to complete construction or apply water to full beneficial use is reasonable;
- (d) For municipal water use permits, the applicant can complete the project within the time period requested for the extension; and, if the request is for more than 50 years that the estimated demand projection is consistent with the amount and types of lands and uses proposed to be served by the permit holder;
- (e) There is good cause to approve the extension; and
- (f) For the first extension issued after June 29, 2005 for municipal water use permits issued before November 2, 1998:

(A) There are agreements regarding use of the undeveloped portion of the permit between the permit holder and a federal or state agency that include conditions or required actions that maintain the persistence of listed fish species in the portions of waterways affected by water use under the permit; or

(B) It is determined that use of the undeveloped portion of the permit will maintain the persistence of listed fish species in the portions of waterways affected by water use under the permit; or

(C) If it is determined that use of the undeveloped portion of the permit would not maintain the persistence of listed fish species in the portions of the waterways affected by water use under the permit, the undeveloped portion of the permit is conditioned to maintain the persistence of listed fish species in the portions of the waterways affected by water use under the permit.

(2) The Department's finding for municipal use permits under subsection (1)(f) of this rule shall be based on existing data and advice of the Oregon Department of Fish and Wildlife (ODFW). The Department's finding shall be limited to impacts related to streamflow as a result of use of the undeveloped portion of the permit and further limited to where, as a result of use of the undeveloped portion of the permit, ODFW indicates that streamflow would be a limiting factor for the subject listed fish species.

(a) Except for municipal ground water permit extension applications where the Department has determined there is not the potential for substantial interference with surface water under OAR chapter 690 division 9, the Department shall notify ODFW of each pending municipal water use

permit extension application that is subject to subsection (1)(f) of this rule and provide at least 60 days for ODFW to respond prior to issuing a proposed final order under 690-315-0050. The Department may issue a proposed final order prior to 60 days if comments are received from ODFW.

(b) Upon notifying ODFW under subsection (2)(a) of this rule, the Department shall also notify the applicant and, within 10 days, give public notice in the weekly notice published by the Department that the municipal permit extension application has been sent to ODFW for review.

(c) For ground water permits submitted to ODFW under this rule, the Department shall provide to ODFW and the applicant the Department's estimate of surface water impacts that would result from use of the undeveloped portion of the ground water permit.

(d) ODFW shall provide its written advice to the Department on the extension application within 60 days of the Department's notice in subsection (2)(a) of this rule or notify the Department that additional time, not to exceed 120 days unless the applicant consents to more time, will be needed to complete its evaluation.

(e) ODFW may recommend to the Department fishery resource protection conditions for inclusion in the proposed final order under OAR 690-315-0050 that would provide protection to maintain the persistence of listed fish species if its written advice to the Department indicates that:

(A) Use of the undeveloped portion of the permit would not maintain persistence in the portions of the waterways affected by water use under the permit; and

(B) As a result of the use of the undeveloped portion of the permit, streamflow would be a limiting factor for the listed fish species.

(f) Upon receiving ODFW's written advice, the Department shall notify the applicant and any persons that requested notification of any fishery resource protection conditions that may be proposed in the proposed final order under OAR 690-315-0050. The Department's notice shall also provide the applicant an opportunity to request the Department place the permit extension application on administrative hold.

(g) The Department may place fishery resource protection conditions on the undeveloped portion of the permit in the extension proposed and final order under 690-315-0050 if the Department finds that, without such conditions, use of the undeveloped portion of the permit will not maintain, in the portions of waterway affected by water use under the permit, the persistence of listed fish species.

(3) The Department's determination of good cause shall consider:

(a) Whether the applicant has demonstrated reasonable diligence in previous performance under the permit;

(b) The cost to appropriate and apply the water to a beneficial purpose;

(c) The good faith of the appropriator;

- (d) The market and present demands for water or power to be supplied;
- (e) The income or use that may be required to provide fair and reasonable returns on investment;
- (f) Whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right; and
- (g) Any events over which the water right permit holder had no control and which delayed development under the permit.

