

**PROPOSED AMENDMENTS TO
HOUSE BILL 2259**

1 On page 1 of the printed bill, delete line 3 and insert “ORS 536.050,
2 536.055, 536.770, 537.140, 537.147, 537.150, 537.153, 537.170, 537.409, 537.534,
3 537.610, 537.615, 537.620, 537.621, 537.625, 537.785, 539.081, 540.523, 540.524,
4 540.533, 540.570, 540.580, 540.585, 543A.120, 543A.130 and 543A.405; repealing
5 section”.

6 Delete lines 6 through 31 and delete pages 2 through 18 and insert:
7

8 **“FEES FROM PRESENT THROUGH JUNE 30, 2017**
9

10 **“SECTION 1.** ORS 536.050 is amended to read:

11 “536.050. (1) The Water Resources Department may collect the following
12 fees in advance:

13 “(a) For examining an application for a permit:

14 “(A) To appropriate water, except as provided under ORS 543.280 for an
15 application for a hydroelectric project:

16 “(i) A base fee of [~~\$700~~] **\$800** for an appropriation of water through a
17 single use, point of diversion or point of appropriation;

18 “(ii) [~~\$250~~] **\$300** for the first second-foot or fraction thereof appropriated
19 under the permit;

20 “(iii) [~~\$250~~] **\$300** for each additional second-foot or fraction thereof ap-
21 propriated under the permit;

22 “(iv) [~~\$250~~] **\$300** for each additional use, point of diversion or point of

1 appropriation included in the application;

2 “(v) If appropriating stored water, [~~\$25~~] **\$30** for the first acre-foot or
3 fraction thereof up to 20 acre-feet, plus \$1 for each additional acre-foot or
4 fraction thereof; and

5 “(vi) If appropriating ground water, in addition to any other fees, [~~\$300~~]
6 **\$350** for each application filed.

7 “(B) To store water under ORS 537.400 or 537.534 (4):

8 “(i) A base fee of [~~\$700~~] **\$800**;

9 “(ii) [~~\$25~~] **\$30** for the first acre-foot or fraction thereof up to 20 acre-feet,
10 plus \$1 for each additional acre-foot or fraction thereof; and

11 “(iii) [~~\$100~~] **\$125** for each additional storage location.

12 “(C) To exclusively appropriate stored water:

13 “(i) A base fee of [~~\$400~~] **\$450**; and

14 “(ii) [~~\$25~~] **\$30** for the first acre-foot or fraction thereof up to 20 acre-feet,
15 plus \$1 for each additional acre-foot or fraction thereof.

16 “(b) For a permit issued under ORS 537.147, 537.211, 537.409 or 537.625 to
17 appropriate or store water:

18 “(A) A base fee of [~~\$400~~] **\$450** for recording the permit; and

19 “(B) An additional fee of [~~\$500~~] **\$575** if the permit is issued pursuant to
20 a final order that contains provisions requested by the applicant for miti-
21 gating impacts to the proposed water source.

22 “(c) For filing and recording the assignment or partial assignment of a
23 water right application, permit or license under ORS 537.220 or 537.635,
24 [~~\$75~~] **\$85**.

25 “(d) For copying records in the department, \$2 for the first page and 50
26 cents for each additional page.

27 “(e) For certifying copies, documents, records or maps, \$10 for each cer-
28 tificate.

29 “(f) For a blueprint copy of any map or drawing, the actual cost of the
30 work.

1 “(g) For a computer-generated map, the actual cost of the work.

2 “(h) For examining an application for approval of a change to an existing
3 water right or permit:

4 “(A) A base fee of [~~\$900~~] **\$1,000** for a change to a single water right or
5 permit;

6 “(B) [~~\$700~~] **\$800** for each additional type of change requested;

7 “(C) For a request for a change in place of use or type of use or for a
8 water exchange under ORS 540.533, [~~\$250~~] **\$300** for each second-foot or frac-
9 tion thereof requested beyond the first second-foot;

10 “(D) [~~\$400~~] **\$450** for each additional water right or permit included in the
11 application; and

12 “(E) An additional fee of [~~\$300~~] **\$350** per application, if the application is
13 for an additional point of appropriation, a change in a point of appropriation
14 or a change from surface water to ground water or for substitution as de-
15 scribed in ORS 540.524.

16 “(i) For examining an application for a temporary change in place of use
17 under ORS 540.523, for a temporary transfer under ORS 540.585 or for a
18 temporary change in place of use, a change in the point of diversion to allow
19 for the appropriation of ground water or a change of a primary right to a
20 supplemental right under ORS 540.570, a base fee of [~~\$600~~] **\$700** for the first
21 water right or permit, plus [~~\$200~~] **\$225** for each additional water right or
22 permit included in the application and:

23 “(A) For nonirrigation uses, [~~\$150~~] **\$175** for each second-foot or fraction
24 thereof requested beyond the first second-foot; or

25 “(B) For irrigation uses, \$2 per acre of land irrigated or, if the application
26 and required map are submitted to the department in a department-approved
27 digital format, 50 cents per acre of land irrigated.

28 “(j) For submitting a protest to the department:

29 “(A) [~~\$600~~] **\$700** if the protest is by a nonapplicant; and

30 “(B) [~~\$300~~] **\$350** if the protest is by an applicant.

1 “(k) For filing an application for extension of time within which irri-
2 gation or other works shall be completed or a water right perfected, [~~\$500~~]
3 **\$575**.

4 “(L) For a limited license under ORS 537.143 or 537.534 (2), the fee es-
5 tablished by rule by the Water Resources Commission.

6 “(m) For filing, examining and certifying a petition under ORS 541.329,
7 [~~\$300~~] **\$350** plus 10 cents per acre of water involved in the application. For
8 purposes of computing this fee, when any acreage within a quarter quarter
9 of a section is involved, the 10 cents per acre shall apply to all acres in that
10 quarter quarter of a section. Notwithstanding the fee amount established in
11 this paragraph, a district notifying the department under ORS 541.327 (4)
12 shall pay the actual cost of filing, examining and certifying the petition.

13 “(n) For requesting standing under ORS 537.153, 537.621 or 543A.120,
14 [~~\$150~~] **\$200**.

15 “(o) For participating in a contested case proceeding under ORS 537.170,
16 537.622 or 543A.130, [~~\$350~~] **\$500**.

17 “(p) Except for an applicant, for obtaining a copy of both a proposed final
18 order and a final order for a water right application under ORS 537.140 to
19 537.252, 537.505 to 537.795 or 543A.005 to 543A.300 or an extension issued
20 under ORS 537.230, 537.248 or 537.630, [~~\$20~~] **\$25**.

21 “(q) For examining an application to store water under ORS 537.409:

22 “(A) A base fee of [~~\$300~~] **\$350**; and

23 “(B) [~~\$25~~] **\$30** for each acre-foot or fraction thereof.

24 “(r) For submitting a notice of intent under ORS 543A.030 or 543A.075,
25 the amount established by the Water Resources Director under ORS
26 543A.410.

27 “(s) For examining an application for a substitution made under ORS
28 540.524:

29 “(A) A base fee of [~~\$630~~] **\$725** for the first well substitution; and

30 “(B) A fee of [~~\$300~~] **\$350** for each additional well substitution.

1 “(t) For examining an application for an allocation of conserved water
2 under ORS 537.455 to 537.500:

3 “(A) A base fee of [~~\$850~~] **\$1,000** for the first water right that is part of
4 the allocation; and

5 “(B) An additional fee of [~~\$300~~] **\$350** for each water right that is part of
6 the allocation beyond the first water right.

7 “(u) For submitting a water management and conservation plan pursuant
8 to rules of the commission:

9 “(A) [~~\$400~~] **\$500**, if the plan is submitted by an agricultural water sup-
10 plier;

11 “(B) [~~\$800~~] **\$900**, if the plan is submitted by a municipal water supplier
12 serving a population of 1,000 or fewer persons; or

13 “(C) [~~\$1,600~~] **\$1,800**, if the plan is submitted by a municipal water supplier
14 serving a population of more than 1,000 persons.

15 “(v) For examining a new application for an in-stream water right lease
16 under ORS 537.348:

17 “(A) [~~\$400~~] **\$450** for an application for a lease with four or more land-
18 owners or four or more water rights; or

19 “(B) [~~\$250~~] **\$300** for all other applications.

20 “(w) For examining an application for an in-stream water right lease re-
21 newal, [~~\$100~~] **\$110**.

22 “(x) For submitting a claim of beneficial use under a permit **or transfer**
23 having a priority date of July 9, 1987, or later, [~~\$150~~] **\$175**.

24 “(y) For submitting a request no later than 60 days after cancellation of
25 a permit under ORS 537.260 to reinstate the permit, [~~\$400~~] **\$450**.

26 “(z) For submitting a request for a basin program exception under ORS
27 536.295, [~~\$500~~] **\$575**.

28 “(2)(a) The department may charge a dam owner an annual fee based upon
29 the dam’s hazard rating as determined by the department. The fees the de-
30 partment may charge the dam owner are:

1 “(A) [~~\$75~~] **\$85** for a dam with a low hazard rating.

2 “(B) [~~\$150~~] **\$170** for a dam with a significant hazard rating.

3 “(C) [~~\$500~~] **\$575** for a dam with a high hazard rating.

4 “(D) If the dam owner fails to pay an annual fee on or before six months
5 after the billing date, a late fee of \$100.

6 “(b) If a dam owner fails to pay an annual fee or a late fee charged by
7 the department, the department may, after giving the dam owner notice by
8 certified mail, place a lien on the real property where the dam is located for
9 the fees owed by the dam owner.

10 “(3) Notwithstanding the fees established under subsection (1) of this
11 section, the commission may establish lower examination and permit fees by
12 rule for:

13 “(a) The right to appropriate water for a storage project of five acre-feet
14 or less; or

15 “(b) The right to appropriate water for the purpose of allowing the ap-
16 plicant to water livestock outside of a riparian area, as that term is defined
17 in ORS 541.890.

18 “(4)(a) The director may refund all or part of a fee paid to the department
19 under this section if the director determines that a refund of the fee is ap-
20 propriate in the interests of fairness to the public or necessary to correct
21 an error of the department.

22 “(b) The director may refund all or part of the protest fee described in
23 subsection (1)(j) of this section to the legal owner or occupant who filed a
24 protest under ORS 540.641 if an order of the Water Resources Commission
25 establishes that all or part of a water right has not been canceled or modi-
26 fied under ORS 540.610 to 540.650.

27 “(5) The director may waive all or part of a fee for a change to a water
28 right permit under ORS 537.211 (4), a change to a water right subject to
29 transfer under ORS 540.520 or 540.523 or an allocation of conserved water
30 under ORS 537.470, if the change or allocation of conserved water is:

1 “(a) Made pursuant to ORS 537.348;

2 “(b) Necessary to complete a project funded under ORS 541.932; or

3 “(c) Approved by the State Department of Fish and Wildlife as a change
4 or allocation of conserved water that will result in a net benefit to fish and
5 wildlife habitat.

6 “(6) Notwithstanding the fees established pursuant to this section, the
7 commission may adopt by rule reduced fees for persons submitting materials
8 to the department in a digital format approved by the department.

9 “(7) All moneys received under this section, less any amounts refunded
10 under subsection (4) of this section, shall be deposited in the Water Re-
11 sources Department Water Right Operating Fund.

12 “(8) Notwithstanding subsection (7) of this section, all fees received by
13 the department for power purposes under ORS 543.280 shall be deposited in
14 the Water Resources Department Hydroelectric Fund established by ORS
15 536.015.

16 “**SECTION 2.** ORS 536.050, as amended by section 12, chapter 819, Oregon
17 Laws 2009, is amended to read:

18 “536.050. (1) The Water Resources Department may collect the following
19 fees in advance:

20 “(a) For examining an application for a permit:

21 “(A) To appropriate water, except as provided under ORS 543.280 for an
22 application for a hydroelectric project:

23 “(i) A base fee of [~~\$500~~] **\$800** for an appropriation of water through a
24 single use, point of diversion or point of appropriation;

25 “(ii) [~~\$200~~] **\$300** for the first second-foot or fraction thereof appropriated
26 under the permit;

27 “(iii) [~~\$100~~] **\$300** for each additional second-foot or fraction thereof ap-
28 propriated under the permit;

29 “(iv) [~~\$200~~] **\$300** for each additional use, point of diversion or point of
30 appropriation included in the application; [*and*]

1 “(v) If appropriating stored water, [~~\$20~~] **\$30** for the first acre-foot or
2 fraction thereof up to 20 acre-feet, plus \$1 for each additional acre-foot or
3 fraction thereof[.]; **and**

4 **“(vi) If appropriating ground water, in addition to any other fees,**
5 **\$350 for each application filed.**

6 “(B) To store water under ORS 537.400 or 537.534 (4):

7 “(i) A base fee of [~~\$500~~] **\$800**; [*and*]

8 “(ii) [~~\$20~~] **\$30** for the first acre-foot or fraction thereof up to 20 acre-feet,
9 plus \$1 for each additional acre-foot or fraction thereof[.]; **and**

10 **“(iii) \$125 for each additional storage location.**

11 “(C) To exclusively appropriate stored water:

12 “(i) A base fee of [~~\$250~~] **\$450**; and

13 “(ii) [~~\$15~~] **\$30** for the first acre-foot or fraction thereof up to [~~10~~] **20**
14 acre-feet, plus \$1 for each additional acre-foot or fraction thereof.

15 “[*b*] *For recording a permit to appropriate or store water, \$300.*]

16 **“(b) For a permit issued under ORS 537.147, 537.211, 537.409 or 537.625**
17 **to appropriate or store water:**

18 **“(A) A base fee of \$450 for recording the permit; and**

19 **“(B) An additional fee of \$575 if the permit is issued pursuant to a**
20 **final order that contains provisions requested by the applicant for**
21 **mitigating impacts to the proposed water source.**

22 “(c) For filing and recording the assignment or partial assignment of a
23 water right application, permit or license under ORS 537.220 or 537.635,
24 [~~\$50~~] **\$85**.

25 “(d) For copying records in the department, \$2 for the first page and 50
26 cents for each additional page.

27 “(e) For certifying copies, documents, records or maps, \$10 for each cer-
28 tificate.

29 “(f) For a blueprint copy of any map or drawing, the actual cost of the
30 work.

1 “(g) For a computer-generated map, the actual cost of the work.

2 “(h) For examining an application for approval of a change to an existing
3 water right or permit:

4 “(A) A base fee of [~~\$400~~] **\$1,000** for a change to a single water right or
5 permit;

6 “(B) [~~\$400~~] **\$800** for each additional type of change requested;

7 “(C) For a request for a change in place of use or type of use or for a
8 water exchange under ORS 540.533, [~~\$200~~] **\$300** for each second-foot or frac-
9 tion thereof requested beyond the first second-foot; [*and*]

10 “(D) [~~\$200~~] **\$450** for each additional water right or permit included in the
11 application[.]; **and**

12 “(E) **An additional fee of \$350 per application, if the application is**
13 **for an additional point of appropriation, a change in a point of appro-**
14 **priation or a change from surface water to ground water or for sub-**
15 **stitution as described in ORS 540.524.**

16 “(i) For examining an application for a temporary change in place of use
17 under ORS 540.523, for a temporary transfer under ORS 540.585 or for a
18 temporary change in place of use, a change in the point of diversion to allow
19 for the appropriation of ground water or a change of a primary right to a
20 supplemental right under ORS 540.570, a base fee of [~~\$200~~] **\$700** for the first
21 water right or permit, plus [~~\$50~~] **\$225** for each additional water right or
22 permit included in the application and:

23 “(A) For nonirrigation uses, [~~\$80~~] **\$175** for each second-foot or fraction
24 thereof requested beyond the first second-foot; or

25 “(B) For irrigation uses, [~~\$1~~] **\$2** per acre of land irrigated or, if the ap-
26 plication and required map are submitted to the department in a
27 department-approved digital format, [~~25~~] **50** cents per acre of land irrigated.

28 “[*j*] *For submitting a protest to the department, \$350.*]

29 “(j) **For submitting a protest to the department:**

30 “(A) **\$700 if the protest is by a nonapplicant; and**

1 “(B) **\$350 if the protest is by an applicant.**

2 “(k) For filing an application for extension of time within which irri-
3 gation or other works shall be completed or a water right perfected, [~~\$350~~
4 **\$575.**

5 “(L) For a limited license under ORS 537.143 or 537.534 (2), the fee es-
6 tablished by rule by the Water Resources Commission.

7 “(m) For filing, examining and certifying a petition under ORS 541.329,
8 [~~\$250~~] **\$350** plus 10 cents per acre of water involved in the application. For
9 purposes of computing this fee, when any acreage within a quarter quarter
10 of a section is involved, the 10 cents per acre shall apply to all acres in that
11 quarter quarter of a section. Notwithstanding the fee amount established in
12 this paragraph, a district notifying the department under ORS 541.327 (4)
13 shall pay the actual cost of filing, examining and certifying the petition.

14 “(n) For requesting standing under ORS 537.153, 537.621 or 543A.120,
15 [~~\$100~~] **\$200.**

16 “(o) For participating in a contested case proceeding under ORS 537.170,
17 537.622 or 543A.130, [~~\$250~~] **\$500.**

18 “(p) Except for an applicant, for obtaining a copy of both a proposed final
19 order and a final order for a water right application under ORS 537.140 to
20 537.252, 537.505 to 537.795 or 543A.005 to 543A.300 or an extension issued
21 under ORS 537.230, 537.248 or 537.630, [~~\$10~~] **\$25.**

22 “(q) For examining an application to store water under ORS 537.409:

23 “(A) A base fee of [~~\$80~~] **\$350**; and

24 “(B) [~~\$20~~] **\$30** for each acre-foot or fraction thereof.

25 “(r) For submitting a notice of intent under ORS 543A.030 or 543A.075,
26 the amount established by the Water Resources Director under ORS
27 543A.410.

28 “[(s) *For examining an application for a substitution made under ORS*
29 *540.524, \$280.*]

30 “[(t) *For examining an application for an allocation of conserved water*

1 *under ORS 537.455 to 537.500, \$700.]*

2 **“(s) For examining an application for a substitution made under**
3 **ORS 540.524:**

4 **“(A) A base fee of \$725 for the first well substitution; and**

5 **“(B) A fee of \$350 for each additional well substitution.**

6 **“(t) For examining an application for an allocation of conserved**
7 **water under ORS 537.455 to 537.500:**

8 **“(A) A base fee of \$1,000 for the first water right that is part of the**
9 **allocation; and**

10 **“(B) An additional fee of \$350 for each water right that is part of**
11 **the allocation beyond the first water right.**

12 **“(u) For submitting a water management and conservation plan pursuant**
13 **to rules of the commission:**

14 **“(A) [~~\$250~~] \$500, if the plan is submitted by an agricultural water sup-**
15 **plier;**

16 **“(B) [~~\$500~~] \$900, if the plan is submitted by a municipal water supplier**
17 **serving a population of 1,000 or fewer persons; or**

18 **“(C) [~~\$1,000~~] \$1,800, if the plan is submitted by a municipal water supplier**
19 **serving a population of more than 1,000 persons.**

20 **“(v) For examining a new application for an in-stream water right lease**
21 **under ORS 537.348:**

22 **“(A) [~~\$200~~] \$450 for an application for a lease with four or more land-**
23 **owners or four or more water rights; or**

24 **“(B) [~~\$100~~] \$300 for all other applications.**

25 **“(w) For examining an application for an in-stream water right lease re-**
26 **newal, [~~\$50~~] \$110.**

27 **“(x) For submitting a claim of beneficial use under a permit or**
28 **transfer having a priority date of July 9, 1987, or later, \$175.**

29 **“(y) For submitting a request no later than 60 days after cancella-**
30 **tion of a permit under ORS 537.260 to reinstate the permit, \$450.**

1 “(z) For submitting a request for a basin program exception under
2 **ORS 536.295, \$575.**

3 “(2)(a) The department may charge a dam owner an annual fee
4 based upon the dam’s hazard rating as determined by the department.

5 The fees the department may charge the dam owner are:

6 “(A) \$85 for a dam with a low hazard rating.

7 “(B) \$170 for a dam with a significant hazard rating.

8 “(C) \$575 for a dam with a high hazard rating.

9 “(D) If the dam owner fails to pay an annual fee on or before six
10 months after the billing date, a late fee of \$100.

11 “(b) If a dam owner fails to pay an annual fee or a late fee charged
12 by the department, the department may, after giving the dam owner
13 notice by certified mail, place a lien on the real property where the
14 dam is located for the fees owed by the dam owner.

15 “[(2)] (3) Notwithstanding the fees established under subsection (1) of this
16 section, the commission may establish lower examination and permit fees by
17 rule for:

18 “(a) The right to appropriate water for a storage project of five acre-feet
19 or less; or

20 “(b) The right to appropriate water for the purpose of allowing the ap-
21 plicant to water livestock outside of a riparian area, as that term is defined
22 in ORS 541.890.

23 “[(3)(a)] (4)(a) The director may refund all or part of a fee paid to the
24 department under this section if the director determines that a refund of the
25 fee is appropriate in the interests of fairness to the public or necessary to
26 correct an error of the department.

