

Division 382 - Revision Tracker

Changes made between v2 and v3 RAC version. Changes are highlighted in the v3 RAC version of the rules for RAC member convenience. V3 is the same as the public comment draft except no highlights.

Section / Version comment	Issue	Response/Modified Language	Status / Version change made in
690-382 General 12/5	RACM - Division 380 and Division 382. The changes that OWRD is proposing to Division 380 and 382 go beyond the scope of the 2025 legislation mandates, and OAN encourages OWRD to limit the changes it implements to those required by the 2025 legislation. Transfers are a crucial water management tool that enable agricultural water right holders to efficiently and sustainably manage water. OAN is concerned that based on the breadth of proposed changes to the transfer process, the permit amendment process, and the groundwater registration modification process, stakeholders have not had adequate time to fully review and assess the potential impacts of the proposed changes.	This item was discussed at length during the RAC meeting. Thank you for your comment.	Comment. No change made.
690-382- 0200(3)(a)	OWRD – Discovered that more specificity was needed in identifying the options available for resolution of layering issues.	Updated OAR 690-382-0200(3)(a) to clarify the options available for an applicant to resolve issues of layering. The updates also better align with OAR 690-382-0300(2) which specifies that the application may proposed modification of one certificate of registration unless the other registrations are layered. The updates also strive to make it clear that the other options for resolving layering require another separate application.	Complete. Changes made. v3 draft.
690-382- 0400 12/6	RACM - As noted in V1, 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. This could exacerbate existing problems in already overstretched basins. It also could provide a huge loophole to the new groundwater allocation rules, in that long unused	OWRD has previously responded to this comment and declines to make the change as it does not believe it has authority.	Complete. No change made.

	<p>groundwater registrations could be “revived” to serve new uses without having to apply for a new right.</p> <p>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 as it relates to use of water. In bill negotiations over HB 2123 (2005), OWRD made assurances to stakeholders that the rule requirements for groundwater registrations would mirror those for surface water registrations, which do include proof of use among other things. To ensure consistency with surface water registrations, and the basic tenants of western water law, proof of use should be required. Please add that here. OWRD response to our comments was that evidence of use was not applicable here. We disagree, based on the arguments above.</p>		
<p><u>Combined comments on land use compatibility issue</u></p> <p><u>690-018-0040(22)(a)</u> <u>690-018-0050(3)(c)</u> <u>690-310-0040(1)(a)(L)</u> <u>690-380-3000(19)</u> <u>690-380-7100(14)</u> <u>690-380-8003(2)(d)</u> <u>690-382-0400(12)</u> <u>12/5</u></p>	<p>RACM – See Leah’s detailed comments.</p> <p>RACM RECOMMENDATION - Retain original language at this time. For permit amendments, include language similar to the original language for transfers.</p>	<p>The Department has partially reverted to the original rule language pertaining to land use.</p> <p>Language partially reverted in OAR 690-382-0400(12). Rule summary for OAR 690-382-1200 updated.</p>	<p>Complete. Changes made in v3.</p>

<p>690-382-0400(8)-(10)</p> <p>12/6</p> <p>Submitted late for 10/29 version</p>	<p>RACM - As proposed, the language does not reflect registrations that have been previously modified, and are exclusive of “previously recognized” changes of registrations that have already been modified.</p> <p>RACM RECOMMENDATION - The existing registered and/or previously recognized...</p>	<p>Changes made in 690-382-0400(8)-(13) and in 690-382-0800(2), as well as in other applicable rule sections.</p>	<p>Complete.</p> <p>Changes made.</p> <p>v3 draft.</p>
<p>690-382-0400(11)(b)</p>	<p>RACM - This needs to clarify that each certificate of registration that the applicant seeks to change must also have its own application.</p> <p>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.</p>	<p>OAR 690-382-0300(2) denotes this. The only time this instance would come up is with layered rights.</p> <p>OWRD added to the rule: “...layered, as defined in OAR 690-382-0100(4)...” to make it clear of when this provision applies.</p>	<p>Complete.</p> <p>Change made.</p>
<p>690-382-0400(11)(b)</p>	<p>OWRD – Identified issue with v2 draft proposed rule language.</p>	<p>OWRD modified OAR 690-382-0400(11)(b) by replacing, “...a separate map shall be provided for each water right.” with “a separate map shall be provided for each certificate of registration.” to more clearly identify that, consistent with OAR 690-382-0300(2), only layered certificates of registration may be combined into a single application and that in those cases if there are more than three layered certificates of registration, a separate map is to be provided for each.</p>	<p>Complete.</p> <p>Change made.</p> <p>v3 draft.</p>
<p>690-382-0400(12)</p>	<p>RACM - (12): Please see comments on land use provisions in transfers.</p>	<p>The Department has partially reverted to the original rule language pertaining to land use.</p> <p>Language partially reverted in OAR 690-382-0400(12). Rule summary for OAR 690-382-1200 updated.</p>	<p>Complete.</p> <p>Changes made in v3.</p>
<p>690-382-0400(8-10)</p>	<p>One RAC member noted that the language “existing registration” should say “recognized registration,” because the registration does not change through modification.</p>	<p>Changes made in 690-382-0400(8)-(13) and in 690-382-0800(2) and others.</p>	<p>Complete.</p> <p>Changes made.</p> <p>v3 draft.</p>
<p>690-382-0550(3) (d)</p>	<p>Two RAC members discussed the “any other requirements” language. There were suggestions to add “any</p>	<p>Change made, though not exactly as suggested by RAC members.</p>	<p>Complete. Rule changed in v3.</p>

	other requirements set forth in ORS 540 or Div 380” or “any other requirements set forth in applicable laws”.		
690-382-0700 12/6	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. See comments in – 0400.	OWRD has previously responded to this comment and declines to make the change as it does not believe it has authority.	Complete. No change made.
690-382-0700(2)(d) 12/6	RACM - We disagree with the narrowing of (d) to “applicable to groundwater registrations”. The statute gives OWRD broad discretion; the original rules contained that. All applicable rules/laws should apply.	When reviewing an application, as a standard practice, OWRD applies the only those requirements that are applicable to the specific type of application being evaluated. Suggested change not made.	Complete. No change made.
690-382-1200	N/A	The Department has partially reverted to the original rule language pertaining to land use. Language partially reverted in OAR 690-382-0400(12). Rule summary for OAR 690-382-1200 updated.	Complete. Changes made in v3.
Combined comments on land use compatibility issue 690-018-0040(22)(a), -018-0050(3)(c), -310-0040(1)(a)(L), -380-3000(19), -380-7100(14), -380-8003(2)(d), -382-0400(12)	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).” RACM RECOMMENDATION - Retain original language in 3000(19) and use similar language in 7100(14) and 8003(2)(d).	The Department has partially reverted to the original rule language pertaining to land use. Language partially reverted in OAR 690-382-0400(12). Rule summary for OAR 690-382-1200 updated.	Complete. Changes made in v3.