

health or safety or the environment that was not identified and addressed during the most recent project authorization proceeding, and that requires modification of the certificate. [1997 c.449 §29]

543A.150 Modification of time limits.

(1) The Water Resources Department may extend the time limits set forth in ORS 543A.005 to 543A.145 and 543A.300 for a reasonable period of time if the time limits are incompatible with the substantive requirements applicable to applications to reauthorize a water right for the use of water for hydroelectric purposes.

(2) The expiration date of the water right for any project that begins the reauthorization process under ORS 543A.005 to 543A.415 before the expiration date shall be extended by the department if necessary to allow for completion of the reauthorization process. [1997 c.449 §31]

DECOMMISSIONING

543A.300 Decommissioning; rules. (1)

If any person operating a hydroelectric project fails to advise the Water Resources Department within 60 days of the time established in ORS 543A.030 or 543A.075, the Water Resources Commission may order the decommissioning of the project.

(2) The Water Resources Commission shall adopt by rule procedures for ordering a decommissioning of a project and standards for conducting a decommissioning in a manner that ensures the protection of the public health and safety and the environment. The rules shall include a provision for establishing a Hydroelectric Application Review Team for the project to coordinate the activities of all state agencies involved in the decommissioning process. [1997 c.449 §30]

543A.305 Conversion of hydroelectric water right to in-stream water right; exceptions. (1) As used in this section:

(a) "Holder" has the meaning given that term in ORS 543.075.

(b) "In-stream water right" has the meaning given that term in ORS 537.332.

(c) "Reauthorize" has the meaning given that term in ORS 543.075.

(2) An in-stream water right shall be subject to the limitations of ORS 537.350 and shall be maintained in perpetuity, in trust for the people of the State of Oregon. The priority date of the in-stream water right shall be the same as that of the converted hydroelectric water right. The location of the in-

stream water right shall be the same as the point of diversion identified in the hydroelectric water right.

(3) Five years after the use of water under a hydroelectric water right ceases, or upon expiration of a hydroelectric water right not otherwise extended or reauthorized, or at any time earlier with the written consent of the holder of the hydroelectric water right, up to the full amount of the water right associated with the hydroelectric project shall be converted to an in-stream water right, upon a finding by the Water Resources Director that the conversion will not result in injury to other existing water rights. In making the evaluation, the director shall consider the actual use of the hydroelectric project and the resulting impacts on actual use by other existing water rights as of October 23, 1999. The director may include mitigation measures as conditions of the in-stream water right to avoid injury and to ensure the continuation of authorized water uses by other existing water rights.

(4) If the hydroelectric project is authorized by a pre-1909 unadjudicated claim of registration, the determination of injury shall be based upon an evaluation of the actual use as measured during the five years preceding the conversion action, and shall not constitute a determination under ORS 537.670 to 537.695 as to the underlying claim of registration of the pre-1909 use. Judicial review of a final order relating to such a conversion shall be limited to review of the conversion action.

(5) This section shall not apply to projects on boundary waters that operate with water rights issued by the State of Oregon and by any other state except upon the written request of the water right holder.

(6) If hydroelectric production is not the sole beneficial use authorized by a water right, this section shall apply only to conversion of that portion of the water right used exclusively for hydroelectric purposes.

(7) This section shall not apply if the holder, at any time prior to conversion under subsection (3) of this section, transfers the hydroelectric water right under ORS 540.520 and 540.530, except that if a time-limited hydroelectric water right is transferred under ORS 540.520 and 540.530, the provisions of this section shall apply at the time of expiration of the time-limited water right. [1999 c.873 §2]

Note: 543A.305 was added to and made a part of 543A.005 to 543A.415 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.