27 “(b) The director may refund all or part of the protest fee described in
28 subsection (1)(j) of this section to the legal owner or occupant who filed a
29 protest under ORS 540.641 if an order of the Water Resources Commission
30 establishes that all or part of a water right has not been canceled or modi-

1 fied under ORS 540.610 to 540.650.

2 “[4] (5) The director may waive all or part of a fee for a change to a
3 water right permit under ORS 537.211 (4), a change to a water right subject
4 to transfer under ORS 540.520 or 540.523 or an allocation of conserved water
5 under ORS 537.470, if the change or allocation of conserved water is:

6 “(a) Made pursuant to ORS 537.348;

7 “(b) Necessary to complete a project funded under ORS 541.932; or

8 “(c) Approved by the State Department of Fish and Wildlife as a change
9 or allocation of conserved water that will result in a net benefit to fish and
10 wildlife habitat.

11 “[5] (6) Notwithstanding the fees established pursuant to this section,
12 the commission may adopt by rule reduced fees for persons submitting ma-
13 terials to the department in a digital format approved by the department.

14 “[6] (7) All moneys received under this section, less any amounts re-
15 funded under subsection [(3)] (4) of this section, shall be deposited in the
16 Water Resources Department Water Right Operating Fund.

17 “[7] (8) Notwithstanding subsection [(6)] (7) of this section, all fees re-
18 ceived by the department for power purposes under ORS 543.280 shall be de-
19 posited in the Water Resources Department Hydroelectric Fund established
20 by ORS 536.015.

21 **“SECTION 3.** ORS 537.150 is amended to read:

22 “537.150. (1) Within 15 days after receiving an application, the Water
23 Resources Department shall determine whether the application contains the
24 information listed under ORS 537.140 (1) and is complete and not defective,
25 including the payment of all fees required under ORS 537.140 (5). If the de-
26 partment determines that the application is incomplete or defective or that
27 not all fees have been paid, the department shall return the fees paid and the
28 application.

29 “(2) Upon determining that an application contains the information listed
30 under ORS 537.140 (1) and is complete and not defective, the department shall

1 indorse on the application the date upon which the application was received
2 at the department, which shall be the priority date for any water right issued
3 in response to the application. All applications that comply with the pro-
4 visions of law shall be recorded in a suitable book kept for that purpose.

5 “(3) If an application is complete and not defective, the department shall
6 determine whether the proposed use is prohibited by ORS chapter 538. If the
7 proposed use is prohibited by ORS chapter 538, the department shall reject
8 the application and return all fees to the applicant with an explanation of
9 the statutory prohibition.

10 “(4) If the proposed use is not prohibited by ORS chapter 538, the de-
11 partment shall undertake an initial review of the application and make a
12 preliminary determination of:

13 “(a) Whether the proposed use is restricted or limited by statute or rule;

14 “(b) The extent to which water is available from the proposed source
15 during the times and in the amounts requested; and

16 “(c) Any other issue the department identifies as a result of the initial
17 review that may preclude approval of or restrict the proposed use.

18 “(5) Upon completion of the initial review and no later than 30 days after
19 determining an application to be complete and not defective as described in
20 subsection (1) of this section, the department shall notify the applicant of its
21 preliminary determinations and allow the applicant 14 days from the date
22 of mailing within which to notify the department to stop processing the ap-
23 plication or to proceed with the application. If the applicant notifies the
24 department to stop processing the application, the department shall return
25 the application and all fees paid in excess of [~~\$200~~] **\$225**. If the department
26 receives no timely response from the applicant, the department shall proceed
27 with the application.

28 “(6) Within seven days after proceeding with the application under sub-
29 section (5) of this section, the department shall give public notice of the
30 application in the weekly notice published by the department. The notice

1 shall include a request for comments on the application and information
2 pertaining to how an interested person may obtain future notices about the
3 application and a copy of the proposed final order.

4 “(7) Within 30 days after the public notice under subsection (6) of this
5 section, any person interested in the application shall submit written com-
6 ments to the department. Any person who asks to receive a copy of the
7 department’s proposed final order shall submit to the department the fee re-
8 quired under ORS 536.050 (1).

9 **“SECTION 4.** ORS 537.150, as amended by section 13, chapter 819, Oregon
10 Laws 2009, is amended to read:

11 “537.150. (1) Within 15 days after receiving an application, the Water
12 Resources Department shall determine whether the application contains the
13 information listed under ORS 537.140 (1) and is complete and not defective,
14 including the payment of all fees required under ORS 537.140 (5). If the de-
15 partment determines that the application is incomplete or defective or that
16 not all fees have been paid, the department shall return the fees paid and the
17 application.

18 “(2) Upon determining that an application contains the information listed
19 under ORS 537.140 (1) and is complete and not defective, the department shall
20 indorse on the application the date upon which the application was received
21 at the department, which shall be the priority date for any water right issued
22 in response to the application. All applications that comply with the pro-
23 visions of law shall be recorded in a suitable book kept for that purpose.

24 “(3) If an application is complete and not defective, the department shall
25 determine whether the proposed use is prohibited by ORS chapter 538. If the
26 proposed use is prohibited by ORS chapter 538, the department shall reject
27 the application and return all fees to the applicant with an explanation of
28 the statutory prohibition.

29 “(4) If the proposed use is not prohibited by ORS chapter 538, the de-
30 partment shall undertake an initial review of the application and make a

1 preliminary determination of:

2 “(a) Whether the proposed use is restricted or limited by statute or rule;

3 “(b) The extent to which water is available from the proposed source
4 during the times and in the amounts requested; and

5 “(c) Any other issue the department identifies as a result of the initial
6 review that may preclude approval of or restrict the proposed use.

7 “(5) Upon completion of the initial review and no later than 30 days after
8 determining an application to be complete and not defective as described in
9 subsection (1) of this section, the department shall notify the applicant of its
10 preliminary determinations and allow the applicant 14 days from the date
11 of mailing within which to notify the department to stop processing the ap-
12 plication or to proceed with the application. If the applicant notifies the
13 department to stop processing the application, the department shall return
14 the application and all fees paid in excess of [~~\$150~~] **\$225**. If the department
15 receives no timely response from the applicant, the department shall proceed
16 with the application.

17 “(6) Within seven days after proceeding with the application under sub-
18 section (5) of this section, the department shall give public notice of the
19 application in the weekly notice published by the department. The notice
20 shall include a request for comments on the application and information
21 pertaining to how an interested person may obtain future notices about the
22 application and a copy of the proposed final order.

23 “(7) Within 30 days after the public notice under subsection (6) of this
24 section, any person interested in the application shall submit written com-
25 ments to the department. Any person who asks to receive a copy of the
26 department’s proposed final order shall submit to the department the fee re-
27 quired under ORS 536.050 (1).

28 **“SECTION 5.** ORS 537.610 is amended to read:

29 “537.610. (1) The Water Resources Commission shall accept all registra-
30 tion statements referred to in ORS 537.605 completed and returned to the

1 commission in proper form, endorse on the registration statement the date
2 of the return and record each statement. Upon recording the statement, the
3 commission shall issue to the registrant a certificate as evidence that the
4 registration is completed.

5 “(2) The issuance of the certificate of registration serves as prima facie
6 evidence that the registrant is entitled to a right to appropriate ground wa-
7 ter and apply it to beneficial use to the extent and in the manner disclosed
8 in the recorded registration statement and in the certificate of registration.

9 “(3) A certificate of registration issued under this section may not be
10 construed as a final determination of any matter stated in the certificate of
11 registration. The right of the registrant to appropriate ground water under
12 a certificate of registration is subject to determination under ORS 537.670
13 to 537.695, and is not final or conclusive until so determined and a ground
14 water right certificate issued. A right to appropriate ground water under a
15 certificate of registration has a tentative priority from the date when the
16 construction of the well was begun.

17 “(4) The commission shall adopt by rule the process and standards by
18 which the commission will recognize changes in the place of use, type of use
19 or point of appropriation for claims to appropriate ground water registered
20 under this section. The commission shall adopt fees not to exceed [~~\$1,125~~]
21 **\$1,250** for actions taken to modify a certificate of registration.

22 **“SECTION 6.** ORS 537.610, as amended by section 15, chapter 819, Oregon
23 Laws 2009, is amended to read:

24 “537.610. (1) The Water Resources Commission shall accept all registra-
25 tion statements referred to in ORS 537.605 completed and returned to the
26 commission in proper form, endorse on the registration statement the date
27 of the return and record each statement. Upon recording the statement, the
28 commission shall issue to the registrant a certificate as evidence that the
29 registration is completed.

30 “(2) The issuance of the certificate of registration serves as prima facie

1 evidence that the registrant is entitled to a right to appropriate ground wa-
2 ter and apply it to beneficial use to the extent and in the manner disclosed
3 in the recorded registration statement and in the certificate of registration.

4 “(3) A certificate of registration issued under this section may not be
5 construed as a final determination of any matter stated in the certificate of
6 registration. The right of the registrant to appropriate ground water under
7 a certificate of registration is subject to determination under ORS 537.670
8 to 537.695, and is not final or conclusive until so determined and a ground
9 water right certificate issued. A right to appropriate ground water under a
10 certificate of registration has a tentative priority from the date when the
11 construction of the well was begun.

12 “(4) The commission shall adopt by rule the process and standards by
13 which the commission will recognize changes in the place of use, type of use
14 or point of appropriation for claims to appropriate ground water registered
15 under this section. The commission shall adopt fees not to exceed [\$500]
16 **\$1,250** for actions taken to modify a certificate of registration.

17 **“SECTION 7.** ORS 537.620 is amended to read:

18 “537.620. (1) The Water Resources Department shall accept all applica-
19 tions for permits submitted under ORS 537.615 in proper form.

20 “(2) Within 15 days after receiving the application, the department shall
21 determine whether the application contains the information listed under ORS
22 537.615 (2) and is complete and not defective, including the payment of all
23 fees required under ORS 537.615 (5). If the department determines that the
24 application is incomplete or defective or that not all fees have been paid, the
25 department shall return the fees paid and the application to the applicant
26 to remedy the defect. If an application is complete and not defective, the
27 department shall indorse on the application the date upon which the appli-
28 cation was received at the department, which shall be the priority date for
29 any water right issued in response to the application.

30 “(3) Upon determining that an application is complete and not defective,

1 the department shall determine whether the proposed use is prohibited by
2 statute. If the proposed use is prohibited by statute, the department shall
3 reject the application and return all fees to the applicant with an explana-
4 tion of the statutory prohibition.

5 “(4) If the proposed use is not prohibited by statute, the department shall
6 undertake an initial review of the application and make a preliminary de-
7 termination of:

8 “(a) Whether the proposed use is restricted or limited by statute or rule
9 or because the proposed use is located within a designated critical ground
10 water area;

11 “(b) The extent to which water is available from the proposed source
12 during the times and in the amounts requested; and

13 “(c) Any other issue the department identifies as a result of the initial
14 review that may preclude approval of or restrict the proposed use.

15 “(5) Upon completion of the initial review and no later than 30 days after
16 determining an application to be complete and not defective as described in
17 subsection (2) of this section, the department shall notify the applicant of its
18 preliminary determinations and allow the applicant 14 days from the date
19 of mailing within which to notify the department to stop processing the ap-
20 plication or to proceed with the application. If the applicant notifies the
21 department to stop processing the application, the department shall return
22 the application and all fees paid in excess of [~~\$200~~] **\$225**. If the department
23 receives no timely response from the applicant, the department shall proceed
24 with the application.

25 “(6) Within seven days after proceeding with the application under sub-
26 section (5) of this section, the department shall give public notice of the
27 application in the weekly notice published by the department. The notice
28 shall include a request for comments on the application and information
29 pertaining to how an interested person may obtain future notices about the
30 application and a copy of the proposed final order.

1 “(7) Within 30 days after the public notice under subsection (6) of this
2 section, any person interested in the application shall submit written com-
3 ments to the department. Any person who asks to receive a copy of the
4 department’s proposed final order shall submit to the department the fee re-
5 quired under ORS 536.050 (1)(p).

6 **“SECTION 8.** ORS 537.620, as amended by section 16, chapter 819, Oregon
7 Laws 2009, is amended to read:

8 “537.620. (1) The Water Resources Department shall accept all applica-
9 tions for permits submitted under ORS 537.615 in proper form.

10 “(2) Within 15 days after receiving the application, the department shall
11 determine whether the application contains the information listed under ORS
12 537.615 (2) and is complete and not defective, including the payment of all
13 fees required under ORS 537.615 (5). If the department determines that the
14 application is incomplete or defective or that not all fees have been paid, the
15 department shall return the fees paid and the application to the applicant
16 to remedy the defect. If an application is complete and not defective, the
17 department shall indorse on the application the date upon which the appli-
18 cation was received at the department, which shall be the priority date for
19 any water right issued in response to the application.

20 “(3) Upon determining that an application is complete and not defective,
21 the department shall determine whether the proposed use is prohibited by
22 statute. If the proposed use is prohibited by statute, the department shall
23 reject the application and return all fees to the applicant with an explana-
24 tion of the statutory prohibition.

25 “(4) If the proposed use is not prohibited by statute, the department shall
26 undertake an initial review of the application and make a preliminary de-
27 termination of:

28 “(a) Whether the proposed use is restricted or limited by statute or rule
29 or because the proposed use is located within a designated critical ground
30 water area;

1 “(b) The extent to which water is available from the proposed source
2 during the times and in the amounts requested; and

3 “(c) Any other issue the department identifies as a result of the initial
4 review that may preclude approval of or restrict the proposed use.

5 “(5) Upon completion of the initial review and no later than 30 days after
6 determining an application to be complete and not defective as described in
7 subsection (2) of this section, the department shall notify the applicant of its
8 preliminary determinations and allow the applicant 14 days from the date
9 of mailing within which to notify the department to stop processing the ap-
10 plication or to proceed with the application. If the applicant notifies the
11 department to stop processing the application, the department shall return
12 the application and all fees paid in excess of [~~\$150~~] **\$225**. If the department
13 receives no timely response from the applicant, the department shall proceed
14 with the application.

15 “(6) Within seven days after proceeding with the application under sub-
16 section (5) of this section, the department shall give public notice of the
17 application in the weekly notice published by the department. The notice
18 shall include a request for comments on the application and information
19 pertaining to how an interested person may obtain future notices about the
20 application and a copy of the proposed final order.

21 “(7) Within 30 days after the public notice under subsection (6) of this
22 section, any person interested in the application shall submit written com-
23 ments to the department. Any person who asks to receive a copy of the
24 department’s proposed final order shall submit to the department the fee re-
25 quired under ORS 536.050 (1)(p).

26 “**SECTION 9.** ORS 539.081 is amended to read:

27 “539.081. (1) At the time the owner or registrant submits a registration
28 statement under ORS 539.240 or, if a registration statement is not filed, when
29 a statement and proof of claim is filed pursuant to notice by the Water Re-
30 sources Director under ORS 539.030, the owner or registrant shall pay a fee

1 as follows:

2 “(a) If for irrigation use, \$2 for each acre of irrigated lands up to 100
3 acres and \$1 for each acre in excess of 100 acres. The minimum fee for any
4 owner or registrant for irrigation use shall be [~~\$30~~] **\$100**.

5 “(b) If for power use, \$2 for each theoretical horsepower up to 100 horse-
6 power, [~~50~~] **75** cents for each horsepower in excess of 100 up to 500 horse-
7 power, [~~35~~] **50** cents for each horsepower in excess of 500 horsepower up to
8 1,000 horsepower and [~~25~~] **35** cents for each horsepower in excess of 1,000
9 horsepower, as set forth in the proof. The minimum fee for any owner or
10 registrant for power use shall be [~~\$200~~] **\$300**.

11 “(c) If for mining or any other use, [~~\$200~~] **\$500** for the first second-foot
12 or fraction of the first second-foot and [~~\$50~~] **\$100** for each additional
13 second-foot.

14 “(2) The fees under subsection (1) of this section shall not apply to any
15 federally recognized Indian tribe, or to the United States acting as trustee
16 for such a tribe, claiming, under ORS 539.010, an undetermined vested right
17 to the use of surface water for any nonconsumptive and nondiverted in-
18 stream use to satisfy tribal hunting, fishing or gathering rights.

19 “(3) If the registration statement shows that the water right was initiated
20 by making application for a permit under the provisions of ORS chapter 537,
21 the owner or registrant shall be given credit for the money paid as exam-
22 ination and recording fees. A credit under this subsection shall be allowed
23 only if the application under ORS chapter 537 was for a permit to appropri-
24 ate water to be applied to the same parcel of land or for the same use as set
25 forth in the registration statement.

26 “(4) All fees paid under this section shall be deposited into the General
27 Fund of the State Treasury and credited to an account of the Water Re-
28 sources Department. The fees shall be used to pay for the expenses of the
29 department to:

30 “(a) Register claims to undetermined vested rights or federal reserved

1 rights under ORS 539.230 and 539.240; and

2 “(b) Determine claims filed or registered under ORS 539.230 and 539.240.

3 “(5) No registration statement or statement and proof of claim shall be
4 accepted for filing unless the registration statement or claim is accompanied
5 by the fee in the amount set forth in this section. If the federal government
6 is determined to be immune from the payment of such fees, the director may
7 elect to accept a federal claim for filing without the accompanying fees.

8

9 “**STATUTORY FEES ON OR AFTER JULY 1, 2017**

10

11 “**SECTION 10.** ORS 536.050, as amended by section 12, chapter 819,
12 Oregon Laws 2009, and sections 1 and 2 of this 2013 Act, is amended to read:

13 “536.050. (1) The Water Resources Department may collect the following
14 fees in advance:

15 “(a) For examining an application for a permit:

16 “(A) To appropriate water, except as provided under ORS 543.280 for an
17 application for a hydroelectric project:

18 “(i) A base fee of [~~\$800~~] **\$700** for an appropriation of water through a
19 single use, point of diversion or point of appropriation;

20 “(ii) [~~\$300~~] **\$250** for the first second-foot or fraction thereof appropriated
21 under the permit;

22 “(iii) [~~\$300~~] **\$250** for each additional second-foot or fraction thereof ap-
23 propriated under the permit;

24 “(iv) [~~\$300~~] **\$250** for each additional use, point of diversion or point of
25 appropriation included in the application;

26 “(v) If appropriating stored water, [~~\$30~~] **\$25** for the first acre-foot or
27 fraction thereof up to 20 acre-feet, plus \$1 for each additional acre-foot or
28 fraction thereof; and

29 “(vi) If appropriating ground water, in addition to any other fees, [~~\$350~~]
30 **\$300** for each application filed.

1 “(B) To store water under ORS 537.400 or 537.534 (4):
2 “(i) A base fee of [~~\$800~~] **\$700**;
3 “(ii) [~~\$30~~] **\$25** for the first acre-foot or fraction thereof up to 20 acre-feet,
4 plus \$1 for each additional acre-foot or fraction thereof; and
5 “(iii) [~~\$125~~] **\$100** for each additional storage location.
6 “(C) To exclusively appropriate stored water:
7 “(i) A base fee of [~~\$450~~] **\$400**; and
8 “(ii) [~~\$30~~] **\$25** for the first acre-foot or fraction thereof up to 20 acre-feet,
9 plus \$1 for each additional acre-foot or fraction thereof.
10 “(b) For a permit issued under ORS 537.147, 537.211, 537.409 or 537.625 to
11 appropriate or store water:
12 “(A) A base fee of [~~\$450~~] **\$400** for recording the permit; and
13 “(B) An additional fee of [~~\$575~~] **\$500** if the permit is issued pursuant to
14 a final order that contains provisions requested by the applicant for miti-
15 gating impacts to the proposed water source.
16 “(c) For filing and recording the assignment or partial assignment of a
17 water right application, permit or license under ORS 537.220 or 537.635,
18 [~~\$85~~] **\$75**.
19 “(d) For copying records in the department, \$2 for the first page and 50
20 cents for each additional page.
21 “(e) For certifying copies, documents, records or maps, \$10 for each cer-
22 tificate.
23 “(f) For a blueprint copy of any map or drawing, the actual cost of the
24 work.
25 “(g) For a computer-generated map, the actual cost of the work.
26 “(h) For examining an application for approval of a change to an existing
27 water right or permit:
28 “(A) A base fee of [~~\$1,000~~] **\$900** for a change to a single water right or
29 permit;
30 “(B) [~~\$800~~] **\$700** for each additional type of change requested;

1 “(C) For a request for a change in place of use or type of use or for a
2 water exchange under ORS 540.533, [~~\$300~~] **\$250** for each second-foot or frac-
3 tion thereof requested beyond the first second-foot;

4 “(D) [~~\$450~~] **\$400** for each additional water right or permit included in the
5 application; and

6 “(E) An additional fee of [~~\$350~~] **\$300** per application, if the application is
7 for an additional point of appropriation, a change in a point of appropriation
8 or a change from surface water to ground water or for substitution as de-
9 scribed in ORS 540.524.

