

**Division 382 - Revision Tracker**

<b>Section / Version comment</b>	<b>Issue</b>	<b>Response/Modified Language</b>	<b>Status / Version change made in</b>
<b>690-382-0400(11)</b>	RACM - Don't need a comma at the end after "criteria" since there is also a colon.  RACM - "include" should be "includes"	Completed comma deletion. Did not find the "include" that needed to be addressed in this section.	Complete. Partial change made.
<b>690-382-0400(11)(b)</b>	RACM - This needs to clarify that each certificate of registration that the applicant seeks to change must also have its own application.  One RAC member noted that this section is unclear that groundwater registration applications are limited to one modification, because three certificates of registration are referenced.	OAR 690-382-0300(2) denotes this. The only time this instance would come up is with layered rights.  OWRD added to the rule: layered, as defined in OAR 690-382-0100(4) to make it clear of when this provision applies.	Complete. Change made.
<b>690-382-0400(12)</b>	Proof of use, new proposed provision: The rules should require the applicant to include proof of use over the past five years. Absent that this rule would allow people to revive long defunct wells. The groundwater registrations statutes, as a whole, contemplate "beneficial use" for a registration to be valid. Registration serves as authority to continue beneficial use, not as a loophole to the basic tenants of Oregon water law. In bill negotiations over HB 2123 (2005), OWRD made assurances to stakeholders that the rule requirements for groundwater rights would mirror those for surface water, which do include proof of use among other things. Please add that here.	Evidence of use is not applicable here as Groundwater Registrations are claims filed under ORS 537.605 (see also ORS 537.610) that, at some time in the future, will be adjudicated by the Court and a final determination on the claim will be made and a groundwater water right certificate issued at that time.	Complete. Change not made.
<b>690-382-0400(12)</b>	RACM - (12): Please see comments on land use provisions in transfers.	Under Review.	Under Review: Pending final

			language on land use.
<b>690-382-0400(8-10)</b>	One RAC member noted that the language “existing registration” should say “recognized registration,” because the registration does not change through modification.	Added recognized.	Complete. Rule changed in v2.
<b>690-382-0550(3)</b>	RACM - “include” should be “includes”	Complete	Complete. Rule changed in v2.
<b>690-382-0550(3) (d)</b>	Two RAC members discussed the “any other requirements” language. There were suggestions to add “any other requirements set forth in ORS 540 or Div 380” or “any other requirements set forth in applicable laws”.	Change made.	Complete. Rule changed in v2.
<b>690-382-0550(3)(b)</b>	RACM - Protection of scenic waterway flows was put into the original rules in 2006. The statute grants broad authority to OWRD as to what it requires for changes in place of use, point of appropriation or type of use. In bill negotiations in 2005, OWRD represented that its rules would place similar requirements in rules as applied to surface water registrations. The Scenic Waterway provision is a narrower application than the surface water requirements (no net loss of water downstream) but serves to protect at least a subset of instream uses. WaterWatch supports the continued inclusion of the scenic waterway provisions in these rules but would urge that this section be re-worded to match that in 690-382-0700(2)(b).	Change made. Struck redundant water phrasing.	Complete. Rule updated in v2.
<b>690-382-0700</b>	RACM - Add (e): The applicant put the water to beneficial use within the terms and conditions of the groundwater certification within the past five years	Evidence of use is not applicable here as Groundwater Registrations are claims filed under ORS 537.605 (see also ORS 537.610) that, at some time in the future, will be adjudicated by the Court and a final determination on the claim will be made and a groundwater	Complete. No change made.

		water right certificate issued at that time.	
<b>690-382-0700 (2)(b)</b>	One RAC member asked if “Scenic Waterway receiving less water than previously available water” means the same thing as 550(3)(b). [See also -1000(1)(b)]	The intent was to keep the meaning the same.  Struck redundant “water” phrasing. Updated -0550(3)(b). Kept -1000(1)(b) the same.	Complete. Change made v2.
<b>690-382-0700(2)(d)</b>	RACM - We support the continued inclusion of (d). The statute gives OWRD wide discretion as to what criteria to apply to allow changes in groundwater registrations. (d) reflects statutory intent.	No change requested, however, OWRD made changes here to align with changes made to address a comment for OAR 690-382-0550(3)(d).	Complete. Change made.
<b>690-382-0800(2)(e)</b>	RACM - This should be expanded to note “petitions for party status”.	Added: (g) A statement of the opportunity for a person to file a request for party status pursuant to OAR 690-002	Complete. Change made in v2. This is also an implementation item.
<b>690-382-0900(1)</b>	RACM - New subsection: Note 30-day process for petitions of party status.  RACM - See previous comments regarding reference to ORS 183, OAR 137 and “petitions for party status”	Change made to add party status. Division 2 references the APA and 137 and it is not needed here.	Complete partial change made.
<b>690-382-1200</b>	N/A	The Department noted that the language regarding compatibility with comprehensive plans will be revisited, because similar language appears in other divisions.	Under Review: Pending final language on land use.
<b>Combined comments on land use compatibility issue</b>  <b>690-018-0040(22)(a), -018-0050(3)(c), -310-0040(1)(a)(L), -380-3000(19), -380-7100(14), -380-</b>	RACM – See detailed comments from Leah Cogan (several paragraphs so not pasting here). RACM Recommendation - For the provisions relating to application requirements (690-018-0040(22)(a), 690-310-0040(1)(a)(L), 690-380-3000(19), 690-380-7100(14), 690-380-8003(2)(d), and 690-382-0400(12)): “A Land Use Information Form completed by the affected local government as outlined in the Department’s Land Use Planning Procedures Guide described in OAR 690-005-0035(4).”		Under Review: Pending final language on land use.

<b>8003(2)(d), - 382-0400(12)</b>	RACM RECOMMENDATION - Retain original language in 3000(19) and use similar language in 7100(14) and 8003(2)(d).		
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