

would impair or be detrimental to the protestant's interest;

(d) A detailed description of how the proposed final order is in error or deficient and how to correct the alleged error or deficiency;

(e) Any citation of legal authority supporting the protest, if known; and

(f) The protest fee required under ORS 536.050 (1)(j).

(6) Requests for standing and protests on the proposed final order shall be submitted within 45 days after publication of the notice of the proposed final order in the weekly notice published by the department. Any person who asks to receive a copy of the department's final order shall submit to the department the fee required under ORS 536.050 (1)(p), unless the person has previously requested copies and paid the required fee.

(7) The Hydroelectric Application Review Team shall review any protest received and provide to the Water Resources Director a recommended response to any protest received.

(8) Within 120 days after the close of the period for receiving protests and after consultation with the Hydroelectric Application Review Team, the director shall:

(a) Issue a final order as provided under ORS 543A.130; or

(b) Schedule a contested case hearing if a protest has been submitted and if:

(A) Upon review of the issues, the director finds that there are significant disputes related to the proposed reauthorization of the project; or

(B) Within 30 days after the close of the period for submitting protests, the applicant requests a contested case hearing.

(9) At the request of the applicant, the department may extend the time periods set forth in subsection (8) of this section for a reasonable period of time.

(10) If the application is for reauthorization of a water right for a federally licensed project, the department may postpone the issuance of the final order until the Federal Energy Regulatory Commission license is issued. [1997 c.449 §23; 2013 c.644 §13]

**543A.125 Approval or rejection of application for reauthorization.** (1) Subject to the provisions of subsection (2) of this section and ORS 543A.130 and 543A.140, the Water Resources Department shall approve all applications for reauthorization of a water right for the use of water for hydroelectric purposes made in proper form, unless the

proposed reauthorization conflicts with existing rights.

(2) The department shall reject any application for a permit to appropriate water to develop hydroelectric power if the department finds that the proposed project does not comply with the standards set forth in ORS 543A.025 or rules adopted by the Water Resources Commission under ORS 543A.025. [1997 c.449 §24]

**543A.130 Contested case hearing; final order.** (1) If a contested case hearing is conducted under ORS 543A.120, the issues to be considered in the contested case hearing shall be limited to issues identified by the administrative law judge.

(2) Notwithstanding the provisions of ORS chapter 183 pertaining to contested case proceedings, the parties to any contested case hearing initiated under this section shall be limited to:

(a) The applicant;

(b) Any person who timely filed a protest; and

(c) Any person who timely filed a request for standing under ORS 543A.120 and who requests to intervene in the contested case hearing prior to the start of the proceeding.

(3) The contested case proceeding shall be conducted in accordance with the applicable provisions of ORS chapter 183 except:

(a) As provided in subsections (1) and (2) of this section; and

(b) An interlocutory appeal under ORS 183.480 (3) shall not be allowed.

(4) Each person submitting a protest or a request for standing shall raise all reasonably ascertainable issues and submit all reasonably available arguments supporting the person's position by the close of the protest period. Failure to raise a reasonably ascertainable issue in a protest or in a hearing or failure to provide sufficient specificity to afford the Water Resources Department an opportunity to respond to the issue precludes judicial review based on that issue.

(5) If, after the contested case hearing or, if a hearing is not held, after the close of the period allowed to file a protest, the Water Resources Director determines that the proposed reauthorization does not comply with the standards set forth in ORS 543A.025 or rules adopted by the Water Resources Commission under ORS 543A.025, the director shall issue a final order rejecting the application or modifying the proposed final order to conform to the public interest. If, after the contested case hearing or, if a hearing is not held, after the close of the period allowed to file a protest, the director determines that the proposed reauthorization complies with