10 “(i) For examining an application for a temporary change in place of use
11 under ORS 540.523, for a temporary transfer under ORS 540.585 or for a
12 temporary change in place of use, a change in the point of diversion to allow
13 for the appropriation of ground water or a change of a primary right to a
14 supplemental right under ORS 540.570, a base fee of [~~\$700~~] **\$600** for the first
15 water right or permit, plus [~~\$225~~] **\$200** for each additional water right or
16 permit included in the application and:

17 “(A) For nonirrigation uses, [~~\$175~~] **\$150** for each second-foot or fraction
18 thereof requested beyond the first second-foot; or

19 “(B) For irrigation uses, \$2 per acre of land irrigated or, if the application
20 and required map are submitted to the department in a department-approved
21 digital format, 50 cents per acre of land irrigated.

22 “(j) For submitting a protest to the department:

23 “(A) [~~\$700~~] **\$600** if the protest is by a nonapplicant; and

24 “(B) [~~\$350~~] **\$300** if the protest is by an applicant.

25 “(k) For filing an application for extension of time within which irri-
26 gation or other works shall be completed or a water right perfected, [~~\$575~~]
27 **\$500**.

28 “(L) For a limited license under ORS 537.143 or 537.534 (2), the fee es-
29 tablished by rule by the Water Resources Commission.

30 “(m) For filing, examining and certifying a petition under ORS 541.329,

1 [~~\$350~~] **\$300** plus 10 cents per acre of water involved in the application. For
2 purposes of computing this fee, when any acreage within a quarter quarter
3 of a section is involved, the 10 cents per acre shall apply to all acres in that
4 quarter quarter of a section. Notwithstanding the fee amount established in
5 this paragraph, a district notifying the department under ORS 541.327 (4)
6 shall pay the actual cost of filing, examining and certifying the petition.

7 “(n) For requesting standing under ORS 537.153, 537.621 or 543A.120,
8 [~~\$200~~] **\$150**.

9 “(o) For participating in a contested case proceeding under ORS 537.170,
10 537.622 or 543A.130, [~~\$500~~] **\$350**.

11 “(p) Except for an applicant, for obtaining a copy of both a proposed final
12 order and a final order for a water right application under ORS 537.140 to
13 537.252, 537.505 to 537.795 or 543A.005 to 543A.300 or an extension issued
14 under ORS 537.230, 537.248 or 537.630, [~~\$25~~] **\$20**.

15 “(q) For examining an application to store water under ORS 537.409:

16 “(A) A base fee of [~~\$350~~] **\$300**; and

17 “(B) [~~\$30~~] **\$25** for each acre-foot or fraction thereof.

18 “(r) For submitting a notice of intent under ORS 543A.030 or 543A.075,
19 the amount established by the Water Resources Director under ORS
20 543A.410.

21 “(s) For examining an application for a substitution made under ORS
22 540.524:

23 “(A) A base fee of [~~\$725~~] **\$630** for the first well substitution; and

24 “(B) A fee of [~~\$350~~] **\$300** for each additional well substitution.

25 “(t) For examining an application for an allocation of conserved water
26 under ORS 537.455 to 537.500:

27 “(A) A base fee of [~~\$1,000~~] **\$850** for the first water right that is part of the
28 allocation; and

29 “(B) An additional fee of [~~\$350~~] **\$300** for each water right that is part of
30 the allocation beyond the first water right.

1 “(u) For submitting a water management and conservation plan pursuant
2 to rules of the commission:

3 “(A) [~~\$500~~] **\$400**, if the plan is submitted by an agricultural water sup-
4 plier;

5 “(B) [~~\$900~~] **\$800**, if the plan is submitted by a municipal water supplier
6 serving a population of 1,000 or fewer persons; or

7 “(C) [~~\$1,800~~] **\$1,600**, if the plan is submitted by a municipal water supplier
8 serving a population of more than 1,000 persons.

9 “(v) For examining a new application for an in-stream water right lease
10 under ORS 537.348:

11 “(A) [~~\$450~~] **\$400** for an application for a lease with four or more land-
12 owners or four or more water rights; or

13 “(B) [~~\$300~~] **\$250** for all other applications.

14 “(w) For examining an application for an in-stream water right lease re-
15 newal, [~~\$110~~] **\$100**.

16 “(x) For submitting a claim of beneficial use under a permit or transfer
17 having a priority date of July 9, 1987, or later, [~~\$175~~] **\$150**.

18 “(y) For submitting a request no later than 60 days after cancellation of
19 a permit under ORS 537.260 to reinstate the permit, [~~\$450~~] **\$400**.

20 “(z) For submitting a request for a basin program exception under ORS
21 536.295, [~~\$575~~] **\$500**.

22 “(2)(a) The department may charge a dam owner an annual fee based upon
23 the dam’s hazard rating as determined by the department. The fees the de-
24 partment may charge the dam owner are:

25 “(A) [~~\$85~~] **\$75** for a dam with a low hazard rating.

26 “(B) [~~\$170~~] **\$150** for a dam with a significant hazard rating.

27 “(C) [~~\$575~~] **\$500** for a dam with a high hazard rating.

28 “(D) If the dam owner fails to pay an annual fee on or before six months
29 after the billing date, a late fee of \$100.

30 “(b) If a dam owner fails to pay an annual fee or a late fee charged by

1 the department, the department may, after giving the dam owner notice by
2 certified mail, place a lien on the real property where the dam is located for
3 the fees owed by the dam owner.

4 “(3) Notwithstanding the fees established under subsection (1) of this
5 section, the commission may establish lower examination and permit fees by
6 rule for:

7 “(a) The right to appropriate water for a storage project of five acre-feet
8 or less; or

9 “(b) The right to appropriate water for the purpose of allowing the ap-
10 plicant to water livestock outside of a riparian area, as that term is defined
11 in ORS 541.890.

12 “(4)(a) The director may refund all or part of a fee paid to the department
13 under this section if the director determines that a refund of the fee is ap-
14 propriate in the interests of fairness to the public or necessary to correct
15 an error of the department.

16 “(b) The director may refund all or part of the protest fee described in
17 subsection (1)(j) of this section to the legal owner or occupant who filed a
18 protest under ORS 540.641 if an order of the Water Resources Commission
19 establishes that all or part of a water right has not been canceled or modi-
20 fied under ORS 540.610 to 540.650.

21 “(5) The director may waive all or part of a fee for a change to a water
22 right permit under ORS 537.211 (4), a change to a water right subject to
23 transfer under ORS 540.520 or 540.523 or an allocation of conserved water
24 under ORS 537.470, if the change or allocation of conserved water is:

25 “(a) Made pursuant to ORS 537.348;

26 “(b) Necessary to complete a project funded under ORS 541.932; or

27 “(c) Approved by the State Department of Fish and Wildlife as a change
28 or allocation of conserved water that will result in a net benefit to fish and
29 wildlife habitat.

30 “(6) Notwithstanding the fees established pursuant to this section, the

1 commission may adopt by rule reduced fees for persons submitting materials
2 to the department in a digital format approved by the department.

3 “(7) All moneys received under this section, less any amounts refunded
4 under subsection (4) of this section, shall be deposited in the Water Re-
5 sources Department Water Right Operating Fund.

6 “(8) Notwithstanding subsection (7) of this section, all fees received by
7 the department for power purposes under ORS 543.280 shall be deposited in
8 the Water Resources Department Hydroelectric Fund established by ORS
9 536.015.

10 **“SECTION 11.** ORS 537.150, as amended by section 13, chapter 819,
11 Oregon Laws 2009, and sections 3 and 4 of this 2013 Act, is amended to read:

12 “537.150. (1) Within 15 days after receiving an application, the Water
13 Resources Department shall determine whether the application contains the
14 information listed under ORS 537.140 (1) and is complete and not defective,
15 including the payment of all fees required under ORS 537.140 (5). If the de-
16 partment determines that the application is incomplete or defective or that
17 not all fees have been paid, the department shall return the fees paid and the
18 application.

19 “(2) Upon determining that an application contains the information listed
20 under ORS 537.140 (1) and is complete and not defective, the department shall
21 indorse on the application the date upon which the application was received
22 at the department, which shall be the priority date for any water right issued
23 in response to the application. All applications that comply with the pro-
24 visions of law shall be recorded in a suitable book kept for that purpose.

25 “(3) If an application is complete and not defective, the department shall
26 determine whether the proposed use is prohibited by ORS chapter 538. If the
27 proposed use is prohibited by ORS chapter 538, the department shall reject
28 the application and return all fees to the applicant with an explanation of
29 the statutory prohibition.

30 “(4) If the proposed use is not prohibited by ORS chapter 538, the de-

1 department shall undertake an initial review of the application and make a
2 preliminary determination of:

3 “(a) Whether the proposed use is restricted or limited by statute or rule;

4 “(b) The extent to which water is available from the proposed source
5 during the times and in the amounts requested; and

6 “(c) Any other issue the department identifies as a result of the initial
7 review that may preclude approval of or restrict the proposed use.

8 “(5) Upon completion of the initial review and no later than 30 days after
9 determining an application to be complete and not defective as described in
10 subsection (1) of this section, the department shall notify the applicant of its
11 preliminary determinations and allow the applicant 14 days from the date
12 of mailing within which to notify the department to stop processing the ap-
13 plication or to proceed with the application. If the applicant notifies the
14 department to stop processing the application, the department shall return
15 the application and all fees paid in excess of [~~\$225~~] **\$200**. If the department
16 receives no timely response from the applicant, the department shall proceed
17 with the application.

18 “(6) Within seven days after proceeding with the application under sub-
19 section (5) of this section, the department shall give public notice of the
20 application in the weekly notice published by the department. The notice
21 shall include a request for comments on the application and information
22 pertaining to how an interested person may obtain future notices about the
23 application and a copy of the proposed final order.

24 “(7) Within 30 days after the public notice under subsection (6) of this
25 section, any person interested in the application shall submit written com-
26 ments to the department. Any person who asks to receive a copy of the
27 department’s proposed final order shall submit to the department the fee re-
28 quired under ORS 536.050 (1).

29 **“SECTION 12.** ORS 537.610, as amended by section 15, chapter 819,
30 Oregon Laws 2009, and sections 5 and 6 of this 2013 Act, is amended to read:

1 “537.610. (1) The Water Resources Commission shall accept all registra-
2 tion statements referred to in ORS 537.605 completed and returned to the
3 commission in proper form, endorse on the registration statement the date
4 of the return and record each statement. Upon recording the statement, the
5 commission shall issue to the registrant a certificate as evidence that the
6 registration is completed.

7 “(2) The issuance of the certificate of registration serves as prima facie
8 evidence that the registrant is entitled to a right to appropriate ground wa-
9 ter and apply it to beneficial use to the extent and in the manner disclosed
10 in the recorded registration statement and in the certificate of registration.

11 “(3) A certificate of registration issued under this section may not be
12 construed as a final determination of any matter stated in the certificate of
13 registration. The right of the registrant to appropriate ground water under
14 a certificate of registration is subject to determination under ORS 537.670
15 to 537.695, and is not final or conclusive until so determined and a ground
16 water right certificate issued. A right to appropriate ground water under a
17 certificate of registration has a tentative priority from the date when the
18 construction of the well was begun.

19 “(4) The commission shall adopt by rule the process and standards by
20 which the commission will recognize changes in the place of use, type of use
21 or point of appropriation for claims to appropriate ground water registered
22 under this section. The commission shall adopt fees not to exceed [~~\$1,250~~]
23 **\$1,125** for actions taken to modify a certificate of registration.

24 “**SECTION 13.** ORS 537.620, as amended by section 16, chapter 819,
25 Oregon Laws 2009, and sections 7 and 8 of this 2013 Act, is amended to read:

26 “537.620. (1) The Water Resources Department shall accept all applica-
27 tions for permits submitted under ORS 537.615 in proper form.

28 “(2) Within 15 days after receiving the application, the department shall
29 determine whether the application contains the information listed under ORS
30 537.615 (2) and is complete and not defective, including the payment of all

1 fees required under ORS 537.615 (5). If the department determines that the
2 application is incomplete or defective or that not all fees have been paid, the
3 department shall return the fees paid and the application to the applicant
4 to remedy the defect. If an application is complete and not defective, the
5 department shall indorse on the application the date upon which the appli-
6 cation was received at the department, which shall be the priority date for
7 any water right issued in response to the application.

8 “(3) Upon determining that an application is complete and not defective,
9 the department shall determine whether the proposed use is prohibited by
10 statute. If the proposed use is prohibited by statute, the department shall
11 reject the application and return all fees to the applicant with an explana-
12 tion of the statutory prohibition.

13 “(4) If the proposed use is not prohibited by statute, the department shall
14 undertake an initial review of the application and make a preliminary de-
15 termination of:

16 “(a) Whether the proposed use is restricted or limited by statute or rule
17 or because the proposed use is located within a designated critical ground
18 water area;

19 “(b) The extent to which water is available from the proposed source
20 during the times and in the amounts requested; and

21 “(c) Any other issue the department identifies as a result of the initial
22 review that may preclude approval of or restrict the proposed use.

23 “(5) Upon completion of the initial review and no later than 30 days after
24 determining an application to be complete and not defective as described in
25 subsection (2) of this section, the department shall notify the applicant of its
26 preliminary determinations and allow the applicant 14 days from the date
27 of mailing within which to notify the department to stop processing the ap-
28 plication or to proceed with the application. If the applicant notifies the
29 department to stop processing the application, the department shall return
30 the application and all fees paid in excess of [~~\$225~~] **\$200**. If the department

1 receives no timely response from the applicant, the department shall proceed
2 with the application.

3 “(6) Within seven days after proceeding with the application under sub-
4 section (5) of this section, the department shall give public notice of the
5 application in the weekly notice published by the department. The notice
6 shall include a request for comments on the application and information
7 pertaining to how an interested person may obtain future notices about the
8 application and a copy of the proposed final order.

9 “(7) Within 30 days after the public notice under subsection (6) of this
10 section, any person interested in the application shall submit written com-
11 ments to the department. Any person who asks to receive a copy of the
12 department’s proposed final order shall submit to the department the fee re-
13 quired under ORS 536.050 (1)(p).

14 **“SECTION 14.** ORS 539.081, as amended by section 9 of this 2013 Act, is
15 amended to read:

16 “539.081. (1) At the time the owner or registrant submits a registration
17 statement under ORS 539.240 or, if a registration statement is not filed, when
18 a statement and proof of claim is filed pursuant to notice by the Water Re-
19 sources Director under ORS 539.030, the owner or registrant shall pay a fee
20 as follows:

21 “(a) If for irrigation use, \$2 for each acre of irrigated lands up to 100
22 acres and \$1 for each acre in excess of 100 acres. The minimum fee for any
23 owner or registrant for irrigation use shall be [~~\$100~~] **\$30**.

24 “(b) If for power use, \$2 for each theoretical horsepower up to 100 horse-
25 power, [~~75~~] **50** cents for each horsepower in excess of 100 up to 500 horse-
26 power, [~~50~~] **35** cents for each horsepower in excess of 500 horsepower up to
27 1,000 horsepower and [~~35~~] **25** cents for each horsepower in excess of 1,000
28 horsepower, as set forth in the proof. The minimum fee for any owner or
29 registrant for power use shall be [~~\$300~~] **\$200**.

30 “(c) If for mining or any other use, [~~\$500~~] **\$200** for the first second-foot

1 or fraction of the first second-foot and [~~\$100~~] **\$50** for each additional
2 second-foot.

3 “(2) The fees under subsection (1) of this section shall not apply to any
4 federally recognized Indian tribe, or to the United States acting as trustee
5 for such a tribe, claiming, under ORS 539.010, an undetermined vested right
6 to the use of surface water for any nonconsumptive and nondiverted in-
7 stream use to satisfy tribal hunting, fishing or gathering rights.

8 “(3) If the registration statement shows that the water right was initiated
9 by making application for a permit under the provisions of ORS chapter 537,
10 the owner or registrant shall be given credit for the money paid as exam-
11 ination and recording fees. A credit under this subsection shall be allowed
12 only if the application under ORS chapter 537 was for a permit to appropri-
13 ate water to be applied to the same parcel of land or for the same use as set
14 forth in the registration statement.

15 “(4) All fees paid under this section shall be deposited into the General
16 Fund of the State Treasury and credited to an account of the Water Re-
17 sources Department. The fees shall be used to pay for the expenses of the
18 department to:

19 “(a) Register claims to undetermined vested rights or federal reserved
20 rights under ORS 539.230 and 539.240; and

21 “(b) Determine claims filed or registered under ORS 539.230 and 539.240.

22 “(5) No registration statement or statement and proof of claim shall be
23 accepted for filing unless the registration statement or claim is accompanied
24 by the fee in the amount set forth in this section. If the federal government
25 is determined to be immune from the payment of such fees, the director may
26 elect to accept a federal claim for filing without the accompanying fees.

27

28 **“RULES ADJUSTING FEES ON OR AFTER JULY 1, 2018**

29

30 **“SECTION 15. (1) The Water Resources Department may adopt**

1 rules to:

2 “(a) Adjust the amount of a fee authorized under ORS 536.050 or
3 539.081. However, the department may not adjust a fee under this
4 paragraph to be more than three percent higher than the fee in effect
5 during the 12 months immediately preceding the effective date of the
6 rule.

7 “(b) Adjust the amount that the department may keep when re-
8 turning a fee under ORS 537.150 or 537.620. The department may not,
9 however, adopt a rule under this paragraph to keep an amount that
10 is more than three percent higher than the amount the department
11 could keep during the 12 months immediately preceding the effective
12 date of the rule.

13 “(c) Adjust the cap for fees charged under ORS 537.610. The de-
14 partment may not, however, adopt a rule under this paragraph to es-
15 tablish a cap on fees that is more than three percent higher than the
16 cap on fees in effect during the 12 months immediately preceding the
17 effective date of the rule.

18 “(2) The department may not adopt rules under subsection (1) of
19 this section to adjust the same fee amount more than once during a
20 12-month period.

21 “**SECTION 16.** ORS 536.050, as amended by section 12, chapter 819,
22 Oregon Laws 2009, and sections 1, 2 and 10 of this 2013 Act, is amended to
23 read:

24 “536.050. (1) **Unless the Water Resources Department has adopted rules**
25 **under section 15 of this 2013 Act establishing different fee amounts,**
26 **the department** may collect the following fees in advance:

27 “(a) For examining an application for a permit:

28 “(A) To appropriate water, except as provided under ORS 543.280 for an
29 application for a hydroelectric project:

30 “(i) A base fee of \$700 for an appropriation of water through a single use,

1 point of diversion or point of appropriation;

2 “(ii) \$250 for the first second-foot or fraction thereof appropriated under
3 the permit;

4 “(iii) \$250 for each additional second-foot or fraction thereof appropriated
5 under the permit;

6 “(iv) \$250 for each additional use, point of diversion or point of appro-
7 priation included in the application;

8 “(v) If appropriating stored water, \$25 for the first acre-foot or fraction
9 thereof up to 20 acre-feet, plus \$1 for each additional acre-foot or fraction
10 thereof; and

11 “(vi) If appropriating ground water, in addition to any other fees, \$300 for
12 each application filed.

13 “(B) To store water under ORS 537.400 or 537.534 (4):

14 “(i) A base fee of \$700;

15 “(ii) \$25 for the first acre-foot or fraction thereof up to 20 acre-feet, plus
16 \$1 for each additional acre-foot or fraction thereof; and

17 “(iii) \$100 for each additional storage location.

18 “(C) To exclusively appropriate stored water:

19 “(i) A base fee of \$400; and

20 “(ii) \$25 for the first acre-foot or fraction thereof up to 20 acre-feet, plus
21 \$1 for each additional acre-foot or fraction thereof.

22 “(b) For a permit issued under ORS 537.147, 537.211, 537.409 or 537.625 to
23 appropriate or store water:

24 “(A) A base fee of \$400 for recording the permit; and

25 “(B) An additional fee of \$500 if the permit is issued pursuant to a final
26 order that contains provisions requested by the applicant for mitigating im-
27 pacts to the proposed water source.

28 “(c) For filing and recording the assignment or partial assignment of a
29 water right application, permit or license under ORS 537.220 or 537.635, \$75.

30 “(d) For copying records in the department, \$2 for the first page and 50

1 cents for each additional page.

2 “(e) For certifying copies, documents, records or maps, \$10 for each cer-
3 tificate.

4 “(f) For a blueprint copy of any map or drawing, the actual cost of the
5 work.

6 “(g) For a computer-generated map, the actual cost of the work.

7 “(h) For examining an application for approval of a change to an existing
8 water right or permit:

9 “(A) A base fee of \$900 for a change to a single water right or permit;

10 “(B) \$700 for each additional type of change requested;

11 “(C) For a request for a change in place of use or type of use or for a
12 water exchange under ORS 540.533, \$250 for each second-foot or fraction
13 thereof requested beyond the first second-foot;

14 “(D) \$400 for each additional water right or permit included in the ap-
15 plication; and

16 “(E) An additional fee of \$300 per application, if the application is for an
17 additional point of appropriation, a change in a point of appropriation or a
18 change from surface water to ground water or for substitution as described
19 in ORS 540.524.

