

issue a final certification decision to the applicant and to the team.

(2) As used in this section, “director” means the Director of the Department of Environmental Quality. [1997 c.449 §21a; 2001 c.369 §5]

543A.115 Final unified state position.

(1) Upon receipt of the Department of Environmental Quality’s water quality certification decision, the Hydroelectric Application Review Team shall prepare a final unified state position. The final unified state position shall take into consideration public comments received, shall be consistent with the Department of Environmental Quality’s water quality certification decision and shall incorporate conditions attached to any certification by the Director of the Department of Environmental Quality pursuant to 33 U.S.C. 1341(d). The final unified state position also shall include recommendations under 16 U.S.C. 803(j), any other conditions recommended for inclusion in the federal license for the project and any additional information requests to be addressed in the federal proceeding. The team also shall prepare a proposed final order on reauthorization of a water right for the project.

(2) The team shall provide the final unified state position to the applicant and to the Federal Energy Regulatory Commission. The team shall submit the proposed final order on reauthorization of the water right to the Water Resources Department. Upon receipt of the proposed final order, the department shall complete processing of the application for reauthorization of the water right in accordance with the provisions of ORS 543A.120 to 543A.300.

(3) The team may submit to the Federal Energy Regulatory Commission and the applicant any proposed final unified state position, comments, recommendations, conditions or additional information requests, coordinated in accordance with this chapter, at any time necessary to satisfy a deadline established by the Federal Energy Regulatory Commission for such submission, even if the procedures set forth in this section for the development of a final unified state position have not been completed. [1997 c.449 §22; 2001 c.369 §6]

**PROCESS FOR COMPLETING
REAUTHORIZATION OF WATER
RIGHT FOR EITHER STATE OR
FEDERALLY LICENSED PROJECT**

543A.120 Proposed final order. (1) A proposed final order prepared by a Hydroelectric Application Review Team and submitted to the Water Resources Department under ORS 543A.040, 543A.055 or 543A.105 shall be based on the application of the

standards set forth in ORS 543A.025 and shall reflect the complete review of the water right application for compliance with applicable statutes and rules.

(2) The proposed final order shall cite findings of fact and conclusions of law and shall include but need not be limited to:

(a) Confirmation or modification of the preliminary determinations made in the initial review;

(b) A brief statement that explains the criteria considered relevant to the decision, including the applicable basin program, the compatibility of the proposed use with applicable land use plans and information set forth in the application report or final report on studies;

(c) An assessment of water availability and the amount of water necessary for the proposed use;

(d) An assessment of whether the proposed use would result in injury to existing water rights;

(e) An assessment of whether the proposed use would impair or be detrimental to the public interest as provided in ORS 543A.025;

(f) A draft certificate, including any proposed conditions, or a recommendation to deny the application; and

(g) The date by which protests to the proposed final order must be received by the department.

(3) The department shall mail copies of the proposed final order, as submitted by the team, to the applicant and to persons who have requested copies and paid the fee required under ORS 536.050 (1)(p). The department also shall give public notice of the proposed final order in the weekly notice published by the department.

(4) Any person may request standing for purposes of participating in any contested case proceeding on the proposed final order or for judicial review of a final order. A request for standing shall be in writing and shall be accompanied by the fee established under ORS 536.050 (1)(n).

(5) Any person may submit a protest against a proposed final order. A protest shall be in writing and shall include:

(a) The name, address and telephone number of the protestant;

(b) A description of the protestant’s interest in the proposed final order and, if the protestant claims to represent the public interest, a precise statement of the public interest represented;

(c) A detailed description of how the action proposed in the proposed final order