(4) In determining reasonable diligence and good faith of the holder of a municipal or quasi-municipal water use permit, the Department shall consider activities associated with the development of the right that may include, but are not limited to: water management planning; conservation planning; development of a water master plan for the Oregon Health Division; planning of a diversion system; demand forecasting; flow or water quality monitoring; source evaluation; entry into intergovernmental agreements for water delivery; property acquisition; engagement in governmental permitting or project financing; procurement of planning, design, or construction services; surveying; and any physical work performed toward completion of the system and development of the right.

(5) For municipal and quasi-municipal water use permits issued after November 2, 1998, in making a determination of good cause pursuant to subsection (3)(d) above, in addition to subsections (1)(a)–(e), (3), and (4) of this rule, the Department shall also consider, but is not limited to, the following factors:

- (a) The amount of water available to satisfy other affected water rights and scenic waterway flows;
- (b) Special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d);
- (c) The habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife;
- (d) Economic investment in the project to date;
- (e) Other economic interests dependent on completion of the project; and
- (f) Other factors relevant to the determination of the market and present demand for water and power.

Statutory/Other Authority: ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 537.230, ORS 537.248, ORS 537.630, ORS 539.010, Or Laws 2025, ch 282

History:

WRD 2-2005, f. & cert. ef. 11-22-05

WRD 4-2002, f. & cert. ef. 11-1-02

Rule Summary: This rule is amended to implement the provisions of Or Laws 2025, ch 282, sections 25, 26 and 27, with respect to capping the total extension time allowed for quasi-municipal water uses to 20 years, by clarifying that some provisions only apply to municipal rights.

Amend

690-315-0090

Time of Extensions and Additional Development of Municipal and Quasi-Municipal Water Use Permits

(1) Extensions may be granted for the reasonable time necessary to complete water development or apply all the water to beneficial use; however, for quasi-municipal water use permits, the extension shall not exceed 20 years from the date of the issuance of an extension final order.

(2) A holder of a municipal water use permit is not precluded from seeking additional extensions of time as provided in OAR 690-315-0070 through 690-315-0100.

(3) Except as provided in subsection (4) and (5), any water right permit extended under OAR 690-315-0070 to 690-315-0100 shall be conditioned to provide that diversion of water beyond the maximum rate, or duty if applicable, diverted for beneficial use before the extension shall only be authorized upon issuance of a final order approving a Water Management and Conservation Plan. The required Water Management and Conservation Plan shall be submitted within 3 years of an approved extension application.

(4) Quasi-municipal water use permit holders that serve a population of less than 1000 are not subject to subsection (3) of this rule unless on review of the criteria under 690-315-0080(1) and (2) the Department determines that compliance with subsection (3) of this rule is necessary.

(5) Quasi-municipal water use permit holders that can reasonably demonstrate that fewer than 5 years is necessary to complete construction and apply the water to beneficial use are not subject to subsection (3) of this rule unless on review of the criteria under 690-315-0080(1) and (2) the Department determines that compliance with subsection (3) of this rule is necessary. The permit holder will be subject to the requirements of subsection (3) of this rule if the extension request, when combined with the length of prior extensions, exceeds a cumulative total of 5 years.

Statutory/Other Authority: ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 537.230, ORS 537.248, ORS 537.630, ORS 539.010, Or Laws 2025, ch 282

History:

WRD 2-2005, f. & cert. ef. 11-22-05

WRD 4-2002, f. & cert. ef. 11-1-02

Rule Summary: This rule is amended to implement the provisions of Or Laws 2025, ch 282, sections 25, 26 and 27, with respect to capping the total extension time allowed for quasi-municipal water uses to 20 years. Clarifies language for assessing cumulative quasi-municipal extensions.

Amend

690-315-0100

Department Action on Extension Applications by Holders of Municipal Water Supply Permits

If the Department finds an applicant has submitted a completed application as required under OAR 690-315-0070, the Department shall process the application as established under OARs 690-315-0050 and 690-315-0060.

Statutory/Other Authority: ORS 536.025, ORS 536.027

Statutes/Other Implemented: ORS 537.230, ORS 537.248, ORS 537.630, ORS 539.010

History:

WRD 4-2002, f. & cert. ef. 11-1-02

Rule Summary: This rule change removes subsection references consistent with changes to OAR 690-315-0050.

DRAFT