20 “(i) For examining an application for a temporary change in place of use
21 under ORS 540.523, for a temporary transfer under ORS 540.585 or for a
22 temporary change in place of use, a change in the point of diversion to allow
23 for the appropriation of ground water or a change of a primary right to a
24 supplemental right under ORS 540.570, a base fee of \$600 for the first water
25 right or permit, plus \$200 for each additional water right or permit included
26 in the application and:

27 “(A) For nonirrigation uses, \$150 for each second-foot or fraction thereof
28 requested beyond the first second-foot; or

29 “(B) For irrigation uses, \$2 per acre of land irrigated or, if the application
30 and required map are submitted to the department in a department-approved

1 digital format, 50 cents per acre of land irrigated.

2 “(j) For submitting a protest to the department:

3 “(A) \$600 if the protest is by a nonapplicant; and

4 “(B) \$300 if the protest is by an applicant.

5 “(k) For filing an application for extension of time within which irri-
6 gation or other works shall be completed or a water right perfected, \$500.

7 “(L) For a limited license under ORS 537.143 or 537.534 (2), the fee es-
8 tablished by rule by the Water Resources Commission.

9 “(m) For filing, examining and certifying a petition under ORS 541.329,
10 \$300 plus 10 cents per acre of water involved in the application. For purposes
11 of computing this fee, when any acreage within a quarter quarter of a section
12 is involved, the 10 cents per acre shall apply to all acres in that quarter
13 quarter of a section. Notwithstanding the fee amount established in this
14 paragraph, a district notifying the department under ORS 541.327 (4) shall
15 pay the actual cost of filing, examining and certifying the petition.

16 “(n) For requesting standing under ORS 537.153, 537.621 or 543A.120, \$150.

17 “(o) For participating in a contested case proceeding under ORS 537.170,
18 537.622 or 543A.130, \$350.

19 “(p) Except for an applicant, for obtaining a copy of both a proposed final
20 order and a final order for a water right application under ORS 537.140 to
21 537.252, 537.505 to 537.795 or 543A.005 to 543A.300 or an extension issued
22 under ORS 537.230, 537.248 or 537.630, \$20.

23 “(q) For examining an application to store water under ORS 537.409:

24 “(A) A base fee of \$300; and

25 “(B) \$25 for each acre-foot or fraction thereof.

26 “(r) For submitting a notice of intent under ORS 543A.030 or 543A.075,
27 the amount established by the Water Resources Director under ORS
28 543A.410.

29 “(s) For examining an application for a substitution made under ORS
30 540.524:

1 “(A) A base fee of \$630 for the first well substitution; and
2 “(B) A fee of \$300 for each additional well substitution.
3 “(t) For examining an application for an allocation of conserved water
4 under ORS 537.455 to 537.500:
5 “(A) A base fee of \$850 for the first water right that is part of the allo-
6 cation; and
7 “(B) An additional fee of \$300 for each water right that is part of the
8 allocation beyond the first water right.
9 “(u) For submitting a water management and conservation plan pursuant
10 to rules of the commission:
11 “(A) \$400, if the plan is submitted by an agricultural water supplier;
12 “(B) \$800, if the plan is submitted by a municipal water supplier serving
13 a population of 1,000 or fewer persons; or
14 “(C) \$1,600, if the plan is submitted by a municipal water supplier serving
15 a population of more than 1,000 persons.
16 “(v) For examining a new application for an in-stream water right lease
17 under ORS 537.348:
18 “(A) \$400 for an application for a lease with four or more landowners or
19 four or more water rights; or
20 “(B) \$250 for all other applications.
21 “(w) For examining an application for an in-stream water right lease re-
22 newal, \$100.
23 “(x) For submitting a claim of beneficial use under a permit or transfer
24 having a priority date of July 9, 1987, or later, \$150.
25 “(y) For submitting a request no later than 60 days after cancellation of
26 a permit under ORS 537.260 to reinstate the permit, \$400.
27 “(z) For submitting a request for a basin program exception under ORS
28 536.295, \$500.
29 “(2)(a) The department may charge a dam owner an annual fee based upon
30 the dam’s hazard rating as determined by the department. The fees the de-

1 partment may charge the dam owner are:

2 “(A) \$75 for a dam with a low hazard rating.

3 “(B) \$150 for a dam with a significant hazard rating.

4 “(C) \$500 for a dam with a high hazard rating.

5 “(D) If the dam owner fails to pay an annual fee on or before six months
6 after the billing date, a late fee of \$100.

7 “(b) If a dam owner fails to pay an annual fee or a late fee charged by
8 the department, the department may, after giving the dam owner notice by
9 certified mail, place a lien on the real property where the dam is located for
10 the fees owed by the dam owner.

11 “(3) Notwithstanding the fees established under subsection (1) of this
12 section, the commission may establish lower examination and permit fees by
13 rule for:

14 “(a) The right to appropriate water for a storage project of five acre-feet
15 or less; or

16 “(b) The right to appropriate water for the purpose of allowing the ap-
17 plicant to water livestock outside of a riparian area, as that term is defined
18 in ORS 541.890.

19 “(4)(a) The director may refund all or part of a fee paid to the department
20 under this section if the director determines that a refund of the fee is ap-
21 propriate in the interests of fairness to the public or necessary to correct
22 an error of the department.

23 “(b) The director may refund all or part of the protest fee described in
24 subsection (1)(j) of this section to the legal owner or occupant who filed a
25 protest under ORS 540.641 if an order of the Water Resources Commission
26 establishes that all or part of a water right has not been canceled or modi-
27 fied under ORS 540.610 to 540.650.

28 “(5) The director may waive all or part of a fee for a change to a water
29 right permit under ORS 537.211 (4), a change to a water right subject to
30 transfer under ORS 540.520 or 540.523 or an allocation of conserved water

1 under ORS 537.470, if the change or allocation of conserved water is:

2 “(a) Made pursuant to ORS 537.348;

3 “(b) Necessary to complete a project funded under ORS 541.932; or

4 “(c) Approved by the State Department of Fish and Wildlife as a change
5 or allocation of conserved water that will result in a net benefit to fish and
6 wildlife habitat.

7 “(6) Notwithstanding the fees established pursuant to this section, the
8 commission may adopt by rule reduced fees for persons submitting materials
9 to the department in a digital format approved by the department.

10 “(7) All moneys received under this section, less any amounts refunded
11 under subsection (4) of this section, shall be deposited in the Water Re-
12 sources Department Water Right Operating Fund.

13 “(8) Notwithstanding subsection (7) of this section, all fees received by
14 the department for power purposes under ORS 543.280 shall be deposited in
15 the Water Resources Department Hydroelectric Fund established by ORS
16 536.015.

17 **“SECTION 17.** ORS 537.150, as amended by section 13, chapter 819,
18 Oregon Laws 2009, and sections 3, 4 and 11 of this 2013 Act, is amended to
19 read:

20 “537.150. (1) Within 15 days after receiving an application, the Water
21 Resources Department shall determine whether the application contains the
22 information listed under ORS 537.140 (1) and is complete and not defective,
23 including the payment of all fees required under ORS 537.140 (5). If the de-
24 partment determines that the application is incomplete or defective or that
25 not all fees have been paid, the department shall return the fees paid and the
26 application.

27 “(2) Upon determining that an application contains the information listed
28 under ORS 537.140 (1) and is complete and not defective, the department shall
29 indorse on the application the date upon which the application was received
30 at the department, which shall be the priority date for any water right issued

1 in response to the application. All applications that comply with the pro-
2 visions of law shall be recorded in a suitable book kept for that purpose.

3 “(3) If an application is complete and not defective, the department shall
4 determine whether the proposed use is prohibited by ORS chapter 538. If the
5 proposed use is prohibited by ORS chapter 538, the department shall reject
6 the application and return all fees to the applicant with an explanation of
7 the statutory prohibition.

8 “(4) If the proposed use is not prohibited by ORS chapter 538, the de-
9 partment shall undertake an initial review of the application and make a
10 preliminary determination of:

11 “(a) Whether the proposed use is restricted or limited by statute or rule;

12 “(b) The extent to which water is available from the proposed source
13 during the times and in the amounts requested; and

14 “(c) Any other issue the department identifies as a result of the initial
15 review that may preclude approval of or restrict the proposed use.

16 “(5) Upon completion of the initial review and no later than 30 days after
17 determining an application to be complete and not defective as described in
18 subsection (1) of this section, the department shall notify the applicant of its
19 preliminary determinations and allow the applicant 14 days from the date
20 of mailing within which to notify the department to stop processing the ap-
21 plication or to proceed with the application. If the applicant notifies the
22 department to stop processing the application, the department shall return
23 the application and **unless a rule adopted under section 15 of this 2013**
24 **Act allows the department to keep a different amount, return** all fees
25 paid in excess of \$200. If the department receives no timely response from the
26 applicant, the department shall proceed with the application.

27 “(6) Within seven days after proceeding with the application under sub-
28 section (5) of this section, the department shall give public notice of the
29 application in the weekly notice published by the department. The notice
30 shall include a request for comments on the application and information

1 pertaining to how an interested person may obtain future notices about the
2 application and a copy of the proposed final order.

3 “(7) Within 30 days after the public notice under subsection (6) of this
4 section, any person interested in the application shall submit written com-
5 ments to the department. Any person who asks to receive a copy of the
6 department’s proposed final order shall submit to the department, **subject**
7 **to any fee amount change established by a rule adopted under section**
8 **15 of this 2013 Act**, the fee required under ORS 536.050 (1).

9 **“SECTION 18.** ORS 537.610, as amended by section 15, chapter 819,
10 Oregon Laws 2009, and sections 5, 6 and 12 of this 2013 Act, is amended to
11 read:

12 “537.610. (1) The Water Resources Commission shall accept all registra-
13 tion statements referred to in ORS 537.605 completed and returned to the
14 commission in proper form, endorse on the registration statement the date
15 of the return and record each statement. Upon recording the statement, the
16 commission shall issue to the registrant a certificate as evidence that the
17 registration is completed.

18 “(2) The issuance of the certificate of registration serves as prima facie
19 evidence that the registrant is entitled to a right to appropriate ground wa-
20 ter and apply it to beneficial use to the extent and in the manner disclosed
21 in the recorded registration statement and in the certificate of registration.

22 “(3) A certificate of registration issued under this section may not be
23 construed as a final determination of any matter stated in the certificate of
24 registration. The right of the registrant to appropriate ground water under
25 a certificate of registration is subject to determination under ORS 537.670
26 to 537.695, and is not final or conclusive until so determined and a ground
27 water right certificate issued. A right to appropriate ground water under a
28 certificate of registration has a tentative priority from the date when the
29 construction of the well was begun.

30 “(4) The commission shall adopt by rule the process and standards by

1 which the commission will recognize changes in the place of use, type of use
2 or point of appropriation for claims to appropriate ground water registered
3 under this section. The [*commission*] **Water Resources Department** shall
4 adopt fees [*not to exceed \$1,125*] for actions taken to modify a certificate of
5 registration. **Unless the department has adopted a rule under section**
6 **15 of this 2013 Act establishing a different cap on fees, the fees may**
7 **not exceed \$1,125.**

8 **SECTION 19.** ORS 537.620, as amended by section 16, chapter 819,
9 Oregon Laws 2009, and sections 7, 8 and 13 of this 2013 Act, is amended to
10 read:

11 “537.620. (1) The Water Resources Department shall accept all applica-
12 tions for permits submitted under ORS 537.615 in proper form.

13 “(2) Within 15 days after receiving the application, the department shall
14 determine whether the application contains the information listed under ORS
15 537.615 (2) and is complete and not defective, including the payment of all
16 fees required under ORS 537.615 (5). If the department determines that the
17 application is incomplete or defective or that not all fees have been paid, the
18 department shall return the fees paid and the application to the applicant
19 to remedy the defect. If an application is complete and not defective, the
20 department shall indorse on the application the date upon which the appli-
21 cation was received at the department, which shall be the priority date for
22 any water right issued in response to the application.

23 “(3) Upon determining that an application is complete and not defective,
24 the department shall determine whether the proposed use is prohibited by
25 statute. If the proposed use is prohibited by statute, the department shall
26 reject the application and return all fees to the applicant with an explana-
27 tion of the statutory prohibition.

28 “(4) If the proposed use is not prohibited by statute, the department shall
29 undertake an initial review of the application and make a preliminary de-
30 termination of:

1 “(a) Whether the proposed use is restricted or limited by statute or rule
2 or because the proposed use is located within a designated critical ground
3 water area;

4 “(b) The extent to which water is available from the proposed source
5 during the times and in the amounts requested; and

6 “(c) Any other issue the department identifies as a result of the initial
7 review that may preclude approval of or restrict the proposed use.

8 “(5) Upon completion of the initial review and no later than 30 days after
9 determining an application to be complete and not defective as described in
10 subsection (2) of this section, the department shall notify the applicant of its
11 preliminary determinations and allow the applicant 14 days from the date
12 of mailing within which to notify the department to stop processing the ap-
13 plication or to proceed with the application. If the applicant notifies the
14 department to stop processing the application, the department shall return
15 the application and, **unless a rule adopted under section 15 of this 2013**
16 **Act allows the department to keep a different amount, return** all fees
17 paid in excess of \$200. If the department receives no timely response from the
18 applicant, the department shall proceed with the application.

19 “(6) Within seven days after proceeding with the application under sub-
20 section (5) of this section, the department shall give public notice of the
21 application in the weekly notice published by the department. The notice
22 shall include a request for comments on the application and information
23 pertaining to how an interested person may obtain future notices about the
24 application and a copy of the proposed final order.

25 “(7) Within 30 days after the public notice under subsection (6) of this
26 section, any person interested in the application shall submit written com-
27 ments to the department. Any person who asks to receive a copy of the
28 department’s proposed final order shall submit to the department, **subject**
29 **to any fee amount change established by a rule adopted under section**
30 **15 of this 2013 Act**, the fee required under ORS 536.050 (1)(p).

1 **“SECTION 20.** ORS 539.081, as amended by sections 9 and 14 of this 2013
2 Act, is amended to read:

3 “539.081. (1) At the time the owner or registrant submits a registration
4 statement under ORS 539.240 or, if a registration statement is not filed, when
5 a statement and proof of claim is filed pursuant to notice by the Water Re-
6 sources Director under ORS 539.030, **unless the Water Resources Depart-**
7 **ment has adopted a rule establishing a higher fee amount as provided**
8 **under section 15 of this 2013 Act,** the owner or registrant shall pay a fee
9 as follows:

10 “(a) If for irrigation use, \$2 for each acre of irrigated lands up to 100
11 acres and \$1 for each acre in excess of 100 acres. The minimum fee for any
12 owner or registrant for irrigation use shall be \$30.

13 “(b) If for power use, \$2 for each theoretical horsepower up to 100 horse-
14 power, 50 cents for each horsepower in excess of 100 up to 500 horsepower,
15 35 cents for each horsepower in excess of 500 horsepower up to 1,000 horse-
16 power and 25 cents for each horsepower in excess of 1,000 horsepower, as set
17 forth in the proof. The minimum fee for any owner or registrant for power
18 use shall be \$200.

19 “(c) If for mining or any other use, \$200 for the first second-foot or frac-
20 tion of the first second-foot and \$50 for each additional second-foot.

21 “(2) The fees under subsection (1) of this section shall not apply to any
22 federally recognized Indian tribe, or to the United States acting as trustee
23 for such a tribe, claiming, under ORS 539.010, an undetermined vested right
24 to the use of surface water for any nonconsumptive and nondiverted in-
25 stream use to satisfy tribal hunting, fishing or gathering rights.

26 “(3) If the registration statement shows that the water right was initiated
27 by making application for a permit under the provisions of ORS chapter 537,
28 the owner or registrant shall be given credit for the money paid as exam-
29 ination and recording fees. A credit under this subsection shall be allowed
30 only if the application under ORS chapter 537 was for a permit to appropri-

1 ate water to be applied to the same parcel of land or for the same use as set
2 forth in the registration statement.

3 “(4) All fees paid under this section shall be deposited into the General
4 Fund of the State Treasury and credited to an account of the [*Water Re-*
5 *sources*] department. The fees shall be used to pay for the expenses of the
6 department to:

7 “(a) Register claims to undetermined vested rights or federal reserved
8 rights under ORS 539.230 and 539.240; and

9 “(b) Determine claims filed or registered under ORS 539.230 and 539.240.

10 “(5) No registration statement or statement and proof of claim shall be
11 accepted for filing unless the registration statement or claim is accompanied
12 by the fee in the amount set forth in this section. If the federal government
13 is determined to be immune from the payment of such fees, the director may
14 elect to accept a federal claim for filing without the accompanying fees.

15

16

“CONFORMING AMENDMENTS

17

18 “**SECTION 21.** ORS 537.153, as amended by section 14, chapter 819,
19 Oregon Laws 2009, is amended to read:

20 “537.153. (1) Within 60 days after the Water Resources Department pro-
21 ceeds with the application under ORS 537.150 (5), the department shall com-
22 plete application review and issue a proposed final order approving or
23 denying the application or approving the application with modifications or
24 conditions. The department may request the applicant to provide additional
25 information needed to complete the review. If the department requests addi-
26 tional information, the request shall be specific and shall be sent to the ap-
27 plicant by registered mail. The department shall specify a date by which the
28 information must be returned, which shall be not less than 10 days after the
29 department mails the request to the applicant. If the department does not
30 receive the information or a request for a time extension under ORS 537.175

1 by the date specified in the request, the department may reject the applica-
2 tion and may refund fees in accordance with ORS 536.050 [(3)(a)] (4)(a). The
3 time period specified by the department in a request for additional informa-
4 tion shall allow the department to comply with the 60-day time limit estab-
5 lished by this subsection.

6 “(2) In reviewing the application under subsection (1) of this section, the
7 department shall presume that a proposed use will not impair or be detri-
8 mental to the public interest if the proposed use is allowed in the applicable
9 basin program established pursuant to ORS 536.300 and 536.340 or given a
10 preference under ORS 536.310 (12), if water is available, if the proposed use
11 will not injure other water rights and if the proposed use complies with rules
12 of the Water Resources Commission. This shall be a rebuttable presumption
13 and may be overcome by a preponderance of evidence that either:

14 “(a) One or more of the criteria for establishing the presumption are not
15 satisfied; or

16 “(b) The proposed use will impair or be detrimental to the public interest
17 as demonstrated in comments, in a protest under subsection (6) of this sec-
18 tion or in a finding of the department that shows:

19 “(A) The specific public interest under ORS 537.170 (8) that would be im-
20 paired or detrimentally affected; and

21 “(B) Specifically how the identified public interest would be impaired or
22 detrimentally affected.

23 “(3) The proposed final order shall cite findings of fact and conclusions
24 of law and shall include but need not be limited to:

25 “(a) Confirmation or modification of the preliminary determinations made
26 in the initial review;

27 “(b) A brief statement that explains the criteria considered relevant to the
28 decision, including the applicable basin program and the compatibility of the
29 proposed use with applicable land use plans;

30 “(c) An assessment of water availability and the amount of water neces-

1 sary for the proposed use;

2 “(d) An assessment of whether the proposed use would result in injury to
3 existing water rights;

4 “(e) An assessment of whether the proposed use would impair or be det-
5 rimental to the public interest as provided in ORS 537.170;

6 “(f) A draft permit, including any proposed conditions, or a recommen-
7 dation to deny the application;

8 “(g) Whether the rebuttable presumption that the proposed use will not
9 impair or be detrimental to the public interest has been established; and

10 “(h) The date by which protests to the proposed final order must be re-
11 ceived by the department.

12 “(4) The department shall mail copies of the proposed final order to the
13 applicant and to persons who have requested copies and paid the fee required
14 under ORS 536.050 (1)(p). The department also shall publish notice of the
15 proposed final order by publication in the weekly notice published by the
16 department.

17 “(5) Any person who supports a proposed final order may request standing
18 for purposes of participating in any contested case proceeding on the pro-
19 posed final order or for judicial review of a final order. A request for
20 standing shall be in writing and shall be accompanied by the fee established
21 under ORS 536.050 (1)(n).

22 “(6) Any person may submit a protest against a proposed final order. A
23 protest shall be in writing and shall include:

24 “(a) The name, address and telephone number of the protestant;

25 “(b) A description of the protestant’s interest in the proposed final order
26 and, if the protestant claims to represent the public interest, a precise
27 statement of the public interest represented;

28 “(c) A detailed description of how the action proposed in the proposed
29 final order would impair or be detrimental to the protestant’s interest;

30 “(d) A detailed description of how the proposed final order is in error or

1 deficient and how to correct the alleged error or deficiency;

2 “(e) Any citation of legal authority supporting the protest, if known; and

3 “(f) [*For persons other than the applicant,*] The protest fee required under
4 ORS 536.050.

5 “(7) Requests for standing and protests on the proposed final order shall
6 be submitted within 45 days after publication of the notice of the proposed
7 final order in the weekly notice published by the department. Any person
8 who asks to receive a copy of the department’s final order shall submit to
9 the department the fee required under ORS 536.050 (1)(p), unless the person
10 has previously requested copies and paid the required fee under ORS 537.150
11 (7), the person is a protestant and has paid the fee required under ORS
12 536.050 (1)(j) or the person has standing and has paid the fee under ORS
13 536.050 (1)(n).

