

(3) If an applicant provides the information required by subsection (2) of this section:

(a) The Water Resources Department shall provide notice to both the State Department of Fish and Wildlife and the public, and provide a 30-day period for public comment.

(b) The Water Resources Department may issue a final order and certificate to use water for hydroelectric purposes upon making a final determination that the proposed hydroelectric use does not impair, or is not detrimental to, the public interest in the manner provided in ORS 537.170 (8).

(4) If the Water Resources Department determines that public interest issues have been identified, the department shall issue a final order denying the application. The department shall also issue a final order denying the application if the department identifies issues related to the public interest. If the applicant does not appeal the final order as provided in ORS chapter 183 and, within one year of the department's final order denying the applicant's application, files an application with the department for a preliminary permit to operate a hydroelectric project as provided in ORS 537.130 and 543.210, the applicant shall receive a credit toward the applicant's application fees in the amount of \$500.

(5) At a minimum, a certificate issued under this section must contain the following conditions:

(a) Except as provided in paragraph (b) of this subsection, fish screens, by-pass devices and fish passages as required by the State Department of Fish and Wildlife.

(b) If the application is for a hydroelectric project that is to be installed in or on a conduit delivery system, the certificate does not need to include a requirement for fish passage at the diversion point for the conduit delivery system if:

(A) The hydroelectric generating equipment for the project is not located on a dam;

(B) The hydroelectric generating equipment for the project is installed within or at the end of a conduit delivery system;

(C) The conduit delivery system is operated for the distribution of water for agricultural, municipal or industrial consumption; and

(D) Except as provided in subsection (15) of this section, the certificate includes a condition for the making of annual payments under subsection (14) of this section.

(c) That use of water be limited to periods when the applicant's existing water right

is put to beneficial use without waste and that the amount used is not greater than the quantity of water diverted to satisfy the authorized specific use under the existing water right described in subsection (2)(a) of this section.

(d) That use of water be limited by rate, duty, season and any other limitations of the applicant's existing water right described in subsection (2)(a) of this section.

(e) That the applicant measure and report the quantity of water diverted.

(f) That the restrictions established in ORS 543.660 shall apply as conditions of use to a certificate issued under this section to a district as defined in ORS 543.655.

(g) That a certificate issued under this section shall be invalidated upon a change in the point of diversion of the existing water right described in subsection (2)(a) of this section.

(h) That the right to use water under a certificate issued under this section is invalidated if the federal exemption or authorization related to the certificate is canceled or invalidated.

(i) Any other conditions the Water Resources Department deems necessary to protect the public interest.

(6) The Water Resources Department shall conduct a review of certificates issued under this section and shall issue a final order and a superseding certificate that corresponds to any changes or adjustments made to the applicant's existing water right described in subsection (2)(a) of this section.

(7) Subsection (5)(b) of this section does not affect any requirement for fish passage applicable to a project that is otherwise required by law.

(8) Upon request, the State Department of Fish and Wildlife and the Water Resources Department shall arrange a preapplication meeting with a person to discuss the requirements associated with the installation of a hydroelectric project in an artificial delivery system.

(9) A certificate issued under this section may not have its own priority date. The Water Resources Department may not regulate for or against any certificate issued under this section based on the priority date of the certificate.

(10) A certificate issued under this section does not grant a right to divert water for hydroelectric purposes.

(11) A certificate issued under this section may not be included in the determination of injury to other water rights pursuant to ORS chapter 540.