

ORS 543A.025, the director shall issue a final order approving the application for reauthorization or otherwise modifying the proposed final order. A final order may set forth any of the provisions or restrictions to be included in the certificate concerning the use, control and management of the water to be appropriated for the project, including but not limited to a specification of reservoir operation and minimum releases to protect the public interest.

(6) If a contested case hearing is not held:

(a) Where the final order modifies the proposed final order, the applicant may request and the department shall schedule a contested case hearing as provided under subsection (3) of this section by submitting the information required for a protest under ORS 543A.120 within 14 days after the director issues the final order. However, the issues on which a contested case hearing may be requested and conducted under this paragraph shall be limited to issues based on the modifications to the proposed final order.

(b) Only the applicant or a protestant may appeal the provisions of the final order in the manner established in ORS chapter 183 for appeal of orders other than contested cases.

(7) Before issuing a final order, the director or the commission, if applicable, shall make the final determination of whether the proposed reauthorization or the proposed reauthorization as modified in the proposed final order complies with the standards set forth in ORS 543A.025.

(8) In a proceeding to reauthorize a water right for a federally licensed project, the final order may be different from the proposed final order based on:

(a) New information developed during the federal relicensing process pertaining to environmental impacts or assessments that reveals impacts not known at the time the proposed final order was issued;

(b) Significant changes in the final application to the Federal Energy Regulatory Commission;

(c) Conditions and restrictions in the Federal Energy Regulatory Commission license that are inconsistent with the water right as proposed in the proposed final order; or

(d) Protests received after the proposed final order is issued.

(9) Upon issuing a final order, the director shall notify the applicant and each person who submitted written comments or protests or otherwise requested notice of the final order and send a copy of the final order

to any person who requested a copy and paid the fee required under ORS 536.050 (1)(p). [1997 c.449 §25; 2003 c.75 §100]

**543A.135 Exceptions to final order.** (1) Within 20 days after the Water Resources Director issues a final order under ORS 543A.130 after the conclusion of a contested case hearing, any party may file exceptions to the order with the Water Resources Commission.

(2) The commission shall issue a modified order, if the exceptions are allowed, or deny the exceptions within 60 days after the close of the exception period under subsection (1) of this section. [1997 c.449 §26]

**543A.140 Terms, limitations and conditions of water right.** (1) The Water Resources Department may issue a water right to any applicant for reauthorization of a federally licensed project whose proposed water use complies with the standards set forth in ORS 543A.025. Every water right for a federally licensed project shall provide as a condition that the water right holder may not operate the federally licensed project unless the water right holder is authorized to operate the project by the Federal Energy Regulatory Commission.

(2) The department may approve an application for reauthorization for less water than applied for, or upon terms, limitations and conditions necessary for the protection of the public interest. [1997 c.449 §28]

**543A.145 Water right certificate.** Any water right for the use of water for hydroelectric purposes shall:

(1) Except as provided in ORS 543A.065 (2), be for a period of not more than 50 years;

(2) If for a federally licensed project, be for the period established in the new Federal Energy Regulatory Commission license;

(3) For the quantity of water authorized for use under the expiring water right for the project, retain the same priority date as the expiring water right for the project. For enlargement of the water right beyond the amount of water authorized in the expiring water right, the priority date for the additional amount shall be the date of filing a reauthorization application under ORS 543A.035, or a notice of intent under ORS 543A.075, whichever is applicable;

(4) If for a federally licensed project, include a provision allowing the Water Resources Department to amend conditions or limitations on the water right after the Federal Energy Regulatory Commission issues the federal license for the project; and

(5) Include conditions allowing the department to reopen the certificate on a clear showing of a significant threat to the public