14 “(8) Within 60 days after the close of the period for receiving protests, the
15 Water Resources Director shall:

16 “(a) Issue a final order as provided under ORS 537.170 (6); or

17 “(b) Schedule a contested case hearing if a protest has been submitted and
18 if:

19 “(A) Upon review of the issues, the director finds that there are signif-
20 icant disputes related to the proposed use of water; or

21 “(B) Within 30 days after the close of the period for submitting protests,
22 the applicant requests a contested case hearing.

23 “**SECTION 22.** ORS 537.621, as amended by section 17, chapter 819,
24 Oregon Laws 2009, is amended to read:

25 “537.621. (1) Within 60 days after the Water Resources Department pro-
26 ceeds with the application under ORS 537.620 (5), the department shall com-
27 plete application review and issue a proposed final order approving or
28 denying the application or approving the application with modifications or
29 conditions. The department may request the applicant to provide additional
30 information needed to complete the review. If the department requests addi-

1 tional information, the request shall be specific and shall be sent to the ap-
2 plicant by registered mail. The department shall specify a date by which the
3 information must be returned, which shall be not less than 10 days after the
4 department mails the request to the applicant. If the department does not
5 receive the information or a request for a time extension under ORS 537.627
6 by the date specified in the request, the department may reject the applica-
7 tion and may refund fees in accordance with ORS 536.050 [(3)(a)] **(4)(a)**. The
8 time period specified by the department in a request for additional informa-
9 tion shall allow the department to comply with the 60-day time limit estab-
10 lished by this subsection.

11 “(2) In reviewing the application under subsection (1) of this section, the
12 department shall determine whether the proposed use will ensure the pres-
13 ervation of the public welfare, safety and health as described in ORS 537.525.
14 The department shall presume that a proposed use will ensure the preserva-
15 tion of the public welfare, safety and health if the proposed use is allowed
16 in the applicable basin program established pursuant to ORS 536.300 and
17 536.340 or given a preference under ORS 536.310 (12), if water is available,
18 if the proposed use will not injure other water rights and if the proposed use
19 complies with rules of the Water Resources Commission. This shall be a
20 rebuttable presumption and may be overcome by a preponderance of evidence
21 that either:

22 “(a) One or more of the criteria for establishing the presumption are not
23 satisfied; or

24 “(b) The proposed use would not ensure the preservation of the public
25 welfare, safety and health as demonstrated in comments, in a protest under
26 subsection (7) of this section or in a finding of the department that shows:

27 “(A) The specific aspect of the public welfare, safety and health under
28 ORS 537.525 that would be impaired or detrimentally affected; and

29 “(B) Specifically how the identified aspect of the public welfare, safety
30 and health under ORS 537.525 would be impaired or be adversely affected.

1 “(3) The proposed final order shall cite findings of fact and conclusions
2 of law and shall include but need not be limited to:

3 “(a) Confirmation or modification of the preliminary determinations made
4 in the initial review;

5 “(b) A brief statement that explains the criteria considered relevant to the
6 decision, including the applicable basin program and the compatibility of the
7 proposed use with applicable land use plans;

8 “(c) An assessment of water availability and the amount of water neces-
9 sary for the proposed use;

10 “(d) An assessment of whether the proposed use would result in injury to
11 existing water rights;

12 “(e) An assessment of whether the proposed use would ensure the preser-
13 vation of the public welfare, safety and health as described in ORS 537.525;

14 “(f) A draft permit, including any proposed conditions, or a recommen-
15 dation to deny the application;

16 “(g) Whether the rebuttable presumption under subsection (2) of this sec-
17 tion has been established;

18 “(h) The date by which protests to the proposed final order must be re-
19 ceived by the department; and

20 “(i) The flow rate and duty of water allowed.

21 “(4) In establishing the flow rate and duty of water allowed, the depart-
22 ment may consider a general basin-wide standard, but first shall evaluate
23 information submitted by the applicant to demonstrate the need for a flow
24 rate and duty higher than the general standard. If the applicant provides
25 such information, the department shall authorize the requested rate and duty
26 except upon specific findings related to the application to support a deter-
27 mination that a lesser amount is needed. If the applicant does not provide
28 information to demonstrate the need for a flow rate and duty higher than the
29 general basin-wide standard, the department may apply the general standards
30 without specific findings related to the application.

1 “(5) The department shall mail copies of the proposed final order to the
2 applicant and to persons who have requested copies and paid the fee required
3 under ORS 536.050 (1)(p). The department also shall publish notice of the
4 proposed final order by publication in the weekly notice published by the
5 department.

6 “(6) Any person who supports a proposed final order may request standing
7 for purposes of participating in any contested case proceeding on the pro-
8 posed final order or for judicial review of a final order. A request for
9 standing shall be in writing and shall be accompanied by the fee established
10 under ORS 536.050 (1)(n).

11 “(7) Any person may submit a protest against a proposed final order. A
12 protest shall be in writing and shall include:

13 “(a) The name, address and telephone number of the protestant;

14 “(b) A description of the protestant’s interest in the proposed final order,
15 and if the protestant claims to represent the public interest, a precise state-
16 ment of the public interest represented;

17 “(c) A detailed description of how the action proposed in the proposed
18 final order would impair or be detrimental to the protestant’s interest;

19 “(d) A detailed description of how the proposed final order is in error or
20 deficient and how to correct the alleged error or deficiency;

21 “(e) Any citation of legal authority supporting the protest, if known; and

22 “(f) [*For persons other than the applicant,*] The protest fee required under
23 ORS 536.050.

24 “(8) Requests for standing and protests on the proposed final order shall
25 be submitted within 45 days after publication of the notice of the proposed
26 final order in the weekly notice published by the department. Any person
27 who asks to receive a copy of the department’s final order shall submit to
28 the department the fee required under ORS 536.050 (1)(p), unless the person
29 has previously requested copies and paid the required fee under ORS 537.620
30 (7), the person is a protestant and has paid the fee required under ORS

1 536.050 (1)(j) or the person has standing and has paid the fee under ORS
2 536.050 (1)(n).

3 “(9) Within 60 days after the close of the period for receiving protests, the
4 Water Resources Director shall:

5 “(a) Issue a final order as provided under ORS 537.625 (1); or

6 “(b) Schedule a contested case hearing if a protest has been submitted and
7 if:

8 “(A) Upon review of the issues, the director finds that there are signif-
9 icant disputes related to the proposed use of water; or

10 “(B) Within 30 days after the close of the period for submitting protests,
11 the applicant requests a contested case hearing.

12 **“SECTION 23.** ORS 543A.120 is amended to read:

13 “543A.120. (1) A proposed final order prepared by a Hydroelectric Appli-
14 cation Review Team and submitted to the Water Resources Department un-
15 der ORS 543A.040, 543A.055 or 543A.105 shall be based on the application of
16 the standards set forth in ORS 543A.025 and shall reflect the complete review
17 of the water right application for compliance with applicable statutes and
18 rules.

19 “(2) The proposed final order shall cite findings of fact and conclusions
20 of law and shall include but need not be limited to:

21 “(a) Confirmation or modification of the preliminary determinations made
22 in the initial review;

23 “(b) A brief statement that explains the criteria considered relevant to the
24 decision, including the applicable basin program, the compatibility of the
25 proposed use with applicable land use plans and information set forth in the
26 application report or final report on studies;

27 “(c) An assessment of water availability and the amount of water neces-
28 sary for the proposed use;

29 “(d) An assessment of whether the proposed use would result in injury to
30 existing water rights;

1 “(e) An assessment of whether the proposed use would impair or be det-
2 rimental to the public interest as provided in ORS 543A.025;

3 “(f) A draft certificate, including any proposed conditions, or a recom-
4 mendation to deny the application; and

5 “(g) The date by which protests to the proposed final order must be re-
6 ceived by the department.

7 “(3) The department shall mail copies of the proposed final order, as
8 submitted by the team, to the applicant and to persons who have requested
9 copies and paid the fee required under ORS 536.050 (1)(p). The department
10 also shall give public notice of the proposed final order in the weekly notice
11 published by the department.

12 “(4) Any person may request standing for purposes of participating in any
13 contested case proceeding on the proposed final order or for judicial review
14 of a final order. A request for standing shall be in writing and shall be ac-
15 companied by the fee established under ORS 536.050 (1)(n).

16 “(5) Any person may submit a protest against a proposed final order. A
17 protest shall be in writing and shall include:

18 “(a) The name, address and telephone number of the protestant;

19 “(b) A description of the protestant’s interest in the proposed final order
20 and, if the protestant claims to represent the public interest, a precise
21 statement of the public interest represented;

22 “(c) A detailed description of how the action proposed in the proposed
23 final order would impair or be detrimental to the protestant’s interest;

24 “(d) A detailed description of how the proposed final order is in error or
25 deficient and how to correct the alleged error or deficiency;

26 “(e) Any citation of legal authority supporting the protest, if known; and

27 “(f) [*For persons other than the applicant,*] The protest fee required under
28 ORS 536.050 (1)(j).

29 “(6) Requests for standing and protests on the proposed final order shall
30 be submitted within 45 days after publication of the notice of the proposed

1 final order in the weekly notice published by the department. Any person
2 who asks to receive a copy of the department’s final order shall submit to
3 the department the fee required under ORS 536.050 (1)(p), unless the person
4 has previously requested copies and paid the required fee.

5 “(7) The Hydroelectric Application Review Team shall review any protest
6 received and provide to the Water Resources Director a recommended re-
7 sponse to any protest received.

8 “(8) Within 120 days after the close of the period for receiving protests
9 and after consultation with the Hydroelectric Application Review Team, the
10 director shall:

11 “(a) Issue a final order as provided under ORS 543A.130; or

12 “(b) Schedule a contested case hearing if a protest has been submitted and
13 if:

14 “(A) Upon review of the issues, the director finds that there are signif-
15 icant disputes related to the proposed reauthorization of the project; or

16 “(B) Within 30 days after the close of the period for submitting protests,
17 the applicant requests a contested case hearing.

18 “(9) At the request of the applicant, the department may extend the time
19 periods set forth in subsection (8) of this section for a reasonable period of
20 time.

21 “(10) If the application is for reauthorization of a water right for a
22 federally licensed project, the department may postpone the issuance of the
23 final order until the Federal Energy Regulatory Commission license is is-
24 sued.

25

26 **“DELAYED CONFORMING AMENDMENTS**

27

28 **“SECTION 24.** ORS 536.055 is amended to read:

29 “536.055. (1) The Water Resources Department may, with any person, en-
30 ter into an agreement that sets fees to be paid to the department for the

1 purpose of enabling the department to expedite or enhance the regulatory
2 process to provide services voluntarily requested under the agreement. Pur-
3 suant to the agreement, the department may hire additional temporary staff
4 members, contract for services or provide additional services to the person
5 that are within the authority of the department to provide.

6 “(2) Notwithstanding the fees established in ORS 536.050 **or by rule un-**
7 **der section 15 of this 2013 Act**, as part of an agreement entered into under
8 this section, the department may waive all or part of a fee imposed for a
9 service.

10 “(3) The department may not modify existing processing priorities or
11 schedules or create processing priorities or schedules for a particular
12 department-provided service in order to compel a person to enter into an
13 agreement under this section. However, without violating this subsection,
14 the department may modify its processing priorities or schedules based on
15 the overall operating needs of the department.

16 “(4) The department may not require that a person pay more for a service
17 under an agreement entered into under this section than the cost to the de-
18 partment in providing the service to the person.

19 “(5) The department shall review the responsibilities of the department
20 to identify services provided by the department that are appropriate for the
21 department to perform under the provisions of this section. Failure to iden-
22 tify responsibilities under this subsection does not prohibit the department
23 from entering into agreements under this section.

24 “(6) Fees paid under this section shall be deposited in the State Treasury
25 to the credit of the department. Such moneys are continuously appropriated
26 to the department for the purpose of reviewing department responsibilities
27 to determine those services for which the authority provided in this section
28 may be used and for fulfilling the individual agreements entered into pursu-
29 ant to this section, including the processing and review of:

30 “(a) Water right permit applications, permit extensions, permit amend-

1 ments and final proof surveys;

2 “(b) Water right exchanges and transfers; and

3 “(c) Water management and conservation plans required by rule by the
4 department.

5 **“SECTION 25.** ORS 536.770 is amended to read:

6 “536.770. (1) The Water Resources Commission or a local government,
7 public corporation or water right holder may purchase an option or enter
8 an agreement to use an existing permit or water right during the time in
9 which a severe, continuing drought is declared to exist.

10 “(2) A local government, public corporation or water right holder pro-
11 posing to purchase an option or enter an agreement under this section shall
12 submit **an application** to the commission. [*an application*] **Subject to any**
13 **fee amount change established by a rule adopted under section 15 of**
14 **this 2013 Act, the application must be** accompanied by the fee required
15 under ORS 536.050 (1)(a).

16 “(3) After approval of the application by the commission, the option or
17 agreement user:

18 “(a) Is not required to construct any diversion or appropriation facilities
19 or works;

20 “(b) May use the water acquired under the option or agreement on prop-
21 erty or for a use different than allowed in the permit or water right trans-
22 ferred under the option or agreement, if the water is used to replace water
23 not available to the local government, public corporation or water right
24 holder because of the drought; and

25 “(c) May begin use at any time after approval by the commission so long
26 as the total use by the water right or permit holder and the option or
27 agreement user is within the rate, volume and seasonal limits of the permit
28 or water right.

29 **“SECTION 26.** ORS 537.140 is amended to read:

30 “537.140. (1)(a) Each application for a permit to appropriate water shall

1 be made to the Water Resources Department on a form prescribed by the
2 department and shall set forth:

3 “(A) The name and mailing address of the applicant;

4 “(B) The source of water supply including the name and mailing address
5 of any owner of the land upon which the source of the water supply is lo-
6 cated;

7 “(C) The nature and amount of the proposed use;

8 “(D) The location and description of the proposed ditch, canal or other
9 work, including the name and mailing address of the owner of any lands that
10 are not owned by the applicant and that are crossed by the proposed ditch,
11 canal or other work even if the applicant has obtained written authorization
12 or an easement from the owner;

13 “(E) A statement declaring whether the applicant has written authori-
14 zation or an easement permitting access to nonowned land crossed by the
15 proposed ditch, canal or other work;

16 “(F) The time within which it is proposed to begin construction;

17 “(G) The time required for completion of the construction;

18 “(H) The time for the complete application of the water to the proposed
19 use; and

20 “(I) Any other information required in the application form that is nec-
21 essary to evaluate the application as established by statute and rule.

22 “(b) If for agricultural purposes, the application shall give the legal sub-
23 divisions of the land and the acreage to be irrigated, as near as may be.

24 “(c) Except as provided in subsection (2) of this section, if for power
25 purposes, the application shall give the nature of the works by means of
26 which the power is to be developed, the head and amount of water to be
27 utilized, and the uses to which the power is to be applied.

28 “(d) If for construction of a reservoir, the application shall give the
29 height of dam, the capacity of the reservoir, and the uses to be made of the
30 impounded waters.

1 “(e) If for municipal water supply, the application shall give the present
2 population to be served, and, as near as may be, the future requirements of
3 the city.

4 “(f) If for mining purposes, the application shall give the nature of the
5 mines to be served, and the methods of supplying and utilizing the water.

6 “(2) Any person who has applied to the Federal Energy Regulatory Com-
7 mission for a preliminary permit or an exemption from licensing shall, at the
8 same time, apply to the Water Resources Department for a permit to appro-
9 priate water for a hydroelectric project. An applicant for a permit to appro-
10 priate water for a new hydroelectric project shall submit to the department
11 a complete copy of any application for the project filed with the Federal
12 Energy Regulatory Commission or other federal agency. If the copy of the
13 federal application is filed with the department at the same time it is filed
14 with the federal agency, at the department’s discretion such copy may fulfill
15 the requirements for an application under subsection (1) of this section.

16 “(3) Each application shall be accompanied by any map or drawing and
17 all other data concerning the proposed project and the applicant’s ability and
18 intention to construct the project, as may be prescribed by the Water Re-
19 sources Commission. The accompanying data shall be considered a part of
20 the application.

21 “(4) The map or drawing required to accompany the application shall be
22 of sufficient quality and scale to establish the location of the proposed point
23 of diversion and the proposed place of use identified by tax lot, township,
24 range, section and nearest quarter-quarter section along with a notation of
25 the acreage of the proposed place of use, if appropriate. In addition, the de-
26 partment shall accept locational coordinate information, including latitude
27 and longitude as established by a global positioning system. If the applica-
28 tion is for a water right for a municipal use, the map need not identify the
29 proposed place of use by tax lot.

30 “(5) **Subject to any fee amount change established by a rule adopted**

1 **under section 15 of this 2013 Act**, each application for a permit to appro-
2 priate water [*shall*] **must** be accompanied by the examination fee set forth
3 in ORS 536.050 (1).

4 “(6) If the proposed use of the water is for operation of a chemical process
5 mine as defined in ORS 517.953, the applicant shall provide the information
6 required under this section as part of the consolidated application under ORS
7 517.952 to 517.989.

8 “(7) Notwithstanding any provision of ORS chapter 183, an application for
9 a permit to appropriate water shall be processed in the manner set forth in
10 ORS 537.120 to 537.360. Nothing in ORS chapter 183 shall be construed to
11 allow additional persons to participate in the process. To the extent that any
12 provision in ORS chapter 183 conflicts with a provision set forth in ORS
13 537.120 to 537.360, the provisions in ORS 537.120 to 537.360 shall control.

14 **“SECTION 27.** ORS 537.147 is amended to read:

15 “537.147. (1) Notwithstanding the process for applying for a water right
16 permit established in ORS 537.150 to 537.230, a person may, pursuant to this
17 section, apply to the Water Resources Department for a water right permit
18 to use stored water. A person applying under this section for a water right
19 permit to use stored water shall submit:

20 “(a) **Subject to any fee amount change established by a rule adopted**
21 **under section 15 of this 2013 Act**, a fee[,] in the amount required by ORS
22 536.050 for applications to appropriate stored water.

23 “(b) A completed application for a secondary permit, in a form determined
24 by the department, that contains the information required of applications
25 under ORS 537.140 and 537.400 (1).

26 “(c) Evidence that the proposed use of the stored water is one of the au-
27 thorized uses under the water right permit, certificate or decree that allows
28 the storage of water.

29 “(2) If an applicant provides, to the satisfaction of the department, the fee
30 and the information required by subsection (1) of this section, the department

1 may, after public notice and a 30-day opportunity to submit comments on the
2 application, issue a water right permit upon determining that no public in-
3 terest issues as identified in ORS 537.170 (8) have been raised through the
4 comments submitted.

5 “(3) If the department determines that public interest issues have been
6 identified, then the department shall treat the application under this section
7 as an application under ORS 537.150 and perform the public interest review
8 required by ORS 537.153 (2).

9 “(4) At a minimum, a water right permit issued by the department for use
10 of stored water under this section shall be conditioned to require:

11 “(a) Fish screens and by-pass devices and fish passage as may be required
12 by the State Department of Fish and Wildlife; and

13 “(b) A measuring device at each point of diversion authorized under the
14 water right permit.

15 “(5) Within 10 days of issuing a water right permit under this section, the
16 department shall provide notice of the permit issuance in the weekly notice
17 published by the department and to persons who have submitted comments
18 pursuant to subsection (2) of this section.

19 **“SECTION 28.** ORS 537.153, as amended by section 14, chapter 819,
20 Oregon Laws 2009, and section 21 of this 2013 Act, is amended to read:

21 “537.153. (1) Within 60 days after the Water Resources Department pro-
22 ceeds with the application under ORS 537.150 (5), the department shall com-
23 plete application review and issue a proposed final order approving or
24 denying the application or approving the application with modifications or
25 conditions. The department may request the applicant to provide additional
26 information needed to complete the review. If the department requests addi-
27 tional information, the request shall be specific and shall be sent to the ap-
28 plicant by registered mail. The department shall specify a date by which the
29 information must be returned, which shall be not less than 10 days after the
30 department mails the request to the applicant. If the department does not

1 receive the information or a request for a time extension under ORS 537.175
2 by the date specified in the request, the department may reject the applica-
3 tion and may refund fees in accordance with ORS 536.050 (4)(a). The time
4 period specified by the department in a request for additional information
5 shall allow the department to comply with the 60-day time limit established
6 by this subsection.

7 “(2) In reviewing the application under subsection (1) of this section, the
8 department shall presume that a proposed use will not impair or be detri-
9 mental to the public interest if the proposed use is allowed in the applicable
10 basin program established pursuant to ORS 536.300 and 536.340 or given a
11 preference under ORS 536.310 (12), if water is available, if the proposed use
12 will not injure other water rights and if the proposed use complies with rules
13 of the Water Resources Commission. This shall be a rebuttable presumption
14 and may be overcome by a preponderance of evidence that either:

15 “(a) One or more of the criteria for establishing the presumption are not
16 satisfied; or

17 “(b) The proposed use will impair or be detrimental to the public interest
18 as demonstrated in comments, in a protest under subsection (6) of this sec-
19 tion or in a finding of the department that shows:

20 “(A) The specific public interest under ORS 537.170 (8) that would be im-
21 paired or detrimentally affected; and

22 “(B) Specifically how the identified public interest would be impaired or
23 detrimentally affected.

