

(c) Recommendations to the Federal Energy Regulatory Commission under 16 U.S.C. 803(j).

(5) Upon completion of the provisional state position, the team shall give public notice of the availability of the provisional state position. The notice shall allow 30 days for the public to comment on the provisional state position.

(6) Based on comments received during the 30-day public comment period allowed under subsection (5) of this section, the team may revise the provisional state position. The team also shall resolve any conflict between agencies about the provisional state position.

(7) After considering agency and public comments, resolving interagency conflicts and making any necessary revisions, but no later than 160 days before the date by which the final application must be filed with the Federal Energy Regulatory Commission, the team shall provide the applicant with the provisional unified position of the state. However, the provisional unified position shall not constitute a final agency determination or action under any authority. [1997 c.449 §19; 2001 c.369 §3]

543A.100 Final application for water right; application for water quality certification. Not less than two years before the expiration of the federal license for the project, the applicant shall submit the final application to reauthorize the water right and a request for certification under ORS 468B.040 and 33 U.S.C. 1341. The application submitted under this section shall be the same as the final application submitted to the Federal Energy Regulatory Commission for the new federal license for the project. [1997 c.449 §20]

543A.105 Hydroelectric Application Review Team review of final application; unified state position in federal proceeding. (1) The Hydroelectric Application Review Team shall review the applications submitted under ORS 543A.100 and prepare a second proposed unified state position, which shall include:

(a) A draft proposed final order approving or denying the reauthorization of the water right, which shall include but need not be limited to the findings required for a proposed final order under ORS 543A.120;

(b) Proposed recommendations to the Federal Energy Regulatory Commission under 16 U.S.C. 803(j);

(c) A proposed coordinated state response to the Federal Energy Regulatory Commission, including any additional information requests and recommended conditions to be included in the federal license for the project; and

(d) Proposed recommendations for certification of the project under ORS 468B.040 and 33 U.S.C. 1341, including any proposed conditions under 33 U.S.C. 1341(d).

(2) The team shall submit the second proposed unified state position to the Department of Environmental Quality. The team shall provide public notice and a 60-day opportunity for public comment on the proposals required under subsection (1)(a) to (c) of this section. The Department of Environmental Quality shall concurrently provide public notice and a 60-day opportunity for public comment on the proposed water quality certification decision and conditions required under subsection (1)(d) of this section.

(3) The team shall provide the second proposed unified state position even if an application required under ORS 543A.100 contains incomplete or deficient information or analysis. The second proposed unified state position may reflect the incomplete or deficient information or analysis.

(4) The team may submit to the Federal Energy Regulatory Commission and the applicant any proposed state response, recommendations, conditions or additional information requests, coordinated in accordance with this chapter, at any time necessary to satisfy a deadline established by the Federal Energy Regulatory Commission for the submission, even if the procedures set forth in this section for the development of a second proposed unified state position have not been completed. [1997 c.449 §21; 2001 c.369 §4]

543A.110 Water quality certification.

(1) Upon completion of the public comment period for proposed recommendations under ORS 543A.105 (1)(d), the Department of Environmental Quality shall evaluate the request for water quality certification submitted under ORS 543A.100 in accordance with ORS 468B.040 and rules adopted under ORS 468B.040. The Director of the Department of Environmental Quality shall act in accordance with the proposed recommendations submitted by the Hydroelectric Application Review Team under ORS 543A.105 (1)(d) unless the director finds, based upon public comment or new information, that the project would not comply with water quality standards adopted by the Environmental Quality Commission or would not be consistent with other appropriate requirements of state law. If the director's proposed decision is not in accordance with the proposed recommendations submitted by the team under ORS 543A.105 (1)(d), the director shall seek a recommendation from the team before issuing a final decision on water quality certification. The director shall consider any further recommendation from the team, and