

refuses within three months thereafter to submit to the Water Resources Department proof of completion of the appropriation as required by ORS 537.230 and 537.250, the department may, after 60 days' notice by registered mail or by certified mail with return receipt, order the cancellation of the permit. The cancellation shall have the same force and effect as cancellation of a permit in the proceedings provided for in ORS 537.410 to 537.450.

(2) The department may determine the extent to which an appropriation has been perfected under any permit at the time of submission of final proof provided for in ORS 537.250, and shall limit the certificate provided for in that section to a description of such appropriation as has been actually perfected to the extent that the water applied for has been actually applied to the beneficial use contemplated in the permit.

(3) Any person owning an application, permit or water right certificate subsequent in priority may jointly or severally contest before the department the issuance of the water right certificate at any time before it has issued, and after the time has expired for the completion of the appropriation under the permit, or within three months after issuance of the certificate. The contest shall be brought upon application made, and hearing shall be had in the same manner and after notice as provided in ORS 537.420 for proceedings for cancellation of permits. The department, in a final order, may cancel the permit or determine the extent to which the appropriation claimed thereunder has been perfected, and issue a water right certificate accordingly, or if a certificate has been issued, in the case of a contest within three months after its issuance, the department may cancel the water right certificate, or affirm its issuance, and if the water right certificate in such case is canceled, the permit upon which it is based shall also be canceled.

(4) A municipality may partially perfect not less than 25 percent of the water authorized by its permit without loss of priority or cancellation of the municipality's permit under this section. If a municipality defers perfection of its water right under this section, the department shall issue a certificate under ORS 537.250 only for the amount perfected. Upon perfection of the deferred amount, the municipality shall request a water right certificate for the remaining portion of the water applied for in the original permit application. As used in this section, "municipality" includes a city, a port formed under ORS 777.005 to 777.725 and 777.915 to 777.953, a domestic water supply district formed under ORS chapter 264 or a water authority formed under ORS chapter 450.

[Amended by 1983 c.740 §211; 1985 c.673 §38; 1989 c.707 §2; 1991 c.249 §43; 1993 c.577 §35; 1995 c.416 §37]

#### **537.270 Conclusiveness of certificate.**

A water right certificate issued in accordance with the provisions of ORS 537.250 which, after the expiration of three months from the date it is issued, has not been contested and canceled in the manner provided in ORS 537.260, and a water right certificate, when issued under ORS 539.140, shall be conclusive evidence of the priority and extent of the appropriation therein described in any proceeding in any court or tribunal of the state, except in those cases where the rights of appropriation thereby described have been abandoned subsequent to issuance of the certificate.

**537.280** [Renumbered 537.335]

**537.282 Definition of "municipal applicant."** As used in ORS 537.282 to 537.299, "municipal applicant" means any municipal corporation or district as defined in ORS 543.655 that has applied for a permit to appropriate water for the purpose of generating hydroelectric power under the provisions of this chapter, or that has been accorded any right or preference under ORS 543.260, 543.270 or 543.610. [1985 c.392 §2]

**537.283 Procedure for applications to appropriate water for hydroelectric power; rules.** (1) Notwithstanding any other provision of ORS 537.140 to 537.350, in accordance with the applicable provisions of ORS chapter 183, the Water Resources Commission shall by rule establish a procedure for processing applications to appropriate water for hydroelectric power under ORS 537.140 to 537.320.

(2) Rules adopted under subsection (1) of this section:

(a) To the extent possible, shall be consistent with the process established for other applications to appropriate water for other beneficial uses under ORS 537.140 to 537.252.

(b) Shall not supersede any provision pertaining to hydroelectric power established under this chapter or ORS chapter 543, to the extent such provisions are applicable to applications to appropriate water for hydroelectric power purposes.

(c) Need not comply with the mandatory time limits or notice provisions established under ORS 537.140 to 537.350 if such provisions are incompatible with the substantive requirements applicable to applications to appropriate water for hydroelectric power purposes. [1995 c.416 §32a]

**Note:** 537.283 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 537 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.