24 “(3) The proposed final order shall cite findings of fact and conclusions
25 of law and shall include but need not be limited to:

26 “(a) Confirmation or modification of the preliminary determinations made
27 in the initial review;

28 “(b) A brief statement that explains the criteria considered relevant to the
29 decision, including the applicable basin program and the compatibility of the
30 proposed use with applicable land use plans;

1 “(c) An assessment of water availability and the amount of water neces-
2 sary for the proposed use;

3 “(d) An assessment of whether the proposed use would result in injury to
4 existing water rights;

5 “(e) An assessment of whether the proposed use would impair or be det-
6 rimental to the public interest as provided in ORS 537.170;

7 “(f) A draft permit, including any proposed conditions, or a recommen-
8 dation to deny the application;

9 “(g) Whether the rebuttable presumption that the proposed use will not
10 impair or be detrimental to the public interest has been established; and

11 “(h) The date by which protests to the proposed final order must be re-
12 ceived by the department.

13 “(4) The department shall mail copies of the proposed final order to the
14 applicant and to persons who have requested copies and, **subject to any fee**
15 **amount change established by a rule adopted under section 15 of this**
16 **2013 Act, have** paid the fee required under ORS 536.050 (1)(p). The depart-
17 ment also shall publish notice of the proposed final order by publication in
18 the weekly notice published by the department.

19 “(5) Any person who supports a proposed final order may request standing
20 for purposes of participating in any contested case proceeding on the pro-
21 posed final order or for judicial review of a final order. A request for
22 standing shall be in writing and [*shall*], **subject to any fee amount change**
23 **established by a rule adopted under section 15 of this 2013 Act**, be ac-
24 companied by the fee established under ORS 536.050 (1)(n).

25 “(6) Any person may submit a protest against a proposed final order. A
26 protest shall be in writing and shall include:

27 “(a) The name, address and telephone number of the protestant;

28 “(b) A description of the protestant’s interest in the proposed final order
29 and, if the protestant claims to represent the public interest, a precise
30 statement of the public interest represented;

1 “(c) A detailed description of how the action proposed in the proposed
2 final order would impair or be detrimental to the protestant’s interest;

3 “(d) A detailed description of how the proposed final order is in error or
4 deficient and how to correct the alleged error or deficiency;

5 “(e) Any citation of legal authority supporting the protest, if known; and

6 “(f) **Subject to any fee amount change established by a rule adopted**
7 **under section 15 of this 2013 Act**, the protest fee required under ORS
8 536.050.

9 “(7) Requests for standing and protests on the proposed final order shall
10 be submitted within 45 days after publication of the notice of the proposed
11 final order in the weekly notice published by the department. **Subject to**
12 **any fee amount change established by a rule adopted under section 15**
13 **of this 2013 Act**, any person who asks to receive a copy of the department’s
14 final order shall submit to the department the fee required under ORS
15 536.050 (1)(p)[,] unless the person has previously requested copies and paid
16 the required fee under ORS 537.150 (7), the person is a protestant and has
17 paid the fee required under ORS 536.050 (1)(j) or the person has standing and
18 has paid the fee under ORS 536.050 (1)(n).

19 “(8) Within 60 days after the close of the period for receiving protests, the
20 Water Resources Director shall:

21 “(a) Issue a final order as provided under ORS 537.170 (6); or

22 “(b) Schedule a contested case hearing if a protest has been submitted and
23 if:

24 “(A) Upon review of the issues, the director finds that there are signif-
25 icant disputes related to the proposed use of water; or

26 “(B) Within 30 days after the close of the period for submitting protests,
27 the applicant requests a contested case hearing.

28 “**SECTION 29.** ORS 537.170 is amended to read:

29 “537.170. (1) Within 45 days after the Water Resources Director schedules
30 a contested case hearing under ORS 537.153 (8), the Water Resources De-

1 partment shall hold the contested case hearing. The issues to be considered
2 in the contested case hearing shall be limited to issues identified by the ad-
3 ministrative law judge.

4 “(2) Notwithstanding the provisions of ORS chapter 183 pertaining to
5 contested case proceedings, the parties to any contested case hearing initi-
6 ated under this section shall be limited to:

7 “(a) The applicant;

8 “(b) Any person who timely filed a protest; and

9 “(c) Any person who timely filed a request for standing under ORS 537.153
10 (5) and who requests to intervene in the contested case hearing prior to the
11 start of the proceeding.

12 “(3) The contested case proceeding shall be conducted in accordance with
13 the applicable provisions of ORS chapter 183 except:

14 “(a) As provided in subsections (1) and (2) of this section; and

15 “(b) An interlocutory appeal under ORS 183.480 (3) shall not be allowed.

16 “(4) If applicable, an application to appropriate water for the generation
17 of electricity submitted under ORS 537.140 shall be included in the consol-
18 idated review and hearings process under ORS 543.255.

19 “(5) Each person submitting a protest or a request for standing shall raise
20 all reasonably ascertainable issues and submit all reasonably available ar-
21 guments supporting the person’s position by the close of the protest period.
22 Failure to raise a reasonably ascertainable issue in a protest or in a hearing
23 or failure to provide sufficient specificity to afford the Water Resources De-
24 partment an opportunity to respond to the issue precludes judicial review
25 based on that issue.

26 “(6) If, after the contested case hearing or, if a hearing is not held, after
27 the close of the period allowed to file a protest, the director determines that
28 the proposed use does not comply with the standards set forth in ORS 543.017
29 or rules adopted by the Water Resources Commission under ORS 543.017 or
30 would otherwise impair or be detrimental to the public interest, the director

1 shall issue a final order rejecting the application or modifying the proposed
2 final order to conform to the public interest. If, after the contested case
3 hearing or, if a hearing is not held, after the close of the period allowed to
4 file a protest, the director determines that the proposed use would not impair
5 or be detrimental to the public interest, the director shall issue a final order
6 approving the application or otherwise modifying the proposed final order.
7 A final order may set forth any of the provisions or restrictions to be in-
8 cluded in the permit concerning the use, control and management of the
9 water to be appropriated for the project, including, but not limited to, a
10 specification of reservoir operation and minimum releases to protect the
11 public interest.

12 “(7) If a contested case hearing is not held:

13 “(a) Where the final order modifies the proposed final order, the applicant
14 may request and the department shall schedule a contested case hearing as
15 provided under subsection (3) of this section by submitting the information
16 required for a protest under ORS 537.153 (6) within 14 days after the director
17 issues the final order. However, the issues on which a contested case hearing
18 may be requested and conducted under this paragraph shall be limited to
19 issues based on the modifications to the proposed final order.

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

23 “(8) If the presumption of public interest under ORS 537.153 (2) is over-
24 come, then before issuing a final order, the director or the commission, if
25 applicable, shall make the final determination of whether the proposed use
26 or the proposed use as modified in the proposed final order would impair or
27 be detrimental to the public interest by considering:

28 “(a) Conserving the highest use of the water for all purposes, including
29 irrigation, domestic use, municipal water supply, power development, public
30 recreation, protection of commercial and game fishing and wildlife, fire pro-

1 tection, mining, industrial purposes, navigation, scenic attraction or any
2 other beneficial use to which the water may be applied for which it may have
3 a special value to the public.

4 “(b) The maximum economic development of the waters involved.

5 “(c) The control of the waters of this state for all beneficial purposes,
6 including drainage, sanitation and flood control.

7 “(d) The amount of waters available for appropriation for beneficial use.

8 “(e) The prevention of wasteful, uneconomic, impracticable or unreason-
9 able use of the waters involved.

10 “(f) All vested and inchoate rights to the waters of this state or to the
11 use of the waters of this state, and the means necessary to protect such
12 rights.

13 “(g) The state water resources policy formulated under ORS 536.295 to
14 536.350 and 537.505 to 537.534.

15 “(9) Upon issuing a final order, the director shall notify the applicant and
16 each person who submitted written comments or protests or otherwise re-
17 quested notice of the final order and send a copy of the final order to any
18 person who requested a copy and, **subject to any fee amount change es-**
19 **tablished by a rule adopted under section 15 of this 2013 Act**, paid the
20 fee required under ORS 536.050 (1)(p).

21 **“SECTION 30.** ORS 537.409 is amended to read:

22 “537.409. (1) In lieu of the process set forth in ORS 537.140 to 537.211 for
23 applying for a water right permit, an owner of a reservoir may submit an
24 application to the Water Resources Department to issue a water right permit
25 under ORS 537.211 or a certificate under ORS 537.250 according to the pro-
26 cess set forth in this section if the reservoir:

27 “(a) Has a storage capacity of less than 9.2 acre-feet or a dam or
28 impoundment structure less than 10 feet in height;

29 “(b) Does not injure any existing water right;

30 “(c) Does not pose a significant detrimental impact to existing fishery

1 resources as determined on the basis of information submitted by the State
2 Department of Fish and Wildlife; and

3 “(d) Is not prohibited under ORS 390.835.

4 “(2) An application for a water right permit for a reservoir under sub-
5 section (1) of this section shall provide sufficient information to demonstrate
6 compliance with the criteria set forth in subsection (1) of this section. The
7 application shall:

8 “(a) Include the quantity of water to be stored by the reservoir, a map
9 indicating the location of the reservoir and the source of the water used to
10 fill the reservoir; and

11 “(b) **Subject to any fee amount change established by a rule adopted**
12 **under section 15 of this 2013 Act**, be accompanied by the fee established
13 in ORS 536.050 (1)(q).

14 “(3) The map required under subsection (2) of this section need not be
15 prepared by a water right examiner certified under ORS 537.798. The map
16 submitted with the application shall comply with standards established by
17 the Water Resources Commission.

18 “(4) Within 60 days after receiving an application under subsection (1) of
19 this section, the Water Resources Department shall provide public notice of
20 the application in the manner the department determines to be the most ap-
21 propriate.

22 “(5) Within 60 days after the department provides public notice under
23 subsection (4) of this section, any person may submit detailed, legally ob-
24 tained information in writing, requesting the department to deny the appli-
25 cation for a permit on the basis that the reservoir:

26 “(a) Would result in injury to an existing water right; or

27 “(b) Would pose a significant detrimental impact to existing fishery re-
28 sources.

29 “(6) In accordance with rules established by the Water Resources Com-
30 mission for an expedited public interest review process for applications sub-

1 mitted under this section or in response to a request under subsection (5)
2 of this section, the department shall conduct a public interest review of the
3 reservoir application. The review shall be limited to issues pertaining to:

4 “(a) Water availability;

5 “(b) Potential detrimental impact to existing fishery resources; and

6 “(c) Potential injury to existing water rights.

7 “(7) Within 180 days after the department receives an application for a
8 permit under subsection (1) of this section, the department shall issue a final
9 order granting or denying the permit or granting the permit with conditions.

10 “(8) If the department issues an order under subsection (7) of this section
11 denying the permit, the applicant may request a contested case hearing,
12 which shall be conducted in accordance with applicable provisions of ORS
13 chapter 183.

14 “(9) If the department does not find injury or impact under subsection (6)
15 of this section and the department issues a final order under subsection (7)
16 of this section allowing the issuance of a permit, the order shall be subject
17 to judicial review of orders in other than contested cases as provided in ORS
18 chapter 183.

19 “(10) Notwithstanding the requirement for a survey under ORS 537.230 (4),
20 a survey of the appropriation is not required for a reservoir that has a
21 storage capacity of less than 9.2 acre-feet of water. For a reservoir qualifying
22 under this subsection, a permittee shall submit to the department a claim
23 of beneficial use within one year after the date of completion of construction.
24 A claim of beneficial use for a reservoir qualifying under this subsection
25 shall require only a written affidavit signed by the permittee that includes
26 the following:

27 “(a) The dimensions of the reservoir.

28 “(b) The maximum capacity of the reservoir in acre-feet.

29 “(c) A map identifying the location of the reservoir. The map shall comply
30 with standards established by the Water Resources Commission. The map

1 required under this subsection need not be prepared by a water right exam-
2 iner certified under ORS 537.798.

3 “(11) Any person applying for a secondary permit for the use of stored
4 water from a reservoir qualifying under subsection (10) of this section shall
5 submit a survey prepared by a water right examiner certified under ORS
6 537.798. The survey required under this subsection shall apply to the storage
7 reservoir and to the secondary use of the water in the reservoir.

8 **“SECTION 31.** ORS 537.534 is amended to read:

9 “537.534. (1) In accordance with this section, the Water Resources Com-
10 mission shall establish rules for the permitting and administration of aquifer
11 storage and recovery projects. The rules shall establish the Water Resources
12 Department as the sole permitting agency for the projects, but the Depart-
13 ment of Environmental Quality and the Oregon Health Authority may com-
14 ment on permits for a project and recommend conditions to be included on
15 the permit. When necessary, the applicant also shall obtain land use and
16 development approval from a local government.

17 “(2) Notwithstanding the provisions of ORS 537.130, the Water Resources
18 Commission shall establish by rule a procedure to allow a person to obtain
19 a limited license to store and use water injected into an underground aquifer
20 for aquifer storage and recovery testing purposes for a short term or fixed
21 duration after the person complies with the notice provision set forth in ORS
22 537.144. The rules shall provide a 30-day public comment period before issu-
23 ance of a limited license. The Water Resources Department may attach con-
24 ditions to the limited license regarding monitoring, sampling and rates of
25 recovery up to 100 percent of the injection quantity. Aquifer storage and
26 recovery under a limited license may be conditioned by the Water Resources
27 Department to protect existing ground water rights that rely upon the re-
28 ceiving aquifer and the injection source water. The Water Resources De-
29 partment may revoke or modify the limited license to use the stored water
30 acquired under a limited license if that use causes injury to any other water

1 right or to a minimum perennial streamflow. The Water Resources Director
2 may issue a limited license for aquifer storage and recovery purposes for a
3 term of not more than five years. The license may be renewed if the applicant
4 demonstrates further testing is necessary.

5 “(3) To obtain a limited license for aquifer storage and recovery, the ap-
6 plicant shall provide to the Water Resources Department:

7 “(a) Well construction information;

8 “(b) Test results of the quality of the injection source water;

9 “(c) Test results of the quality of the receiving aquifer water;

10 “(d) The proposed injected water storage time, recovery rates and recov-
11 ery schedule;

12 “(e) Preliminary hydrogeologic information including a description of the
13 aquifer, estimated flow direction and rate of movement, allocation of surface
14 water, springs or wells within the area affected by aquifer storage and re-
15 covery wells;

16 “(f) The fee established by rule by the commission pursuant to ORS
17 536.050 (1)(L); and

18 “(g) Any other information required by rule of the commission.

19 “(4) Only after completion of a test program under a limited license issued
20 under subsection (3) of this section may the applicant apply for a permanent
21 aquifer storage and recovery permit. **Subject to any fee amount change**
22 **established by a rule adopted under section 15 of this 2013 Act**, each
23 application for an aquifer storage and recovery permit shall be accompanied
24 by the fee set forth in ORS 536.050 for examination of an application for a
25 permit to store water. The Water Resources Department shall be the sole
26 permitting agency for the project and may place conditions on the permit
27 consistent with rules adopted by the commission, but the Department of
28 Environmental Quality and the Oregon Health Authority may review, com-
29 ment on and recommend conditions to be included on the permit. When
30 necessary, the applicant shall obtain land use and development approval from

1 a local government. Where existing water rights for the injection source
2 water have been issued, the Water Resources Department shall receive com-
3 ments from interested parties or agencies, but the public interest review
4 standards shall apply only to the matters raised by the aquifer storage and
5 recovery permit application in the same manner as any new water right ap-
6 plication, not to the underlying water rights. If new water rights for in-
7 jection source water and aquifer storage and recovery are necessary, then the
8 public interest review standards shall apply to the new permit application
9 in the same manner as any new water right application. The Water Re-
10 sources Director may refer policy matters to the commission for decision.

11 “(5) The commission shall adopt rules consistent with this section to im-
12 plement an aquifer storage and recovery program. The rules shall include:

13 “(a) Requirements for reporting and monitoring the aquifer storage and
14 recovery project aquifer impacts and for constituents reasonably expected to
15 be found in the injection source water.

16 “(b) Provisions that allow any person operating an aquifer storage and
17 recovery project under a permit, upon approval by the Water Resources De-
18 partment, to recover up to 100 percent of the water stored in the aquifer
19 storage facility if valid scientific data gathered during operations under the
20 limited license or permit demonstrate that the injected source water is not
21 lost through migration or other means and that ground water otherwise
22 present in the aquifer has not been irretrievably lost as a result of aquifer
23 storage or retrieval. The Water Resources Department may place such other
24 conditions on withdrawal of stored water necessary to protect the public
25 health and environment, including conditions allowing reconsideration of the
26 permit to comply with ORS 537.532.

27 “(c) The procedure for allowing the Department of Environmental Quality
28 and the Oregon Health Authority to comment on and recommend permit
29 conditions.

30 “(6) The use of water under a permit as injection source water for an

1 aquifer storage and recovery project up to the limits allowed in subsection
2 (5)(b) of this section shall not affect the priority date of the water right
3 permit or otherwise affect the right evidenced by the permit.

4 “(7) The holder of a permit for aquifer storage and recovery shall apply
5 for a transfer or change of use if the use of recovered water is different from
6 that which is allowed in the source water permit or certificate.

7 **“SECTION 32.** ORS 537.615 is amended to read:

8 “537.615. (1) Any person or public agency intending to acquire a wholly
9 new right to appropriate ground water or to enlarge upon any existing right
10 to appropriate ground water, except for any purpose exempt under ORS
11 537.545, shall apply to the Water Resources Department for and be issued a
12 permit before withdrawing or using the ground water.

13 “(2) The application for a permit shall be in a form prescribed by the de-
14 partment and shall contain:

15 “(a) The name and post-office address of the applicant.

16 “(b) The nature of the use by the applicant of the ground water for which
17 the application is made.

18 “(c) The dates of the beginning and completion of the construction of any
19 well or other means of developing and securing the ground water.

20 “(d) The date when the ground water will be completely applied to the
21 proposed beneficial use.

22 “(e) The amount of ground water claimed.

23 “(f) If the ground water is to be used for irrigation purposes, a description
24 of the lands to be irrigated, giving the number of acres to be irrigated in
25 each 40-acre legal subdivision.

26 “(g) The depth to the water table, if known.

27 “(h) The location of each well with reference to government survey cor-
28 ners or monuments or corners of recorded plats.

29 “(i) The proposed depth, diameter and type of each well, and the kind and
30 amount of the casing.

1 “(j) The estimated capacity of each well and each well pump in gallons
2 per minute, and the horsepower of each well pump motor.

3 “(k) If the ground water is artesian or other ground water not requiring
4 pumping, the rate of flow in gallons in such manner as the Water Resources
5 Commission may prescribe.

6 “(L) If the ground water supply is supplemental to an existing water
7 supply, identification of any application for a permit, permit, certificate or
8 adjudicated right to appropriate water made or held by the applicant.

9 “(m) Any other information as the department considers necessary to
10 evaluate the application.

11 “(3) Each application for a permit shall be accompanied by any maps and
12 drawings the department considers necessary.

13 “(4) The map or drawing required to accompany the application shall be
14 of sufficient quality and scale to establish the location of the proposed point
15 of diversion and the proposed place of use identified by tax lot, township,
16 range, section and nearest quarter-quarter section along with a notation of
17 the acreage of the proposed place of use, if appropriate. In addition, the de-
18 partment shall accept locational coordinate information, including latitude
19 and longitude as established by a global positioning system. If the applica-
20 tion is for a water right for a municipal use, the map need not identify the
21 proposed place of use by tax lot.

22 “(5) **Subject to any fee amount change established by a rule adopted**
23 **under section 15 of this 2013 Act**, each application for a permit to appro-
24 priate water [*shall*] **must** be accompanied by the examination fee set forth
25 in ORS 536.050 (1).

26 “(6) If the proposed use of the water is for the operation of a chemical
27 process mine as defined in ORS 517.953, the applicant shall provide the in-
28 formation required under this section as part of the consolidated application
29 under ORS 517.952 to 517.989.

30 “(7) Notwithstanding any provision of ORS chapter 183, an application for

1 a permit to appropriate ground water shall be processed in the manner set
2 forth in ORS 537.505 to 537.795. Nothing in ORS chapter 183 shall be con-
3 strued to allow additional persons to participate in the process. To the extent
4 that any provision in ORS chapter 183 conflicts with a provision set forth
5 in ORS 537.505 to 537.795, the provisions in ORS 537.505 to 537.795 shall
6 control.

