

sult in a wild game fish population, or the fishery the wild game fish population provides, being converted to a hatchery dependent resource is not acceptable mitigation. A water dependent recreational opportunity must be mitigated by another water dependent recreational opportunity. Mitigation of water dependent recreational opportunities that, in the judgment of the commission, are of statewide significance with a recreational opportunity that is readily available on other waters of this state is not acceptable mitigation. In deciding whether mitigation is acceptable, the commission shall consult with other local, state and federal agencies.

(d) Other natural resources in the project vicinity, including water quality, wildlife, scenic and aesthetic values, and historic, cultural and archaeological sites, shall be maintained or enhanced. No activity may be approved that, in the judgment of the commission after balancing gains and losses to all affected natural resources, may result in a net loss of natural resources. In determining whether the proposed activity may result in a net loss of natural resources, the commission may consider mitigation if the commission determines the proposed mitigation in the project vicinity is acceptable. Mitigation may include appropriate measures considered necessary to meet the net loss standard. In determining whether mitigation is acceptable, the commission shall consult with appropriate state, federal and local agencies.

(e) In determining whether it is in the public interest to allocate water for a proposed hydroelectric development, the commission shall consider present and future power needs and shall make a finding on the need for the power. For a hydroelectric project with a nominal electric generating capacity of 25 megawatts or more, the Water Resources Commission shall consider any recommendation by the Energy Facility Siting Council. The Energy Facility Siting Council's recommendation shall be based solely on information contained in the hearing record of the Water Resources Commission. The commission's order on the proposed hydroelectric development shall describe the Energy Facility Siting Council's recommendations on the need for the power. If the commission's decision on the need for power is contrary to the Energy Facility Siting Council's recommendation, the commission's order shall explain the commission's failure to follow the recommendation of the Energy Facility Siting Council. The commission also shall consult with the Energy Facility Siting Council on other matters within the expertise of the Energy Facility Siting Council.

(2) The commission shall adopt all necessary rules to carry out the policy set forth in ORS 543.015 and to implement the minimum standards set forth in subsection (1) of this section. In the absence of implementing rules, any action of the commission relating to hydroelectric development shall comply with the standards as set forth in this section.

(3) Nothing in this section limits the authority of any state agency to make recommendations regarding appropriate license conditions during the consideration of the issuance of a license or permit for an existing hydroelectric project. [1985 c.569 §3; 1993 c.544 §6; 1995 c.229 §2; 2007 c.71 §176]

543.020 [Repealed by 1961 c.224 §20]

543.030 [Repealed by 1961 c.224 §20]

543.040 [Repealed by 1961 c.224 §20]

543.050 Powers of Water Resources Commission as to permits, licenses, investigations, reports, forms and examination of records. The Water Resources Commission may:

(1) Issue preliminary permits, as provided in ORS 543.210 to 543.250, to any person qualified to become a licensee.

(2) Issue licenses, as provided in ORS 543.260, to citizens of the United States, associations of citizens, or private corporations organized under the laws of the United States or any state of the United States, to appropriate, initiate, perfect, acquire and hold the right to the use of waters within the state, including waters over which the state has concurrent jurisdiction, and to construct, operate and maintain dams, reservoirs, power houses, conduits, transmission lines, and all other works and structures necessary or convenient for the use of the waters in the generation and utilization of electricity.

(3) Conduct investigations and collect information the commission considers necessary or useful for the purposes of ORS 543.010 to 543.610 and cooperate with the federal government and adjoining states concerning all such matters, particularly with reference to waters forming the boundary between this state and another state.

(4) Prescribe the forms of all accounts, records and memoranda to be kept by licensees under ORS 543.010 to 543.610.

(5) Examine at any time all accounts, books of account and documents and data related to the business of a licensee under ORS 543.010 to 543.610; and require a licensee to submit, whenever required by the commission, reports and statements under oath containing information as to assets, liabilities, capitalization, gross receipts, interest and dividend requirements, interest due and paid, amortization and other reserves,