7 **SECTION 33.** ORS 537.621, as amended by section 17, chapter 819,
8 Oregon Laws 2009, and section 22 of this 2013 Act, is amended to read:

9 “537.621. (1) Within 60 days after the Water Resources Department pro-
10 ceeds with the application under ORS 537.620 (5), the department shall com-
11 plete application review and issue a proposed final order approving or
12 denying the application or approving the application with modifications or
13 conditions. The department may request the applicant to provide additional
14 information needed to complete the review. If the department requests addi-
15 tional information, the request shall be specific and shall be sent to the ap-
16 plicant by registered mail. The department shall specify a date by which the
17 information must be returned, which shall be not less than 10 days after the
18 department mails the request to the applicant. If the department does not
19 receive the information or a request for a time extension under ORS 537.627
20 by the date specified in the request, the department may reject the applica-
21 tion and may refund fees in accordance with ORS 536.050 (4)(a). The time
22 period specified by the department in a request for additional information
23 shall allow the department to comply with the 60-day time limit established
24 by this subsection.

25 “(2) In reviewing the application under subsection (1) of this section, the
26 department shall determine whether the proposed use will ensure the pres-
27 ervation of the public welfare, safety and health as described in ORS 537.525.
28 The department shall presume that a proposed use will ensure the preserva-
29 tion of the public welfare, safety and health if the proposed use is allowed
30 in the applicable basin program established pursuant to ORS 536.300 and

1 536.340 or given a preference under ORS 536.310 (12), if water is available,
2 if the proposed use will not injure other water rights and if the proposed use
3 complies with rules of the Water Resources Commission. This shall be a
4 rebuttable presumption and may be overcome by a preponderance of evidence
5 that either:

6 “(a) One or more of the criteria for establishing the presumption are not
7 satisfied; or

8 “(b) The proposed use would not ensure the preservation of the public
9 welfare, safety and health as demonstrated in comments, in a protest under
10 subsection (7) of this section or in a finding of the department that shows:

11 “(A) The specific aspect of the public welfare, safety and health under
12 ORS 537.525 that would be impaired or detrimentally affected; and

13 “(B) Specifically how the identified aspect of the public welfare, safety
14 and health under ORS 537.525 would be impaired or be adversely affected.

15 “(3) The proposed final order shall cite findings of fact and conclusions
16 of law and shall include but need not be limited to:

17 “(a) Confirmation or modification of the preliminary determinations made
18 in the initial review;

19 “(b) A brief statement that explains the criteria considered relevant to the
20 decision, including the applicable basin program and the compatibility of the
21 proposed use with applicable land use plans;

22 “(c) An assessment of water availability and the amount of water neces-
23 sary for the proposed use;

24 “(d) An assessment of whether the proposed use would result in injury to
25 existing water rights;

26 “(e) An assessment of whether the proposed use would ensure the preser-
27 vation of the public welfare, safety and health as described in ORS 537.525;

28 “(f) A draft permit, including any proposed conditions, or a recommen-
29 dation to deny the application;

30 “(g) Whether the rebuttable presumption under subsection (2) of this sec-

1 tion has been established;

2 “(h) The date by which protests to the proposed final order must be re-
3 ceived by the department; and

4 “(i) The flow rate and duty of water allowed.

5 “(4) In establishing the flow rate and duty of water allowed, the depart-
6 ment may consider a general basin-wide standard, but first shall evaluate
7 information submitted by the applicant to demonstrate the need for a flow
8 rate and duty higher than the general standard. If the applicant provides
9 such information, the department shall authorize the requested rate and duty
10 except upon specific findings related to the application to support a deter-
11 mination that a lesser amount is needed. If the applicant does not provide
12 information to demonstrate the need for a flow rate and duty higher than the
13 general basin-wide standard, the department may apply the general standards
14 without specific findings related to the application.

15 “(5) The department shall mail copies of the proposed final order to the
16 applicant and to persons who have requested copies and, **subject to any fee**
17 **amount change established by a rule adopted under section 15 of this**
18 **2013 Act**, paid the fee required under ORS 536.050 (1)(p). The department also
19 shall publish notice of the proposed final order by publication in the weekly
20 notice published by the department.

21 “(6) Any person who supports a proposed final order may request standing
22 for purposes of participating in any contested case proceeding on the pro-
23 posed final order or for judicial review of a final order. A request for
24 standing shall be in writing and [*shall*], **subject to any fee amount change**
25 **established by a rule adopted under section 15 of this 2013 Act, must**
26 be accompanied by the fee established under ORS 536.050 (1)(n).

27 “(7) Any person may submit a protest against a proposed final order. A
28 protest shall be in writing and shall include:

29 “(a) The name, address and telephone number of the protestant;

30 “(b) A description of the protestant’s interest in the proposed final order,

1 and if the protestant claims to represent the public interest, a precise state-
2 ment of the public interest represented;

3 “(c) A detailed description of how the action proposed in the proposed
4 final order would impair or be detrimental to the protestant’s interest;

5 “(d) A detailed description of how the proposed final order is in error or
6 deficient and how to correct the alleged error or deficiency;

7 “(e) Any citation of legal authority supporting the protest, if known; and

8 “(f) **Subject to any fee amount change established by a rule adopted**
9 **under section 15 of this 2013 Act**, the protest fee required under ORS
10 536.050.

11 “(8) Requests for standing and protests on the proposed final order shall
12 be submitted within 45 days after publication of the notice of the proposed
13 final order in the weekly notice published by the department. **Subject to**
14 **any fee amount change established by a rule adopted under section 15**
15 **of this 2013 Act**, any person who asks to receive a copy of the department’s
16 final order shall submit to the department the fee required under ORS
17 536.050 (1)(p)[,] unless the person has previously requested copies and paid
18 the required fee under ORS 537.620 (7), the person is a protestant and has
19 paid the fee required under ORS 536.050 (1)(j) or the person has standing and
20 has paid the fee under ORS 536.050 (1)(n).

21 “(9) Within 60 days after the close of the period for receiving protests, the
22 Water Resources Director shall:

23 “(a) Issue a final order as provided under ORS 537.625 (1); or

24 “(b) Schedule a contested case hearing if a protest has been submitted and
25 if:

26 “(A) Upon review of the issues, the director finds that there are signif-
27 icant disputes related to the proposed use of water; or

28 “(B) Within 30 days after the close of the period for submitting protests,
29 the applicant requests a contested case hearing.

30 “**SECTION 34.** ORS 537.625 is amended to read:

1 “537.625. (1) If, after the contested case hearing or, if a hearing is not
2 held, after the close of the period allowed to file a protest, the Water Re-
3 sources Director determines that the proposed use does not ensure the pres-
4 ervation of the public welfare, safety and health as described in ORS 537.525,
5 the director shall issue a final order rejecting the application or modifying
6 the proposed final order as necessary to ensure the preservation of the public
7 welfare, safety and health as described in ORS 537.525. If, after the contested
8 case hearing or, if a hearing is not held, after the close of the period allowed
9 to file a protest, the director determines that the proposed use would ensure
10 the preservation of the public welfare, safety and health as described in ORS
11 537.525, the director shall issue a final order approving the application or
12 otherwise modifying the proposed final order. A final order may set forth any
13 of the provisions or restrictions to be included in the permit concerning the
14 use, control and management of the water to be appropriated for the project.

15 “(2) If a contested case hearing is not held:

16 “(a) Where the final order modifies the proposed final order, the applicant
17 may request and the Water Resources Department shall schedule a contested
18 case hearing as provided under ORS 537.622 (3) by submitting the informa-
19 tion required for a protest under ORS 537.621 (7) within 14 days after the
20 director issues the final order. However, the issues on which a contested case
21 hearing may be requested and conducted under this paragraph shall be lim-
22 ited to issues based on the modifications to the proposed final order.

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

26 “(3) If the presumption of public welfare, safety and health under ORS
27 537.621 (2) is overcome, then before issuing a final order, the director or the
28 Water Resources Commission, if applicable, shall make the final determi-
29 nation of whether the proposed use or the proposed use as modified in the
30 proposed final order would preserve the public welfare, safety and health as

1 described in ORS 537.525 by considering:

2 “(a) The conservation of the highest use of the water for all purposes,
3 including irrigation, domestic use, municipal water supply, power develop-
4 ment, public recreation, protection of commercial and game fishing and
5 wildlife, fire protection, mining, industrial purposes, navigation, scenic at-
6 traction or any other beneficial use to which the water may be applied for
7 which it may have a special value to the public.

8 “(b) The maximum economic development of the waters involved.

9 “(c) The control of the waters of this state for all beneficial purposes,
10 including drainage, sanitation and flood control.

11 “(d) The amount of waters available for appropriation for beneficial use.

12 “(e) The prevention of wasteful, uneconomic, impracticable or unreason-
13 able use of the waters involved.

14 “(f) All vested and inchoate rights to the waters of this state or to the
15 use of the waters of this state, and the means necessary to protect such
16 rights.

17 “(g) The state water resources policy.

18 “(4) Upon issuing a final order, the Water Resources Department shall
19 notify the applicant and each person who submitted written comments or
20 protests or otherwise requested notice of the final order and send a copy of
21 the final order to any person who requested a copy and, **subject to any fee**
22 **amount change established by a rule adopted under section 15 of this**
23 **2013 Act**, paid the fee required under ORS 536.050 (1)(p).

24 “(5) A right to appropriate ground water under a permit has a priority
25 from the date when the application was filed with the department.

26 “(6) If the use of water under the permit is for operation of a chemical
27 process mine as defined in ORS 517.952:

28 “(a) Review of the application and approval or denial of the application
29 shall be coordinated with the consolidated application process under ORS
30 517.952 to 517.989. However, such review and approval or denial shall take

1 into consideration all policy considerations for the appropriation of water
2 as set forth in this chapter and ORS chapter 536.

3 “(b) The permit may be issued for exploration under ORS 517.702 to
4 517.740, but the permit shall be conditioned on the applicant’s compliance
5 with the consolidated application process.

6 “(c) The permit shall include a condition that additional conditions may
7 be added to the use of water when a water right certificate is issued, or when
8 the use of water is changed pursuant to ORS 540.520 and 540.530 to use for
9 a chemical process mine operation.

10 **“SECTION 35.** ORS 537.785 is amended to read:

11 “537.785. (1) In the administration of ORS 537.505 to 537.795 and 537.992,
12 the Water Resources Commission shall collect in advance, **subject to any**
13 **fee amount change established by a rule adopted under section 15 of**
14 **this 2013 Act**, the fees set forth in ORS 539.081 for any service similar to
15 any of those referred to in ORS 539.081.

16 “(2) All fees collected by the commission under subsection (1) of this
17 section shall be paid into the General Fund of the State Treasury.

18 **“SECTION 36.** ORS 540.523 is amended to read:

19 “540.523. (1) In accordance with the provisions of this section, any person
20 who holds a water use subject to transfer may request that the Water Re-
21 sources Department approve the temporary transfer of place of use and, if
22 necessary to convey water to the new temporary place of use, temporarily
23 change the point of diversion or point of appropriation for a period not to
24 exceed five years. An application for a temporary transfer shall:

25 “(a) Be submitted in writing to the Water Resources Department;

26 “(b) **Subject to any fee amount change established by a rule adopted**
27 **under section 15 of this 2013 Act**, be accompanied by the appropriate fee
28 for a change in the place of use as set forth in ORS 536.050;

29 “(c) Include the information required under ORS 540.520 (2); and

30 “(d) Include any other information the Water Resources Commission by

1 rule may require.

2 “(2) Notwithstanding the notice and waiting requirements under ORS
3 540.520, the department shall approve by order a request for a temporary
4 transfer under this section if the department determines that the temporary
5 transfer will not injure any existing water right.

6 “(3) All uses of water for which a temporary transfer is allowed under
7 this section shall revert automatically to the terms and conditions of the
8 water use subject to transfer upon expiration of the temporary transfer pe-
9 riod.

10 “(4) The time during which water is used under an approved temporary
11 transfer order does not apply toward a finding of forfeiture under ORS
12 540.610.

13 “(5) The department may revoke a prior approval of the temporary trans-
14 fer at any time if the department finds that the transfer is causing injury to
15 any existing water right.

16 “(6) Any map that may be required under subsection (1) of this section
17 need not be prepared by a certified water right examiner.

18 “(7) The lands from which the water right is removed during the period
19 of a temporary transfer shall receive no water under the transferred water
20 right.

21 “(8) When an application for a temporary change of the place of use for
22 a primary water right is submitted in accordance with this section, the ap-
23 plicant also shall indicate whether the land described in the application has
24 an appurtenant supplemental water right or permit. If the applicant also in-
25 tends to temporarily transfer the supplemental water right or permit, the
26 applicant also shall include the information required under ORS 540.520 (2)
27 for the supplemental water right or permit. If the applicant does not include
28 the supplemental water right or permit in the temporary transfer application,
29 the Water Resources Department shall notify the applicant that the supple-
30 mental water right or permit will be canceled before the department issues

1 the order approving the temporary transfer of the primary water right, unless
2 within 30 days the applicant modifies the application to include the supple-
3 mental water right or permit or withdraws the application. The department
4 may approve the temporary transfer of the supplemental water right or per-
5 mit in accordance with the provisions of this section. The department may
6 not approve the temporary transfer of a supplemental water right or permit
7 if the temporary transfer would result in enlargement of the original water
8 right or injury to an existing water right. If the department approves the
9 temporary transfer of the primary water right but does not approve the
10 temporary transfer of the supplemental water right or permit, the department
11 shall notify the applicant of the department's intent not to allow the tem-
12 porary transfer of the supplemental water right or permit before the depart-
13 ment issues the order for the temporary transfer of the primary water right.
14 If the department does not allow the temporary transfer of the supplemental
15 right, the supplemental right shall remain appurtenant to the land described
16 in the application, but may not be exercised until the primary right reverts
17 to the original water use. If the primary water right does not revert soon
18 enough to allow use of water under the supplemental right within five years,
19 the supplemental right shall become subject to cancellation for nonuse under
20 ORS 540.610.

21 “(9) In issuing an order under subsection (2) of this section, the depart-
22 ment shall include any condition necessary to protect other water rights.

23 **“SECTION 37.** ORS 540.524 is amended to read:

24 “540.524. (1) Notwithstanding ORS 540.510 or 540.670, upon approval of an
25 application submitted to the Water Resources Department, the holder of both
26 a primary water right originating from a surface water source and a sup-
27 plemental water right permit or certificate originating from a ground water
28 source may substitute the use of the supplemental water right for the pri-
29 mary water right. A substitution may not be made under this subsection if
30 the use of the supplemental water right results in an enlargement or expan-

1 sion of the primary water right. This subsection does not authorize a change
2 in place of use, type of use, point of diversion or point of appropriation.

3 “(2) An application required under subsection (1) of this section shall be
4 submitted on forms provided by the department. The department may request
5 additional information if necessary to assist with the injury evaluation.
6 **Subject to any fee amount change established by a rule adopted under**
7 **section 15 of this 2013 Act**, each application [*shall be submitted with*] **must**
8 **be accompanied by** the fee described in ORS 536.050 (1)(s).

9 “(3) Upon receiving an application under subsection (1) of this section,
10 the department shall provide notice, accept protests and conduct hearings
11 on protests in the manner described in ORS 540.520 (5), (6) and (7).

12 “(4) The Water Resources Director shall issue an order approving or de-
13 nying the substitution. If the proposed substitution will result in injury to
14 other water rights, the director shall prohibit or condition the use to avoid
15 or mitigate the injury. The director shall issue an order approving or deny-
16 ing the substitution within 90 days after the department receives an appli-
17 cation under subsection (1) of this section.

18 “(5) For the purpose of ORS 540.610, a substituted primary surface water
19 right shall be treated as a supplemental water right, and a substituted sup-
20 plemental ground water right shall be treated as a primary water right.

21 “(6) A completed and approved substitution of a supplemental ground
22 water right for a primary surface water right under this section may be
23 terminated upon a request by the water right holder or by an order of the
24 director if the director determines that the use of the ground water as the
25 primary water right causes injury to other water rights. Upon termination,
26 the substituted primary and supplemental water rights shall revert back to
27 their original status.

28 **“SECTION 38.** ORS 540.533 is amended to read:

29 “540.533. (1) As used in this section, ‘person holding a water right, cer-
30 tificate or permit’ means a person that:

1 “(a) Holds a water right established by court decree;

2 “(b) Holds a water right certificate or a water right for which proof of
3 beneficial use has been approved by the Water Resources Director or the
4 Water Resources Commission;

5 “(c) Is applying for or holds a permit issued under ORS 537.211 for use
6 of water for an in-stream purpose; or

7 “(d) Holds a permit issued under ORS 537.135 for recharging ground water
8 within the Umatilla Basin.

9 “(2) A person holding a water right, certificate or permit may apply to
10 the commission for permission to use stored, surface or ground water from
11 another source in exchange for supplying replacement water in an equal
12 amount to satisfy prior appropriations from the other source, if:

13 “(a) The source of the person’s appropriation is at times insufficient to
14 fully satisfy the appropriation;

15 “(b) Better conservation and use of the waters of the state can be ac-
16 complished; or

17 “(c) The person can develop water for appropriation under the permit for
18 use of water for an in-stream purpose or the permit for recharging ground
19 water, but cannot economically convey the water to its point of use.

20 “(3) A person may apply for an exchange under this section among any
21 combination of surface, storage or ground water rights.

22 “(4) An application for exchange shall be accompanied by:

23 “(a) Any map, plan or other information required by the commission;

24 “(b) **Subject to any fee amount change established by a rule adopted**
25 **under section 15 of this 2013 Act**, the fee required under ORS 536.050; and

26 “(c) If the application for exchange is by a person that holds a permit
27 issued under ORS 537.135 for recharging ground water within the Umatilla
28 Basin, evidence satisfactory to the director that the exchange will result in
29 no net loss of flow in the Umatilla River.

30 **“SECTION 39.** ORS 540.570 is amended to read:

1 “540.570. (1) Provided that the proposed transfer complies with all of the
2 provisions of this subsection and will not result in injury to any existing
3 water right, a district with a manager may, for one irrigation season, tem-
4 porarily transfer the place of use of water appurtenant to any land within
5 the legal boundaries of the district to an equal acreage elsewhere within the
6 legal boundaries of that district or temporarily transfer the type of use
7 identified in a right to store water. A temporary transfer of the place of use
8 may occur if:

9 “(a) The rate and duty, and the total number of acres to which water will
10 be applied under the transfer, do not exceed existing limits on the water use
11 subject to transfer;

12 “(b) The type of use authorized under the water use subject to transfer
13 remains the same; and

14 “(c) The land from which the water use is being transferred does not re-
15 ceive any water under the right being transferred during the irrigation sea-
16 son in which the change is made.

17 “(2) Provided that the proposed transfer complies with all the provisions
18 of this subsection and will not result in injury to or enlargement of an ex-
19 isting water right, a district with a manager may, for one irrigation season,
20 temporarily change the point of diversion or appropriation combined with a
21 change in place of use, change the point of diversion in the event that an
22 emergency prevents the district from diverting water from its authorized
23 point of diversion, change the point of diversion to allow for the appropri-
24 ation of ground water or change a primary right to a supplemental right if:

25 “(a) The land on which the water is to be used is within the district’s
26 legal boundaries established pursuant to ORS chapter 545, 547, 552, 553 or
27 554;

28 “(b) The other terms of the permit or certificate remain the same, in-
29 cluding the beneficial use for which the water is used and the number of
30 acres to which water is applied;

1 “(c) The diversion is provided with a proper fish screen, if required by the
2 Water Resources Department; and

3 “(d) For a proposal to transfer the point of diversion to allow for the
4 appropriation of ground water, the proposed change meets the standards set
5 forth in ORS 540.531 (2).

6 “(3) When a district or an owner or an owner’s agent within a district
7 who is subject to the charges or assessments of the district wishes to use
8 water on alternate acreage within the district, if the district has approved
9 the owner’s request, the district shall submit to the department a petition
10 seeking a temporary transfer under this section. The district shall submit the
11 petition prior to making the proposed change. The petition may contain
12 changes to one or more tax lots within the district and shall:

13 “(a) Include the information required under ORS 540.574 (3);

14 “(b) Be accompanied by a map in a form satisfactory to the department
15 and certified by the district. If the water right is on a tract of land of five
16 acres or less, the assessor’s tax map with a notation of the acres of water
17 right shall be sufficient for identification of the tract and place of use;

18 “(c) Include a statement that a written authorization for the transfer from
19 each landowner affected by the particular temporary transfer is on file with
20 the district;

21 “(d) Include any other information required by rules of the Water Re-
22 sources Commission; and

23 “(e) **Subject to any fee amount change established by a rule adopted**
24 **under section 15 of this 2013 Act**, include a fee in the amount required
25 under ORS 536.050 (1)(i).

26 “(4) The district shall notify each affected landowner that the department
27 may reject the transfer or may require mitigation to avoid injury to other
28 water rights. Upon receipt of a completed petition under subsection (3) of
29 this section, the department shall place a summary of the petition in the
30 weekly notice published by the department. The department shall accept

1 written public comments on the petition for 30 days following publication
2 of the weekly notice. The department shall consider comments that pertain
3 to the potential for injury to an existing water right or to the enlargement
4 of the water use subject to transfer in determining whether to condition,
5 reject or revoke a temporary transfer.

6 “(5) Use of water on lands from which the right is transferred and in the
7 new temporary location during the same irrigation season or calendar year
8 is prohibited and may subject the district and the landowner to civil penal-
9 ties.

10 “(6) The department may condition, reject or revoke a temporary transfer
11 at any time to the extent necessary to avoid injury if the department finds
12 the transfer is causing injury to an existing water right.

13 “(7) Upon expiration of the temporary transfer period, all uses of water
14 for which a temporary transfer is allowed under this section shall revert
15 automatically to the terms and conditions of the original water right permit,
16 certificate or adjudication under ORS chapter 539 as evidenced by a court
17 decree.

18 “(8) The time during which water is used under an approved temporary
19 transfer order does not apply toward a finding of forfeiture under ORS
20 540.610.

21 **“SECTION 40.** ORS 540.580 is amended to read:

22 “540.580. (1) In accordance with this section, a district may by petition
23 request that the Water Resources Department approve the permanent trans-
24 fer of the place of use of water within a district as long as the proposed
25 transfer complies with all of the following:

26 “(a) The rate, duty and total number of acres to which water is to be
27 applied under the water use subject to transfer are not exceeded;

28 “(b) The use authorized under the water use subject to transfer remains
29 the same;

30 “(c) The change in place of use will not result in injury to any existing

1 water right; and

2 “(d) The land from which the water right is removed by the transfer shall
3 receive no water under the transferred right.

4 “(2) A district may submit a petition for a permanent transfer prior to
5 or subsequent to the change in place of use, but no later than the end of the
6 calendar year in which the change occurs. The petition submitted by the
7 district may include an unlimited number of transfers within the same peti-
8 tion. A petition under this section shall:

9 “(a) Include the information required under ORS 540.574 (3), except for
10 the statement that a notice under ORS 540.572 (2) has been given;

11 “(b) Be accompanied by a map in a form satisfactory to the department
12 and certified by the district. If the water right is on a tract of land of five
13 acres or less, the assessor’s tax map with a notation of the acres of water
14 right shall be sufficient for identification of the tract and place of use;

15 “(c) Include a statement that each landowner affected by a permanent
16 transfer has authorized the transfer in a writing that is on file with the
17 district;

18 “(d) Include any other information required by rules of the Water Re-
19 sources Commission; and

20 “(e) **Subject to any fee amount change established by a rule adopted**
21 **under section 15 of this 2013 Act**, include the fee required under ORS
22 536.050 (1)(h) for a change in the place of use.

23 “(3) If a district allows a change in the place of use of water before ob-
24 taining the approval of the department, the district shall:

25 “(a) Notify each affected landowner that the change is subject to the ap-
26 proval of the department and that the department may reject the transfer or
27 may require mitigation to avoid injury to other water right holders; and

28 “(b) Notify the department in advance of the change. The notice shall
29 include:

30 “(A) The name of the district and the certificate number of each water

1 right that is the subject of the change;

2 “(B) The names of the users within the district from whose lands and to
3 whose lands water rights are to be transferred;

4 “(C) A general description of the users’ lands by township, range, quarter
5 quarter section and tax lot number, and of the water right, for each parcel
6 from which and to which water rights are to be transferred; and

7 “(D) A description of the use that is proposed to be made of the water
8 on each parcel.

9 “(4) Upon receipt of the notice required under subsection (3)(b) of this
10 section, the department shall provide public notice in the weekly notice
11 published by the department.

12 “(5) If a district allows a change in the place of use of water before ob-
13 taining approval of the department under this section, the department may
14 direct the district to cease delivery of water or mitigate injury where the
15 change in place of use is causing injury to an existing water right.

16 “(6) Within 15 days after the filing of a petition under subsection (2) of
17 this section, the department shall include notice of the petition in the weekly
18 notice published by the department. Within 30 days after the mailing of the
19 department’s weekly notice, any potentially affected holder of an existing
20 water right may file, jointly or severally, with the department, a protest
21 against approval of the petition.

22 “(7) Subject to the provisions of subsection (8) of this section, whenever
23 a timely protest is filed, or in the opinion of the Water Resources Director
24 a hearing is necessary to determine whether the proposed changes as de-
25 scribed in the petition would result in injury to existing water rights, the
26 department may hold a hearing on the petition. Notice and conduct of the
27 hearing shall be according to the provisions of ORS chapter 183 pertaining
28 to contested cases, shall be scheduled within 45 days after the filing of the
29 petition, and shall be held in the area where the rights are located unless
30 all parties and persons who filed a protest under this subsection stipulate

1 otherwise.

2 “(8) If a water user within the district files a protest claiming injury to
3 a water right delivery by the district, no contested case hearing shall be re-
4 quired, but the district shall resolve the matter directly with the water user.

5 “(9) After examination or hearing, the department shall issue an order
6 approving the transfer if the proposed change can be effected without injury
7 to existing water rights. If no hearing is scheduled under subsection (7) of
8 this section, the order of the department shall be issued within 90 days after
9 the date of the filing of the petition. If the proposed change cannot be ef-
10 fected without injury to existing water rights, the department may condition
11 approval, including requiring mitigation of the effects on other water rights,
12 to the extent necessary to avoid injury. If a hearing is scheduled, the de-
13 partment shall issue a final order within 120 days after scheduling the
14 hearing.

15 “(10) Within 20 days after the director issues a final order under this
16 section, the district or any protestant may file with the commission ex-
17 ceptions to the final order. The commission shall issue an order granting or
18 denying the exceptions within 30 days after receiving the exceptions.

19 “(11) If a certificate covering the water right has been previously issued,
20 the department may amend the certificate or may cancel the certificate and
21 issue a new certificate preserving the previously established priority of
22 rights and covering the authorized changes. If only a portion of the water
23 right covered by the previous certificate is affected by the changes, a sepa-
24 rate new certificate may be issued to cover the unaffected portion of the
25 water right. A certificate as amended or issued under this section has the
26 evidentiary effect provided for in ORS 537.270 as to the new lands except
27 when the right to appropriate water described in the certificate is abandoned
28 after the certificate is amended or issued.

29 “(12) Notwithstanding the provisions of subsection (2) of this section, a
30 petition filed on or before December 31, 1996, may include all changes in

1 place of use allowed by a district after July 1, 1992, and before November
2 30, 1996.

3 **“SECTION 41.** ORS 540.585 is amended to read:

4 “540.585. (1) In accordance with the provisions of this section, a person
5 may request that the Water Resources Department approve the temporary
6 transfer of the place of use and type of use and temporarily change the point
7 of diversion if necessary to convey water to the new temporary place of use,
8 of all or a portion of a water right, for a period not to exceed 25 years if:

9 “(a) The person holds a water use subject to transfer;

10 “(b) The type of use specified in the original water use subject to transfer
11 is irrigation;

12 “(c) The person to whom the right is transferred is:

13 “(A) Located within the Deschutes River Basin; and

14 “(B) A city, a quasi-municipal corporation, a domestic water supply dis-
15 trict formed under ORS chapter 264, a water supplier as defined in ORS
16 448.115 or a water authority formed under ORS chapter 450;

17 “(d) The proposed use is municipal use; and

18 “(e) The proposed temporary transfer will not result in injury to any ex-
19 isting water right.

20 “(2) An application for a temporary transfer under this section shall:

21 “(a) Be submitted in writing to the Water Resources Department;

22 “(b) **Subject to any fee amount change established by a rule adopted**
23 **under section 15 of this 2013 Act**, be accompanied by the appropriate fee
24 for a change in the place of use and type of use as set forth in ORS 536.050;

25 “(c) Include the information required under ORS 540.520 (2); and

26 “(d) Include any other information the Water Resources Commission by
27 rule may require.

28 “(3)(a) Any portion of the use of a water right that is not temporarily
29 transferred under this section may be used on the designated part of the
30 lands described in the original water right permit, certificate or adjudication

1 under ORS chapter 539 as evidenced by a court decree, if the use does not
2 encompass more than the remaining portion of the lands, enlarge the water
3 right or increase the rate, duty, total acreage benefited or season of use.

4 “(b) The Water Resources Department shall designate the lands on which
5 water may be applied under this subsection and shall prescribe mapping,
6 measurement and recording requirements under this subsection.

7 “(4) Upon expiration of a temporary transfer period, all uses of water for
8 which a temporary transfer is allowed under this section shall revert auto-
9 matically to the terms and conditions of the original water right permit,
10 certificate or adjudication under ORS chapter 539 as evidenced by a court
11 decree.

12 “(5) The time during which water is used under an approved temporary
13 transfer order does not apply toward a finding of forfeiture under ORS
14 540.610.

15 “(6) The department may revoke a prior approval of a temporary transfer
16 at any time if:

17 “(a) The department finds that the transfer is causing injury to any ex-
18 isting water right; or

19 “(b) The person fails to comply with the requirements prescribed by the
20 department pursuant to subsection (3) of this section.

21 “(7) The department shall provide notice, in the manner provided in ORS
22 540.520 (5), that the department received an application for a temporary
23 transfer under this section.

24 “(8) The department may:

25 “(a) Prescribe the duration of the temporary transfer period allowed under
26 this section, up to 25 years;

27 “(b) Impose conditions in the terms of the temporary transfer, including
28 revocation of the transfer for noncompliance with applicable state, local or
29 federal laws; and

30 “(c) Determine the parties that may participate in the review of applica-

1 tions submitted under this section.

2 **“SECTION 42.** ORS 543A.120, as amended by section 23 of this 2013 Act,
3 is amended to read:

4 “543A.120. (1) A proposed final order prepared by a Hydroelectric Appli-
5 cation Review Team and submitted to the Water Resources Department un-
6 der ORS 543A.040, 543A.055 or 543A.105 shall be based on the application of
7 the standards set forth in ORS 543A.025 and shall reflect the complete review
8 of the water right application for compliance with applicable statutes and
9 rules.

10 “(2) The proposed final order shall cite findings of fact and conclusions
11 of law and shall include but need not be limited to:

12 “(a) Confirmation or modification of the preliminary determinations made
13 in the initial review;

14 “(b) A brief statement that explains the criteria considered relevant to the
15 decision, including the applicable basin program, the compatibility of the
16 proposed use with applicable land use plans and information set forth in the
17 application report or final report on studies;

18 “(c) An assessment of water availability and the amount of water neces-
19 sary for the proposed use;

20 “(d) An assessment of whether the proposed use would result in injury to
21 existing water rights;

22 “(e) An assessment of whether the proposed use would impair or be det-
23 rimental to the public interest as provided in ORS 543A.025;

24 “(f) A draft certificate, including any proposed conditions, or a recom-
25 mendation to deny the application; and

26 “(g) The date by which protests to the proposed final order must be re-
27 ceived by the department.

28 “(3) The department shall mail copies of the proposed final order, as
29 submitted by the team, to the applicant and to persons who have requested
30 copies and, **subject to any fee amount change established by a rule**

1 **adopted under section 15 of this 2013 Act**, paid the fee required under ORS
2 536.050 (1)(p). The department also shall give public notice of the proposed
3 final order in the weekly notice published by the department.

4 “(4) Any person may request standing for purposes of participating in any
5 contested case proceeding on the proposed final order or for judicial review
6 of a final order. A request for standing shall be in writing and shall be ac-
7 companied, **subject to any fee amount change established by a rule**
8 **adopted under section 15 of this 2013 Act**, by the fee established under
9 ORS 536.050 (1)(n).

10 “(5) Any person may submit a protest against a proposed final order. A
11 protest shall be in writing and shall include:

12 “(a) The name, address and telephone number of the protestant;

13 “(b) A description of the protestant’s interest in the proposed final order
14 and, if the protestant claims to represent the public interest, a precise
15 statement of the public interest represented;

16 “(c) A detailed description of how the action proposed in the proposed
17 final order would impair or be detrimental to the protestant’s interest;

18 “(d) A detailed description of how the proposed final order is in error or
19 deficient and how to correct the alleged error or deficiency;

20 “(e) Any citation of legal authority supporting the protest, if known; and

21 “(f) **Subject to any fee amount change established by a rule adopted**
22 **under section 15 of this 2013 Act**, the protest fee required under ORS
23 536.050 (1)(j).

24 “(6) Requests for standing and protests on the proposed final order shall
25 be submitted within 45 days after publication of the notice of the proposed
26 final order in the weekly notice published by the department. **Subject to**
27 **any fee amount change established by a rule adopted under section 15**
28 **of this 2013 Act**, any person who asks to receive a copy of the department’s
29 final order shall submit to the department the fee required under ORS
30 536.050 (1)(p), unless the person has previously requested copies and paid the

1 required fee.

2 “(7) The Hydroelectric Application Review Team shall review any protest
3 received and provide to the Water Resources Director a recommended re-
4 sponse to any protest received.

5 “(8) Within 120 days after the close of the period for receiving protests
6 and after consultation with the Hydroelectric Application Review Team, the
7 director shall:

8 “(a) Issue a final order as provided under ORS 543A.130; or

9 “(b) Schedule a contested case hearing if a protest has been submitted and
10 if:

11 “(A) Upon review of the issues, the director finds that there are signif-
12 icant disputes related to the proposed reauthorization of the project; or

13 “(B) Within 30 days after the close of the period for submitting protests,
14 the applicant requests a contested case hearing.

15 “(9) At the request of the applicant, the department may extend the time
16 periods set forth in subsection (8) of this section for a reasonable period of
17 time.

18 “(10) If the application is for reauthorization of a water right for a
19 federally licensed project, the department may postpone the issuance of the
20 final order until the Federal Energy Regulatory Commission license is is-
21 sued.

22 “**SECTION 43.** ORS 543A.130 is amended to read:

23 “543A.130. (1) If a contested case hearing is conducted under ORS
24 543A.120, the issues to be considered in the contested case hearing shall be
25 limited to issues identified by the administrative law judge.

26 “(2) Notwithstanding the provisions of ORS chapter 183 pertaining to
27 contested case proceedings, the parties to any contested case hearing initi-
28 ated under this section shall be limited to:

29 “(a) The applicant;

30 “(b) Any person who timely filed a protest; and

1 “(c) Any person who timely filed a request for standing under ORS
2 543A.120 and who requests to intervene in the contested case hearing prior
3 to the start of the proceeding.

4 “(3) The contested case proceeding shall be conducted in accordance with
5 the applicable provisions of ORS chapter 183 except:

6 “(a) As provided in subsections (1) and (2) of this section; and

7 “(b) An interlocutory appeal under ORS 183.480 (3) shall not be allowed.

8 “(4) Each person submitting a protest or a request for standing shall raise
9 all reasonably ascertainable issues and submit all reasonably available ar-
10 guments supporting the person’s position by the close of the protest period.
11 Failure to raise a reasonably ascertainable issue in a protest or in a hearing
12 or failure to provide sufficient specificity to afford the Water Resources De-
13 partment an opportunity to respond to the issue precludes judicial review
14 based on that issue.

15 “(5) If, after the contested case hearing or, if a hearing is not held, after
16 the close of the period allowed to file a protest, the Water Resources Direc-
17 tor determines that the proposed reauthorization does not comply with the
18 standards set forth in ORS 543A.025 or rules adopted by the Water Resources
19 Commission under ORS 543A.025, the director shall issue a final order re-
20 jecting the application or modifying the proposed final order to conform to
21 the public interest. If, after the contested case hearing or, if a hearing is not
22 held, after the close of the period allowed to file a protest, the director de-
23 termines that the proposed reauthorization complies with ORS 543A.025, the
24 director shall issue a final order approving the application for reauthori-
25 zation or otherwise modifying the proposed final order. A final order may set
26 forth any of the provisions or restrictions to be included in the certificate
27 concerning the use, control and management of the water to be appropriated
28 for the project, including but not limited to a specification of reservoir op-
29 eration and minimum releases to protect the public interest.

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

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

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

11 “(7) Before issuing a final order, the director or the commission, if ap-
12 plicable, shall make the final determination of whether the proposed reau-
13 thorization or the proposed reauthorization as modified in the proposed final
14 order complies with the standards set forth in ORS 543A.025.

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

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

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

23 “(c) Conditions and restrictions in the Federal Energy Regulatory Com-
24 mission license that are inconsistent with the water right as proposed in the
25 proposed final order; or

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

27 “(9) Upon issuing a final order, the director shall notify the applicant and
28 each person who submitted written comments or protests or otherwise re-
29 quested notice of the final order and send a copy of the final order to any
30 person who requested a copy and, **subject to any fee amount change es-**

1 **tablished by a rule adopted under section 15 of this 2013 Act**, paid the
2 fee required under ORS 536.050 (1)(p).

3 **“SECTION 44.** ORS 543A.405 is amended to read:

4 “543A.405. (1) Subject to the provisions of ORS 543A.410, any person sub-
5 mitting a notice of intent to seek reauthorization, a preliminary application
6 or an application for reauthorization of a project under ORS 543A.030,
7 543A.035, 543A.075, 543A.080 or 543A.095 shall pay all expenses related to the
8 review and decision of the Hydroelectric Application Review Team that are
9 incurred by the team and any agency participating as part of the team, and
10 that are not otherwise covered by the reauthorization fee paid under ORS
11 543A.415.

12 “(2) Every person submitting a notice of intent to seek reauthorization
13 of a project shall, **subject to any fee amount change established by a**
14 **rule adopted under section 15 of this 2013 Act**, submit the fee required
15 under ORS 536.050 (1)(r) to the Water Resources Department when the notice
16 of intent is submitted.

17 “(3) Before submitting an application to reauthorize a state project under
18 ORS 543A.035, the applicant shall request from the team an estimate of the
19 costs expected to be incurred in processing the application. The team shall
20 inform the applicant of that amount and require the applicant to make pe-
21 riodic payments of such costs pursuant to a cost reimbursement agreement.
22 The cost reimbursement agreement shall provide for payment of 25 percent
23 of the estimated costs when the applicant submits an application under ORS
24 543A.035.

25 “(4) Before the close of public comment on study proposals developed by
26 the applicant for a federally licensed project under ORS 543A.085, the team
27 shall estimate the costs expected to be incurred in evaluating the project.
28 The team shall inform the applicant of that amount and require the applicant
29 to make periodic payments of such costs pursuant to a cost reimbursement
30 agreement. The cost reimbursement agreement shall provide for a first pay-

1 ment of 25 percent of the estimated costs on a schedule established in the
2 agreement.

3 “(5) If costs of the team’s evaluation of a project exceed the estimate in
4 the cost reimbursement agreement, the applicant shall pay any excess costs
5 shown in an itemized statement prepared by the team. In no event shall the
6 team and its participating agencies incur evaluation expenses in excess of
7 110 percent of the fee initially estimated unless the team provided prior no-
8 tification to the applicant and a detailed projected budget the team believes
9 is necessary to complete evaluation of the application. If costs are less than
10 the fee paid, the team shall refund the excess to the applicant.

11 “(6) The Water Resources Department shall reimburse participating
12 agencies for costs incurred in their review of a project. Such costs shall not
13 include expenses of other state agencies for which a fee is otherwise col-
14 lected under state law.

15

16 **“REPEAL OF DELAYED OPERATIVE DATE FOR 2009 PROVISIONS**

17

18 **“SECTION 45. Section 18, chapter 819, Oregon Laws 2009, is re-**
19 **pealed.**

20

21 **“APPLICABILITY**

22

23 **“SECTION 46. If this 2013 Act does not become effective until after**
24 **July 1, 2013, the Legislative Assembly intends that the amendments to**
25 **ORS 536.050, 537.150, 537.153, 537.610, 537.620, 537.621, 539.081 and**
26 **543A.120 by sections 2, 4, 6, 8, 9 and 21 to 23 of this 2013 Act and any**
27 **fee amounts established under those amendments apply retroactively**
28 **to July 1, 2013.**

29 **“SECTION 47. The amendments to ORS 536.050, 537.150, 537.610,**
30 **537.620 and 539.081 by sections 10 to 14 of this 2013 Act become operative**

1 July 1, 2017.

2 **“SECTION 48. (1) The Water Resources Department may not adopt**
3 **a rule under section 15 of this 2013 Act that has an effective date ear-**
4 **lier than July 1, 2018.**

5 **“(2) The amendments to ORS 536.050, 536.055, 536.770, 537.140, 537.147,**
6 **537.150, 537.153, 537.170, 537.409, 537.534, 537.610, 537.615, 537.620, 537.621,**
7 **537.625, 537.785, 539.081, 540.523, 540.524, 540.533, 540.570, 540.580, 540.585,**
8 **543A.120, 543A.130 and 543A.405 by sections 16 to 20 and 24 to 44 of this**
9 **2013 Act become operative July 1, 2018. Notwithstanding the operative**
10 **date of the amendments to ORS 537.610 by section 18 of this 2013 Act,**
11 **however, the department may adopt a rule under section 15 of this 2013**
12 **Act prior to July 1, 2018, to make an adjustment to the fee cap under**
13 **ORS 537.610 that is effective on or after July 1, 2018.**

14

15

“CAPTIONS

16

17 **“SECTION 49. The unit captions used in this 2013 Act are provided**
18 **only for the convenience of the reader and do not become part of the**
19 **statutory law of this state or express any legislative intent in the**
20 **enactment of this 2013 Act.**

21

22

“EMERGENCY CLAUSE

23

24 **“SECTION 50. This 2013 Act being necessary for the immediate**
25 **preservation of the public peace, health and safety, an emergency is**
26 **declared to exist, and this 2013 Act takes effect on its passage.”.**

27
